

Wednesday, July 24th, 2019

Hearing Before the House Committee on Energy and Commerce

Subcommittee on Consumer Protection and Commerce

Testimony of Susan Clark Livingston

Daughter of Dr. James Duane Livingston III

and Dr. Sherry Penney Livingston

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Good Morning, Chair Schakowsky and honored members of the Subcommittee. My name is Susan Clark Livingston. I am the first female Partner of the private banking firm, Brown Brothers Harriman and on the Board of Governors of the Investment Company Institute here in Washington, DC. I am the Honorary Consul General to Luxembourg for the Commonwealth of Massachusetts. But today, I am here as a daughter and a mother.

I appreciate the opportunity to speak to you today about the tragic simultaneous deaths of my parents, Dr. James Duane Livingston and Dr. Sherry Penney Livingston.

They died together the evening of this past May 7th. Their bodies were found the early morning of May 10th. I will never forget my sister, Barbara's, phone call to me that morning saying:

“Dad and Sherry passed away last night. Both of them. From carbon monoxide”.

There are no words for this kind of family tragedy. And yet, I want their story told. So I am here today to tell you that these deaths were preventable. They died of indifference. These deaths were caused by an automobile design flaw that can be fixed at low cost, with readily available technology. It is a design flaw that the car industry and the NHTSA has known about since keyless ignitions were introduced in 2006. The truth is that the car manufacturers have failed to install this simple fix voluntarily. The NHTSA has failed to institute regulations proposed in 2011 to prevent these deaths. We beg Congress to act now so that no other family has to go through what ours has

experienced.

As a family, we are still in shock and to speak of these amazing individuals in the past tense still feels strange. They are not yet in the ground. They will be buried next week on Tuesday July 30th at St. James Church, Hyde Park, New York, the church of our ancestors, and of Franklin Delano Roosevelt. Buried together, beside my grandparents, great grandparents.

We are still in mourning, yet the more I learned about the failure of these car manufacturers, constantly touting the safety of their vehicles, to properly protect consumers, the more I want to be here to ask for your help to get this done.

Jim and Sherry had a love affair like no other. Married 34 years, they were inseparable. Dad still called Sherry his “bride” and their love and respect for each other were unmatched. The news reports on their deaths referred to them “elderly”, but the word hardly describes the physical and mental energy of these two intellects. Daily aerobics, tennis, swimming, attendance at the Harvard Club events, seasons tickets to the theater. They were indeed in their 80’s, but these seniors had so much life and love left in them. We loved them and miss them every day.

My father got his PhD from Harvard in physics at the young age of 23. A brilliant scientist who had a 25 year research career at GE in Schenectady, he had seven patents on metal alloys, still used today in the space program. He followed Sherry’s career to Boston and was a Professor of Physics at MIT for 22 years. He was a top rated professor year after year for freshman physics. He was an author, an avid tennis player, and wrote

a space column in the Patriot Ledger. He was pretty cool guy. He was a proud father of three daughters, and his only granddaughter, Julia Pell Livingston, age 17, here with me today.

Sherry, my stepmom, was a driving force of nature. At 4'10", she punched above her weight as Provost at Yale, the first woman Chancellor of University of Massachusetts. She was Chancellor of University of Massachusetts, Boston for over 12 years, and ran the Center for Collaborative Leadership there until last year. There is an endowed chair there in her name. Sherry was my mentor and role model. She was on the Board of Boston Edison, now Eversource, the JFK Library. The night she died, she gave a speech for the International Women's Forum, entitled "Women in the 21st Century: Stuck or Unstuck?". That was the last time she was seen alive.

Dad retired from MIT just three years ago, but even after retirement, he had regular speaking engagements and continued to author books. He awaited Sherry's retirement from UMass last year. They looked forward to retirement between Sarasota and Hingham, Mass, where they had just bought a new oceanfront condo. The condo was built last winter, looking out at the shipyard and harbor. Their bodies were found Friday, they were moving into the condo on Tuesday. Sadly, they never saw it. They were looking forward to enjoying their final years together, on the verge of a new adventure, after each working close to 50 years.

They are no longer here to tell us what happened, but the scenario might go something like this. This could happen to anyone. It happened to two energetic and lively PhD's.

After Sherry's speech in Sarasota, they drove back to their condo. They opened the automatic door to the two car garage, drove in. Neither of these two were hard of hearing. Sherry reminded Jim it was trash night, and he went over to roll out the garbage can and recycling bin. I know just where those barrels were in the garage. Sherry was still in the car, perhaps the radio still on. It stays on a full four minutes, even after the engine quits. She went to the back seat and took out her briefcase and her speech, which we found on the table inside the condo. She entered the ground floor condo through the door in the garage, and closed the garage door.

After putting the barrels at the end of the drive, Dad entered the condo through the front door, just to the side of the garage. The police found the keyfob still in Sherry's purse when they recovered the bodies. These car engines are quiet, the keyfob can be miles away from the car once the engine starts running. This was a flawed vehicle, a murder weapon, missing a basic safety feature.

I myself found my car had been idling for nine hours without an ignition autostop at the outdoor garage when I went to work on the T in Boston. Stories have come flooding out about the failure and vagaries of keyless ignitions, fortunately most not fatal. There is no central database on deaths from keyless ignition. My parents are not a statistic. Their deaths have left an enormous hole in the hearts of five children and three grandchildren.

Carbon monoxide overwhelms the victim, causes piercing headaches, disorientation and nausea. Sherry weighed only 80 pounds and they found her body in the bed. My father was six foot one and weighed 175 pounds. He got up in the night and clearly knew

something was wrong. His body was found on the floor of the bathroom in a pool of blood, flashlight in hand. Dad got up with the flashlight to investigate, not wanting to bother Sherry in her sleep. His last moments, falling down on the floor, feeling worried, disoriented, nauseated—haunt me every night. The white tiles, the white wall to wall carpet. Now stained with blood.

The cleaning woman called 911 and the Sarasota Fire Department determined immediately that the hazmat team needed to evacuate carbon monoxide. There were several firetrucks, helicopters, and men in hazmat suits on the morning news. It took over six hours to evacuate the heavy gas of carbon monoxide and car exhaust from their condo. The level of carbon monoxide three days after their death was above the maximum that can be recorded on the meter of 500 parts per million (ppm).

No level of CO is healthy. The usual allowable level is around 30-50 ppm before an alarm goes off.

The cars were both in the garage, but not running. You may ask why there was no CO monitor, as is required up in north. In Florida, CO monitors are not required as they had only electric hot water and heat. They are really not as commonly used there. The car engine stopped with a third of a tank left, the battery dead.

With an inexpensive and readily available ignition autostop, the car would have stopped 30 minutes after it arrived in the garage. And Jim and Sherry would still be alive. I learned that GM and Ford both have embraced this inexpensive fix. And they even did recalls to fix it on existing cars. GM and Ford support the new legislation. I am bewildered, and cannot get my head around why the NHTSA and Congress have not yet

mandated this simple safety feature. The car manufacturers continue to proudly say they meet all federal standards, and market their cars for their safety features. I understand the industry desire for less regulation and that the NHTSA and Congress have a lot on your plates. Technology has outpaced regulation. Keyfobs are a deadly convenience without the ignition autostop.

I am not a technician, or an auto expert. I am a daughter and a mother. I know my parents would still be alive today if Congress had passed a safety law to protect consumers from this design flaw.

Weeks after this very public death, Toyota agreed to add this ignition autostop feature to new models this fall, but no recalls. A small victory but there is more work to do.

We beg of you to please prevent another family from going through this. I know we cannot bring Dad and Sherry back. Our family's sky is dark after losing these two bright stars. How many more need to die before this measure can be passed?