



Non-fatal Shooting Incidents Project: Research Brief

Summary

Investigations of non-fatal shooting incidents have proved challenging for law enforcement, particularly when faced with victims or witnesses who are unwilling to cooperate. Lessons learned from a recent demonstration project in New York State aimed at improving the investigation and prosecution of these types of incidents can help guide similar investigative and prosecutorial strategies in other jurisdictions.

This brief was adapted from a report issued by The John F. Finn Institute for Public Safety.

For more information on the demonstration projects featured here, e-mail: KnowledgeBank@dcjs.ny.gov.

Brief Issued:
October 2020

Introduction

Non-fatal shooting incidents have historically been challenging for criminal justice practitioners to solve. Uncooperative victims and witnesses and fewer dedicated resources—as compared to those available for homicide investigations—have affected closure rates for non-fatal shooting incidents. The difficulties associated with resolving these cases can play a role in shaping community attitudes about police effectiveness in high crime areas.

In 2016, the state Division of Criminal Justice Services (DCJS) selected the cities of Newburgh and Utica for a demonstration project aimed at strengthening the investigation of non-fatal shooting incidents in those jurisdictions. The goal was to increase the number of clearances and prosecutions of these cases based on the evidence, with or without the active cooperation of victims and witnesses. DCJS provided each site with modest funding and technical assistance to improve their handling of non-fatal shooting investigations and prosecutions.

Police departments in these cities committed to conducting thorough investigations of all non-fatal shootings, and the district attorneys committed to supporting evidence-based prosecutions and playing an active and early role in investigations. The sites were required to develop a written protocol for non-fatal shooting investigations, specifying preliminary and follow-up investigatory steps and the personnel responsible for each step. DCJS facilitated training, technical assistance and the timely processing of forensic evidence. [The John F. Finn Institute for Public Safety](#) provided research, evaluation and crime analysis support during the project.

Recommendations

Key recommendations obtained from lessons learned in the demonstration project include:

1. Establish executive commitment.
2. Promote collaboration between police and prosecutors.
3. Use grand juries and indictments strategically.
4. Create investigative protocols (or checklists) to structure and guide investigations.
5. Select and prioritize certain investigative tasks during an investigation.
6. Deploy other types of law enforcement personnel in investigations strategically.
7. Know the individuals who are repeatedly involved in gun-related incidents.
8. Provide adequate resources to investigators.
9. Create specialized caseloads.
10. Assign investigators who are well-suited to the work.

Summary of Evaluation Findings

As part of the demonstration project, The Finn Institute documented implementation and evaluated the impact of the implemented changes on case clearance and prosecution rates in the two demonstration sites. The hypothesis was that investigative activities made possible through this initiative would result in stronger case evidence, increase the probability of arrest or indictment and lead to more successful prosecutions.

Researchers collected and analyzed data from a variety of sources, including quantitative data on shooting incidents and arrests from each police department's records management system (RMS), and more detailed information on investigative activities from data coded by crime analysts assigned to work at each site, following a structured protocol developed by DCJS and the Finn Institute. Qualitative data were collected through interviews with detectives, supervisors, assistant district attorneys, and other personnel that were involved in the investigation and prosecution of non-fatal shooting incidents in the two demonstration sites.

After comparing data on non-fatal shooting incidents and investigations three years prior to the initiative (2014 to 2016) and three years after implementation (2017 to 2019), researchers found that both demonstration sites attained substantial increases in non-fatal shooting case clearance rates. Even when cases that were still being actively investigated as "open cases" were included in the calculation of clearance rates, Utica's clearance rate post-initiative was 36 percent (compared to 23% pre-initiative), and Newburgh's was 40 percent (compared to 14% before the project).

Lessons Learned

Through a detailed analysis of implementation and outcomes provided by the Finn Institute, evidence from the two demonstration sites suggests agencies can implement a number of steps when investigating and prosecuting non-fatal shooting cases, particularly in the absence of a cooperative victim or witness.

1. Establish executive commitment.

Executives from the police department, district attorney's office, and other agency partners should commit to prioritizing the investigation and prosecution of non-fatal shootings, and ensure that the expectations of all personnel involved are clear. This can guide the performance of the investigative and prosecutorial personnel who do the work on the ground.

2. Promote collaboration between police and prosecutors.

Collaboration between investigators in the police department and prosecutors in the district attorney's office is essential to effectively investigating and prosecuting non-fatal shootings. In the demonstration sites, this was facilitated by assigning a police investigator, an investigator from the district attorney's office, an assistant district attorney, and a crime analyst to a specialized non-fatal shooting investigations team. Under this model, the typical barriers to communication between these agencies were diminished, and the team worked collectively with the same goals and priorities from the day of the incident to the final case outcome.

Direct involvement by prosecutors at the early stages of a non-fatal shooting investigation can build stronger cases by providing a clear evidentiary standard, improving evidence collection and informing investigatory strategies and tactics. As a result, more cases are likely to go forward for prosecution.

3. Use grand juries and indictments strategically.

Both demonstration sites made greater use of grand jury proceedings to efficiently perform legal actions and protect victims and witnesses from the threat of retaliation for their testimony. Though assistant district attorneys emphasized the advantages of grand jury proceedings over preliminary hearings, they used the hearing when it would be beneficial to the case, such as by obtaining testimony from a cooperative person who might be considered a flight risk.

4. Create investigative protocols (or checklists) to structure and guide investigations.

Investigative efforts should be coordinated by using established protocols to promote more thorough and accurate investigations. One of the demonstration sites created a checklist to structure non-fatal shooting investigations. Checklists are used to facilitate teamwork and communication in other professions, such as aviation and medicine, where the timely performance of multiple tasks must be performed by multiple people. Checklists are also used to properly manage crime scenes.

Investigators told researchers that while they have many investigative resources at their disposal, they might overlook some of them. When personnel are reassigned or retire, a checklist can institutionalize each step of a non-fatal shooting investigation. Further, the experience and expertise of investigators varies, and a checklist can serve as a foundation for investigators' knowledge and awareness of the tasks that need to be performed and the resources available to them.

5. Select and prioritize certain tasks during an investigation.

The thoughtful selection and prioritization of tasks performed by investigators can contribute to stronger cases. For instance, engaging crime analysts in the early stages of an investigation allows them to find and retain valuable information that might otherwise have been deleted, such as content posted on social media. An analysis of crime analyst activity in the demonstration sites pre- and post-initiative found crime analysts performing more activities that added value to investigations.

6. Consider the strategic deployment of other types of law enforcement personnel in investigations.

While non-fatal shooting investigators performed most investigative activities in both the pre- and post-initiative period, many of these efforts were strengthened with the help of other law enforcement personnel in the demonstration sites. When comparing the number of investigative activities performed (i.e., identifying witnesses, informal interviews, reviewing 911 calls, etc.) and which personnel performed the activity (i.e., non-fatal shooting investigator, patrol officer, crime analyst, other), researchers found that not only had the number of activities performed generally increased post-initiative, but the types of personnel performing the activities were more widely distributed. Many of the more time-consuming activities were performed by supporting investigators and other personnel who were not specifically assigned to the non-fatal shooting initiative.

In particular, patrol officers took on a more active role in investigations. Work performed by patrol officers, such as identifying witnesses, collecting and documenting evidence, and securing the scene is critical for an investigation, and these activities provide the foundation on which detectives and prosecutors build their case. If certain activities are performed more frequently and independently by patrol, investigators can spend time on activities that are more time-consuming or require more expertise, such as reviewing jail call recordings or available surveillance footage, and interviewing witnesses.

7. Know the individuals who are repeatedly involved in gun-related incidents.

Law enforcement personnel in both demonstration sites emphasized the extent to which gun violence activity is limited to a small number of individuals. A familiarity with those individuals—as victims, offenders, witnesses, or bystanders—and their patterns of activity can be extremely valuable when investigating non-fatal shooting cases. The investigators in both demonstration sites had extensive knowledge of the communities they police. This intelligence can aid investigators when determining motives, geographically placing suspects, and navigating relationships among possible witnesses or individuals with information. Further, because gun violence is concentrated among small groups, resolving these cases also may prevent future incidents.

8. Provide adequate resources to investigators.

A jurisdiction's ability to acquire additional resources may be limited. If this is the case, executives can consider prioritizing the investigation of non-fatal shootings and allocating resources accordingly, as they do for homicide investigations. Investigators may be encouraged to keep non-fatal shooting cases open and active if they are treated as near-homicides and given a higher priority. This allows personnel to perform the more time-consuming activities that are required to build a strong case, such as collecting and viewing surveillance footage, listening to jail calls and monitoring social media.

Resources

Key resources necessary to enhance the investigation and prosecution of non-fatal shooting incidents include the use of and collaboration between:

- dedicated and properly resourced investigators in the police department;
- dedicated/specialized prosecutors in the district attorney's office; and
- crime analysts.

This also can give investigators more time to build relationships with uncooperative victims and witnesses through repeated interviews. Other law enforcement personnel, such as patrol officers, evidence technicians and crime analysts should be deployed strategically.

9. Consider creating specialized caseloads.

Specialized investigators, who focus exclusively on non-fatal shootings, have the time and resources to approach these cases as near homicides. If resources are available, investigators can be dedicated to non-fatal shooting cases in order to keep the cases per investigator within recommended parameters. In mid-sized agencies with limited resources, this may not be possible. An option one demonstration site used was to assign some non-fatal shooting cases to investigators in a unit that typically focused on homicides. Another option is assembling a smaller team of investigators whose caseload is restricted to gun-related cases. As discussed previously, gun violence is generally limited to a few individuals, and investigators are better able to make connections among distinct fatal and non-fatal shooting incidents when cases are assigned to a small team of investigators.

10. Assign investigators who are well-suited to the work.

Patience and persistence are crucial when interacting with victims and witnesses who tend not to cooperate with police and may be antagonistic. An investigator's ability to accept frequent rejections from uncooperative victims and witnesses can be valuable. Persistence throughout repeated interviews and attempted interviews with individuals who are at first uncooperative can provide useful information. An investigator's knowledge of the community, and their capacity to empathize with those involved in shooting incidents, also can be valuable.