

[MUSIC PLAYING]

NINA MOINI: The mass shooting at an apartment building in Minneapolis is raising more concerns about gun violence and accountability. Three people died including the alleged shooter on Wednesday in what started as a domestic violence incident. The shooting began during a custody exchange between the alleged shooter, Carlton Johnson II, and the mother of their child. Johnson, who had a permit to carry a gun, was facing eviction after alleged gun threats against a neighbor in the building earlier this summer. He also had a history of domestic related cases.

Joining me now to talk about this case is Hennepin County attorney Mary Moriarty. Thanks for your time this afternoon.

MARY MORIARTY: Oh, thank you for inviting me to be with you.

NINA MOINI: I think this is an instance where a lot of people have a lot of questions about what happened, and people feel so sad and angry when they feel that there might have been ways to prevent incidents like this from happening. So we do appreciate your time in coming on to break some of this down.

Let's start with some of the alleged threats that led to the eviction proceedings that were going on. Johnson had brandished his firearm and allegedly threatened residents. Police were called. He was not charged by your office. Can you explain why you didn't feel you had the evidence needed to charge Johnson with a crime despite him verbally threatening others?

MARY MORIARTY: Yes. And I'm glad that you pointed out that this was a horrific act that started out as domestic violence. That unfortunately also extended to people who lived in the building, worked in the building and police officers. And it is entirely appropriate that we take a look at what happened before that to see if things could have been handled in a different way.

So on August 20th, we received a case submission from the Minneapolis Police Department. The way we typically get cases for potential charging is to have them submitted to us by the Minneapolis Police Department or another police department in the city in which the conduct allegedly occurs. So the case that was submitted to us was actually from two months earlier. So that was on June 25th.

And so when we got the case the same day we got it, we had one of our experienced prosecutors take a look at it to see whether it was appropriate to charge and to charge quickly because it was submitted to us two months later on an out-of-custody basis. So nobody was in custody. That person did look at it, and for reasons that I can explain decided that it was appropriate to be declined.

When-- back on June-- and do you want me to go into more details about--

NINA MOINI: Yeah, please. Please.

MARY MORIARTY: Sure. So on June 25th, a person, a victim, called 911 and said that Johnson had threatened him but also said that they had gotten into a physical incident earlier. The caller also said that Johnson had pointed a gun at him.

And so the Minneapolis Police Department, did show up there. They did also follow up with that victim a couple of days later, and they said what do you mean by threatened you with a gun. What actually happened? And he said I saw him outside, and he showed me his gun.

In other words, he didn't take it out of his waistband. It was always in his waistband. And he just put his jacket aside or something of that nature. It's important to know that the victim of that case who called in was actually charged by the Minneapolis City attorney's office with misdemeanor fifth degree assault for a previous altercation he had been in with Johnson.

So what we have here is a case that got submitted to us two months after it occurred. The person who said he was the victim had already been charged with assaulting Johnson, and his statement about what happened was inconsistent from the times he talked to MPD. So as you can see, there was just no way we could actually charge that case and prove that anything criminal had happened beyond a reasonable doubt, which is the conclusion that our very experienced prosecutor arrived at when that person looked at the case the very day we got it.

NINA MOINI: So that is why there were no charges filed. What about your office considering an extreme risk protection order, observing these red flag laws, known as an ERPO, which would have enabled for the guns to be taken away from this individual?

MARY MORIARTY: That's a great question, and I like everybody else have been reading about threats that had happened between the people that lived in the apartment complex including Johnson. And I think the important thing to-- that I have to keep reminding people of is the only thing we as an office knew about was that one submission from two months earlier on June 25th, it was one act that was originally described as Johnson pointing a gun at this individual, and the individual later said, well, he didn't point the gun. And that individual had actually been previously charged with assaulting Johnson.

NINA MOINI: So you knew--

MARY MORIARTY: That's the only case we had. It's the only evidence we had or our staff had of anything that was going on over there. And so when we also flagged it for an extreme risk protection order, what you have to look at is is there-- is this person a danger to themselves or others with a weapon.

Well, the case we got had been-- had theoretically happened or had been called into MPD two months ago. So we could petition the court, but we'd have to explain to the court and convince the court because the court ultimately has to issue it that Johnson was a danger to himself or others. But this had happened two months ago.

NINA MOINI: So you're saying you couldn't prove that someone would be a danger because so much time had passed where to your knowledge nothing had happened. So there's the situation of domestic violence. There's the situation of this violence or threats of violence with other tenants and the eviction proceedings that were going on. But did your office have knowledge of any prior charges filed or reports or allegations of domestic violence or any other type of danger to other folks, and could you take that into account as it relates to where he lived?

MARY MORIARTY: We did not, and it certainly could have made a difference. And I think people should understand extreme risk protection orders can be filed. A person can fill out a petition if they are law enforcement, our office, or a household or family member. And so if-- and it sounds like there were all these calls to police and concerns by the property manager about this person with a gun, the police department can file a petition for an ERPO. That's what we call extreme risk protection order.

And so while we were unaware of the context of all of this because we were just submitted this one particular case, it does sound like there was a pattern of things that were going on there, and maybe it would have been appropriate for police or someone to submit a petition for an ERPO to ask a judge to take the gun away. It was complicated I imagine because he did have a permit to carry. It was complicated I imagine because as I've explained in this particular case the victim who called it in on this June 25th case had actually been charged by the city attorney's office for assaulting Johnson.

And so-- and also changed his statement about what happened to say that he didn't actually point the gun at him. So--

NINA MOINI: So can I just clarify one thing?

MARY MORIARTY: Yeah.

NINA MOINI: Just with the ERPO--

MARY MORIARTY: Yeah.

NINA MOINI: So who submits that? You're saying that MPD could have or maybe should have submitted something, so I just want to go into that a little bit deeper. Is that the responsibility of law enforcement? Is that the responsibility of the Hennepin County attorney's office? And then how far in the process did that go? I'm just trying to get clear.

MARY MORIARTY: Yes. It's a great question. When the legislature passed the extreme risk protection order, which is also a red flag law. They allowed law enforcement.

So that's any law enforcement in the city or perhaps the sheriff's office. They can petition the court by themselves. We're there to help if they want our help, but they can petition the court to say, hey, we think this person is a danger to themselves or others. They have a weapon, and we would like you to authorize us to take that weapon away.

Our office can also petition. Household members can also petition. So there are three ways that three different entities that can petition. Ultimately it's the judge that decides whether it's appropriate.

NINA MOINI: So anybody could have petitioned.

MARY MORIARTY: Correct.

NINA MOINI: I think some people have a hard time understanding why those entities are so separate. Why would you not know what all of the knowledge that the police department knows and then any of those people who are able to file before a judge to have one of those submitted then could have done that. So I wonder if looking back, what do you wish could have been done differently?

MARY MORIARTY: I am not familiar with, for instance, all the calls that might have come to MPD. I'm not familiar with the content of those.

NINA MOINI: Should you be?

MARY MORIARTY: And-- well, that's up to MPD. We don't have access to that information generally unless they give it to us. And that could come to us in two ways. It could come to us by submitting a case to us, which they did submit that one case. It could come to us by them talking to an expert. We have a couple of experts in the office on extreme risk protection orders, who I hired to help law enforcement in this process.

And so at any time-- and she's done a bunch of training for law enforcement, too-- at any time, they could reach out to her and say, hey, we're seeing all these calls. We're getting all these calls. We've got this guy with a gun. Can you take a look at this stuff with us and help us figure out whether we should be petitioning for an extreme risk protection order? That could have happened. I can't say whether it was appropriate, given what MPD knew because I don't have access to that, but that is certainly something that could have happened.

NINA MOINI: So communication and it sounds like some communication could have been happening there between different areas of public safety. We appreciate your time this afternoon and your willingness to talk more about this. County Attorney Mary Moriarty, thank you.

MARY MORIARTY: Thank you.

NINA MOINI: If you or someone you is in a dangerous situation with a partner, there is a 24-hour statewide domestic and sexual violence hotline. You can call Minnesota Day One at 866-223-1111 or text 612-399-9995.