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Criminal Investigations of Gun Assaults and Murders in Durham, 2015:  
The challenge of securing victim and witness cooperation

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1. The research project in brief

On March 8, 2016, Professor Cook met with the executive staff of the Durham Police Department (DPD) to discuss a research project on police investigations of gun violence. There was general agreement that reducing gun violence was a top priority for the Department, and that evidence-based suggestions on how to improve the clearance rate would be welcome. The committee approved his proposal to access the investigation files for all criminal cases in 2015 in which the victim suffered a gunshot wound, with certain provisos about protecting confidential information. Jeffrey Ho, a Duke senior working under Cook's supervision, was eventually cleared to read the files and code specified data elements from each of them. He obtained the list of shooting cases from Jennifer Snyder of Project Safe Neighborhoods, and performed the data collection during early fall, 2016.

The executive staff also approved Cook's proposal to interview willing DPD investigators. Sara Shilling, a graduate student working as a research assistant to Professor Cook, received clearance by DPD to contact investigators who had taken the lead on some of these cases; by January, 2017, she had conducted interviews with 17 homicide and district investigators, who among them had investigated the majority of all relevant cases. The current report summarizes results from the interviews and data from the investigation files.

2015 was an exceptionally violent year in Durham, with 36 criminal homicides, up from just 22 in 2014. Two-thirds of the homicides were committed with guns. During the same year there were over 2,000 aggravated assaults and robberies known to DPD; 181 of the victims of these crimes suffered gunshot wounds, incidents that are, for good reason, sometimes referred to as "almoscides." There were two or more victims in some of the shootings, and 205 victims were involved in 169 cases for DPD investigation. Half of the gun homicide cases but just 1 in 10 of the nonfatal shooting cases resulted in an arrest. In the nonfatal shootings, the victim was (with three exceptions) physically able to serve as a witness and sometimes knew enough to be helpful in identifying the assailant. The quality of victim cooperation had a notable effect on the

likelihood of an arrest. (There were 44 instances in which the victim refused to cooperate, and only one of those 44 resulted in an arrest.) Gang-style drive-by shootings made up the majority of all shooting cases, and an arrest in such cases was rare.

The challenge of securing cooperation from victims and other witnesses was the principle theme of the interviews with investigators. Investigators explained the commonplace reluctance or refusal to cooperate as resulting from such factors as fear of retaliation, the “no snitching” culture, distrust of the police, and wish to avoid involvement in court proceedings. They discussed the craft of investigation, and particularly the use of financial rewards through CrimeStoppers, giving that program mixed reviews. Most did not take advantage of the state’s Victim Compensation Services program, even though it can provide substantial financial help to victims and survivors who cooperate, and hence might induce greater cooperation in some cases.

When asked to speculate about why clearance rates are so much higher in gun homicide cases than nonfatal shootings (despite the similarity of fatal and nonfatal shootings with respect to characteristics of victims, perpetrators, and circumstances), investigators mentioned the tendency of witnesses to be more cooperative in homicide cases, but also the greater resources available for homicide investigations; homicide investigators have a much smaller caseload than the district investigators who handle the nonfatal shootings.

Based on these interviews we offer several suggestions about how to improve victim and witness cooperation. A low-cost and potentially productive reform would be to provide investigators with training in the NC Victim Compensation Services program.

## 2. Shooting victims in 2015

Overall, 205 people were shot in Durham in 2015 during the course of a criminal assault or robbery – about one in every 1,000 residents. The 205 victims included 24 deaths (homicides) and 181 nonfatal injuries, some very serious. In a sense the survivors in these shootings were “lucky” – generally speaking, whether the victim lives or dies depends on the exact location of the wound or wounds, which in turn is often more a matter of chance than the intent of the shooter.

Because gun homicides and nonfatal shooting cases have so much in common, it is reasonable to view criminal shootings as a single category when it comes to studying the circumstances and characteristics of the people involved. Table 2.1 provides the statistical breakdown of the 205 shootings by race, sex, and age. To a vastly disproportionate extent, victims are black, male, and youthful. Accounting for the city’s population composition, the black victimization rate is 17 times that of the non-Hispanic whites, while the male rate exceeds the female rate by a factor of 7.

Table 2.1 Demographic characteristics of victims

Sex			Race			Age		
Category	#	%	Category	#	%	Range	#	%
Male	178	86.8	Black	180	87.8	10-19	45	22.0
Female	27	13.2	White	12	5.9	20-29	89	43.4
			Hispanic	13	6.3	30-65	71	34.6
	205	100.0		205	100.0		205	100.0

### 3. Criminal cases resulting in gunshot wounds, 2015

Some assaults and robberies resulted in gunshot wounds to more than one victim. In 2015, there were no cases in which two victims were killed, although there was a homicide case with two other gunshot victims. The distribution of nonfatal shooting cases by number of wounded victims is presented in Table 3.1.

Table 3.1 Cases with nonfatal criminal shootings

<u>Victims/case</u>	<u># agg assault cases*</u>	<u># robbery cases</u>	<u># victims total</u>
1	108	15	123
2	16	1	34
3	3		9
4	1		4
9	1		9
	129	16	179

\*excludes a case with three gunshot victims, one of whom died

The DPD records provide a variety of details about both nonfatal and fatal cases. Table 3.2 summarizes several of the patterns in these cases that are relevant to investigations. First, criminal shootings are quite concentrated geographically, with 63.3 % located in Districts 1 and 4. Since district investigators (unlike homicide investigators) are assigned by district, the nonfatal “shootings” caseloads differ widely.

Also of interest is the circumstance of the shooting. It turns out that in a majority of all cases, the shooters fired from a vehicle. Indoor shootings were relatively rare.

A third relevant aspect of these cases is the source of the first call received by DPD. Most (81 %) calls were made from the crime scene, typically by a witness; the remaining 19% were made from the hospital after the victim arrived there. (Medical providers are required to report gunshot cases to the police, and DPD officers are stationed in the Duke Hospital Emergency Department.)

Table 3.2. Circumstances of shooting cases

<u>Police District</u>	<u># cases (%)</u>	<u>Setting</u>	<u># cases (%)</u>	<u>911 Call origin</u>	<u>#cases (%)</u>
1	59 (34.9%)				
2	28 (16.6%)	Vehicle	97 (57.4%)	Crime scene	137 (81.1%)
3	28 (16.6%)	Indoors	26 (15.4%)	Hospital	32
4	48 (28.4%)	Outdoors	46 (27.3%)	(18.9%)	
5	6 (3.6%)				
Total	169 (100%)	Total	169 (100%)	Total	169
				(100%)	

#### 4. Victim cooperation and clearance rates in non-fatal shootings

Based on the information in the investigation files, Jeffrey Ho classified each nonfatal shooting case according to the quality of victim cooperation. “Active cooperation” was defined as cases where a victim was willing and able to name the perpetrator, or at least provide a description of the assailant or vehicle, and was readily available to the investigator. “Limited cooperation” occurred when the victim provided initial statements to investigators but was not willing or able to provide a description of the suspect or otherwise provide useful information to the investigator. “Noncooperation” was defined as cases in which the victim directly impeded or prevented the continuation of the investigation, such as lying to the police, refusing to make a statement, disappearing, or stating that he or she had no intention of pressing charges against the assailant.

Table 4.1 Classification of victims by quality of cooperation

Quality of cooperation	Definition	# of cases
Non-cooperation	Victim refused to cooperate with the investigator or impeded the investigation	43
Limited cooperation	Victim complied with investigator requests	62
Active cooperation	Victim actively helped with the investigation	37
Incapacitated	Physically unable to cooperate	3

The 169 cases resulted in 26 arrests. There was an arrest in half (12/24) of the homicides, but just 9.7% (14/145) of the non-fatal shooting cases. Eleven other non-fatal cases were cleared by “exceptional” means, a designation used when there is a strong case against a particular suspect but there is no arrest. In order for cases to be cleared by exceptional means all of the following three criteria must be met: (1) Identity of the offender must be known. (2) Location of the offender must be known. (3) Enough information must be known to support an arrest. In addition to these three criteria, one of the following criteria must also be met: (1) Lack of cooperation from the victim or (2) Death of offender or (3) Prosecution declined case.

Table 4.2. Investigation outcomes of cases initiated in 2015

Clearance type	Non Fatal Shootings	Homicides	Total
By arrest	14	12	26
Exceptional means	11	0	11
Not cleared	120	12	132
Total	145	24	169

In the non-fatal shootings, it appears that the quality of victim cooperation has a substantial effect on the likelihood of an arrest. Table 4.3 shows a progression in clearance rates from 2% (non-cooperation), to 16% (active cooperation).

Table 4.3. Arrest rates in non-fatal shooting cases

Victim cooperation	# cleared by arrest/total	% cleared by arrest
Non cooperation	1/43	2.3
Limited	6/62	9.7
Active	6/37	16.2
Overall	13/142*	

\*excludes 3 cases in which the victim survived but was physically unable to cooperate

Arrest rates also differed by other observable characteristics of the cases. Of the nonfatal cases, only one in 20 drive-by shootings resulted in an arrest, compared with 1 in 6 of the other cases. Also of interest, none of the cases first reported to the police from the hospital resulted in an arrest.

## 5. Interviews with DPD Investigators

Sara Shilling was able to arrange one-on-one interviews with 17 investigators, which she conducted between July 2016 and January 2017. Five of the interviews were conducted by telephone, the rest in person. The interviews were not recorded, but Ms. Shilling did take comprehensive notes. The investigators agreed to be interviewed with the understanding that their responses would be used in a report, but not attributed to them personally. The interviews typically lasted 30-60 minutes, and covered both specific cases from 2015, and their views about their work. They received no compensation.

Respondents included 6 homicide investigators and 11 District investigators. Homicide investigators exclusively investigate homicide cases. District investigators, each of whom is assigned to one of the 5 police districts, investigate non-homicide violent crimes, which include aggravated assaults and robberies but not domestic violence or rape cases. In certain districts District Investigators also investigate property crimes.

**Table 5.1: 2015 Shooting cases handled by interview respondents**

	# interviewed	Shooting cases	Average # cases
Homicide Investigators	6	21	3.5
District Investigators	11	90	8.2
<b>Total</b>	17	111	

Among them, the 17 respondents were responsible for investigating 21 of the 24 gun homicides, and 90 of the 145 nonfatal shootings.

Of the 17 respondents, 6 are women and at least 3 were perceived by Ms. Shilling to be African American. (She did not ask, and was unable to observe race in three instances.)

#### 6. Themes from investigator interviews

Four topics of particular note were covered in the interviews.

##### A. Who do they serve?

Violent attacks have immediate victims, but from the point of view of legal theory the crime harms the community – it is a public wrong – against which the criminal justice system seeks a just response. It is natural, however, for investigators who are working with the immediate victims to view them as, in effect, clients, and to be more motivated to pursue a case when the immediate victim is cooperative and sympathetic. Indeed, five of the respondents mentioned the concept of a “true victim,” someone who is innocent and cooperative. Six of the 17 respondents indicated that they saw themselves as serving victims’ interests, while 4 more mentioned the victim along with the community or public. Here is the breakdown of responses among the 17:

Victim	6
Community/Public	6
Both	4
Department	1

##### B. Explaining non-cooperation

All of the investigators faced the problem of persuading victims and other witnesses to cooperate. When asked why it was often difficult to garner effective cooperation, the

respondents all mentioned the widespread (and no doubt justified) fear of retaliation. Other common responses were mistrust of police (10), the “no snitching” culture (8), and the quest for “street justice” (7). Ten respondents mentioned that witnesses sometimes did not want to get involved in court proceedings for various reasons.

Several respondents mentioned that mistrust of the police may in part be based on a misunderstanding of the division of responsibility within the criminal justice system. The police can arrest a suspect, but the district attorney, judge, and jury are responsible for deciding whether they will be locked up or return to the street. Many members of the community may not understand these distinctions, which leads them to blame the police when they see a suspect go free.

#### C. Explaining why homicides have a higher clearance rate than nonfatal shootings

All respondents were asked for their views of why gun homicides were more likely to be cleared by arrest than nonfatal shootings, despite the fact that these cases are so similar with respect to the characteristics of victims and assailants, and of the circumstances of the attack. The difference between life and death in a shooting case is primarily chance. Furthermore, homicides are by definition missing one key witness who could be helpful, namely the victim. So why was the clearance rate for gun homicides five times as high as for nonfatal shootings? (Incidentally, the 5:1 ratio is also observed in Chicago.)

Most respondents mentioned that homicide investigators have a far lighter caseload, or more resources generally, than district investigators. As a result, the homicide investigators can spend more time working a case, tracking down witnesses and creating a relationship with potential witnesses. That observation has a clear implication – that if investigators of non-fatal gunshot cases had more time and resources, they could make more arrests.

The other common response (11 respondents) was that witnesses were more likely to cooperate with homicide investigations than with investigations of nonfatal shootings. Potential witnesses may view homicides as more serious, especially than nonfatal cases in which the victim appears to have recovered completely. And if a survivor, the victim may warn potential witnesses not to cooperate, and in other ways undercut the strength of the case, as indicated by the “exceptional” clearances.

#### D. Tactics to encourage witness and victim cooperation

The respondents mentioned various tactics for garnering cooperation, including an emotional appeal (9), finding common ground (7), and using outstanding criminal charges as leverage (5).

In response to questions about compensation, 11 indicated that they sometimes found CrimeStoppers to be useful, although it could also cause problems when witnesses were reluctant to provide information to the investigator that they believed they could “sell” through “CrimeStoppers.” Another issue with the Crime Stoppers program is that it is anonymous, which means evidence gathered through Crime Stoppers tips cannot be held up in court, as witness

names are needed to corroborate evidence in court. Overall, Crime Stoppers was identified as a useful program with some notable limitations.

Ms Shilling asked specifically about the state's Victim Compensation program. That program offers payment of medical expenses and lost earnings up to \$30,000 for injured victims, and up to \$5,000 assistance for funeral expenses, with the proviso that the victim (or survivors) fully cooperate and that they did not contribute to their own victimization. Victims who were recently convicted of a felony are not eligible to apply. It is reasonable to suppose that an investigator could enhance cooperation by an exchange of information for help in gaining access to Victim Compensation funds. But only 3 investigators indicated that this program was helpful in obtaining cooperation, and most indicated that they did not know much about it.

#### 7. Conclusions and recommendations to the Durham Police Department

It should be noted that this inquiry was quite limited. In particular, we did not attempt to document several aspects of the investigations, including role of the DPD's Forensic Services Unit, or the state Crime Lab. Our focus was on civilian cooperation with investigators, and in particular how investigators could improve cooperation. The role of other officers in investigations may be important in some cases, but was not documented in our study.

Our recommendations are based primarily on suggestions made by the 17 investigators, or on inferences from what they said during the interviews. They are to be viewed as preliminary.



<b>Recommendations for DPD to Increase Victim and Witness Cooperation</b>		
<b>LOWER COST</b>		
	<b>Why</b>	<b>How</b>
<b>Increase strategic use of State Victim Compensation (SVC) funds by Investigators</b>	<ul style="list-style-type: none"> <li>◆ Investigators lack knowledge about the SVC program and a desire to learn more about how it works.</li> <li>◆ SVC payments are conditional on cooperation and hence can be used as incentivize victims and survivors</li> </ul>	<ul style="list-style-type: none"> <li>◆ Provide training for investigators on SVC program. Engage with Raleigh based SVC staff.</li> </ul>
<b>Educate community on Criminal Justice System Processes</b>	<ul style="list-style-type: none"> <li>◆ Investigators indicated that citizens do not understand the division of authority between police and courts, and tend to blame police when a suspect is released etc.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Incorporate an educational component led by investigators into community meetings.</li> </ul>
<b>Improve investigation techniques</b>	<ul style="list-style-type: none"> <li>◆ Investigators offered a number of strategies and tips for gaining cooperation from victims and witnesses.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Develop system for sharing ideas among investigators</li> </ul>
<b>HIGHER COST</b>		
	<b>Why</b>	<b>How</b>
<b>Reinstate Public Housing Officers and Gang Unit</b>	<ul style="list-style-type: none"> <li>◆ Investigators recalled that the Public Housing Unit and Gang Unit were helpful in solving crimes through their connections with people likely to have relevant information</li> </ul>	<ul style="list-style-type: none"> <li>◆ Conduct a review in support of reinstatement of these units</li> </ul>
<b>Provide relocation assistance to key witnesses</b>	<ul style="list-style-type: none"> <li>◆ Investigators indicated that fear of retaliation for cooperating with DPD investigations could be mitigated by providing relocation assistance.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Seek funding for relocation assistance, and consider a partnership with public housing</li> </ul>
<b>Increase Investigator Staffing in the Districts</b>	<ul style="list-style-type: none"> <li>◆ Investigators indicated that their high caseload did not leave enough time to locate and develop potential witnesses. With more time and resources they could increase the arrest rate for serious assaults.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Consider organizing an experiment to determine whether investigator resources do affect clearance rates.</li> </ul>