



More than 192 pedestrians were hit by cars during the first half of this year. Are drivers or pedestrians at fault? The answer: both

By Ira Apfel

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Eleven o'clock on a weekday morning means one thing for students at Bethesda-Chevy Chase (B-CC) High School: lunch at a restaurant off campus.

A steady stream of students crosses busy East-West Highway to buy lunch at nearby fast food restaurants. Some cross at marked pedestrian walkways when they have a green light and a white “walk” signal. Many prefer to jaywalk across the road. In just two minutes on this warm spring day, nearly 30 B-CC students walk, run and even skateboard through traffic. None of them pays much attention to the vehicles—they chat with friends, listen to iPods or talk on cell phones.

B-CC student Alex Rigaux crosses at a designated pedestrian walkway, but admits that most of the time he isn't so cautious. “I usually [jaywalk] but cars were spread out so I couldn't do it,” he says. “Some kids run by, expecting cars to stop.”

Rigaux and other students say B-CC administrators and Montgomery County officials teach them about the dangers of jaywalking at the start of the school year. Teenagers being teenagers, the message doesn't always sink in.

Jaywalking, says Rigaux, is “no big deal.”

One B-CC student suffered minor injuries two years ago while walking in a designated crosswalk—and with the traffic light. School principal Sean Bulson says he tries to station a security guard at the crosswalk in front of the school during lunch, but lacks the resources to have one there every lunch period.

“We have manpower restrictions,” Bulson says, adding that a county educational facilities officer parks his police car along East-West Highway across from the school in an attempt to slow drivers. According to Bulson, there are plans to erect a fence in front of the school so students will exit the grounds at the crosswalk.

State Sen. Brian Frosh of Bethesda, a personal-injury lawyer, bicycle commuter and father of a B-CC student, is concerned about pedestrian safety. “It’s horrifying to think about my daughter crossing East-West Highway,” he says. “I hope she doesn’t do it. It’s extraordinarily dangerous for pedestrians and even more dangerous for bicyclists.”

Who’s At Fault?

According to Montgomery County police, 419 people were injured by vehicles in the county in 2006, with more than half of the accidents occurring during daylight hours. As of Aug. 3, 192 pedestrians had been injured this year and eight pedestrians killed.

Most pedestrian collisions occurred during the afternoon rush hour. The peak season for pedestrian collisions is the fall, when daylight savings ends and darkness comes earlier. Pedestrians were at fault in more than 45 percent of the 2006 cases, police records show. Nearly 72 percent of the pedestrians were on a roadway and not in a crosswalk.

“Paul,” who asked not to give his real name to protect the confidentiality of his settlement, was hit by a bus three years ago while crossing the street. He wasn’t in a crosswalk and spent a month in the hospital and four more months at a physical rehabilitation facility. He likely will need more surgery, including a knee replacement procedure. “I didn’t think I’d get hit in a million years,” he says.

Drivers most often get into accidents because they aren’t paying attention, fail



LAUREN GANAWAY

Top 5 Most Dangerous Roadways for Pedestrians

Route Number	Road Name	Number of Collisions, 2006
Route 355	Rockville Pike/Frederick Road	26
Route 97	Georgia Avenue	24
Route 650	New Hampshire Avenue	14
Route 193	University Boulevard	10
US 29	Colesville Road	9

Source: Montgomery County Department of Police, 2006

to yield the right of way, back up unsafely or are driving too fast.

“This is a major priority for us because [these accidents] are almost always preventable,” says Lucille Baur, public information officer for Montgomery County police. “We’d like to be more proactive.”

Working for Change

In response to growing concerns about

pedestrian safety, former County Executive Doug Duncan created the Pedestrian Safety Advisory Committee in 2002. The committee recommended a three-pronged approach to improving pedestrian safety emphasizing education, enforcement and engineering.

Some of the county’s initiatives include an award-winning program that reaches out to Spanish-speaking residents, a pi-



The crosswalk at the Capital Crescent Trail on Little Falls Parkway

Michael Morgenstern's Most Dangerous Bethesda Intersections

Personal-injury lawyer Michael Morgenstern has argued many cases for pedestrians hit by cars over the years. Here's his list of the most dangerous intersections in Bethesda.

1. The crosswalk at the Capital Crescent Trail on Little Falls Parkway. "It actually has a stop sign for pedestrians in the median," says Morgenstern.

2. The crosswalk on River Road near Braeburn Parkway. "The crosswalk is between intersections and the speed limit on River Road is 45 miles per hour," he says. "In Virginia, a crosswalk would not be permitted under the same circumstances."

3. and 4. The crosswalks extending from the center islands at Bradley Boulevard and Wisconsin Avenue and Little Falls Parkway and River Road. The pedestrian has a walk signal for part of the crosswalk, but none from the island to the street, while cars turning from Wisconsin or River have only a yield sign at the soft right turn, Morgenstern says.

5. The intersection at Woodmont and Bethesda avenues by Barnes & Noble.

lot program that trains 10th graders to teach elementary school students about pedestrian safety, beefed-up ticketing of speeding drivers along heavily trafficked roads, increased ticketing of drunk pedestrians and replacement of white "walk" signals with "countdown" signals throughout the county.

A second committee was created last year to study the issue. State Del. Bill Bronrott of Bethesda, chair of the committee, urged County Executive Isaiah Leggett to enact 20 panel recommendations by the end of 2007. Among the suggestions are adding a required pedestrian safety unit to kindergarten through eighth-grade health classes and funding a law enforcement program to stop jaywalking and punish drivers who fail to yield to pedestrians.

Roger Berliner, who represents Bethesda on the Montgomery County Council, says his constituents complain it is dan-

gerous to cross streets in heavily trafficked areas and in quiet neighborhoods, too. Drivers often make illegal detours through neighborhoods to avoid jam-ups on busy thoroughfares like Old Georgetown Road and Bradley Boulevard.

"They don't like that their communities are being used as cut-throughs; they feel endangered in their own neighborhoods," Berliner says.

The County Council thinks more needs to be done to improve pedestrian safety, Berliner says. Leggett earmarked \$40,600 for pedestrian safety in his fiscal 2008 budget proposal, and another \$50,000 to expand pedestrian-safety education for residents who don't speak English as a first language.

The Council also is considering a bill that would revise Montgomery County's road code to prohibit construction companies from blocking sidewalks and curb

lanes for more than 15 days. Construction crews currently can take them over indefinitely.

"The construction along Arlington Road is a prime example," says Berliner, referring to a mixed-use development under construction at Arlington Road and Bethesda Avenue in Bethesda, where some sidewalks have been blocked for months. "That's not the way construction

takes place in Washington D.C., Arlington, New York City or anyplace else.”

Frosh applauds the county for making any improvements it can. “When they painted a bicycle lane on Woodmont Avenue in Bethesda, that was cheap and smart,” he says.

Pedestrian collisions are down 6.5 percent since 2003, but the county has a long way to go to improve safety.

“Silver Spring is trying to be more pedestrian friendly, but you can’t look at it and say it’s pedestrian friendly. It’s pedestrian-dangerous,” says Lon Anderson, spokesman for AAA Mid-Atlantic and a former member of the county’s pedestrian safety task force. “Bethesda has many more pedestrian-friendly aspects than Silver Spring. But to suggest it’s pedestrian friendly would be a stretch.”

Anderson believes one-hour limits for on-street parking and aggressive ticketing in high-volume shopping districts have adversely affected pedestrian safety. “You now have people circling around to find more parking,” he says. ■

Writer Ira Apfel lives in Washington, D.C.

Legal crossroads

Many area pedestrians have learned the hard way that there is little legal recourse if they are hit by a car—even if they were not at fault. In Maryland, pedestrians must be in a crosswalk and walking with the traffic light or they are partially negligent under a legal doctrine called “contributory negligence.”

The doctrine creates an all-or-nothing formula for finding damages. Forty-six other states practice “comparative negligence,” which bases the pedestrian’s reward on the ratio of fault. For example, a pedestrian found to be 10 percent at fault receives only 90 percent of the reward he or she sought.

“If a pedestrian is found to be just 1 percent the cause of his or her collision, under contributory negligence they are entitled to nothing in Maryland, Washington or Virginia,” says Michael Morgenstern, a personal-injury lawyer who lives in Bethesda. Morgenstern says he takes only one in 10 such cases because the contributory negligence doctrine makes them so difficult to win.

Legal matters get even murkier because Maryland vehicle law requires pedestrians who have partly completed their crossing to “proceed without delay” to a sidewalk or safety island once the “don’t walk” or “upraised hand” signal is showing. As Morgenstern interprets it, a pedestrian in a crosswalk approaching a safety island must continue to the other side of the street, even if entering the second part of the crosswalk with a “don’t walk” signal makes him partially negligent should a collision occur.

State Sen. Mike Lennett of Wheaton introduced a bill to do away with contributory negligence and introduce comparative negligence in Maryland. The bill never came to a vote because Frosh, who chairs the Judicial Proceedings Committee, felt it did not have enough votes to pass. “Maryland still clings to a cruel form of justice,” says Lennett.