

Just Collaboration Between Law Enforcement and Prosecutors to Solve Cases

Introduction [00:00:01] RTI International's Justice Practice Area presents Just Science.

Introduction [00:00:08] Welcome to Just Science, a podcast for justice professionals and anyone interested in learning more about forensic science, innovative technology, current research and actionable strategies to improve the criminal justice system. In episode three of our National Case Closed Project: Supporting best practices and investigation Season, Just Science sat down with Lamar Fyall, Assistant United States Attorney for the District of South Carolina, Rob Lang, Assistant United States Attorney for the Middle District of North Carolina, and John Wilkinson, Attorney Advisor at AEquitas, to discuss how state, local and federal prosecutor's offices can collaborate with law enforcement to improve case outcomes. While some law enforcement officers may have a go-to contact in their state or local prosecutor's office, more consistent collaboration and information sharing practices can help bring violent crime offenders to justice. For example, many prosecutors work with law enforcement to better utilize the National Integrated Ballistic Information Network leads and other crime intelligence to supplement case evidence. Listen along as Lamar, Rob and John describe their unique experiences building systems of communication between law enforcement and prosecutors, the evolving role of crime gun intelligence in building a case, and improving victim and witness case cooperation. This episode is funded by the U.S. Department of Justice, Bureau of Justice Assistance. Some content in this podcast may be considered sensitive and may evoke emotional responses or may not be appropriate for younger audiences. Here are your hosts, Julia Brinton and John Wilkinson.

Julia Brinton [00:01:34] Hello and welcome to Just Science. I'm your host, Julia Brinton, with the National Case Closed Project, a program of the Bureau of Justice Assistance. Here to join me as co-host is John Wilkinson. John, can you give our listeners a little background about yourself?

John Wilkinson [00:01:52] Yeah, So I'm an attorney advisor with AEquitas. AEquitas is a resource for state and local prosecutors on violent crime, particularly violence against women crime, but all violent crime. And so, we provide assistance, whatever folks need. State and local prosecutors are super busy, so we're happy to do anything we can to support them through research, webinars, learned articles, things like that in the areas of violent crime. I work with RTI on a number of initiatives, including the National Case Closed Project. Prior to joining AEquitas, I was an assistant Commonwealth attorney in Fredericksburg, Virginia, so I tried everything from traffic offenses to first degree murder, but I also prosecuted a lot of drug crime, a lot of gun crime, a lot of domestic violence, domestic violence homicide, I also tried sexual violence, and I was on our sexual assault response team. And being on the sexual assault response team really opened my eyes to how collaboration with key partners is critical in solving a lot of these crimes or improving our response to a lot of these crimes, and how we measure success. We can do a lot, a guilty verdict isn't the only measure of success, there are other things we can do to improve the response and improve victim's recovery from crimes and prevention, things like that. Prior to that, I was a public defender, sort of learned the system from both sides, and being a public defender, I think really helped me as a prosecutor because it helped me understand these crimes and where these people were coming from a little more.

Julia Brinton [00:03:26] Thanks, John. On today's episode, we will discuss the importance of collaboration among law enforcement and prosecutors, as well as the critical role each play in improving case outcomes for both fatal and nonfatal shootings. Here to

guide us in this discussion is Rob Lang, assistant U.S. attorney at US Attorney's Office, MDNC and Lamar Fyall, Assistant U.S. Attorney, District of South Carolina. Welcome, Rob and Lamar, thanks so much for talking with us today.

Rob Lang [00:03:57] Hello. Glad to be here.

Lamar Fyall [00:03:58] Good to be here.

Julia Brinton [00:03:59] All right, Rob, we're going to start with you. Can you talk a little bit about your background?

Rob Lang [00:04:03] I graduated law school from Wake Forest in 1984, I was in private practice for five years and then I went to the DA's office in Winston-Salem, North Carolina, worked for about seven and a half years, tried about 115 jury cases all across the board, ended up trying a bunch of murder cases and death penalty cases, Came to the U.S. Attorney's office in '97, I just celebrated my 26th year. I've tried over 100 cases in federal court, primarily violent Crime, Hobbs Act robberies, which are retail robberies that establishments that deal commerce, tried some big drug conspiracies, those types of things. But since PSN, Project Safe Neighborhoods, has come in in 2001, I've been the Project Safe Neighborhoods coordinator for our district in the middle District of North Carolina. And for the past four or five years, I've not been prosecuting as many cases, I've been more involved in training and working on building partnerships with local agencies, with our police, sheriff's officers, local prosecutors, state probation: adult and juvenile, to try to figure out how we can better collaborate to reduce violent crime. I've been involved in quite a number of work with the High Point Police department and others with focused deterrence policing, and worked with David Kennedy as he developed a number of replications of his Boston gun project and have been involved in some unbelievable partnerships that have reduced violent crime and 50%, 60%, 65% over time. Some of those numbers have still held even over the past few years. So, collaborating with the local law enforcement and the local prosecutors is right in my lane and what excites me.

Julia Brinton [00:05:46] I love hearing that. What an amazing background that you bring to the table. Lamar, can you talk a little bit about your background?

Lamar Fyall [00:05:53] Yes, I've been prosecuting since the fall of 2014. I started at the Richland County solicitor's office in Columbia, South Carolina. So I did, like most prosecutors do, doing sort of a range of things, assaults, auto breaking, shoplifting. After about three years, I started moving into violent crimes. I started prosecuting murders, armed robbery, sexual assaults. While I was there, I did about 17, 18 jury trials over the course of about seven years, left there, went to the city of Columbia City Attorney's office, and I was a special assistant U.S. Attorney in the District of South Carolina. I did that for a year. While I was there, in that capacity, I prosecuted somewhere around 25 different individuals that were of interest to the city because of their [unknown] to firearms and violence. And after about a year, I joined the U.S. Attorney's office for the District of South Carolina as an assistant U.S. attorney, and, I'm in that capacity now.

Julia Brinton [00:06:52] Lamar, At one point, you were a special assistant U.S. attorney dedicated to prosecuting gun cases. Did you find that to be a successful strategy?

Lamar Fyall [00:07:01] I did. I think it is a good situation for both the organization and the U.S. attorney's office. The City of Columbia had a prosecutor embedded at the U.S. attorney's office that was dedicated to crimes originating out of the city. I would meet

frequently with patrol officers, command staff, other people in CPD with the City of Columbia Police Department. Their leadership regularly to sort of recognize the drivers of violent crime in the area was, were, and I should say, and it allowed us to focus our attention on those people. Of course, dealing with violent crime is also a big initiative of U.S. attorney's offices across the nation. So, it became just a good partnership between the city and the U.S. Attorney's office, and I think it was very fruitful. I think both parties got value out of it.

John Wilkinson [00:07:54] That's a great strategy, Lamar. So interesting to become that force multiplier both for your office and for the U.S. attorney's office. Rob, When I met you a few months ago, one of the things that amazed me was how well you knew all the players in your station, particularly individual police officers. So, is that just from working with everyone for a long time or was there some intentionality to that? Does it help improve case outcomes or improve some of the strategies that you try and employ?

Rob Lang [00:08:28] Some of it is from being around for a long time in the same general area. However, everything is intentional. As homicide and C.I.D., Criminal Investigation division groups, they rotate their detectives out and so there's a new phase coming in. So, it is very intentional to make sure that you identify who the new players are, the who are the new boots on the ground that are that are doing the legwork to investigate the serious and violent crime cases. So, my knowledge of many of those go-to people in the departments is very intentional because that intentionality leads to developing a relationship. Once I develop a relationship with those individuals, I can learn how their unit works, I can learn what resources they have available, and really we can learn how to build that team effort. So, the, you know, the understanding of how that system works is critical to good case outcomes and to improving process, as you do the case in front of you, improving the process and improving the investigation for the next case.

John Wilkinson [00:09:31] Yeah, that's, that's interesting. One of the things across the National Case Closed project, that we've heard, is a lot of homicide detectives mentioned that they have a go-to person in the prosecutor's office or in the U.S. attorney's office, the prosecutor that they know, or they prefer, or they trust somehow. How important is it to have a consistent response from an office on these crimes?

Rob Lang [00:09:56] I think it's very important. But I mean, obviously, you want to build a system in all the prosecutor's offices so that you can respond in a consistent way to the law enforcement officers. In our office, in the U.S. Attorney's office, we assign one assistant U.S. attorney to each of the counties, of the 24 counties in the district, and for violent crime only, not for sex offenses, not for human trafficking, not for white collar, but for violent crime only, that one AUSA is the point of contact. And so, I'm around the district a lot, somebody will say, hey, I got this case and blah blah, and I'll forward that on to that particular AUSA or our criminal chief will do the same, so that there is some consistency so that you can develop those relationships and the communication between the district attorney's office, so they know what we're up to, and what the local investigators and sometimes a referral to a federal agency, you know to be polish the rock a little bit.

John Wilkinson [00:10:51] Yeah so that's interesting. Lamar, have you had that experience as well?

Lamar Fyall [00:10:55] I have. And I've noticed that those relationships are sometimes forged in, sort of, trial and getting prepared for trial and actually trying a case. And you try a case with an investigator that's worked really hard on that case and you can really see,

sort of, the barriers that come with trial. Barriers like getting witnesses to cooperate, getting certain items of evidence in, and when you and the investigator go through that process together, then they continue to call you as long as they can see that you've done good work and you can have a working relationship. The other way those things are forged is going where the officers are. So there are, sort of, gang organizations, various violent crime organizations, almost every command staff or a patrol division within an area has morning meetings, weekly meetings, biweekly meetings. Getting prosecutors to attend those meetings and just getting some face time and saying, hey, I'm here to assist you in whatever capacity I can as a state or local prosecutor or as a federal prosecutor, you forge those relationships and get those lines of communications going, that's how it starts. And then, you know, different agencies and different officers will have prosecutors that they know that they can reach out to get a question answered or an issue resolved.

John Wilkinson [00:12:15] Yeah, I, I don't know if either of you have experienced feeling like being the go-to person is adding a lot to your plate, but you're also getting a lot done. And then I know, Rob, you were talking about, you make sure that the information gets to the right people, could be multiple parties, but it sounds like that's a good working strategy to get to know the officers, work on the cases with them and attend the meetings that they're at.

Rob Lang [00:12:39] I agree 100% with Lamar. You forge these relationships, initially, in trial prep or in a big case when there's a lot of pressure. And those things carry on, but they lead to the process improvements. You know, and when people call you, you can give, you know, after a little bit of time, this stuff repeats over and over, you can give good counsel because you've already had that case, you already know what the outcome is going to be if you do X and Y. And when you've developed a relationship with a particular detective, you know, he says, Hey, if you do what he says, you're going to get a good result. You know, over time, while you're investigating your cases and focusing on the high value targets and whatnot, you know, you're also building knowledge and improving relationships and improving the way the police do business so that both the state and federal prosecutors in any case, benefit down the road. And so you may not even have a relationship in the next case with that investigator, but because he's riding around in the car with a guy you have, you get the credibility from the other detective and he listens to what you say and so you can move forward.

Lamar Fyall [00:13:42] I agree with that completely, Rob. And another thing is you get a relationship where the investigator already knows the questions you're going to ask. And so they just resolve them before they give the case to you. They say, you know, if a witness said they saw something and I haven't interviewed that witness yet, I know if I give Lamar this case, he's going to ask me, well, have you interviewed that witness? And so they just go ahead and do it. Not only relationships, but it makes things more efficient because there's less back and forth once you get a case, you get a more finalized product from the investigator.

Rob Lang [00:14:11] And I think those relationships make it easier to argue to a jury. I never ask a jury to find the defendant guilty. My whole inference is that building a crescendo to the end of the trial, that what these fine officers did in the middle of the night, while you were in bed, what they did and the person they brought before you, is the person that we brought before you. And just affirming all their actions and asking them to speak the truth. And so, when you develop those relationships with them, and you believe in them, you've vetted them, you know they're trustworthy, you know they dot their i's and cross their t's, jurors sense that. The court senses that the way you present yourself, that

gives great power in the way a jury reads your belief in the case, and that's based on having a good, strong relationship.

John Wilkinson [00:14:56] So great discussion. All right. So you guys have built relationships with your officers and your investigators. Do you spend time talking with them about what kind of evidence you need to charge these cases, some of these difficult cases, particularly fatal, and non-fatal shootings, and what you need to win a case? Why do you have those conversations that you do and what does it look like? Start with you, Lamar.

Lamar Fyall [00:15:20] So, yes, those conversations are always ongoing. And we have conversations about the strength of cases as they exist, and also the best venue to prosecute those cases. And I think a good working relationship, like you said, an officer talks to you about a case. Let's say it's a nonfatal shooting and they say, well, no one around that area wants to talk to us. We know someone saw something, because we watch the surveillance, we see these people around, but no one would tell us what happened. And so, we can begin a dialog. We can talk about other avenues of investigation, like surveillance from the 4 to 5 blocks surrounding the incident. Can you tell who was coming, who was going? Canvass the entire area for surveillance footage at somebody's house. There's a lot of Ring camera footage, We have awesome crime analysts in the city of Columbia, especially on the federal and state level, who can monitor what people are saying on social media and maybe try to get evidence that way. And so, when you start the dialog as far as who can you identify that was there, can you narrow it down to a time and location, and what can we do outside of relying on people. Can we rely on technology to try to get closer to where we need to be. And what comes to people, how can we forge a relationship to allow them to know that we're working to make their community safer, not just to put one person behind bars. That we're there for their benefit as well, not just as a means to an end to prosecute this one case. And sort of establishing that relationship. And that's a long term relationship to build with the community. So you can't just show up in a community and say, hey, talk to me. You know, you have to build that relationship. So relationship building with community is one avenue. But also, just, when you have a prosecutor and law enforcement agent in the room at the same time talking about the case, those two perspectives just allow us to make the case better. And I'm thinking, what evidence would I like to prosecute this case? And that might trigger the law enforcement officer to say, you know what, I didn't think about that, here's what I could also do, or I know someone who specializes in that that could help get that done. So, I just think that communication just makes the case better at the end of the day.

John Wilkinson [00:17:42] Rob, any thoughts on that? About how you talk with officers about these cases?

Rob Lang [00:17:46] Constant training, roll call, regular schedule training. We always try to engage our state colleagues to do joint training to show the partnership. I've done rookie schools at the Winston-Salem Police Department for 25 years. I've done every rookie school. And do about a four-hour welcome to federal Court, What it takes to do a gun case, Why we're asking for this, why the evidence needs to be collected. All those type of things. Also do a lot of BLET at our community colleges around. But what our primary training mechanism is, our group and case screening mechanism, where we discuss the cases and we bring the actual officer. In our larger urban areas, still, about 50% of the guns that are being seized on the street are seized at vehicle stops. And so, that basis for the stop, their basis or the search, and then proving the constructive possession of the firearm are just issues that occur over and over and over and over. And we talk about

those cases, and these young officers, because, you know, in the last five, ten years, boy they're are getting younger and turn it over quicker, we talk about those issues all the time. And because these scenarios repeat over and over, there's only so many places you can stuff the gun. In the console, in the glove, in the trunk, in your pocket, underneath the seat. All those things we talk about, the positioning of the firearm, any kind of movements, documenting all those things, Bodycam makes it easier to document better, But we're improving process while we're reviewing the cases. So all these other young officers are hearing the reviews of all these other types of cases. What do we ask for when there's a throw down or a foot chase? What do we ask for when there's a throw-out in a vehicle chase? All those things that need to be documented in a timely fashion, we talk constantly about the things that you have to do at the time of the arrest, at the time of contact between law enforcement and the suspect. You know, you got to document the position of the gun, you've got to document statements. There's things that can't be done later. Running his record, getting the DMV registration for his car, talking to his girlfriend, listening to his jail calls, running his phone. All that stuff can be done later. But there's three or four things that need to be done at the time. And that's what we train on and we do that. And we've learned, we absolutely require in these type of meetings that there's no finger pointing, It's all constructive criticism. We take the hit when we lose a case. And we always, in these meetings, talk about the case we just finished, how we got such a great result because of the strong work from this young officer out there. So that whole piece and that whole process, and information-sharing, and patting each other on the back, and trying to constantly improve, is really a big piece of getting better. And especially nowadays with understaffed people and tired officers. And we got to do more with less. And so, we have to make sure those cases are made, and made in a way that we can prosecute them. You can win them.

John Wilkinson [00:20:42] You've talked a lot about the relationship and the communication and what you're doing on the front end, talking with officers and some training, do you anything on the back end of your cases? You're winning most of your cases, and I think sometimes when we have a win, we just move on. But is it helpful to point out things that were super successful? And then if you lose a case, do you do a what they might call in the military, a hot wash, go over the case, what we could have done differently? You made a good point, Rob, about not pointing fingers of blame. But do you talk after the cases are over?

Rob Lang [00:21:13] Well, you know, a prosecutor, he's got two things on his mind, the one case he just tried and the one he's got in front of him. You know, the suppression issue that's right in front of you is the most important thing and it affects everybody because we have to compartmentalize. And we have to be able to give 100% focus, to the exclusion of our families, and our friends, and our golf game, and everything else, to get through this next trial. So, you know, it's amazing how much you can remember detail when you see that fact scenario. The next time I do a break down after all jury trials, about what I thought went right, and what I thought went wrong, what I thought could be better. And typically, I take out my lead agent or my lead investigator out to lunch when we're done and we talk about it. And I always, before my final summation, I asked my officer, what are the four or five most important points you think are? And I've missed a few. Sometimes, I've missed something that's really important, because they've lived this thing longer. So a break down and improving, always wanting to get better, always listening to the questions the jury has about an element based on a particular fact scenario. If you have a codefendant testimony, if you don't have much corroboration, what are their questions? Who are they having problems with? So that the next time you have that fact

scenario, you could try to shut those doors or those defenses, as you move through the case. So, yes, 100%.

Lamar Fyall [00:22:35] I agree. One thing I always did, we tried so many cases in state court, like Rob said, by the time I left, I think I had prosecuted a couple of thousand different warrants, a couple hundred different defendants. And you can't prosecute that many cases and try that many cases without losing some, me personally and then as an office. So, what I would always do after any case that I lost or that was lost in the office, if I knew someone that knew someone that was on the jury, I would reach out to that person. I know some people just like to move on, but I always thought that it's a good way to improve. And so, after a trial was lost, I would reach out to the juror, ask them what their thoughts were, what evidence could have done better, how the presentation could have been better. Was the evidence organized clearly? Sometimes they would say, maybe it was a little confusing, and you guys have the burden of truth, sometimes they would say, I felt that the person was guilty, but just not necessarily guilty of what you charged him with. Right? Like I know they're guilty of something. So, you get a good sense of what you can do better from a presentation standpoint and also an evidence standpoint. And also, sometimes they said we just didn't believe the witness you put on the stand. There's nothing you can do about that except learn for later that, you know, that type of witness is not credible no matter how you try to rehabilitate them. So, I always think after trials, you try to think of things you could have done better as the prosecutor, evidence you could have presented better, and a lot of times officers that testify, I always appreciate this, would reach out to me and say, Hey, how do you think I did? What could I have done better?

Rob Lang [00:24:12] One of the things that, a benefit that the federal court has over state court, in North Carolina, there is no mechanism to compel a person to come before a grand jury and to provide information. You can't grant them immunity, and things of that nature. In federal court, if I got a [unknown] witness case, and that witness is a very difficult witness, I can bring him before the grand jury and I get to sit in there and listen and say oh, wait, I won't do an early grand jury in January when they've had panel to do one, I'll wait till they've seen some more cases and they got a little bit more experience and are comfortable and asking questions. And put my person up there, impeach him, Talk about all the things they've done, their criminal history, bring it all out and then listen to the questions from the grand jurors and to see whether they believe it. Because if that's all I got, I may go a different route. So that's an incredible tool and a tool that all AUSA's, we're very protective of that grand jury and we're very careful on how we use it. But that's one of the best tools.

John Wilkinson [00:25:10] That's really interesting. One other thing I wanted to ask about. How important is it for police and prosecutors to regularly share intelligence, in like, a violent crime meeting, or some places have shoot review team meetings, things like that? I'll start with Lamar.

Lamar Fyall [00:25:28] I think it's very important. A lot of people do this in various different ways. When I was at the City of Columbia, they had a crime gun intelligence unit, And I've heard that term used in some shape or form, they perform a crime gang unit, a gang intelligence unit in various jurisdictions throughout the country. And they have regular meetings talking about gun crimes in their area, Who is connected to those crimes, what they're seeing on the patrol side, what they're seeing on the gang side, as far as gang intelligence, and you get a different viewpoint of the amount of crime that's really being perpetuated in one jurisdiction. And the more people you have at those meetings,

probation agents are great people to have at those meetings, members from the gang unit, members from the narcotics unit. You're sharing intelligence and you put some evidence up on the slide show or the PowerPoint that they're running that day, and you can start conversations about different people and their interactions with the individual that's being investigated, or interactions with individuals that they know are associated with the individual that's being investigated. So you can come up with a better investigation, as a result of those meeting. You can also come up with individuals that need to be investigated or should be targeted on my side, for federal prosecution. Or should be prioritized on the state side for state prosecution. So those regular meetings are very important and they've been very fruitful, the ones that I've attended.

John Wilkinson [00:26:53] Rob, any thoughts on that?

Rob Lang [00:26:55] You know, our data shows us that there's been a dramatic increase in youth, 15, 16, 17 years old, involved in shootings. And we still see those 18 and 19 to 20 year olds dominating where people are getting hit. So, we may be investigating, or at a gun screening, and talking about a guy, and he may be just a barely a felon. You know, he's got a PWI, possession with intent to sell and deliver marijuana, or cocaine or a car, motor vehicle breaking and entering. And we're like, that's not a case we're really interested in, it's not a case of the state's going to prioritize, he really doesn't have that bad of a record. Well, the police say, well, the gun he was caught with was involved in a shooting, Technology has shown us that we don't know whether it was him, but the gun was involved in a shooting a month and a half ago. And then our investigation revealed, we went to the hospital because he got shot on the return fire, He told his girlfriend who did it. But when we tried to interview him, he didn't do it. So we know somebody was involved in a shoot, but there was no charges because we don't have the evidence. But we have another independent, information showing he's got a current charge, And so that information that's exchanged brings that person from somebody we'd not even look at, to the highest priority, because he's in a group, his gang, he's the leader, He's a shot caller, this was a retaliation. And even though there's not a charge to it, we're getting good, solid information that it's informing our decision, so we make the best decision about how we're going to use our limited resources in the further investigation, in our technology follow up, in our DNA, in our forensic work, and our prosecution that follows that. So really, really, really important to get that. Same thing with probation, that kind of intel that sometimes the raw charge doesn't show you when you're just reviewing a report, and you have a beat officer that seizes the gun, He does know. Very important to have that information from multiple sets. And then the last is, other prosecutors may know. They may have had a witness before, he may have been too involved in another case, and they have insight, knew the family, know what's going on, sort of know the dynamics, what's going on. So all that information really, putting it in a bag and shaking it up and coming out with your high priorities in both prosecutorial systems.

Julia Brinton [00:29:05] Thank you both for talking about the role of intelligence and how you're sharing that information. I'd like to talk a little bit more about one aspect of intelligence that we haven't talked about yet, and that's the role of the National Integrated Ballistic Information Network, NIBIN. I'll start with you, Lamar. Can you talk a little bit about the role of NIBIN in these sorts of fatal and nonfatal shooting investigations?

Lamar Fyall [00:29:26] Yes. So NIBIN, for those that may not know, is sort of a computerized program that takes a very enhanced picture of the back of a shell casing left at a shooting scene, or from a gun that's recovered, and puts it into a system and runs that picture continuously through that system. And it can find where that gun fired another shell

casing at another shooting scene. And that can be invaluable. And when Rob was talking earlier about people that are contributing to violence, NIBIN is a great tool for that. So you get someone that's found with a gun at a traffic stop, and law enforcement takes that gun, test fire it, and they put that shell casing in the NIBIN, and they can show that that gun was used in a shooting. Three weeks ago, sometimes a few days before that traffic stop. That is a very good indication that that person is involved in some violent crime in the community. So NIBIN not an end all be all, it doesn't necessarily say, hey, that person fired the gun. But that's a very good lead, and it gives law enforcement and investigators an avenue to go down. It is a very big signal to us as prosecutors that that's a case that we should be interested in, because we're involved in minimizing violence in the community. And you pair NIBIN leads with the intelligence that you get at these intelligence meetings, that could really lead us in the direction we want to go as far as investigating people and deciding who we decide to prosecute. Like we said, we have limited resources in the federal system. And if our goal is to reduce violence, we have to use those resources very efficiently and very effectively. And so, someone in possession of guns that have been used in shootings is very, very good intelligence. And not only that, you can take it further and say, let's say the person with the gun was driving a blue Chevy Camaro, for instance, and you go back and look at the investigation into the shooting that had taken place when a NIBIN leads came back to you, and it turns out witnesses say someone in a Chevy Camaro was shooting and left those shell casings. And that's an even bigger indicator, like, hey, we're onto the right track and this is the person that we should be interested in. So NIBIN is very good at sort of narrowing down which time and place and location where specific gun was used and combining that with other evidence from that crime scene, it could be very eye opening.

Julia Brinton [00:31:50] Yeah, I'm hearing that it's not the only way to use intelligence, it's just another piece of the puzzle. Rob How have you used NIBIN in your investigations or prosecutions?

Rob Lang [00:31:59] Everything that Lamar just said, you know, a narrowing down, an indicator, a pointer, it's a lead. But what I see that NIBIN is very effective in, is in a multiple shooting, when you have a retaliation system, you know, you may have a weekend in an urban area where there's 11 shootings, and all of a sudden by Tuesday, they put all those fired shell casings that have been seized at that those, you know, six, or seven or ten different crime scenes. And they've got the entire criminal investigation division called out, they think they're investigating ten different shoots, and it's really two groups shooting back and forth at each other at ten different locations. It can narrow the investigation to understand what's going on out there. What we also see is when you have a NIBIN lead, a lot of times they are from drive bys and a lot of time there isn't doorbell video, and a lot of times that the people that they're shooting at don't want to cooperate with the police, because they want to shoot back. But if you have the NIBIN leads, all of a sudden one of them does have that blue Camaro on a doorbell, we are able to get a tag off of it, We are able to develop a strong suspect, and because that same gun has been involved in five, six, seven other retaliation shootings, we know they're in a war right now. We can put all of our focus on solving the one that we have good evidence on and run that one down, because we know stopping that guy from doing the next shooting is not only going to stop him and prevent him from shooting again, it's going to stop the people he's shooting at from shooting back. So, it's an extremely effective tool when you're in a group gang dynamic, especially in this youthful social media stuff, the back and forth. And, you know, that's why unfortunately, some of the rural areas they dump in once a month, it doesn't help them that much. It's better than ballistics, you know, that takes 18 months to come back. The actual, you know, expert opinion, that this shell casing was fired from this gun,

or these two shell casings from different scenes were fired from the very same gun, in our urban areas, they understand the power of that. And so, you know, they're getting those in, They're getting the reports back in a very timely fashion. And so, we're called, in, those instances, we may do a federal complaint and immediately arrest. He may have been arrested in the state and he may have his game on and get out on bond and we'll do a complaint and detain him. So that we stop that retaliation to try to stop that back and forth. And so, it's an incredibly powerful tool. We're also using it in search warrants, as probable cause. We're also using it at detention hearings, as to whether somebody should be allowed to remain out, pending their trial. We're also using it at sentencing hearings, because those are all different burdens, they're not beyond a reasonable doubt. But nobody's used it yet at trial that I'm aware of. We have to use the ballistics expert to get that in to meet the standards under [unknown], which allows expert testimony in. And there still has to be that good, hard, on the ground, boots to the ground, investigative work to make a case stronger. Also, the tracing, finding the last point of retail sale of a firearm, that in combination with NIBIN. You know, you've got a bunch of NIBIN hits and you find some guns, all of a sudden you get a trace on that gun and you find and you run that guy's name and you find out he's bought 80 guns. 80 guns in the last 18 months. And all of a sudden you start running all the guns he's bought, and we find out 18 of them have been recovered at crime scenes. And we've got a straw purchaser gun trafficker that's selling guns bought from, he's licensed, he's got federal firearms licensees, they're not filing any laws. He's not prohibited. But he's taking those, and putting them to a prohibited user that's using them in a shoot. So we also can work our sources supply cases.

Lamar Fyall [00:35:40] One thing I like to add is NIBIN can also be preventative. Local law enforcement here, in Columbia and Richland County, they found, after NIBIN sort of back tracing where the guns came from, that a lot of the guns being used in shootings were left in people's unlocked cars and stolen. And so, they use that information to push out sort of a social media and a big public campaign. Lock your doors at night, you know, before you go to sleep, make sure your doors are locked because we have a lot of individuals engaging in violence, here in Columbia, that are literally walking into crowded parking lots, at hotels, or restaurant or just walking down neighborhood streets, pulling on door handles, seeing if a door is open, and stealing whatever firearm they could find. So that was a big use of NIBIN, as sort of back tracing and saying, hey, we found this gun linked to this shooting, who purchased the gun? And then we found out that gun was stolen from somebody's car that was left open. And so it would allow law enforcement to do some preventative work as well.

Julia Brinton [00:36:39] You know, one of the goals of the national Case Closed project is to help agencies, especially with these nonfatal shooting cases. And what we've heard from a lot of law enforcement agencies, is that cities across the country are struggling with nonfatal shootings. Victims or witnesses don't want to come forward. They don't want to participate in investigations or, you know, to be a witness, to testify. Which presents this dead end for investigators. And you all have touched on some different strategies that you can use to kind of circumnavigate this. But are there any other strategies that you employ in these sorts of tough cases?

Lamar Fyall [00:37:19] One that worked out for me, I prosecuted a murder, attempted murder involving a drug deal gone bad. And the individual that was shot in that attempted murder case was our sole eyewitness. So he was the victim of attempted murder and he witnessed someone get gunned down in his home. He did not want to cooperate. But in looking at the case, I at least thought that the forensic evidence that was there, the DNA, the shell casings, the way the crime scene was laid out, I didn't really need him to be sort

of a saint in front of the jury. I just needed the jury to know that what he was saying was true because it was backed up by the evidence. And so, I just took the [unknown] because he would just want to get on the stand and not say anything, quoting him, and I said, okay, I will tell the jury that you're here because we gave you a subpoena and otherwise you don't want to be there. I'll say that in front of the jury, and in front of the defendant. And that worked, right, cause he just didn't want to be labeled, quote unquote, snitch. He wanted everybody to know that he was there by force or coercion of the government. And that was fine with me because I thought his testimony was that valuable. Now, that may or may not have made him less credible to the jury to some degree. But given the other evidence that I had, you know, I had body cam of the officer arriving on scene and seeing him being shot in the arm and giving CPR to the deceased victim, I thought it was worth it in that case. And so, I think instead of meet people where they are from a neighborhood standpoint, a cultural standpoint. People are afraid of retaliation, Even though, and you could tell if I'm wrong, it's really not that common. But people are afraid of it. And I think they're afraid of being known as someone who talked to the cops, cooperated, or said something about someone. So I think you sort of have to meet people where they are, let them know that you're there to protect them. And that goes also back to community building with law enforcement, prosecutors in the community, establishing that relationship early on, so they don't think you're just there to have them testify and then forget about them.

Rob Lang [00:39:20] I agree with that and I mean, where we are, situated in North and South Carolina, I've had a few witnesses intimidated. I've never had anybody killed, I've never had anybody shot. And I've done thousands and thousands and thousands of cases. Now, there is no doubt that the MS 13 has witness elimination, and that's part of their credo. There's no doubt that the Latin kings, if you if you cooperate with law enforcement, there's a green light put out on you and all those kind of things. And those may be true and those may happen in L.A. and Chicago and Houston and up in the Northeast. But I haven't seen that as much around here. And it's interesting, a lot of the witnesses that we get are developed by our officers, obviously, and those officers develop the witnesses when they were young patrol officers by treating people right in the community, and by treating them fairly and being straightforward with them, and getting some trust and some legitimacy with them. And then that's how they solve a lot of things, because those people will call that officer, once he gets promoted to be a detective and provide this information to them and they have a relationship and are able to get them to come forward. But the thing that we used mostly in the non-fatal situation is that we run after the gun. And if we know that gun through NIBIN, through ballistics, has been involved in this shooting, we try to follow and look for the suspect and try to catch him with the gun. And we don't need that victim, often. If we dot I's and cross our T's and do document the positioning of the gun, the things that we talked about earlier, we can prove this possession, I got it right now after August of 2022 with the date of events. You know, that's a 15 year [unknown] just for a garden variety felony possession of a firearm. If they have dope, and it's possessing a firearm in connection with a drug trafficking offense or crime of violence, which would be a robbery or shooting or a drug robbery, that's punishable by up to life. And so, you can cross-reference that shooting and try a little mini murder trial, or a shooting trial at sentencing, at a lesser threshold, at a preponderance, 51%, as opposed to beyond reasonable doubt that you've got to prove to the jury, for the possession of the firearm. So it's about understanding that you can run after the gun. The gun is a crime scene. There's pieces of the gun and the way the guns possessed, where it's possessed, who's present, all those type of forensic follow up that can show us, you know, making sure the guys GSR'ed if there's a shots fired, all of those things, that there's gunshot residue tests, you know, all of those kind of processes that are in place to run after the gun

and to understand when it's important to run after the gun. And, you know, in a jurisdiction like Durham, you know, they're going to seize a couple of thousand guns a year. We can't ask them to run six times a day and run the case all the way down. But we can on these high value, violent impact players, and these places that our NIBIN leads are showing us our high value players, and that our algorithm shows have a lot of contact with guns and they're involved the retaliation shooting, and such. We can focus on them and run them down and use our specialized gun units to work that. So, that can really help developing the relationships, Right, Like Lamar talked about, if I have a nonfatal and I got a person that's the only person that can do it, I probably meet with them 15 times before the trial. I try to have this person trust me, that we're not going to throw them under the bus. Non-fatals are tough. They always have been.

John Wilkinson [00:42:41] You're finding ways to go forward, you're taking the facts of your case and you're figuring out how do we get there or what can we get? Because it may not be the shooting. It sounds like you're going to find a way to hold someone accountable for something, if you think they're the violent perpetrator that they are. I just think what you guys are talking about is fascinating. What about community engagement? Is that important in combating this gun violence? And if it is important, Do prosecutors even have a role in community engagement? I don't know. Rob, you want to start with this one?

Rob Lang [00:43:13] Community engagement is essential. Working with reentry didn't take very long, the highest recidivism numbers are coming from violent crime offenders. The greatest characteristic of an armed robber is that he's robbed before. So working with people coming back from prison, especially those guys that have done a three or four or five year bit that are 25, 26, 27, that have decided while they're inside that this is not who I am. Those guys will often want to change. And if we can develop resources and interventions to help them and assist them, they won't go back to the corner. They'll move right on. And you know, the role of prevention and intervention and reentry at the adult and the juvenile level is absolutely one of the best crime reduction models that you can work with. So working the high impact players, the guys with NIBIN leads, the shot callers, the people that always have a gun, all that kind of thing, that's really important. You got to do that. But where are the emerging offenders? You know, Where's the next man up? Where's the next person that's going to take over the drug organization that utilizes violence to further its criminal activity? And you predict that, and you try to intervene on those folks. Where are the children of the violent offenders that we're putting around? You know, they have a high incidence, one out of two, as somebody who goes to federal prison, their children are going to go. It's about a 48% recidivism rate. Where can you work to prevent the next round? The data is out there to show us where we can most effectively and efficiently direct resources, the right kind of resources, and meeting people where they are, as Lamar said earlier, to do that. So prevention, intervention, reentry, all that stuff is critical. We've got to be involved in that. Because we've got to show the police that those methods are just as important as having a really good, experienced homicide Investigators or violent crime investigator. In all my trainings, when I do talk to police in Rookie school, I talk about, it's not who you police, it's how you police. How you police is more important than who you police. Because we know from picking juries, Lamar and John, that somebody who got pulled over by that trooper ten years ago and had a bad experience, when I was in the state, I'm looking for that guy because I don't want him on the jury because he's still mad about the way he was treated or embarrassed in front of his family members. And so that model of retraining the police to understand the power that they have in their contacts with the community is so, so important. And by the prosecutors being involved in that, it makes us better. It makes us understand the community better.

John Wilkinson [00:45:51] Lamar, how about community engagement on your end?

Lamar Fyall [00:45:54] I think it's critical. One thing that I've always valued is talking to kids, especially kids from what we call at risk communities. Communities with a high poverty rate, high school-dropout rate. I actually value those communities a lot because in my younger years I grew up in those communities. And what Rob said is important. Our number one goal is prevention, right? Our number one goal as prosecutors is not to have a bunch of crime and put a bunch of people in prison. It's to do what we can do to prevent crime. And there's really two sort of major ways we can do that as prosecutors. One is from the community angle, is to go into at risk communities, not just sort of fearing, you know, we have these initiatives, we go talk to kids school about gun violence and gun violence prevention and gang violence and how those things can affect your lives sort of on a larger scale. But also just sort of following up on an individual or smaller group setting with community groups, neighborhood groups, community leaders, just letting them know that we're here. If you need us to come and talk to any group of kids at any time and mentor, then we can be that resource. The other angle we had was sort of prevention through the rapid rate in which we address issues. So one of the things that we've found to be a good deterrent is for someone to commit a gun crime and then get arrested and prosecuted quickly. And that's one of the tools we have in the federal system. As a federal prosecutor, what we're trying to deal with gun violence and people perpetuating gun violence, we can have a crime committed and then a resolution, either trial, a guilty plea or some kind of verdict sometime in 6 to 9 months. And so that sends a message to the community and people that would be perpetrators of violent crime or drug and gun violence that we're taking that seriously. The person did something and then before the calendar year is out, that case is resolved. And so I think you have to attack it from all angles in our capacity as prosecutors and the law enforcement generally to try to reduce the amount of people that are committing crime generally or that are going to build back into a life of crime, I should say.

John Wilkinson [00:48:13] Yeah. Now, this is fascinating, guys, as I'm listening to just the role of the prosecutor is not the guy standing in court trying the case anymore. That's part of it, but you're doing so many other things. It's just fascinating what you're doing.

Julia Brinton [00:48:27] Yes, Thank you both. Thank you, all three of you has been a real pleasure to get to learn. I feel like I've learned so much about what it's like to try these cases. And to your point, John, and you're not just standing in a courtroom at the end being handed a fully fledged case to try. You're really an integral part of this investigation. And it really speaks to how important it is to form relationships with these local law enforcement agencies and communities as well.

Lamar Fyall [00:48:49] I just want to thank you guys for having me. This was a great discussion. Rob, it's good to see you.

Rob Lang [00:48:56] Yeah, absolutely. And I appreciate being part of all this and it's a great, great concept.

Julia Brinton [00:48:59] So if you enjoyed today's episode, be sure to like and follow Just Science on your platform of choice. For more information on today's topic and resources in the forensics field, please visit the National Closed Case Project and we have a website, It is nationalcaseclosed.org. I'm Julia Brenton.

John Wilkinson [00:49:18] And I'm John Wilkinson.

Julia Brinton [00:49:19] And this has been another episode of Just Science.

Introduction [00:49:25] Next week, Just Science sits down with Michael McKissick and Pastor Rodrick Burton to discuss strategies for strengthening police community partnerships and community trust with local law enforcement agencies to address gun violence. This project is supported by grant number 15PBJA-21-GK-04008-JAGP, awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the U.S. Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking. points of user opinions in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.