

Developing a Step-by-Step Application of the New Orleans Strategy to Combat Violent Street Crews in a Focused Deterrence Strategy

*K. Tate Chambers
OCDETF Lead Task Force Attorney
Central District of Illinois*

Table of Contents

Introduction	2
The New Orleans Strategy	3
Don't Shoot Peoria-The 14 step application of the New Orleans Strategy	5
Step 1: Identify the target group—who shot?	5
Step 2: Identify the members of the target group.....	5
Step 3: First cut—select the crew leaders and the most violent members.....	6
Step 4: Run criminal histories on first cut targets.....	6
Step 5: Pull all police incidents for first cut targets	6
Step 6: Collect talker interviews and identify additional potential talkers	7
Step 7: Second cut-select crew leaders and most violent members	7
Step 8: Prepare affidavit quality summary of police incidents for second cut targets.....	7
Step 9: Do grand jury work on second cut targets.....	7
Step 10: Pull social media on second cut targets.....	8
Step 11: Pull jail tapes and visits on second cut targets	8
Step 12: Do phone records—phones and tolls	8
Step 13: Bring team together to do final third cut.....	8
Step 14: Indict third cut targets	8
Conclusion.....	9
About the Author	10

Introduction

Peoria was experiencing a surge in violent crime. Street crews had divided up the city into territories and were protecting their turf and drug trade with gun violence. As the shootings, retaliation shootings, and further retaliation shootings mounted along with the drive-bys, house shootings, and numbers of dead and wounded, the community searched for an answer. A team, led by the mayor and including the sheriff, the police chief, the State's Attorney, the U.S. Attorney's Office (USAO) for the Central District of Illinois, and community leaders, came together and chose the focused deterrence strategies designed by David Kennedy of John Jay College in New York City to attack the problem. Modeling their efforts after those outlined in Kennedy's book, *Don't Shoot: One Man, A Street Fellowship, and the End of Violence in Inner-City America*, the team designed and implemented a comprehensive and aggressive focused deterrence strategy to address Peoria's gang gun violence.

Don't Shoot Peoria started with an intense public education and awareness program. Kennedy's book, *Don't Shoot*, was chosen as the Peoria Reads book for that year. Hundreds of copies of the book were distributed throughout the community and the schools. As the community read *Don't Shoot*, the Don't Shoot Peoria team hosted a series of four radio shows where they discussed portions of the book and interviewed local and national guests about the focused deterrence strategy. David Kennedy traveled to Peoria and made a series of public appearances, answering questions about the strategy and how it would be implemented in Peoria. The mayor and his team also hosted a series of community forums and roundtables where members of the community could meet and discuss the violence problems and the focused deterrence strategy. Assistant U.S. Attorney (AUSA) Rob Lang—the father of one of the most successful and longest running focused deterrence strategies in the nation in High Point, North Carolina—came to Peoria, spoke to the community, and mentored the Don't Shoot Peoria team.

Don't Shoot Peoria billboards and bus stop signs were placed all over Peoria. A Web site, <http://www.dontshootpeoria.com/>, was put in place. Jim Lewis, the U.S. Attorney, hosted a state-wide conference to explore ways to fight the violence created by street crews. Don't Shoot Peoria partnered with existing pre-entry diversion and re-entry programs in the city. Members of the team designed and implemented focused deterrence strategies in the middle and high schools. Nevertheless, as the team moved forward with the implementation of the focused deterrence strategy, one deficiency became obvious. One of the basic elements of focused deterrence is that during a “call-in,” gang members are given the option of putting down their guns and stopping the violence or facing swift, severe, and certain consequences. If after being given the option, a gang member shoots, the strategy calls for a comprehensive law enforcement response against all of the members of that gang. The required response from the Peoria police and sheriff's departments was clear: increased, constant enforcement that would result in numerous state charges. The local and state response was well-planned in the strategy. But what was the swift, certain, and severe federal law enforcement response? Any federal response to address the street

crew as a whole was likely to use conspiracy theories. But developing a conspiracy case from scratch leading to a RICO or CCE charge usually takes a long time—several months at least. And that negated the threat of a swift sanction for gang gun violence promised when the gang members were called in and warned to put down their guns. What was needed was a federal response that addressed the leaders and shooters of the gang, contained severe potential penalties, and, at the very longest, took no more than 90 days (preferably 40 days) to indict. Nothing in the federal toolbox appeared to fit the bill until the team turned to a strategy developed by the USAO in New Orleans and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

This article will address that strategy, now known as the New Orleans Strategy, and how it was employed in Don't Shoot Peoria's focused deterrence game plan. This article will outline the fourteen steps developed by Don't Shoot Peoria to implement the strategy and discuss some of the practical applications of those steps.

The New Orleans Strategy

In the 2000s, New Orleans had one of the highest per capita murder rates of any major city in America. The state and local criminal justice system was overburdened, and the system was clogged. To address the problems created by the violence, the men and women of the USAO in New Orleans and the ATF developed what is now known as the New Orleans Strategy for addressing violent crime by street gangs or crews. The effort was spearheaded by ATF Special Agent Michael Eberhardt and AUSA Maurice Landrieu. It is their work that serves as the basis for the following summary.

The New Orleans strategy is a historical conspiracy approach to combating street gang violence. It is based on the belief that most members of violent street gangs have committed criminal acts in their past and that these actions have the potential to be charged today. The goals of the strategy are to learn what those acts are and to produce the evidence necessary to charge them either as stand-alone substantive charges or as overt acts of a RICO conspiracy or a drug conspiracy.

The strategy is premised on the theory that street gang members (1) control a specific area, (2) maintain the right to deal drugs and commit other crimes in that area, (3) use violence to maintain control of that area, and (4) those actions are overt acts of a conspiracy between the members of the gang. Every act committed in furtherance of the agreement becomes an overt act of the conspiracy between the members. Focusing on gang members' existing criminal exposure, the New Orleans strategy looks for those past crimes where (1) all of the elements necessary to constitute the criminal violation are complete, (2) no additional act of the part on the perpetrator is necessary, and (3) the perpetrator cannot undo or cause the violation to be incomplete.

The New Orleans strategy is driven by the witnesses and the existing physical evidence that corroborates them. The emphasis is on locating existing evidence such as ballistic evidence and DNA, and not on creating new pro-active evidence through TIIIs, surveillance, drug buys, search warrants, or the use of confidential sources or undercover operations. The New Orleans strategy is premised on the belief that a suspect can derail a proactive investigation by moving from the area or changing his behavior, but he cannot thwart an investigation using the New Orleans strategy because the evidence already exists. The existing criminal exposure is independent of present day actions by the suspect and is only limited by the investigators' resources and the statute of limitations. Special Agent Eberhardt coined the phrases "target independent" and "target dependent" to illustrate the difference between the New Orleans strategy and the standard proactive investigative techniques. Proactive techniques are "target dependent." The target can impact their success. Evidence of crimes already committed is "target independent." The evidence already exists, and the target cannot change it.

To implement the New Orleans strategy, the law enforcement team comes together to form a working team. Investigators and prosecutors work together from the beginning. Next, the team researches and pulls all of the police reports for violent crime in a given target area. Crime mapping is an essential part of this step. Reviewing these reports helps identify potential targets, charges, and witnesses. The investigation at this early stage casts a wide net and narrows it as the investigation progresses. Once the target list is established, each target's criminal history is researched for potential new charges and evidence that can be used in the RICO conspiracy. The team then looks for witnesses to the target's crimes. Finding witnesses in the historical case relies on common sources, such as victims, victims' family members, rival drug dealers, drug addicts, former gang members, and jailhouse informants.

After the target list is established, the police events determined, and the witnesses identified, the prosecutor begins the grand jury investigation. The witnesses are brought to the grand jury as soon as possible to establish their testimony. Without wasting the grand jury's time, anyone who may have usable information is brought before the grand jury and every witness is examined carefully about all aspects of the street crew's violence and drug business. In order to conduct this type of aggressive grand jury work it is important that the AUSA be involved in the investigation from the beginning and be as familiar with the facts of the case as the agents. Again, the goal of the New Orleans Strategy is to produce, at the most, a chargeable RICO, CCE, or drug conspiracy case and, at the least, chargeable stand-alone substantive crimes such as 18 U.S.C. §§ 922(g) and 924(c). AUSA Landrieu emphasized that conspiracy charges are preferred because they (1) allow for the prosecution of multiple defendants in one case, (2) allow for the introduction of evidence of multiple crimes over an extended period of time, (3) result in convictions with substantial sentences, and (4) promote the development of intelligence from cooperating defendants to use in the next case.

The New Orleans strategy was successful. After the USAO and ATF implemented the strategy, they began to see results. Violent street crews were prosecuted using its techniques. Violent crime went down in the areas where those crews once controlled.

Don't Shoot Peoria-The 14 step application of the New Orleans Strategy

When members of the Don't Shoot Peoria team looked for a law enforcement strategy to bring their federal resources to bear against street gangs that failed to put down their guns, they were looking not only for a severe and certain consequence, but also a strategy they could implement in a short time (two to three months). They also wanted a strategy they could standardize because many of the law enforcement resources that were part of the Don't Shoot team were state and local officers who were not familiar with federal conspiracy investigations. They wanted a strategy that would, in short order, produce a prosecutable federal conspiracy case against the leaders and the most violent members of the offending street crew and that could be replicated time and time again against other street crews. To achieve those goals, they took the New Orleans Strategy and developed a 14-step method to implement the strategy in Peoria.

Step 1: Identify the target group—who shot?

The first step is to identify which group shot. Who committed the act of violence that is being sanctioned? Many of today's violent street crews are not like the street gangs of the past. There is no hierarchical structure. There is no role differentiation. There are no regular meetings, dues, or written rules. The chain of command is not as rigorous and changes frequently, depending on who is in jail and what type of crimes the crew is committing. But today's crews still think as a group. They claim ownership of a specific geographical area. They commit crimes in that area. They maintain the exclusive right to sell drugs in that area. They use violence to protect that area. They use violence to protect each other. In their social media and with their tattoos, they identify themselves as members of the crew. In sum, they act and think as a group. Consequently, they can be investigated and prosecuted as a group. But, even with that said, they often are split into several factions and each faction operates as a separate group within the larger group. Under the focused deterrence strategy, it is important to sanction the actual group that committed the violence. If other subgroups of the larger crew have put down their guns and stopped shooting, it sends the wrong message to punish everyone in the larger group. That is why it is important to identify the actual group that shot and that is being targeted for sanctions.

Step 2: Identify the members of the target group

Once the targeted group is selected, the next step is to identify the members of that target group. Police gang intelligence and criminal history information are good sources for this information. Jail and prison records and social media are also often helpful in identifying the members of a specific crew.

Step 3: First cut—select the crew leaders and the most violent members

Once the members of the targeted group are identified, it is time to make the first cut. Depending on the size of the crew, it may be necessary to focus on the crew leaders and the most violent members of the crew. The strategy requires that at this point the team cast a wide net, but that the net be manageable. Trying to work with dozens of names will make the next steps in the process overly burdensome and time-consuming. Police intelligence can help identify the crew leaders and most violent members. It is also important at this step to focus on the date of birth of the members. It is not unusual to learn that several members of the crew have not reached the age of federal majority or that their crimes were committed when they were minors.

Step 4: Run criminal histories on first cut targets

Next, run complete criminal histories on the first cut targets. This task is one of the most important steps in the process. Failure to do it correctly will result in numerous problems analyzing the case in the steps to come. The agents should run the criminal histories and then summarize them in the following format:

- Date of conviction
- Court number
- Jurisdiction of conviction
- Crime of conviction
- Sentence received

First, a complete criminal history is essential for determining whether a target has the priors for [Armed Career Offender](#), [Felon in Possession](#), [851 enhancements](#) for prior felony drug convictions, or [Career Offender](#) status. The date of conviction is very important because, among other reasons, it determines which overt acts were committed by the targets after they became adults. The court number is important because, with a large number of prior convictions, it will allow the investigators to track the convictions and identify them by number. The actual crime of conviction is also important. Many times a defendant will be charged with a much more serious charge, such as drug distribution, but will plead down to a less serious charge, such as possession. The sentence the defendant received is important to establish when he was out of custody and available to commit overt acts of the conspiracy. Taking the time to carefully pull the entire criminal history and place it into the proper format will prevent numerous problems as the investigation proceeds.

Step 5: Pull all police incidents for first cut targets

Pull every police incident involving the first cut targets, whether they are listed as suspects, witnesses, or victims. No exceptions. It is important to remember to run all of the indices from the federal agencies, other state and local agencies, as well as from the principal police agencies files. There is no limit on the types of incidents that should be pulled. Convictions, acquittals, dismissals, no charges—they all should be pulled. Next, the agents should prepare a one-line

summary of each incident, including the date of the incident, the police report number, and a characterization of the incident, such as car stop, search warrant, etc. They should also indicate which of the first cut targets are named in the reports. The summaries should then be placed in chronological order and charted on a spreadsheet.

Step 6: Collect talker interviews and identify additional potential talkers

The next step is to ask all law enforcement agencies (federal, state, and local) to run their indices and provide all reports of interviews where the talker mentions one of the first cut targets or discusses the targeted group. A thumbnail summary of what each talker provides should be written and organized by target. Remember to mine all of the common sources for talkers, such as former group members, rival group members, ex-wives and girlfriends, cell mates, and current group members serving time.

Step 7: Second cut-select crew leaders and most violent members

Bring the team together again and, using the summaries of criminal histories, the police incident spreadsheets, and the talker summaries, select the most active leaders and the most dangerous members of the targeted group from the original first cut list. As you tighten the net, remember that there will be yet a third opportunity to tighten it more, so the agents should err on the side of including additional targets at this stage. However, because the next few steps are very labor intensive, it is important to reduce the second cut to a manageable number of names.

Step 8: Prepare affidavit quality summary of police incidents for second cut targets

Now that the team has a list of second cut targets, it is time to go back to the police incident list and select every incident that (1) involves one of the second cut targets, and (2) shows either criminal activity or a relationship between the targets and the street crew. For example, a car stop where four members of the crew, including one of the second cut targets, are found with one pistol in the car should be included. A barking dog call at a second cut target's home should not be included. Once the incidents are selected, the agents should prepare an affidavit quality summary of each incident. That means answering the questions they would have to answer for a criminal complaint affidavit. Examples of questions to be answered include: Are the witnesses still alive? Has the physical evidence been destroyed? Are the squad car tapes still in existence? These summaries will serve as the basis for any later prosecution memorandum and will be used to charge stand-alone substantive counts and establish overt acts of any charged conspiracy.

Step 9: Do grand jury work on second cut targets

The ability to conduct extensive grand jury work on an investigation is one of the benefits of federal prosecution. That is especially true in executing the New Orleans Strategy. The prosecutor and investigators must be willing to spend the hours necessary to develop the witnesses, prepare them for the grand jury, and commit them to their testimony before the grand jury. Often, these witnesses are very difficult. Many times, they are not cooperative. It is

common that they fear for their lives if they cooperate against the crew. But, it is essential that the team spend the time and effort necessary to conduct an aggressive grand jury investigation.

Step 10: Pull social media on second cut targets

While the prosecutor and agents are working the grand jury investigation, other agents should be assigned to collect corroborative evidence. One of the most valuable sources of such evidence against street crews is their social media postings. Photos and videos of the street crew members together throwing gang signs while holding large amounts of cash and brandishing weapons and threatening rival gang members is solid evidence for the conspiracy charge. If a social media search under the gang members does not bear fruit, consider looking at their girlfriends' social media. They are often sources for equally damning evidence.

Step 11: Pull jail tapes and visits on second cut targets

The vast majority of crew members served time in the county jail prior to being investigated by the Don't Shoot Peoria team. Those stays can produce a wealth of incriminating jail tapes. One of the drawbacks to reviewing jail tapes is that it is so time-consuming. That is one reason why it is so important to bring down the number of targets to a manageable number in the second cut. Jail visitor logs also provide a valuable source of information about associates and persons who may become witnesses against the crew member.

Step 12: Do phone records—phones and tolls

Again, just as the jail information is important, the team should not overlook information obtained from seized phones in prior cases and tolls gathered in those cases or by grand jury subpoena in the present investigation.

Step 13: Bring team together to do final third cut

Bring the team together one more time to review the criminal histories of the targets, the affidavit quality summaries of the police incidents, the grand jury testimony of the talkers, the social media, jail, and phone evidence, and to make the third and final cut. Because this is the final cut, it is necessary to funnel down the focus to a manageable number. In Don't Shoot Peoria, the team decided that that number was between 12 and 15. It will differ city by city, depending on the capability of the team and the size of the crew. Those that do not make the final cut can be placed on a "waiting list" for subsequent indictments.

Step 14: Indict third cut targets

Don't Shoot Peoria has executed the New Orleans Strategy twice. Each time it used the same indictment format—Count one, membership in a street gang in violation of [18 U.S.C. § 521](#); Count two, conspiracy to commit § 924(c) violations in violation of § 924(o); Count three, conspiracy to distribute controlled substances in violation of [21 U.S.C. § 846](#); and numerous substantive 18 U.S.C. §§ 922(g), 924(c), and [21 U.S.C. § 841](#) charges. The indictment against the first street crew took over four months from shooting to indictment. The indictment against

the second crew took a little under three months from murder to indictment. The goal is to be able to indict within 40 days from the date of the triggering shooting incident.

While it is too early to declare victory or assign reasons for success since implementing Don't Shoot Peoria and the New Orleans Strategy, police statistics show that violent crime in Peoria is down, fewer people are being shot, fewer shots are being fired, armed robbery is down, aggravated discharge of a firearm is down, and reckless discharge of a firearm is down. The results are promising.

Conclusion

A successful focused deterrence strategy relies on a severe, certain, and swift sanction when gang members refuse to put down their guns and continue to wreak violence on the community. Because gangs act and think as groups, the most effective way to address them in the federal system is through conspiracy charges. The New Orleans Strategy, as implemented in Don't Shoot Peoria's 14-step plan, appears to provide that conspiracy-based severe, certain, and—most importantly—swift sanction.

About the Author

K. Tate Chambers has been an Assistant U.S. Attorney in the Central District of Illinois for 30 years, where he has served in numerous capacities including Appellate Chief, Peoria Branch Chief, Outreach Coordinator, and PSN coordinator. He is currently serving as the Lead OCDETF Task Force Attorney and Violent Crime Coordinator. From 2007 to 2009, he served at Main Justice as the PSN National Coordinator. Mr. Chambers served on the Evaluation and Review Staff in Washington, D.C. as Criminal Program Manager from 2009 to 2010. He is retired from the Illinois Army National Guard where he served in the Judge Advocate General Corp.