

Star News (Wilmington NC)

November 7, 2004, Sunday

Deadly loopholes; Domestic violence protective orders don't protect victims from gun crimes, cases show.

By Ken Little, Staff Writer

John B. Peck had no trouble buying an assault rifle April 26, just hours after Christen Naujoks took out a domestic violence protective order against the convicted felon.

On June 4, Mr. Peck used the same weapon to shoot his 22-year-old former girlfriend 11 times in front of her apartment building in northern New Hanover County. The conditions of the protective order specifically prohibited Mr. Peck from buying or keeping a gun, yet he was able to circumvent federal law and purchase the rifle despite convictions for crimes against nature and assault on a female.

Robert Hewson did not have a criminal past, but the protective order taken out against him Sept. 9 by wife Gail Tice clearly stated Mr. Hewson was not to possess, own or receive any firearms. Mr. Hewson, who was estranged from Ms. Tice, did not turn in the handgun used Sept. 29 to kill the 67-year-old real estate agent inside her Landfall home.

Guns were readily available in each case, and the shooters did not hesitate to use them.

Protective orders often forbid having firearms, but the authorities probably don't know whether the defendant is complying. Law enforcement officials say it is often left up to the defendant to turn in his weapons. There's generally no search of his home or car.

A protective order is a civil action, not a criminal charge. That means its enforcement is largely on the shoulders of the person who fears for her safety – she must report a violation, and then it becomes a criminal matter.

Time for change

Advocates for victims of domestic violence say change is needed to close loopholes in the system.

Holly Naujoks, Christen's mother, pointed out flaws last month as she spoke about domestic violence at a "Take Back the Night" rally in Wilmington. Mrs. Naujoks described the difficulties Christen had obtaining a protective order and the way Mr. Peck manipulated the system.

"First of all, I do believe in a protection order," Mrs. Naujoks said Oct. 29 in a telephone interview from her Ohio home. "That is all we have right now. We can build on it to make it stronger and protect more women."

Because her daughter also had taken out a criminal charge of harassment against Mr. Peck, the system should have ensured that he was in custody by the time he acted on his plan to kill Christen, Mrs. Naujoks said.

It seems the victim has fewer rights than the person causing the domestic violence situation, she said.

“When we went in there to get the protective order, we didn’t know the process. We didn’t have an advocate,” she said. “We needed someone to go through it with us and explain the pros and cons.”

No one anticipated the determination of Mr. Peck to take Christen Naujoks’ life, said Clarke Speaks, her lawyer.

“The day that we got that protective order, he left the courthouse with that protective order in his hand, and he bought the weapon somewhere,” Mr. Speaks said. “The only thing I think you can do that would have protected Christen short of getting out of this place is remove him from society and lock him up somehow, and you can’t lock him up because of suspicion.”

But Mr. Peck, who was on probation for his previous offenses, had been charged with harassment in connection with Ms. Naujoks’ case – something the civil court apparently wasn’t aware of, her mother said.

“The District Attorney’s Office was not aware John was back in the system again and his probation could have been revoked if he was charged with harassment,” Mrs. Naujoks said. “You should have had the court system and the probation officer meeting together.”

Limited protection

There were 461 domestic violence protective orders issued this year between Jan. 1 and July 29 in New Hanover County, according to the N.C. Administrative Office of the Courts. During that same period there were 274 orders issued in Brunswick County and 87 in Pender County.

Once a protective order is issued, the matter is basically out of a judge’s hands, said John J. Carroll III, chief District Court judge for the Fifth Judicial District, which encompasses New Hanover and Pender counties.

“The sheriff’s department has to serve the defendant. The only way you’re going to know if it is being enforced or not is the plaintiff,” Judge Carroll said. “It’s a civil action.”

Those serving the orders have limited enforcement options. A search warrant, which can be a tool in criminal cases, is not an option in a civil matter.

“A lot of people are under the conception that the order allows us to forcibly search the residence and seize weapons. It doesn’t allow us to do that,” said Detective J.C. Anderson, a New Hanover County deputy who works with the District Attorney’s Office domestic violence unit.

“If a defendant has threatened the use of the weapon, the judge can order surrender of a weapon within 24 hours. If he doesn’t surrender it, he can be charged with a felony,” Detective Anderson said.

Compliance can be difficult to ascertain.

The defendant could tell the deputy serving the order that he gave his guns to someone else, Judge Carroll said. Unless the deputy sees a weapon or has reason to suspect a crime in progress, he can’t search the premises, the judge said.

A protective order can only go so far, Judge Carroll acknowledged.

“If they have it in their mind to harm someone, it isn’t going to stop them,” he said.

A flawed system

Flaws in the country’s background check system often make it easy for those convicted of crimes to buy a weapon.

Nearly 3,000 domestic abusers bought firearms between 1998 and 2001, a U.S. General Accounting Office study shows. According to the Office of Justice Programs in the Department of Justice, 40 percent of women killed with firearms are murdered by an intimate partner.

Because of his felony record, Mr. Peck should not have owned a gun under any circumstances, Interim District Attorney John Sherrill said.

In Mr. Peck’s case, the 2001 assault on a female and crimes against nature convictions in connection with incidents involving a previous girlfriend did not prevent him from buying the assault rifle used to kill Ms. Naujoks from a private dealer. Such weapons are readily available at gun shows and through classified ads. Background checks required at gun shops would likely have resulted in a denial for Mr. Peck, authorities said.

Even with federally and state-assisted programs like “Project Safe Neighborhoods,” aimed at taking armed criminals off the streets, the system remains ill-equipped to keep guns out of the hands of those intent on domestic violence, New Hanover County Sheriff Sid Causey said.

“In 15 or 20 minutes, I think you can find a handgun on a street corner if you’re a local or a regular person. Getting weapons is not a problem. It has never been a problem,” he said.

Mr. Peck was obsessive in his desire to control Christen Naujoks’ life, Mrs. Naujoks said.

“A person like John Peck was hell-bent on killing Christen. He wanted revenge on Christen, so no amount of paper was going to keep her safe. Most people aren’t like that,” she said.

“Most people do comply with a judge’s orders. Are there cases where they don’t? We’ve seen that,” Mr. Sherrill said. “You’re talking about a pretty good volume of cases where people get guns and kill people.

It's a tragedy, and we're looking at everything we can do to prevent that. We take domestic violence cases seriously."

Some victims, like 17-year-old Aziya McLaughlin, never get to file a protective order. When the New Hanover High School teenager broke up with boyfriend Derrick Allen, Mr. Allen, 20, persisted in calling and following her. Sheriff's deputies said Mr. Allen used a .38 caliber revolver stolen in a March 2003 burglary at a New Hanover County home to shoot Aziya on Oct. 26 and then kill himself minutes later.

Can more be done?

The National Crime Prevention Council is among agencies that track domestic crimes involving firearms.

"When a domestic abuser is arrested, he or she can often be lost in the shuffle through overextended courts. Because the threat or use of a firearm is the number one indicator of future domestic homicide, it is important that these cases are flagged and monitored as soon as they come to the attention of the criminal justice system," a Crime Prevention Council strategy paper recommends.

The New Hanover County District Attorney's Office, which also serves Pender County, has a full-time assistant district attorney working on domestic violence cases. Two detectives, including Detective Anderson and another from the Wilmington Police Department, work exclusively on those cases. A full-time victim's advocate in the office works closely with such area agencies as Domestic Violence Shelter and Services.

Eighty-five domestic violence cases were prosecuted by the District Attorney's Office in August, Mr. Sherrill said.

The N.C. General Assembly passed a law in 2003 that makes it a felony to possess a firearm when a domestic violence protective order is in effect.

"There's no question a protective order can only protect folks when a person is going to follow the orders of the court," Mr. Sherrill said. "We try to make the system as victim-friendly as we can to try and monitor the defendant."

Domestic violence victims can receive assistance in filling out paperwork, Mr. Sherrill said. A witness coordinator will also meet with a victim before any court appearance. Mrs. Naujoks said no one met with Christen until 10 minutes before her court appearance.

Mr. Speaks said the District Attorney's Office could have a representative present when domestic violence-related cases are being heard to explain to victims how civil and criminal charges against a defendant may interact.

"Maybe they could help educate the victims. (Christen) was, and the fact is it didn't change anything," Mr. Speaks said.

“I just think if somebody is dead-set on ending anyone’s life, they can do it and I don’t know if there is anything that can be put in place,” he said. “My reaction now would be to tell them to get in their car and drive until they run out of gas and get some more gas and then drive some more.”

District Attorney-elect Ben David said changes are already being made in the approach to domestic violence taken by his office.

“We’re going to reorganize the office a little bit, so when people walk into that unit they know directly who they’re dealing with,” he said.

Mrs. Naujoks, who has spoken out on domestic violence issues since her daughter’s death, has a number of suggestions to improve the system. Among them are making sure arrest warrants are served in a timely manner and that safeguards be created to ensure that all paperwork goes to the right court and judge.

People such as Mr. Peck, who was going to a court-mandated anger management class monitored by probation, also need to attend a course addressing domestic violence, Mrs. Naujoks said.

“It should be automatic that the person who a protective order is taken out against should go to a class and learn about control,” she said. “It should be mandatory that they learn how to break up with somebody.”

Christen Naujoks, her mother said, had never met a troubled person like Mr. Peck before and didn’t have the tools to cope with his actions.

“The person who files the protective order should have classes on how to get out of an unhealthy relationship and a relationship that is controlling,” Mrs. Naujoks said.

Domestic violence cases should be overseen by one person who is aware of all the aspects of that case, she said.

In helping to protect other domestic violence victims, something positive may yet come out of the death of her daughter, Mrs. Naujoks said.

“I don’t want my daughter’s death to be in vain,” she said. “John knew more of what was going on and had more rights and more knowledge than Christen did, and it should be the other way around.”

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