

Examining the Sustainability of Pattern or Practice Police Misconduct Reform

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Abstract

Section 14141 of the Violent Crime Act of 1994 fundamentally restructures the regulation of police behavior in the United States. Since the law's passage, dozens of police departments have undergone lengthy and complex reforms designed to eliminate a pattern or practice of misconduct. Despite the program's wide application, neither scholars nor practitioners know much about the efficacy or sustainability of these reforms. This article draws on longitudinal data across several outcome metrics, including citizen complaints, use of force incidence, and civil litigation, and a series of interviews with key stakeholders to examine pattern or practice initiatives in Pittsburgh, PA; Washington, DC; and Cincinnati, OH. Findings suggest that the reform process has the ability to minimize unwanted police misconduct and generate desirable policy outcomes, particularly during the period of Department of Justice oversight. Sustaining these reforms after the settlement agreement is dissolved, however, has proved a challenge.

Keywords

police reform, pattern or practice, organizational change, institutionalization

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Introduction

The history of police department efforts to achieve—and sustain—organizational reform is rather bleak (Skogan, 2008). Many of policing's most promising innovations including high-profile efforts like community policing and problem-oriented policing have failed to endure (Walker, 2012). Despite this pattern, those who study the police have largely overlooked the issue. Scholars know little about the bureaucratic response to reform and thus remain relatively ignorant about how and why innovations in policing continue to erode (Walker, 2012).

This is not entirely surprising, given the complexity of the issue. Comprehensive reform efforts resist the kinds of clear, simple terms that facilitate *ex post* evaluation. The process is defined by multiple goals, varying perspectives, and competing political, administrative, and legal motivations, all conspiring to form “a confusing and contradictory picture of change” (Peters & Savoie, 1998, p. 6). These challenges highlight the need for scholarly engagement, particularly as police reform efforts, including those demanding of significant adjustments to operational emphasis and organizational strategy, continue to grow in significance and frequency (e.g., Braga, 2008; Decker & Rosenfeld, 2004).

Along these lines, this research considers efforts to institutionalize changes required under federal consent decree (CD). Specifically, the study draws on longitudinal data across several metrics, including citizen complaints, use of force incidence, and civil litigation to assess the sustainability of change, to examine the sustainability of reform in three jurisdictions found to have engaged in a pattern or practice of unlawful use of force: Pittsburgh, PA; Washington, DC; and Cincinnati, OH. The article begins by introducing the pattern or practice initiative and summarizing existing literature on the subject, as well as research that addresses efforts to institutionalize changes to organizational structures, policies, and procedures in other contexts.

Pattern or Practice Police Misconduct Reform

Section 14141 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. §14141) grants to the U.S. Department of Justice (DOJ) authority to sue local police departments found in systematic violation of constitutional or statutory law. This provision has been instrumental in identifying unlawful behavior in many of the country's most prominent police departments and has generated settlement agreements that articulate deep reforms to the offending police department's organizational model and accountability systems. The initiative continues to serve as the primary means of addressing systemic police misconduct in the United States.

Between 1994 and 2008, the DOJ investigated allegations in some 42 jurisdictions, pursuing formal reform in 24 departments found to have engaged in a pattern or practice of misconduct. Rather than litigate these claims, most

jurisdictions opt for settlement. The resultant agreements, which are enforceable in federal court, typically require the affected department to update relevant policy, revamp training requirements, and develop an infrastructure designed to promote internal and external officer accountability. In many cases, including the three reviewed here, an independent monitor is hired to oversee implementation and establish the terms of compliance. These agreements remain in place until the police are determined to have been in *substantial compliance* with the terms of the agreement—typically defined as 95% compliant—for at least two full years.¹ The emerging department is stamped with the imprimatur of lawfulness and designated as a model for other departments in terms of police accountability (Conduct of Law Enforcement Agencies, n.d.).

A recent analysis of the CD designed to remedy policy misconduct in Los Angeles, CA attributed to the reform effort positive trends in public opinions of the Los Angeles Police Department (LAPD), declines in the department's use of force, reduced incidence of racial profiling, and an improvement in the overall "quantity and quality of enforcement activity" in the city (Stone, Fogelson, & Cole, 2009, p. i). A 2002 study of pattern or practice reform in Pittsburgh reached similar conclusions (Davis, Ortiz, Henderson, Miller, & Massie, 2002). Analysis of relevant outcome data and interviews with officers and community members showed the reform had generally positive effects on police department culture,² officer morale, and public opinion.

The authors revisited the Pittsburgh reform a year after termination and found a capable leadership team and a department intent on maintaining the use of key reform systems (Davis, Henderson, & Ortiz, 2005). These findings were tempered by evidence of skepticism among the city's minority communities and predictions that persistent opposition from members of the rank-and-file may have future destabilizing effects.

Though evaluating the sustainability of reform is best done with significantly more than 1 year's worth of data, the authors conclude that the Pittsburgh Bureau of Police (PBP) "did undergo major change and, so far, the changes have remained in place" (p. 41).

This report remains the only empirical examination of the sustainability of pattern or practice reform. Given the controversy that attaches to the process (Hickman, 2012; Police Executive Research Forum, 2013) and the significant public investment it requires (Johnson, 2012), much more evidence is required before we can say with confidence that the process generates lasting, institutionalized reform.

The Sustainability of Court-Mandated Organizational Change

The need for closer attention to this issue is highlighted by the impermanent nature of reforms brought about in other policy contexts through similar means.

Much like pattern or practice settlements, judicially enforced remedial orders attempt to structure detailed reform of public bureaucracies found in systematic violation of the law (Cooper, 1988). This process has been used to facilitate the desegregation of school districts (e.g., Klarman, 2006), remedy unconstitutionally abusive prison systems (e.g., Nathan, 2004), and assert the rights of patients held unlawfully by state run mental hospitals (Brant, 1983), among others.

Again, as with pattern or practice reform, formal oversight is terminated upon a determination (typically made by the presiding judge) that the underlying constitutional violation has been redressed. As a result, many see the process as inherently fragile. At the heart of these arguments is the contention that the sustainability of reform is undermined by the use of a transitory policy solution—external oversight—to remedy what in many cases is a chronic organizational problem (M. Deitch, 2012). In the absence of persistent external oversight and accountability, the argument goes, and the affected bureaucracy will inevitably revert to *ex ante* operating procedures.

Two examples illustrate the point. Despite the significant gains made following the *Brown* decision (Clotfelter, 2004), over the past 20 years or so, scholars have documented the increased segregation of primary and secondary school children along racial, economic, and linguistic lines (e.g., Chemerinsky, 2002; Reardon, Grewal, Kalogrides, & Greenberg, 2012). Some contend that resegregation has occurred as a direct result of limitations placed on the ability of federal district court judges to continue to manage local school districts (Chemerinsky, 2002; Orfield, 2001). Rights-based reform achieved through litigation against state prison systems have eroded under similar circumstances. A recent examination of the Arizona Department of Juvenile Corrections, which operated under federal control between 2004 and 2007, documented posttermination slippage in two areas critical to the initial reform effort: suicide prevention and inmate education (Taylor, 2013). In each case, the absence of external pressure to adhere to new operational protocols corresponded with a reversion to preintervention practices.

Evaluating Organizational Reform

The term *institutionalization* is used to define the process of converting a reform effort into an established “part of the organization’s normal functioning” (Cummings & Worley, 2005, p. 189) and “a way of regularly conducting . . . business” (Ikerd & Walker, 2010, p. 5). According to Oliver (1992), “once organizational activities are institutionalized, they are assumed to become relatively stable, enduring, reproducible and sustainable over long periods of time without continuing justification” (p. 581). In this sense, *institutionalized* reforms are synonymous with *sustainable*, *enduring*, and *lasting* changes.

Identifying the point in time when a reform implementation effort ends and institutionalization begins is a complex task. This determination is particularly

difficult in part as a result of the fact that the complex and perpetual nature of many implementation efforts makes a fixed end point difficult to identify. It is similarly difficult to identify the point at which assessment of a program's sustainability should begin. Here too, the nature of the analysis resists a definitive, dichotomous answer, and what little research does exist provides conflicting guidance. Some scholars believe that analysis should begin after 1 year (NHS Modernization Agency, 2002); others say institutionalization takes somewhere between 5 and 10 years to manifest (Kotter, 1995).

Previous scholarship has employed various approaches to examine the institutionalization of organizational reform, beginning with an assessment of staff response. This can be accomplished by measuring both the extent to which organizational actors are aware of and understand changes to policy and agency priorities brought on by the reform (Ikerd, 2010), as well as the "the degree to which intervention behaviors are actually performed" (Cummings & Worley, 2005, p. 196).

Staff willingness to adopt new operational protocols is often couched in terms of organizational culture. Policing scholars have consistently found cultural change—measured in terms of individual officer preferences, norms, and values—predictive of institutionalized reform (e.g., Ikerd & Walker, 2010; Skogan & Hartnett, 1997). The sustainability of pattern or practice reform is at least in part likely to be a function of the degree to which street- and mid-level officers, as well as department leadership, have come to view both the letter and the spirit of the settlement as central to the department's mission and reflective of the department's broader approach to policing.

Yet, organizational reform is rarely pursued for these ends. Cultural or behavioral change is typically instrumental, sought as a means to improving certain measurable outcomes (Newcomer, 1997). Since the early-1990s, public management scholars have advocated the use of outcomes to measure the performance of public agencies and individual bureaucrats, rather than intangibles like attitudes or culture (e.g., Behn, 2003). The notion of *measuring what matters* is a strong current in policing research as well (e.g., Langworthy, 1999). Police practitioners are also heavily dependent on these data—arrest rates, use of force statistics, demographic and geographic data, and so forth—to drive officer behavior and evaluate policy change. The Compstat movement is one such example; hot spots policing and crime mapping are others.

Two types of outcome measures are relevant to an evaluation of reform sustainability, beginning with systematic metrics that establish broad, agency-wide performance. In terms of pattern or practice reform, several such indicators are relevant, including frequency of officer use of force incidents, citizen complaints, and civil suits filed against the department. In fact, nearly every key stakeholder interviewed as a part of this research stated that trend data are the most useful way to gauge the effectiveness of a reform effort and a department's progress toward institutionalization.

Second, an organization's ability to sustain change can also be evaluated in terms of its ability to avoid large-scale *performance crises*. These events can take the form of isolated, high-profile incidents, like a police shooting or a particularly vicious use of force caught on tape. Think Rodney King. Even one such episode can shake the public's confidence in the agency, negatively affect employee morale, and weaken organizational support for departmental leadership. To illustrate the magnitude of such a crisis, Oliver (1992) argues that the Space Shuttle *Challenger* disaster undercut the agency's reputation and "provoked serious doubt within the organization about a range of long-standing practices and procedures" (p. 568). Along the same lines, Cincinnati City Manager M. Dohoney (personal communication, May 3, 2010) acknowledged,

[T]he only thing that could undo the good that's been done is for [the Cincinnati Police Department] to have a number of questionable situations at the street level where a citizen gets either seriously injured or is the recipient of a use of deadly force [That] can bring all of that past baggage back up. You can have one incident that really gets the community on edge.

The perception of systematic and protracted corruption—LAPD's Rampart scandal, for instance—would no doubt have a similar destabilizing effect in a postreform jurisdiction.

To summarize, scholars have examined the sustainability of organizational reform using four interrelated metrics: (a) staff knowledge of and compliance with new protocols; (b) the extent to which staff culture reflects reform values; (c) trend-based outcome data; and (d) the presence or absence of performance crises. This research will track pattern or practice institutionalization by examining metrics c and d. What follows is a discussion of the data and method used.

Case Selection, Data, and Method

Eleven of the 24 jurisdictions facing federal oversight between 1994 and 2008 reached substantial compliance with the terms of their settlement agreement. Of those 11, only Pittsburgh, Washington, DC, and Cincinnati were willing (or able) to share relevant outcome data.³ These data, including use of force incidence, citizen-based allegations of misconduct, officer disciplinary decisions, and civil litigation related to police misconduct, were drawn from agency annual reports, independent monitor reports, and the FBI's Uniform Crime Report database. Where data were not available publically, Freedom of Information Act requests were filed with affected police departments and other relevant city agencies.

As is clear from Table 1, both the sources and availability of these data vary greatly from jurisdiction to jurisdiction. In many cases, data were simply not available for the prereform period. Thus, establishing performance-level

Table 1. Sources of Data and Years of Availability.

	Pittsburgh	Washington, DC	Cincinnati
Use of force	PBP (2003–2012)	MPD (2005–2012)	CPD (1995–2012)
Civil litigation	NA	DC Atty Gen. (2000–2010)	NA
Citizen complaints	CPRB (1998–2008)	OPC (2001–2010)	CCA (2005–2012)
Officer injury/assault	UCR (1992–2010)	UCR (2011)	CPD (2001–2010)
Property crime	UCR (1992–2011)	UCR (1992–2011)	UCR (1992–1995; 1999–2011)
Violent crime	UCR (1992–2011)	UCR (1992–2011)	UCR (1992–1995; 1999–2011)

Note. PBP = Pittsburgh Bureau of Police; MPD = Metropolitan Police Department; CPD = Cincinnati Police Department (CPB); CPRB = Citizen Police Review Board; OPC = Office of Police Complaints; CCA = Citizen Complaint Authority; DC Atty Gen = District of Columbia Office of the Attorney General; NA = not applicable/not available; UCR = Uniform Crime Reports.

benchmarks was all but impossible. In Cincinnati, for example, the Citizen Complaint Authority (CCA), which was created as a result of the reform effort, began collecting data in 2005, some 3 years after the initiation of federal reform. In other instances, the analysis was complicated by changes in the way agencies captured and presented relevant information. For example, between 1998 and 2005, Washington, DC Metropolitan Police Department (MPD) shifted how they defined and categorized officer use of force incidents, rendering a consistent pre–post analysis all but impossible.

As a result of these deficiencies, the analysis presented falls short of a formal program evaluation and as such no causal conclusions are offered. With that said, there were sufficient data to analyze the bureaucratic response to external reform mandates. Changes observed across each metric over time are evaluated as separate, but interrelated, markers of the effects of reform and the sustainability of such changes. Insights from several stakeholders, including independent monitors, police department leadership, and relevant political and community leaders, were gathered from several in-depth interviews and are used to supplement the quantitative analysis.⁴ Newspaper reports and other secondary sources were helpful in establishing context and tracking the incidence of performance crises.

Results

Before presenting the findings, it should be noted that in most cases, neither the effects of reform nor institutionalization should be measured dichotomously.⁵ Organizational change is something that proceeds incrementally and thus is most

effectively measured in degrees. With that in mind, the analysis proceeds chronologically, beginning with Pittsburgh.

Pittsburgh

In April 1997, the city of Pittsburgh agreed to settle DOJ claims that the PBP had engaged in a pattern or practice of unlawful activity, including the use of excessive force and a failure to discipline officers adequately (“City of Pittsburgh’s,” 1997). The CD was in place until September 2002.

Shortly after the decree was lifted, the Vera Institute of Justice attempted to gauge the degree to which “local officials can maintain [consent decree] reforms after the federal government and its monitor withdraw” (Davis et al., 2005, p. 2).⁶ Drawing on survey data and interviews with PBP officers and leaders from key civil society groups gathered between March 2003 and March 2004, Vera evaluated the sustainability of changes to police behavior, officer morale, and public opinion brought on by federal oversight (Davis et al., 2005).

Three themes emerge from this research. First, PBP officers seemed to understand and respect the goals of the reform but were strongly resentful of the process (Davis et al., 2005). In fact, only a tiny percentage of those surveyed felt the reforms had improved performance or produced more professional encounters with citizens. Second, despite this opposition, the first year or so after federal oversight was lifted, PBP maintained operation of various reform initiatives, including their early intervention system, new officer training protocols, and regular oversight inspections. Third, a majority of community leaders and members of the public saw the PBP as effective in stopping crime, helping victims of crime, and working together with city residents to solve local problems. Based on these findings, the authors conclude that “the implementation of the consent decree requirements in Pittsburgh dramatically changed the culture of the Bureau of Police” and that key departmental changes “survive[d] the life of the decree intact” (pp. 40–41).

Much has happened in Pittsburgh since the study was published, including three mayoral transitions, the installation of four new police chiefs, and a protracted budget crisis. Recent data suggest that advances in officer accountability and community trust have eroded considerably over the past several years.

Figure 1 charts the citizen-based complaints filed against PBP officers between 1998 and 2008. The figure shows a steady increase in total allegations over the 10-year period, with a significant uptick occurring following CD termination. On average, there were 556 allegations made annually against PBP officers during the implementation period. In the 6 years immediately following termination, the mean annual total jumped to 822, an increase of 48%. While allegations of unlawful search and seizure remained relatively stable, posttermination allegations of unlawful use of force and conduct unbecoming saw average annual increases of 30% and 75%, respectively.⁷

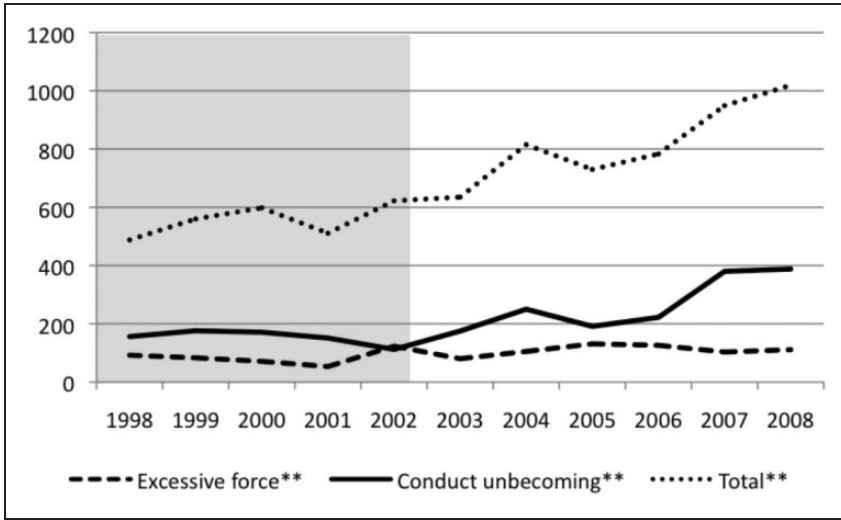


Figure 1. Allegations of police misconduct in Pittsburgh, 1998–2008.

Source. Pittsburgh Citizen Complaint Review Board.

**One-tailed *t* tests show that postreform totals are statistically significant ($p < .05$) and higher in postreform years.

Citizen allegations of misconduct are important ways of assessing PBP officers’ use of discretionary authority, their willingness to comply with law and Bureau policy, as well as their general attitudes toward city residents (Lersch, 1998; Rojek & Decker, 2009; Walker & Archbold, 2013)—the very behavior targeted by the CD, either directly or indirectly.

These data also provide a window into the operation of management and accountability systems created as a product of the reform effort (Klockars, Ivkovic, & Haberfield, 2006). Officer training, accountability infrastructure, and chain-of-command oversight, all exist to either prevent or mitigate the kind of behavior that generates citizen complaints. What is more, citizen complaints help to define the Bureau’s culture (McCluskey & Terrill, 2005). A culture that values the rule of law, citizen rights, and accountability would surely have relatively fewer such complaints than a department that either overlooked or treated with impunity violations along the lines of the categories measured below. According to former Washington, DC MPD chief C. Ramsey (personal communication, May 20, 2010), citizen complaints are an important metric for tracking officer behavior and the sustainability of those systems, cultural norms, and values developed during the CD process:

Citizen complaints . . . [must be] review[ed] very carefully . . . to make sure that not just with use of force in terms of physical force, but even verbal abuse and complaints, things of that nature . . . [A]ll those things . . . we want to monitor.

Internal disciplinary action taken against PBP officers declined steadily between 2003 and 2012. In fact, as Figure 2 suggests, despite the increase in citizen complaints, officers were less likely to be formally disciplined after the CD was lifted. Data on assaults committed against PBP officers show a similar trend. Between 1991 and 1996, an average of 302 PBP officers were assaulted per year. While the CD was in place, the annual average fell to 280 such incidents. Since 2003, the mean annual total jumped to 353 assaults per year. The post-CD increase in officer use of force and officer assaults suggests more violent encounters between PBP officers and Pittsburgh residents. The city’s violent crime and property crime rates dropped consistently during this period.

A 2006 change in department leadership helps to explain PBP’s recent decline. Robert McNeilly was hired in April 1996 and served as Chief in Pittsburgh until January 2006. R. McNeilly (personal communication, March 1, 2010) remains an outspoken proponent of DOJ-led reform and believes that the CD process helped to transform the PBP. Despite his reputation as a *micromanager* and a *disciplinarian*, many believe the PBP was more accountable, more lawful, and more community-friendly during McNeilly’s tenure than it was before his hiring (Fuocco, 2006).

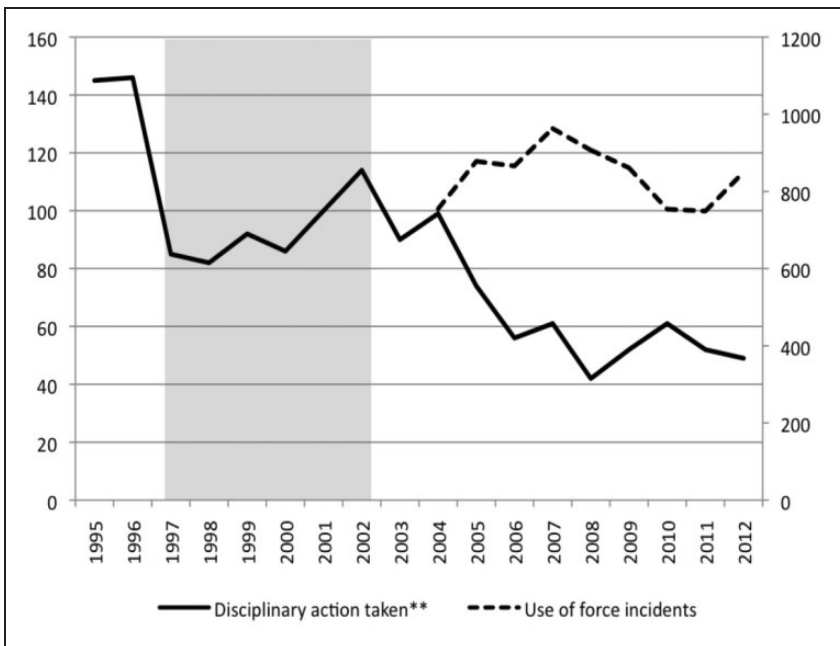


Figure 2. Use of force and police discipline in Pittsburgh, 1995–2012.

Source. Pittsburgh Bureau of Police.

**One-tailed t tests show that postreform totals are statistically significant ($p < .05$) and lower in postreform years.

The same is not said of the PBP today (Ward, 2011), and a concerted effort to move away from McNeilly's leadership may be partly to blame. According to McNeilly, his longtime political battles with Mayor-elect Bob O'Connor precluded a cooperative transition. "I knew (O'Connor) wouldn't keep me on for good, but I offered to stay there until [new chief] Costa settled in . . . to smooth the transition," McNeilly said (Greenwood, 2006). O'Connor never responded to McNeilly's request to have a "frank discussion" about the CD, and through his spokesperson issued an icy dismissal: "[McNeilly] offered to share what he'd done to comply with the consent decree, but it's a matter of public record what was done, and Chief Costa is more than qualified to continue those programs" (Greenwood, 2006).

Luke Ravenstahl took over as acting Mayor in September 2006. Nathan Harper, a career PBP officer and Ravenstahl nominee, took control of the department shortly thereafter. Harper, like McNeilly before him, was seen as an extension of the Mayor's Office and the City's Director of Public Safety. In McNeilly's day, however, as the CD was being developed and implemented, the City's executive branch largely supported reform, whereas today there appear to be other priorities driving city administration (Smydo, 2010). Whether changes in PBP's leadership can be causally connected to recent backsliding or not, it is hard to ignore the fact that many of PBP's biggest problems have occurred since McNeilly's firing.

To wit, between 2003 and 2005, PBP officers averaged 1,033 use of force incidents per year. Between 2006 and 2012, that number jumped to 1,427, an increase of 38%. Similarly, the average number of assaults committed against PBP officers in the years after McNeilly was fired was 408, some 49% higher than the average committed during McNeilly's tenure (Figure 3).

Several recent high-profile incidents contribute to the notion that changes made pursuant to the CD may have begun to erode with the replacement of McNeilly. In September 2009, Pittsburgh hosted the G-20 summit. A cause célèbre for antiglobalization and anticorporate activists, significant protests tend to accompany the annual G-20 meetings. The year 2009 was no exception. Several hundred protesters were arrested as the city sustained an estimated \$50,000 in property damage (C. Deitch, 2010).

A September 2010 suit filed by the American Civil Liberties Union on behalf of a class of protesters claims the PBP surrounded them, "refused to allow them to leave, ordered them to lie on the ground and placed them in handcuffs" in violation of their First Amendment right to assembly. The protesters also allege that the police "falsely charged them with failure to disperse and disorderly conduct" (McNulty, 2010).⁸

The aftermath of the G-20 protests exacerbated an already contentious relationship between Pittsburgh's independent Citizen Police Review Board (CPRB) and the City's executive branch (Song, 2011). After receiving scores of G-20-related complaints, the CPRB moved to open a general investigation of PBP's

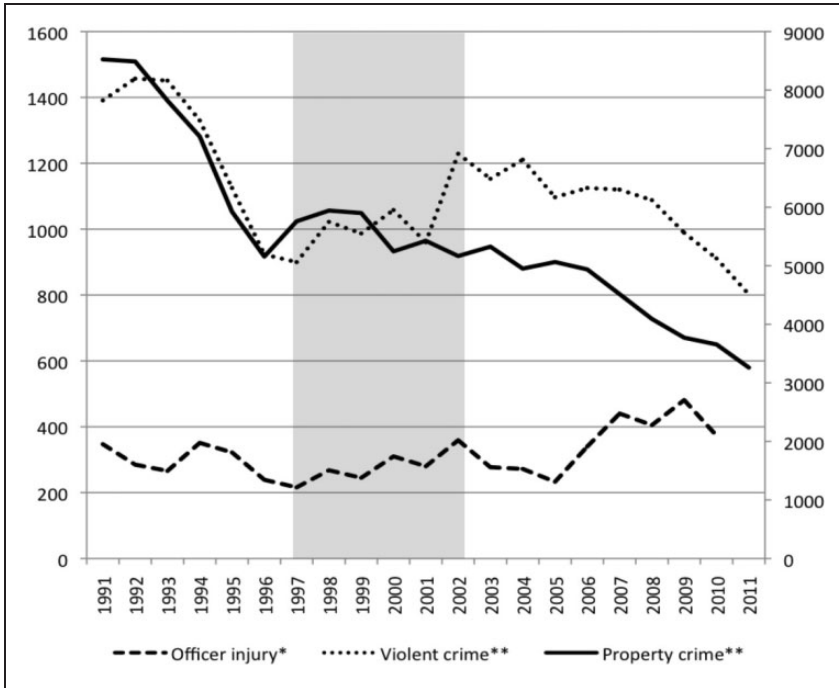


Figure 3. Officer injuries and crime in Pittsburgh, 1991–2012.

Sources. FBI Uniform Crime Reports.

Note. The primary axis references officer injury data. Violent and property crime data, which are reported as the number of incidents per 100,000 people, are linked to the secondary axis.

*A one-tailed *t* tests show officer injury totals sustained during the reform period (1997–2002) were statistically significant ($p < .05$) and lower than postreform (2003–2010) levels.

**Similarly, prereform annual crime totals are statistically significant (in one-tailed *t* tests, $p < .05$) and lower postreform (1997–2011) than prereform.

actions during the protest. The Mayor’s office successfully litigated to prevent the CPRB from accessing G-20 documents (“Court Rules for Pittsburgh,” 2011). After losing an initial round in the legal fight, Mayor Luke Ravenstahl replaced five of the Board’s seven members, a move one City Councilmember believes was an attempt to *circumvent* or *destroy* the CPRB (Smydo & Balingit, 2010). Beyond its reflection of alleged police abuse, the City’s response to the G-20 investigations suggests of a political class, led by the Mayor, which is reflexively defensive of the police and the politically powerful officer union, and skeptical of transparency and accountability.

Less than 5 months out from the G-20 meetings and just over 7 years after the CD was lifted, the PBP suffered a second major performance crisis. Three undercover Pittsburgh Police Bureau officers attempted to stop Jordan Miles, a classical musician and a high school honor student, near his residence in

Homewood, a largely African American neighborhood on Pittsburgh's east side.⁹ Miles believed he was about to be robbed and attempted to flee the scene (Ward, 2010). After he fell, the officers allegedly delivered several blows to Miles's head and back, ultimately sending him to the hospital. Miles was arrested for aggravated assault and resisting arrest, though the charges were later dismissed (Ward, 2010). On May 4, 2011, federal prosecutors determined that they lacked "sufficient evidence" to demonstrate that the three officers involved "willfully deprived [Miles] of federally protected right" (Kerlik, Greenwood, & Hasch, 2011). Despite this highly controversial decision and a citywide outcry over the incident, the officers returned to duty shortly after the announcement was made (Daley, 2011).

In March 2013, former PBP chief Nathan Harper was indicted on federal corruption and tax evasion charges stemming from an alleged scheme to divert city funds for personal use (Silver, Navratil, & Lord, 2013). Harper is currently serving out an 18-month prison sentence (Lord, 2014).

Of course, these events do not alone signal PBP's failure to sustain pattern or practice reforms. Longstanding and unaddressed tension between the police and minorities, as well as shifts in economic and other social conditions may help explain incidents like the G-20 protest and the alleged beating of Jordan Miles. With that said, however, taken together the incidents do seem to suggest an erosion of the accountability infrastructure developed during the reform period. And regardless of their cause, such incidents have had a dramatic effect on police-community relations in the city and continue to negatively affect public perceptions of the Bureau.

Washington, DC

In June 2001, the District of Columbia and the Washington, DC MPD entered into a memorandum of agreement (MOA) designed eliminate a pattern or practice of excessive force ("Memorandum of agreement," 2001).

The Department reached substantial compliance in June 2008, an occasion for former monitor Michael Bromwich to laud the Department and the process:

MPD has become a much more sophisticated police agency . . . We believe that the City's and MPD's success in implementing the MOA's reforms, which are now embedded in the Department's internal policies and practices, stands as a model for municipalities and police departments across the country. (Independent Monitor Final Quarterly Report, 2008, Jun. 13, p. 3)

MPD Chief Cathy Lanier sees a similar picture. Not only does she credit the MOA with significant improvements to the Department's accountability infrastructure, but with catalyzing a shift in MPD's officer culture: Changes made under the MOA are "the status quo now. It's part of our daily operations.

It's what we do" (C. Lanier, personal communication, January 13, 2010). Despite their remarks, the evidence suggests a more complex picture of the institutionalization process (Figure 4).

The total number of misconduct allegations levied against MPD officers increased by an average of 15% every year the MOA was in place. From 2001 through 2007, annual totals hovered around a mean of 563 allegations, reaching a high of 771 in 2007. In 2008 (the MOA terminated in June of that year), however, total allegations increased to 1,063, a 38% jump. In 2009, MPD's first full year without federal oversight, total annual allegations climbed to 1,259, an additional 18% rise. Allegations of excessive force, harassment, and the use of inappropriate language follow a similar pattern, with a steady incline throughout the implementation period followed by a dramatic spike in 2009 and leveling off in 2010.

Interpreting these results is tricky, particularly in the absence of a larger sample of data. The upward trend may simply indicate a steady increase in unlawful police activity. It may also signal that reform-based changes, including those designed to make the process of filing a complaint easier, were having the

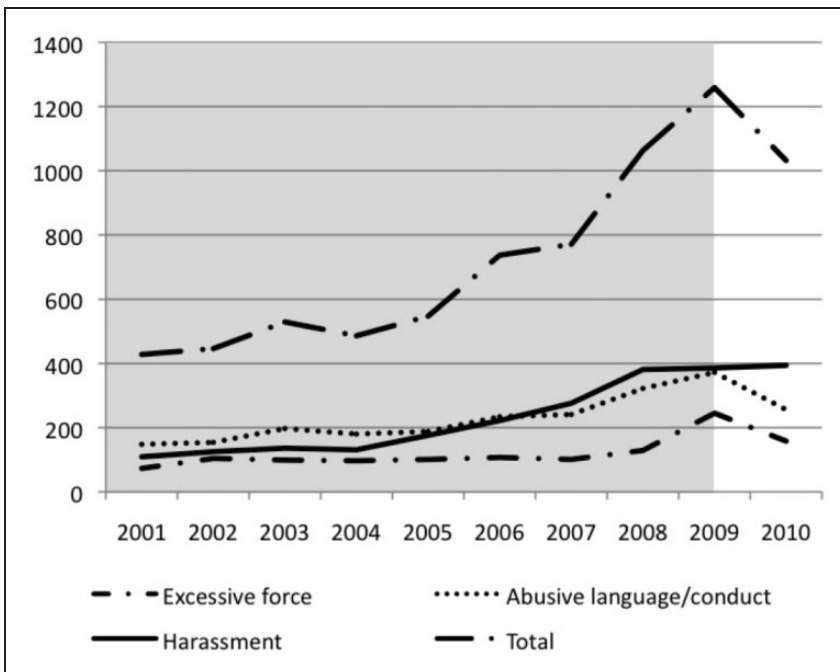


Figure 4. Allegations of police misconduct in Washington, DC, 2001–2010.

Source. The District of Columbia Office of Police Complaints.

desired effect. But even if a simplified complaint process can account for the upward trend while the new policies were being implemented, it is unlikely that the effect of such changes would stretch beyond the first 4 or 5 years of reform. In other words, these policy changes do not seem to explain the observed postreform spike. Two years' worth of data are not nearly enough to justify the conclusion that reform gains in DC have eroded, but the 2009 and 2010 jump in misconduct allegations is part of a worrisome trend.

In contrast to the steady pattern of citizen complaints, the number of annual use of force incidents occurring between 2005 and 2012 followed a uniquely volatile pattern, as is evident in Figure 5. The last 3 full years of the MOA implementation each witnessed steep increases, rising some 162% between 2005 and 2007. Use of force incidence dropped precipitously in 2008 and 2009, as citizen complaints spiked and remained basically flat until 2012, when the annual total climbed some 23%. It is worth noting that neither the MOA nor its dissolution appears to have affected the decades-long decline in the District's rate of violent crime. On the other hand, the property crime rate fell during the implementation period and has ticked upward slightly of late.

Figure 6 charts the total number of civil suits resulting in either a settlement or judgment in favor of plaintiffs filing use of force-related claims against the MPD. The significant spike that occurred between 2001 and 2004 is the result of

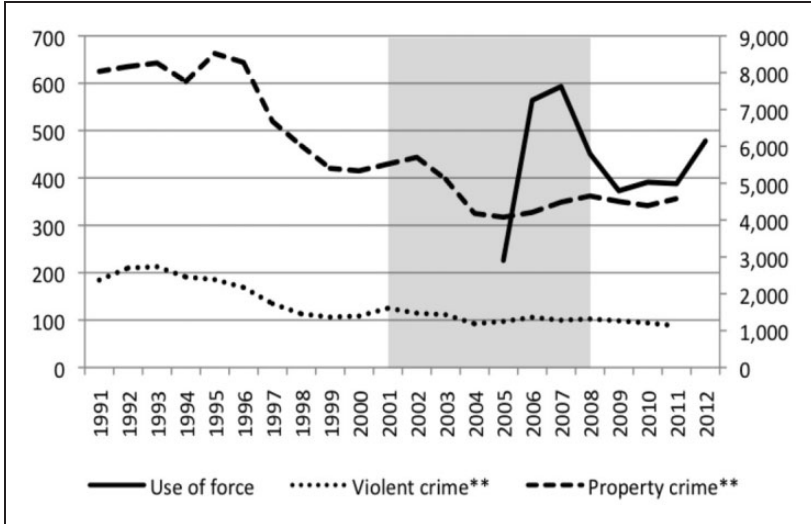


Figure 5. Use of force and crime in Washington, DC, 1991–2012. Sources: FBI Uniform Crime Reports (crime); Metropolitan Police Department (use of force). Note. Crime data are reported as the number of incidents per 100,000 people. Use of force is shown on the primary axis; crime data are shown on the secondary axis.

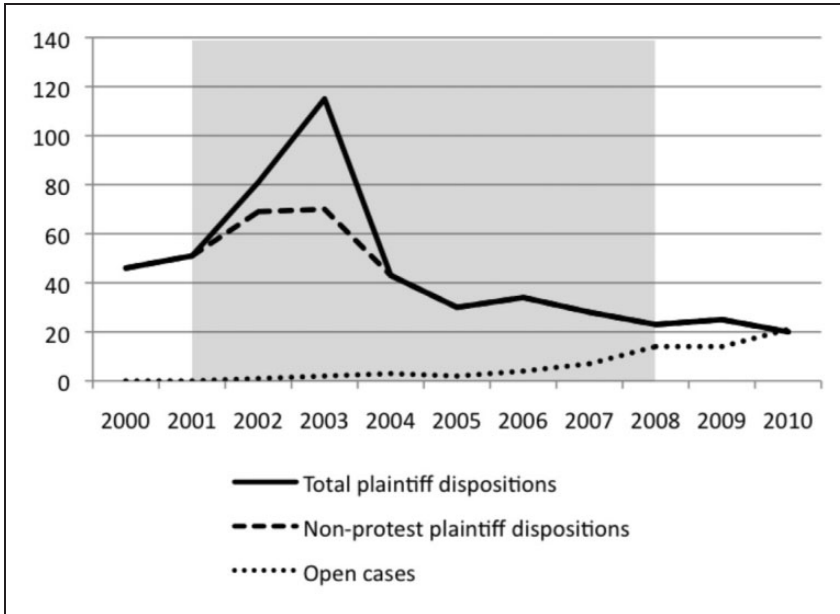


Figure 6. Use of force-related civil litigation in Washington, DC, 2000–2010.
 Source. The District of Columbia Office of the Attorney General.

litigation stemming from police action taken during the 2000 inauguration of George W. Bush (USA Today, 2001) and the mass arrest in Pershing Park during a 2002 antiglobalization protest (Zauzmer, 2013). Combined, Washington, DC faced at least 57 different suits and paid out a total \$34,420,295 in damages as a result of these events.¹⁰ Nonprotest litigation trended downward throughout the reform and has remained steady since the MOA was dissolved in 2008. Figure 7 tracks the total dollar amounts paid out by the District as a result of force-related settlement/disposition awards for suits filed during that same period of time. The data show that nonprotest payouts were flat during the implementation period and have continued to decline in the postreform years.¹¹ On balance, both the rate and cost of litigation stemming from force-related misconduct were fairly stable during the implementation period and have continued to trend downward in the years following MOA termination.

Finally, while MPD has not faced the kind of major event or scandal that has plagued Pittsburgh in recent years, more than 90 MPD officers were arrested between 2009, the first full year after the MOA was terminated, and 2012 (Whelan, 2012). Police accountability expert Sam Walker (2012) argues that in light of the fact that MPD’s early intervention system is designed to identify and

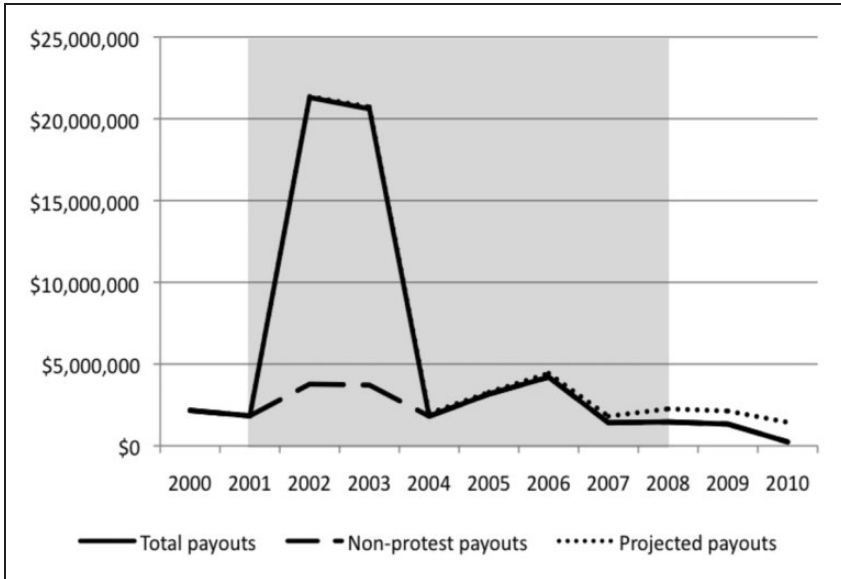


Figure 7. Financial Awards in Washington, DC Use of Force Litigation, 2000–2010. Source. The District of Columbia Office of the Attorney General.

correct such problematic behavior, this pattern “raises very serious questions about whether the accountability procedures instituted by the MOA are functioning at all” (p. 64).

Cincinnati

In April 2001, a White Cincinnati police shot and killed an unarmed Black teenager setting off riots throughout the city (Clines, 2001). In response to a pattern of excessive force, the DOJ oversaw police reform in Cincinnati from April 2002 through April 2007. During this 5-year period, in addition to the reforms required by the MOA, the Cincinnati Police Department (CPD) also implemented the terms of a privately negotiated settlement with several community groups and the local chapter of the Fraternal Order of Police. As a result of this unique arrangement, the CPD was not only required reform its approach to police use of force and officer accountability but also to develop and implement new crime control, order maintenance, and community relations strategies. The changes required of Cincinnati were broader and deeper than in any of the several other jurisdictions affected by the DOJ’s pattern or practice initiative.

Six years removed from DOJ and monitor oversight, the Department has experienced little or no backsliding, a finding supported by consistent reductions in undesirable outcomes, including use of force incidence and allegations of

abusive or unlawful behavior. In short, the reform effort in Cincinnati appears to have transformed the CPD.

Longitudinal data show significant and lasting change within the CPD. As documented in Figure 8, police use of force in Cincinnati was fairly volatile during the MOA implementation period but has dropped by an average of 11% per year since 2005. In fact, between 2002 and 2012, as crime rates have remained relatively stable, use of force has declined by 46%.¹²

Figure 9 shows similar decline in injuries sustained by CPD officers: Between 2001 and 2007, officer injury totals dropped by an average of 10% per year; the posttermination period from 2008 to 2010 saw an average of 122 CPD officers injured while on duty, a stunning 209% difference from the average number of officers injured during the implementation years (Figure 10).

Data from Cincinnati's CCA show a similar downward trend. According to annual reports filed by the CCA between 2005 and 2012, complaints against CPD officers continued to decline even after the department was released from formal oversight. The 56 allegations of excessive force investigated by the CCA in 2012 represent a 36% drop in the number of similar allegations made in 2006,

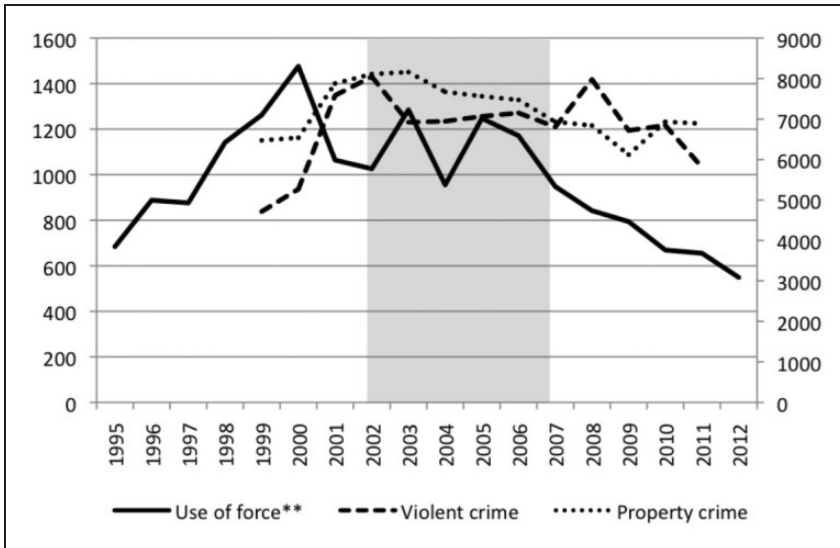


Figure 8. Police use of force and crime in Cincinnati, 1995–2012.

Sources. FBI Uniform Crime Reports (crime and officer injury); Cincinnati Police Department (use of force).

Note. Crime data are reported as the number of incidents per 100,000 people. The primary axis references use of force and violent crime data; property crime shown on the secondary axis.

**Postreform annual use of force means was statistically significant and different from prereform annual totals at the .01 level.

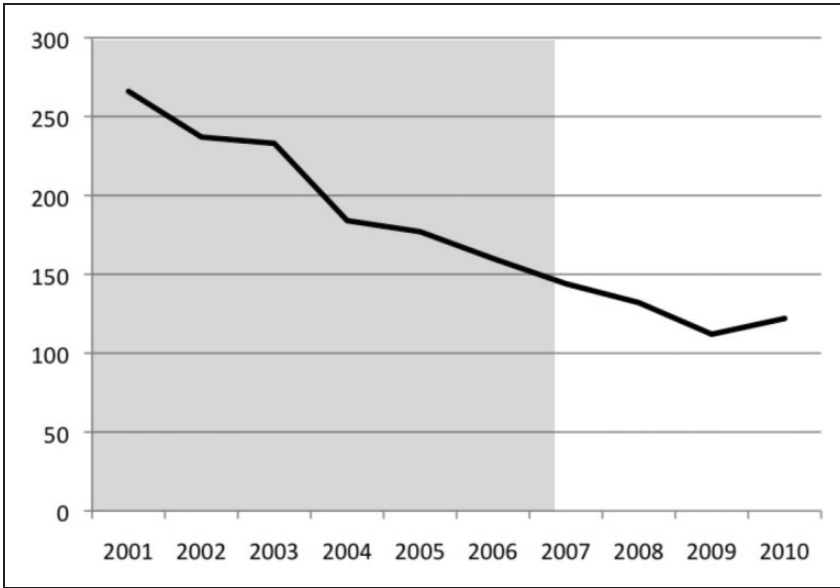


Figure 9. Police officer injuries in Cincinnati, 2001–2010.
Source. Cincinnati Police Department.

the last full year that CPD was under federal control. Allegations of discrimination and improper pointing of a service weapon dropped over that period as well. Further, the percentage of complaints against CPD officers found by the CCA to have some merit (i.e., sustained), continued to fall in the years following MOA termination.

These data all the more impressive in light of the changes made to the complaint process as a result of the MOA. Prior to the reform, complainants had to appear at CPD stations in person. Today, one can file a complaint by phone or by email, directly to CPD or CCA, and may even do so anonymously. In short, the MOA made it easier for people to complain, and far fewer people have. According to American Civil Liberties Union attorney S. Greenwood (personal communication, April 21, 2010), “overall satisfaction is better. People—the community—trusts the integrity of the review process now” (Figure 11).

CCA Director Kenneth Glenn has sensed a change not just in the data, but in how complainants view the CPD. Anecdotally, even though complainants are upset about the incident they are attempting to address, their overall attitude and orientation toward the police is more positive. To K. Glenn (personal communication, April 15, 2010), trust in the CPD has continued to grow as a result of the MOA: “as we talk with young people in the community . . . the tone is a lot better than it was in 2002.” That the CPD has been able to avoid a destabilizing,

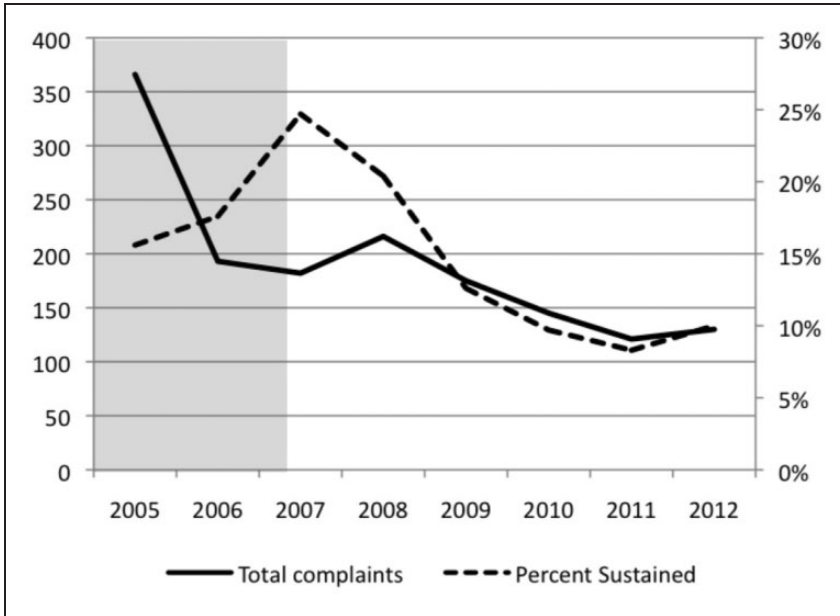


Figure 10. Citizen complaints filed against Cincinnati Police Department Officers, 2005–2012.

Source. City of Cincinnati Citizen Complaint Authority.

high-profile performance failure in recent years contributes to the growth of the Department’s legitimacy in the eyes of the community.

Cincinnati’s City Manager, Milt Dohoney’s (2010) view of the Department’s does well to summarize CPD’s progress since 2002:

The changes that were made have resulted in . . . a significant drop-off in the number of instances where citizens are injured as they’re being taken into custody. There are a lot fewer injuries to police officers as they’re trying to make an arrest. The allegations of excessive force have plummeted. The incidents where the use of deadly force is even an issue has plummeted . . . [The DOJ] agreement helped make all that happen.

Analysis

Organizational response to the termination of pattern or practice reform varied considerably between police departments Pittsburgh, Cincinnati, and Washington, DC. The PBP was not able to sustain organizational changes

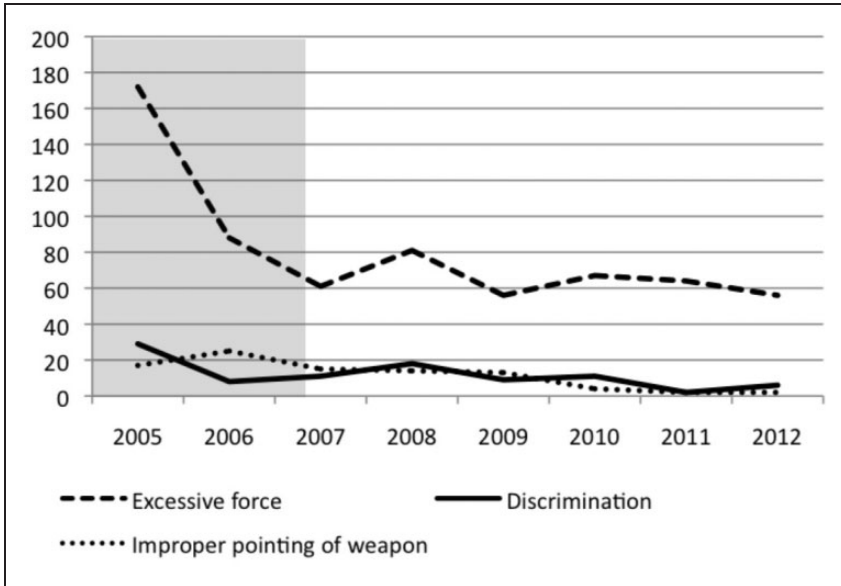


Figure 11. Allegations of police misconduct in Cincinnati, 2005–2012.
Source: City of Cincinnati Citizen Complaint Authority.

made under federal oversight. Key outcomes that remained flat during implementation, including officer injuries, use of force incidence, and allegations of misconduct, now trend upward. According to Pittsburgh Mayor Bill Peduto, a recent corruption scandal and several high-profile force-related incidents have the department “on the verge of another consent decree” (Benzing, 2014).

By contrast, the process seems to have had a sustained, positive effect in Cincinnati. Numbers of postreform citizen complaints against CPD officers continue to decline, as does use of force incidence, and the number of injuries sustained by CPD officers. Such progress has contributed to increasing trust in the Department among minority community members (Ridgeway & MacDonald, 2014) and a sterling national reputation (Schuppe, 2014; Vinik, 2014). The picture in Washington, DC is more difficult to interpret. Significant reductions in force-based civil litigation and related payouts since 2003 suggest that both the frequency and severity of MPD misconduct has declined. A spike in allegations of misconduct complicates the picture, as does the startling number of MPD officers that have faced criminal charges in the postreform years.

Even in light of certain methodological limitations, these findings highlight the challenge jurisdictions face in working to institutionalize pattern or practice reform. They also demonstrate the need for further scholarly inquiry.

The need for more consistent data

Owing largely to the absence of consistent outcome data and a lack of cooperation among potential subject jurisdictions, it is rather difficult to generalize beyond the included cities. Further, without the data needed to properly establish benchmarks, formal consideration of causal hypotheses was all but impossible. In the absence of a deeper quantitative analysis, there remains the possibility that some of the trends discussed occurred as a result of factors other than reform implementation or termination.

The need to evaluate the effectiveness and long-term sustainability of these initiatives is clear, yet we lack the basic data needed to do so. This need not be the case. In some jurisdictions, including Los Angeles, the DOJ has insisted on the capture and publication of relevant outcome measures (LAPD Consent Decree, 2001, para. 156). Mandating the dissemination of use of force statistics, officer disciplinary decisions, and civil litigation results would be a solid step toward facilitating evaluation of future settlement agreements. As would requiring independent monitors to set and report on outcome-related goals, rather than continuing to perform what amounts to an exclusively process-driven assessment.

More thorough, nuanced analysis

The field would also benefit from future research that moves beyond the use of outcome data to evaluate sustainability, beginning with an assessment of officer attitudes and organizational culture more broadly. In addition to contributing to more thorough descriptive knowledge, examining the relationship between outcomes, officer behavior, and department culture would help to broaden understanding of those factors that explain institutionalization success and failure. To what extent do these elements show a consistent picture of agency efforts to pursue and institutionalize reform? Can a department achieve and sustain desirable levels of key outcomes, for example, despite a culture that may not reflect core reform values? And so on.

A closer look at the inner workings of affected departments would allow for a much more nuanced assessment of change. By necessity, the current research framed pattern or practice reform as a monolithic initiative rather than as a series of individual components. In fact, development and implementation of each component, from new policies and training to community outreach efforts, are unique, distinguishable efforts, each worthy of a separate evaluation. As it stands today, it is all but impossible to tease out the value of specific components, either in terms of their effectiveness or sustainability.¹³ Does a department's use of an early intervention system actually lead to fewer incidents of misconduct and lower civil litigation costs? To what extent does the system's effectiveness change over time? Is there an interaction between system usage and

officer training, in terms of both short- and long-term outcomes? Answers to these and other similar questions would improve the efficiency of future settlement agreements and aid departments in institutionalizing change.

Finally, future research should continue to monitor these and other pattern or practice jurisdictions, paying particular attention to identifying those factors that distinguish reforms that endure from those that erode. Explaining the success in Cincinnati would be a useful point of departure. To what extent did support for reform among of city leaders and community residents contribute? The strength of officer accountability mechanisms, both internal to the CPD and in agencies like the CCA? Strategic efforts to coopt potentially hostile groups like the officers union? Was support from middle management as critical in Cincinnati as it was to sustaining problem-oriented policing strategies in Charlotte, NC (Ikerd, 2010)? Perhaps sustainability is a function of robust efforts to educate officers to “nature, goals, and benefits” of such reforms, as some contend (Walker, 2012, p. 91)?

Conclusion

The best evidence on the DOJ’s pattern or practice initiative suggests that after implementing mandated reforms, affected departments will likely possess a stronger, more capable accountability infrastructure, more robust training, and a set of policies that reflect national best practices (Davis et al., 2002; Stone et al., 2009). These changes occur as a result of the agreements’ substantive requirements and the close, external oversight that tends to accompany their implementation.

But as the current research shows, the reform process is more complex than the pursuit of substantial compliance with settlement terms. The resultant organizational changes are not self-sustaining; implementation does not in and of itself guarantee meaningful, institutionalized change. In fact, the assumption that it does may undermine efforts to promote lasting reform. The typical settlement agreement binds affected departments to a 5-year period of federal oversight. Upon a declaration of substantial compliance, which usually occurs on or around the end of the contractual term, the DOJ announces that department has been reformed, promptly terminates the agreement, and moves on to other initiatives.¹⁴ This abrupt stoppage signals to the department that sufficient change has been made and that no further attention to the reform is necessary. Given how tenuous these reforms appear to be and how unpopular they remain among the rank-and-file, the goals of the initiative would likely be better served by ongoing external oversight of the affected department. Periodic external checkups designed to promote independent posttermination oversight, whether conducted by DOJ attorneys or a public agency similar to the one created by the State of New Jersey (Megerian, 2009), would be a worthwhile investment.

Organizational reform is a long and fragile process. Effectiveness is not guaranteed and early gains do not necessarily equate to institutionalized change. This lesson is a critical one, for DOJ staff and stakeholders in jurisdictions currently under federal oversight, for police leaders and other public actors contemplating reform, and for policing scholars and other students of the administrative process. The sooner it takes hold, the more likely it is that changes brought about through the pattern or practice initiative will not suffer the fate of other recent reform efforts.

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Notes

1. Despite some variation in their data collection and oversight method, each monitor team applied the 95% substantial compliance threshold very similarly, regardless of the substantive nature of the provision under review. For example, when considering Pittsburgh's Office of Municipal Investigation's (OMI's) ability to issue final reports on all investigations, the monitor determined that "A failure rate of 15 of 55 completed cases constitutes 27 percent, far in excess of the allowable five percent" ("Pittsburgh Independent Monitor", 2002, p. 53). Similarly, when assessing MPD's progress in completing Use of Force Incident Reports (UFIRs), the Washington, DC monitor determined that "MPD's demonstration of a sustained UFIR completion rate between 86% and 91%... was quite high even if below the 95% threshold" (Independent Monitor Final Quarterly Report, 2008, p. 30).
2. Though Davis et al. (2005) did not define organizational culture per se, the context of their analysis suggested a definition similar to the language developed by Schein (2010):

A pattern of shared basic assumptions that a group has learned as it solved its problems...[and] that has worked well enough to be considered valid and therefore, to be taught to new members as the correct way to perceive, think, and feel in relation to those problems (p. 18).

Subsequent references to culture are made with this definition in mind.

3. The eight jurisdictions include Steubenville, OH; Montgomery County, MD; Highland Park, IL; Buffalo, NY; Mount Prospect, IL; Villa Rica, GA; Cleveland, OH; and Prince George's County, MD.
4. This research received full institutional review board approval. All but one interviewee agreed to speak on the record. A subject list and interview transcripts are on file with the author.
5. It is worth noting that not all reform efforts proceed incrementally. In fact, as examples like team policing (Walker, 1993) and the effort to require officers to obtain a college degree (Sherman, 1978) indicate, some fail to take hold at all.
6. Because OMI remained under the CD during the period when Vera examined the sustainability of reform at PBP, their 2005 report does not address efforts to institutionalize changes at OMI.
7. One-tailed t tests show that these results are statistically significant at the .05 level.
8. In fairness to the police, crowd control and protest management were not specific areas of focus under the pattern or practice reform initiative. The police contend that their behavior in response to the G-20 protests was entirely lawful and well-within department protocol (Frea & Byers, 2009).
9. Ninety-eight percent, according to the 2000 Census (Census: Pittsburgh, 2006).
10. These data are of limited value as a part of a broad review of MPD's efforts to sustain reform-related changes, as the settlement agreement did not address in any capacity policy related to mass protest. What is more, the incident occurred less than a year in to the implementation process.
11. A total of 68 force-related suits filed between 2003 and 2010 remain unresolved and thus have the potential to increase Washington, DC's total annual payouts. Yet, even if one projects plaintiffs to win every outstanding case and receive the average non-protest payout awarded between 2000 and 2010 (\$57,096), the effect on annual totals would be marginal.
12. A one-tailed t test was statistically significant at the .01 level.
13. This point was first made by Professor Sam Walker.
14. Of course, there are exceptions to this general rule. In Los Angeles, the transition from DOJ oversight to department autonomy was made more gradual by a 2009 Transitional Agreement (TA). Under the TA, the federal court maintained jurisdiction over the case and authority to mandate continued federal oversight unless and until the LAPD addressed the remaining matters to the satisfaction of the presiding judge (LAPD Transition Order, 2009).

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