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After Mary Died

Circumstances of pedestrian's death prompt family to seek strengthened laws

By **VIRGINIA BLACK**
Tribune Staff Writer



Evansville Courier & Press Photos/KEVIN SWANK
Carrying a picture of her mother, Rebecca

This story was originally published at 6:26 a.m. May 19.

The tellers at Mary Shrode's southern Indiana bank knew her Friday routine so well that when the 80-year-old walked through the door, her two \$10 bills were already sitting on the counter.

One of the bills was to be spent on lunch with her best friend on Saturday; the other would cover lunch — including tip — with a friend after church on Sunday.

Every Friday, **Mary Shrode** would leave the Rockport bank to check her post office box next door. She'd then drive her 2003 silver PT Cruiser to the Stop N Go at the corner of Indiana 66 and Lincoln Avenue, where she'd gas up her car, whether or not the tank was empty.

So a little before noon on March 27, 2009, the silver-haired woman had nearly completed what her daughter describes as her Friday routine. She racked up \$20 on a gas pump, then, using her red, white and blue cane — her back slightly stooped with the ravages of osteoporosis — **Mary Shrode** began to slowly make her way to the store's front doors to pay for her gas.



A grainy, black-and-white surveillance tape shows part of Mary's trek across the parking lot. It shows a man with dark hair jumping into the passenger side of a black pickup parked directly in front of the doors of the Stop N Go. It shows the truck backing up quickly, a split second later.

It does not show the 25-year-old woman driving the truck, who would later tell police she did not see **Mary Shrode**.

It does not show the truck backing over **Mary Shrode**, knocking her to the ground and crushing her leg, and then pulling forward and running over her again.

It does not show the excruciating few months at Healthwin Specialized Care in South Bend that followed Mary Shrode's resuscitation.

It does not show the pain dealt to her family after **Mary Shrode** died from her wounds on July 22, 2009.

'An instrument of death'

Shrode talks to friend Joe Greene, whom she found working in the yard last month across from the Stop N Go in Rockport, Ind. Shrode is pushing for statewide law changes after her mother was hit in this convenience store parking lot. "Carelessness is a decision," she says. "I almost call it bringing drivers back to center."

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Mary's daughter, Rebecca, grew up in the Spencer County town of Rockport but has lived in South Bend for three decades.

Outraged that the police officer who responded to the accident involving her mother did not offer the young driver any test for impairment or even a traffic citation, Rebecca Shrode has begun a campaign to tighten enforcement of existing laws, beef up penalties and prompt drivers to think twice before driving carelessly — and endangering someone else's life.

Under Indiana law, officers investigating incidents involving fatalities or "serious bodily injury" are required to offer a driver a portable breath test or other chemical test. If the driver refuses, he or she faces a citation and the loss of driving privileges. (In cases with evidence of impairment, officers can compel the tests anyway.)

The officer who responded to the Stop N Go on that Friday, Rockport's police chief at the time, has since retired. But his replacement, Chief Dale Meredith, reopened the case and re-interviewed witnesses at the request of Spencer County Prosecutor Dan Wilkinson.

Ultimately, the young woman, who could not be reached for this article, was given a traffic citation and paid a fine. Meredith said she told him that she looked but just didn't see the diminutive **Mary Shrode**. Her passenger backed up her story.

"I find it hard to believe he didn't see her," the chief said of the passenger, who had just entered the car. "But I honestly feel that this is just a tragic accident. It could have been prevented if she (the driver) had gone the extra mile — but who does that?"

Rebecca Shrode protests that if the consequences were stricter, more drivers would pay more attention to how they operate the "3,000-or-more-pound weapon we are aiming at one another. It is an instrument of death. It is amazing as a society how lax we are at operating a motor vehicle."

Prosecutor Wilkinson said he has offered to help Shrode examine the existing law, but "I'm not sure what that law should be."

Indiana distinguishes between negligence and recklessness, and the bar for proving recklessness, which is prosecutable, is much higher here. In contrast, some states, including Michigan, do have laws on the books that include criminal penalties for negligence.

"Of course, you can change a fact here or there, and it rises to a criminal level," said Stephen Johnson, executive director of the Indiana Prosecuting Attorneys Council. "But under existing law, not looking before you back up would not be.

"It's hard to say what should be a civil case and what should be criminal," he said. Lawmakers so far have preferred to rely on civil remedies for those hurt by mere negligence.

There is no criminal penalty for distracted driving, Johnson said, "but some do believe there should be."

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'The best truth'

Not all prosecutors agree on the line separating recklessness and negligence, Johnson acknowledged.

And not all law enforcement officers offer drivers a portable breath test in cases of serious injury, based on prosecutors' understanding of what's required. "There are 92 counties in the state of Indiana," Meredith said, "and there are 92 interpretations of the law."

No tests were given in another pedestrian/vehicle accident last month in downtown Princeton, Ind., involving a retired police chief who struck a 74-year-old woman in a crosswalk. The woman later died of her injuries.

The Princeton Daily Clarion reported that the driver "told police he did not see the woman in the intersection, according to the report, which also indicated no tests were performed to determine if drugs or alcohol played a role in the accident."

Meredith said that without any other signs of impairment, "I won't give one, either."

Indiana code, he points out, uses the verb "shall" rather than "must": "A law enforcement officer shall offer a portable breath test or chemical test to any person who the officer has reason to believe operated a vehicle that was involved in a fatal accident or an accident involving serious bodily injury."

"People have accidents every day who aren't intoxicated," he said. If it were mandatory to test in every one, serious time and expense would mount.

"But my main concern is depriving someone of their freedom for that 20 minutes it takes to administer that test," he said. "I take that seriously."

In St. Joseph County, Capt. Tim Spencer coordinates a Fatal Alcohol Crash Team that is called to accident scenes involving serious injury.

On the one hand, is forcing a chemical test "an infringement on that person's rights or not? That's a question for us," he said. "I don't really know which side of that fence I fall on, to be honest with you."

St. Joseph County Prosecutor Michael Dvorak, whose office runs the county's FACT team, agrees that a person's rights are at issue. Yet when FACT officers handle a crash scene, they always ask for a blood test, which is unassailable in court.

"You're balancing the inconvenience of the person who submits to the blood draw with the fact that someone is dead or seriously injured," he said. That also provides a driver with evidence of being chemical-free.

"In St. Joseph County, we've asked police to default to asking for a chemical test," said Deputy

Prosecutor Eric Tamashasky. "We want the best truth we can."

What's serious injury?

Rebecca Shrode wants to make St. Joseph County's policy uniform across the state, she said, and possibly add requirements to check for the use of technology such as cell phones at the time of a pedestrian/vehicle crash.

Johnson, of the Prosecuting Attorneys Council, points out that legislators have so far not agreed on technology-driven laws, and even a recent statute dealing with teen drivers with probationary licenses and cell phones includes many loopholes.

But he thinks it's possible to better define "serious bodily injury."

Another state law does define the phrase — including "unconsciousness" and "extreme pain" — but authorities say that's still where assessment can be difficult.

In Mary Shrode's case, "there was no question whether that was serious bodily injury," said state Rep. Ryan Dvorak, D-South Bend, one of several legislators to whom Rebecca Shrode has appealed for help. "This is a case where the investigating officer messed up."

But "if there's any room for ambiguity in that law," Ryan Dvorak said, "it would be what serious bodily injury means."

Spencer said he did not want to second-guess another officer and points out that sometimes, it's difficult to tell whether someone is seriously hurt. Sometimes, "it's just difficult to tell from the limited information available at the scene."

Prosecutor Dvorak described a situation where a woman had been thrown through a windshield and officers initially believed she was near death — yet she ended up walking away. In other cases, someone might have what appears to be merely a bump on the head and later die.

More exact definition of the term might not help, he said.

"You're asking people to make a call about whether something is serious bodily injury," he said, "but they're not doctors. Sometimes even doctors can't tell without tests."

Another look

State Sen. Joe Zakas, R-Granger, has arranged for Shrode to make her case Sept. 29 to the General Assembly's Criminal Law and Sentencing Policy Study Committee in Indianapolis.

"Should there be more clarity in a situation like this?" he asked. "That's a very good question."

"Should there be greater penalty?" Zakas asked, suggesting it's time Indiana compare its statutes to those of other states. "I think it's a fair issue to examine."

State Sen. Richard Young, D-47th, whose southern Indiana district includes Spencer County, said he's willing to introduce a resolution next summer to persuade the Courts and Criminal Code standing summer committee to hear testimony on the issues raised by Mary Shrode's accident.

That committee includes not only lawmakers and attorneys, but also law enforcement authorities, he said. If a summer committee takes it up, chances are greater for success in the General Assembly.

"We're legislators, we pass the laws," he said, "but it's up to law enforcement to enforce the laws."

Ryan Dvorak agreed. "When an investigating officer doesn't follow the law, more complications follow," he said. "I'm not sure how you legislate that."

Would greater penalties for negligent driving prompt more careful driving?

"Of course, we have lots of laws involving driving now," Wilkinson said, "and still people wind up doing things that hurt or kill other people."

But Rebecca Shrode is determined.

"The point of this is consistency," she said.

"My mother's death at this point is without justice, and without meaning. I have pledged to my dying day to try to bring meaning to her death."

Staff writer Virginia Black:
574-235-6321
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Amanda Boyd

Joined: May 16 2009
Posts: 7

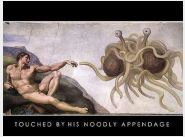
Posted: Sep 19 2010 10:07 am
Subject: Re: After Mary Died

Gas station parking lots have always drive me crazy. There are people walking every where and they are usually oblivious of the other drivers.

	<p>Awareness is a two way street. I look both ways a number of times before backing up and it still seems like someone pops in from out of nowhere.</p> <p>Report this post as inappropriate</p>
<p>Mayflower</p> <p>Joined: Aug 11 2009 Posts: 57</p>	<p>Posted: Sep 20 2010 10:22 am Subject: Re: After Mary Died</p> <p>Maybe, if gas stations had designated walk areas for pedestrians this would help eliminate this problem. People come out from nowhere in these locations. It is almost impossible to see them.</p> <p>Maybe this is why, most people pay at the pump whenever possible.</p> <p>Report this post as inappropriate</p>
<p>donna wilkinson</p> <p>Joined: Jan 21 2007 Posts: 36</p>	<p>Posted: Sep 20 2010 10:23 am Subject: Re: After Mary Died</p> <p>I am not trying to be unkind here, but the truth is the video doesn't even show the young woman hitting the elderly lady so why is it being used as a sympathy tactic? If that is the young woman driver that keeps crossing back and forth in front of the camera, she has her hands up to her mouth like she can't believe it happened not like some crazed impaired nut. I am not saying she shouldn't be ticketed or that the police were not derelict in their duty, but it was a horrible tragic ACCIDENT and doesn't look to me like this woman is some nut that runs down old ladies. If this woman's daughter wants to get stricter laws, more power to her, but quit making this poor girl the object of your witch hunt. I am sure she will have to live with the guilt of what happened forever.</p> <p>Report this post as inappropriate</p>
<p>CommonSense Usually</p> <p>Joined: Nov 23 2009 Posts: 101</p>	<p>Posted: Sep 20 2010 12:40 pm Subject: Re: After Mary Died</p> <p>It doesn't matter whether the gas stations put in designated walk areas. The customers still have to walk across the drive to pay. It comes down to both, the driver and pedestrians, to slow down and be careful when crossing.</p>

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Justin Bowen



Joined: Sep 17 2006

Posts: 2329

Posted: Sep 20 2010 12:45 pm

Subject: Re: After Mary Died

The old lady who was hit was the one who was hobbling across the parking lot like an old lady from the gas pump in the upper-right corner to the lower-left corner from about 00:38 to 00:49. You can see the passenger open the door of the truck (which you can only barely see in the lower left corner) and get in just as the old lady was walking behind the truck and the truck back up and drive off right afterward. You technically don't see the old lady getting hit, but it's pretty easy to get an idea of how it happened just from watching how slowly she moved and how quickly the driver backed up and sped off.

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SB Res

Joined: Sep 02 2008

Posts: 189

Posted: Sep 20 2010 3:04 pm

Subject: Re: After Mary Died

As someone who has driven many pick up trucks over the years I can't believe that the person driving that didn't feel anything. I ran over my sisters puppy because I didn't know it was sleeping under my truck and I felt the bump pretty easily. That police officer was negligent for not testing the driver for being impaired.

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Rebecca Shrode



Joined: Sep 20 2010

Posts: 5

Posted: Sep 20 2010 8:01 pm

Subject: Re: After Mary Died

Donna,

You & I must have very different perspectives on life. I've read the article and watched the video a number of times. I saw neither a witch hunt, a sympathy tactic, nor found references referring to the young woman as "some crazed impaired nut" or a "nut that runs down old ladies."

The young woman pulled out of the parking space so very quickly! Given Mrs. Shrode's hobble gait, she could not have gotten out of the way, no matter how aware she was.

While technically correct, the video doesn't show the young woman

running over Mrs. Shrode, I agree with Justin. It's pretty easy to get an idea of just what happened. Watch the first responders; the pace at which they move tell us very clearly they are dealing with a serious injury.

Mary Shrode is my Mother.

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m chrzanowski

Joined: Jun 27 2008
Posts: 25

Posted: Sep 21 2010 8:02 am
Subject: Re: After Mary Died

"must" "shall"

Really?? Shall does not mean "should" or "Might want to". It means "will" or "must"!!!

shall

1. Used before a verb in the infinitive to show:

a. Something that will take place or exist in the future: We shall arrive tomorrow.

b. Something, such as an order, promise, requirement, or obligation: You shall leave now. He shall answer for his misdeeds. The penalty shall not exceed two years in prison.

c. The will to do something or have something take place: I shall go out if I feel like it.

d. Something that is inevitable: That day shall come.

2. Archaic

a. To be able to.

b. To have to; must.

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John Wesley

Joined: Jan 24 2010
Posts: 15

Posted: Sep 21 2010 9:29 am
Subject: Re: After Mary Died

Actually, unless the law has been recently changed, the officer can only test when the offence occurs on a public hi-way or property, not on private property. It was an accident, pure and simple, instead of looking for someone to lay blame on, **Mary Shrode** should move on with har life.

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Daffodils

Posted: Sep 21 2010 1:04 pm



Joined: Sep 20 2010
Posts: 5

Subject: Re: After Mary Died

John,

Carelessness is not an accident. The family isn't looking for anyone to blame, for we know exactly who ran over **Mary Shrode**.

Speaking of **Mary Shrode** getting on with her life...she can't. She was killed by the careless action of another human being.

Mary's family is indeed getting on with their lives by working to bring meaning to her death.

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Cindy Carlson

Joined: Dec 26 2007
Posts: 1432

Posted: Sep 21 2010 4:06 pm
Subject: Re: After Mary Died

It was a careless accident. The driver of the truck should have LOOKED before carelessly backing up.

When in situations where there are pedestrians such as the gas station, your driveway, parking lots in malls or grocery stores, one needs to always look before backing up. The driver backed up quickly.

I've never driven a pickup truck, but I agree with with SB Res that the driver would have felt something when she ran over **Mary Shrode**.

It is a shame that **Mary Shrode** was in the wrong place at the wrong time. Had the passenger stayed in the gas station a couple of more minutes, Mary would not have died as a result of being run over.

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Dana Harris Carter

Joined: Feb 07 2008
Posts: 185

Posted: Sep 21 2010 4:15 pm
Subject: Re: After Mary Died

My sincere condolences go out to the family of the woman who lost her life in this incident. I pray that you will be able to find peace somehow in this scenario and that everything will work out for you and your surviving family members. I also pray for the driver that she gets resolution and is truly sorry for this incident regardless.

Sincerely,
Former So. Bend Resident in Atlanta, GA.

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