NEGOTIATED JUSTICE? THE LEGAL, ADMINISTRATIVE, AND POLICY IMPLICATIONS OF 'PATTERN OR PRACTICE' POLICE MISCONDUCT REFORM

By

Joshua M. Chanin

Submitted to the

Faculty of the School of Public Affairs

of American University

in Partial Fulfillment of

the Requirements for the Degree

of Doctor of Philosophy

In

Public Administration

Chair:
David H. Rosenbloom, Ph.D.

Beryl A. Radin, Ph.D.

Edward R. Maguire, Ph.D.

William M. Ted Lander
Dean of the School of Public Affairs

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ABSTRACT

This dissertation offers the first theoretically-driven, comparative examination of the U.S. Department of Justice's (DOJ) enforcement of Section 14141 of the Violent Crime Control and Law Enforcement Act. Also known as 'pattern or practice' reform, this provision grants the DOJ authority to "obtain appropriate equitable and declaratory relief to eliminate the pattern or practice…of conduct by law enforcement officers…that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States" (42 U.S.C. Sec. 14141). This legal authority has generated negotiated settlement agreements between the DOJ and several police departments found to exhibit a pattern or practice of illegal conduct. In each case, affected jurisdictions have agreed to implement settlement agreements that require deep and aggressive reforms designed to eliminate the illegal conduct at issue. Harvard Law Professor William Stuntz (2006) has referred to Section 14141 as "the most important legal initiative of the past twenty years in the sphere of police regulation."

Despite its close connection to fundamental aspects of the American democratic process, the legitimacy and accountability of police bureaucracies, and to public safety, pattern or practice reform remains dramatically understudied. As such, I examine settlement reform

efforts in four jurisdictions found to exhibit a pattern or practice of excessive use of force: Pittsburgh, PA; Washington, D.C.; Cincinnati, OH; and Prince George's County, MD. Specifically, I develop and test analytical frameworks to describe and explain the implementation and institutionalization of change.

The project's data is drawn from three sources: (1) quarterly reports filed by the independent monitor and police department staff; (2) twenty-eight open-ended interviews with key stakeholders, including police leadership, relevant city and county government personnel, independent monitors, and current and former DOJ attorneys; and (3) news reports, and publicly available data on demographic, crime, and socio-economic data. The study's data analysis is driven by a grounded theoretical approach.

After completing brief cases studies of each jurisdiction, I develop an analytical framework to describe and evaluate the implementation of pattern or practice reform. The framework is based on both theoretical and empirical research taken from various areas of scholarship, including policy implementation, policing, and remedial law. I hypothesize that four categories of variables will define the implementation of settlement agreements, namely factors related to (1) the policy problem; (2) the policy solution; (3) the environmental context; and (4) the implementing agency.

I test this framework by describing the implementation of three settlement agreement components central to each jurisdiction's reform effort, including use of force policy change, creation of early warning systems, and the development of citizen complaint investigation protocols. Findings suggest that each department faced significant yet varied challenges implementing these settlement components. Despite the delays and other complications that stem from such challenges, each jurisdiction achieved "substantial compliance" and was released from federal oversight within five to seven years of the original settlement date.

Several factors help to explain variation between departments, including the complexity of joint action, agency and jurisdictional resources, active and capable police leadership, and support from local political leaders. This research also demonstrates the critical and unique role of independent monitors charged with overseeing the reform process. Monitors at once help to hold affected departments accountable, work to ensure that implementation remains high on the departments' agenda, and "fix" problems between stakeholder groups. Perhaps most importantly, these monitors act as intermediaries between DOJ attorneys, police leaders, and third-party groups, in the process bringing together "top-down" and "bottom-up" implementation forces.

Parties to pattern or practice agreements, including the DOJ and members of affected police jurisdictions, conceive of such agreements as legal instruments and as a result minimize the policy ramifications of the reform process. As a direct result of this legal framing, departments (as well as the independent monitors) focus on achieving substantial compliance with the terms of the settlement to the exclusion of other, policy-related considerations. Therefore, my analysis of the implementation process did not address anything beyond department implementation of legal mandates, and thus omitted any discussion of the extent to which such reforms affected outcomes like use of force incidence, citizen complaints, or public opinion of the police. Further, this narrow analysis did not consider the extent to which pattern or practice reform brought about changes to organizational culture, agency transparency, and legitimacy in the eyes of the community.

To account for this limitation, I examine the policy sustainability of pattern or practice reform initiatives. In order to frame several research questions on the sustainability of pattern or practice reform, I review literature from several fields, including organizational change, organizational theory, and policing. Drawing on these diverse approaches, I develop a

framework for evaluating reform sustainability and hypothesize that sustainability is determined when the framework's three components are taken together: (1) the department's ability to sustain changes made to policy and accountability systems; (2) the symmetry between department culture and the goals of the reform effort; and (3) relevant outcomes.

Next, I use this framework to evaluate the sustainability of change in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County. Specifically, I attempt to explain jurisdictional differences by using four sets of factors, including the process and substance of reform, and the organizational and environmental contexts affecting change in each department. As with implementation, capable police leadership and a consistent commitment to both the letter and spirit of the settlement among jurisdictional political leaders proved critically important in promoting sustainability. Success in Cincinnati highlights the importance of community support and a constructive working relationship between police management, organized labor, and civil liberties groups.

This dissertation offers a multidisciplinary examination of a critically valuable yet understudied mechanism for replacing systematic, unlawful behavior with a "best practices" infrastructure for accountable, constitutional policing. Beyond offering a detailed examination of the reform process, both in terms of implementation and policy sustainability, this research implicates several important and enduring legal and policy questions, many of which help to define the study and practice of public administration, law, and criminal justice in the United States.

ACKNOWLEDGEMENTS

This dissertation would not have been possible without the guidance and support from members of my dissertation committee, the academic community at American University's School of Public Affairs, colleagues at the National Institute of Justice, friends, and family.

A multidisciplinary dissertation such as this one demands a diverse committee, with members who not only represent different areas of expertise, but bring unique perspectives on the issue, and strong but collegial voices to the process. My committee surpassed all expectations and gave me much more than I could have hoped at every step of the way. I cannot thank them enough for reading drafts with such care, speed, and respect.

Dr. David Rosenbloom showed an unbelievable amount of trust in my ability to develop and write a solid piece of research. Beyond his considerable insight, wisdom, and attention to detail, it was his confidence in me that truly propelled my work. His influential work in the field of public administration and law influenced my decision to pursue a doctorate, and was an important reason for my choosing to go to AU. It has been great to work with him over the last several years.

Since my first week at AU, Dr. Beryl Radin has been a mentor, an advisor, and a friend. The depth of her substantive expertise, understanding of the research process, and ability to present a fresh perspective have been invaluable throughout. Her scholarly energy and intellectual curiosity are awe inspiring and something I hope to emulate as I begin my academic career.

This research would also not have been possible without the support given to me by Dr. Ed Maguire. As the only criminologist on the committee, he was forced to represent the view of policing scholars and practitioners, and did so with clarity and sensitivity. Dr. Maguire's

willingness to vouch for me to potential interviewees and to write a letter of introduction on my behalf no doubt helped make possible the interviews at the heart of this research.

I greatly appreciate and thank each member of my committee for all they have done to guide me through the research and writing process. I would not change a thing about my experience. I hope to have the chance to work with each of them again soon.

The wider academic community at AU's School of Public Affairs also helped to make this project a reality. Professors Laura Langbein, Robert Durant, Brian Forst, Jocelyn Johnson, and David Pitts, among many others, as well as administrators Bob Briggs and Rachel Pentlarge, were essential to my finishing this project.

I cannot overstate the importance of my experience at NIJ to this process. Work with Dr. Patrick Clark honed my interest in Section 14141 and helped me funnel that broad interest into a workable dissertation. I appreciate the day-to-day freedom and support given to me by Dr. Clark, Winnie Reed, and Dr. Brett Chapman. The letter of introduction from Dr. Ellen Scrivner facilitated several stakeholder interviews and added to my credibility at the earliest phases of the data collection process. Dr. Marie Garcia's sense of humor and generosity made days of lit review and reading monitor reports much more enjoyable. I also looked forward to hanging out with Joel Hunt and DeShonna Collier-Goubil, among many others, when I went to the office.

Many thanks go my interviewees, including members of the Special Litigation Section, independent monitors, police officers, union leaders, politicians, and other subject matter experts. Your time, expertise, and generosity are greatly appreciated. This project would not have been possible without your input. Dakota Linda, the transcriptionist extraordinaire, was faster, more accurate, and nicer than I could have ever imagined.

My classmates also deserve a shout out. Dr. Kelley Moult was a constant source of support and friendship, from D.C. and Cape Town. Dr. Amanda Girth continues to be a sounding

board and an the avatar of professionalism and smarts. I'll miss our coffee breaks and lunches. Toward the latter half of my writing process Jane Palmer became a friend, a study partner, and a sounding board. I looked forward to the days we wound up at the library together and know that I wouldn't have been nearly as productive without your companionship. Great friends and ideal colleagues, all. I'll consider myself lucky if the people at San Diego State are half as kind, generous, and cool.

My parents' pride in my accomplishments and unyielding support have been at the center of my experience. The last five years in D.C. have been unbelievably special. Though at the time it seemed a tough choice, I cannot believe that I thought twice about living and studying someplace other than over the bridge from you.

Most importantly, my wife Laura. I'm not sure how it happened, but I found the perfect partner. I'm amazed that you continue to be willing to read my work, listen to the boring retellings of petty ups and downs in the writing process, (re)create beautiful graphics, and find a way to be supportive of my (never-ending) intellectual saga. You have no idea how lucky I feel. A simple thank you is inadequate, to say the least.

Though this dissertation is considered an individual accomplishment, that could not be further from reality. My research is a reflection of an accomplished and skilled committee, a generous set of colleagues and friends, and the most supportive family on earth. Thank you.

Lastly, this dissertation research was funded in part by a National Institute of Justice Dissertation Research Fellowship Award (2010-IJ-CX-0001). The views expressed herein are my own and do not reflect either the opinions or policies of the National Institute of Justice of the Department of Justice.

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CHAPTER 1

INTRODUCTION

> What we see and judge to be important…depends not only on the evidence but also on the 'conceptual lenses' through which we look at the evidence.
>
> ---Graham Allison, *Essence of Decision*

> The problem of excessive force in American policing is real. It is, in part, related to the nature of the difficult challenges faced by the police in our urban centers. Regardless of its cause, it cannot be condoned and must be actively countered by concerned professionals.
>
> *---Lee P. Brown, Former Commissioner, New York Police Department*

On the night of April 7, 2001, members of the Cincinnati Police Department (CPD) pursued through some of the city's most dangerous neighborhoods an African-American man wanted on several misdemeanor charges. After a brief chase, the police cornered their suspect, Timothy Thomas, 19, shot, and killed him (Vela 2001). Thomas was the fifteenth black male since 1995 to have died at the hands of the CPD (Klepal and Andrews 2001). Two days later, the city erupted in riot. Over-the-Rhine, the bleakest of Cincinnati's several struggling, majority-black neighborhoods, bore the brunt of the three-day outburst (Clines 2001A). Once again, a fatal police shooting had thrown an American city into chaos.

To some Cincinnatians, Timothy Thomas had come to symbolize the loss of hope often associated with perceptions of intractable poverty and systemic inequality (Byczkowski and Aldridge 2001; Clines 2001A; 2001C). To others, the incident simply reflected the actions of a violent, racist police department, either unwilling or unable to constrain its officers (Horn 2001). In either case, the incident and its aftermath conjured the late-1960s, when city residents last

witnessed racial tension and injustice metastasize into widespread violence (Clines 2001A; 2001B; Sack 2001).

Against this backdrop, Cincinnati's response to the Thomas shooting should come as no surprise. The incident – like Rodney King, Abner Louima, and most other incidents involving police use of force – reflected many of the most pressing and intractable social, economic, political, and civic problems in modern America. The anatomy of a police shooting includes issues of race, class, power, and influence. It raises questions about the place of government in society, the proper relationship between citizen and state, and the role of pluralism and politics in our daily lives.

This genus of problem has plagued urban America for decades. In the late-1960s, a long and historically complex set of perceived inequalities boiled over. Across the country, hundreds died and hundreds of millions of dollars in property damage occurred as mostly African American rioters lashed out in "bitterness and resentment" against "segregation and poverty" in cities as diverse as Tampa, Buffalo, and Los Angeles. In 1968, at the behest of President Lyndon Johnson, a bipartisan group of politicians and civil servants set out to explain this turbulence. Though the Kerner Commission's diagnosis was sweeping, much of their focus centered on the police. In one of the earliest and most important public recognitions of the profound connection between race and police behavior, the Report "cited deep hostility between police and ghetto communities as the *primary* cause" of the violence (Kerner Commission Report 1968, 299).

Despite obvious parallels between the 2001 Timothy Thomas riot and those that scarred Cincinnati and other cities in the Summer of 1967, much has changed since then, particularly with the police. Twenty-first century police officers are more highly educated and receive more effective training than earlier generations. The degree to which technology shapes modern policing would have been unfathomable forty years ago (e.g., Manning 2008). So too would the

diversity seen at all levels of the policing profession. The composition of modern police departments is more and more a reflection of the community: minorities and women comprise a much larger percentage of most modern police forces than they did in the 1960s (National Research Council 2004).

Today's regulatory environment is also quite different, especially with respect to civil liberties and officer accountability. Current law and policing best practices view unchecked police use of force, racial profiling, and other discretionary action much more skeptically than did rules established in earlier eras. By many accounts, policing today is more advanced, more representative, and more effective than ever before (National Research Council 2004). Yet controversial and costly incidents like the Timothy Thomas shooting continue to occur.

Any quest to determine why the problem of police use of force, in spite of the progress made among many local police departments, must begin with fundamental questions about the police officer's role in society. No consensus exists among policing experts and practitioners as to the proper role of a local police officer. Some see order maintenance as primary, with cops on the street performing a much more passive role; others believe the job of a cop is to fight crime, aggressively pursuing the "bad guys" at all costs (see, e.g., Wilson 1968). The use of force, a necessary, even fundamental component of a police officer's job, remains at the heart of such debates. Questions surrounding the appropriate use of force – When? How much? For what purpose? – remain open, despite the attempts by courts, legislatures, and local departments to reduce such incidents through tighter legal and administrative regimes.

These questions are made much more difficult by the fact that police use of force incidents are defined by split-second, reflexive action by officers, many of whom operate in highly charged, often very dangerous, environments (*Graham v. Connor* 1989; Fyfe 1986). Ultimately, the several decisions that accompany a police officer's use of force are discretionary,

circumscribed by law and policy, but complicated by several exogenous factors (e.g., Geller and Toch 1996).

The paradox of bureaucratic discretion is well known. The authority and expertise to make discretionary decisions is fundamental to the operation of a government like the one that exists in the United States, where its administrative responsibilities stretch the breadth and depth of the public policy spectrum. Discretionary administration necessarily produces an uneven application of the law, a reality that conflicts directly with what may be the central precept of the American democratic-constitutional arrangement: the rule of law shall supersede all else.

The tension between adherence to the rule of law and the pursuit of efficient, equitable administration is especially pronounced when observed in the context of street-level bureaucratic behavior. No public servant exemplifies this more clearly than the police officer. Cops fit perfectly the definition of street-level bureaucrats: they interact directly with members of the public on a regular basis, performing tasks that demand considerable reliance on intuition and discretion, all in an environment largely devoid of direct supervision or quantifiable performance measures. What is more, police officers rely on the use of force (or threat thereof) to maintain their positions of authority, and are sanctioned by law to apply force – lethal force, in the most extreme cases – in the necessary course of the job. As with all street-level bureaucrats, with this power comes the potential for great costs, particularly in light of the high-stress, low-visibility environment in which most these discretionary decisions are made (e.g., Lipsky 1980; Davis 1969; Muir 1977; Ohlin and Remington 1993; Brown 1988).

Tangible costs are easy to document. Violence in the aftermath of the Timothy Thomas shooting, for instance, is estimated to have cost the city of Cincinnati some $14 million in property damage, hospital bills, legal fees, and police overtime pay. This total does not include

the decreases in revenue for businesses affected by a boycott of downtown Cincinnati organized in late-2001 by several African-American civil rights groups (Alltucker 2001). Intangible costs, including a loss of police legitimacy, an erosion to the rule of law, weakened police-community relations, and the perpetuation of racial stereotypes and structural inequities (Schulhofer et al. 2010), among countless others, must also be considered.

How best, then, to maximize the benefits of low-level administrative discretion, like that which defines police use of force, while minimizing the potential for costly abuse? Is it possible to craft policy in order to respond to the vexing questions that define a police-involved shooting? What characterizes those policies? Is it possible to imbue police departments with judicial values, including respect for the rule of law, accountability, and transparency? Can police reforms contribute to solving inequities of race and class?

For decades, these kinds of questions have challenged scholars from several academic disciplines, including public administration (e.g., Lipsky 1980; Rosenbloom et al. 2010), law (e.g., Davis 1969; Kahan and Meares 1997-1998; Kennedy 1998; Cole 2000), and criminal justice (e.g., Skolnick 1966; Goldstein 1977; Walker 1993; Walker et al. 2006; Rice and White 2010). The Supreme Court has a long history with these issues as well (e.g., *Terry v. Ohio* 1968; *Delaware v. Prouse* 1979; *Tennessee v. Garner* 1985), and will no doubt face new iterations every term, in one form or another. So too will executive and legislative branches of federal, state, and local governments.

This dissertation takes as its subject a fairly recent and promising initiative to control police behavior through department-wide reform: the Violent Crime Control and Law Enforcement Act of 1994, a component of which grants to the Department of Justice (DOJ) jurisdiction to sue local police departments found in systematic violation of constitutional or statutory law. This provision – Section 14141, or pattern or practice reform, as it is known – has

been instrumental in identifying illegal behavior in many of the country's most prominent police departments, and has generated settlement agreements that articulate deep reforms to the offending department's organizational model and accountability infrastructure. In fact, the enforcement of Section 14141 provided the legal and administrative basis for a response to the Timothy Thomas shooting, a response aimed at addressing the fundamental causes of the systematic misconduct that had come to characterize the Cincinnati Police Department.

Before examining in depth Section 14141 and the reform initiatives that derive from Department of Justice enforcement of the statute, one must get a sense for where and how Section 14141 pattern or practice reform fits in a decades-long effort to manage challenges related to the exercise of police discretion and the use of force.

A Brief History of Efforts to Control Police Misconduct

The history of police management and reform follows very closely that of American public administration more generally. Much like his orthodox administrative brethren, August Vollmer, widely recognized as the father of modern law enforcement and as the first to formally study the business of policing, pursued administrative efficiency through centralized Weberian accountability structures, expertise and professionalism generated by educational requirements and advanced officer training protocols, and a culture built around a military-style respect for the chain of command (Walker 1977). To Vollmer, self-regulation was paramount. After all, the police had unique insight and expertise into the business of public safety; subjecting the cops to external oversight would be inefficient and ineffective. Technological advancements like patrol cars and two-way radios were introduced to improve communication and minimize physical interaction between officer and citizen. Such changes contributed to the appearance of a more

professionalized department and helped to reinforce to notion that the police were professional and capable of managing themselves (Alpert and Dunham 2004).

In the mid-1950s, just as Dwight Waldo and Herbert Simon were challenging the politics-administration dichotomy myth, a group of sociologists and academic lawyers began documenting the incredible discretionary authority exercised by street-level police officers (see Ohlin and Remington 1993 for a review). These discoveries scrambled the conventional wisdom, and set the stage for unrest, both among scholars and underserved urban residents. Blue ribbon commission reports (e.g., Kerner Commission Report 1968) and later academic work (e.g., Walker 1977; Skolnick and Fyfe 1993) confirmed what the race riots and police corruption scandals of the 1960s made clear to even the most casual observer: top-down, self regulation was simply not enough to control street-level police discretion in the volatile 1960s. The cultural and organizational means favored by the police professionalization movement had run their course.

Central to the rights revolution that reoriented the relationship between citizen and government was the Warren Court's Fourth, Fifth, and Sixth Amendment jurisprudence, which aimed to bring discretionary police behavior within the framework constitutional law (e.g., *Mapp v. Ohio* 1961; *Gideon v. Wainwright* 1963; *Miranda v. Arizona* 1966). These early cases expanded citizen protections in several critical areas, and paved the way for future courts to confine an officer's legitimate use of force to a small set of circumstances (e.g., *Tennessee v. Garner* 1985; *Graham v. Connor* 1989).

The Supreme Court's expansion of individual rights was "part of a century-long struggle to retrofit large-scale administrative operations effectively into the nation's constitutional system of government" (Rosenbloom et al. 2010, 4). This "retrofitting" was designed to ensure that administrative action – much of it highly discretionary – occurred within the bounds of our

separation of powers model. The legal controls placed on government actors created the possibility for victims of illegal police behavior to seek both civil and criminal recourse. The clear expectation was that the liability of individual government actors and agencies would deter future administrative abuse.

Some argue that the process of using legal principles to constrain bureaucratic action has helped to temper the authority of government officials and reduce instances of misconduct. There is strong evidence, for example, to suggest that administrative rules limiting significantly a police officer's authority to use deadly force, a principle articulated by the Supreme Court's holding in *Garner*, has contributed to a reduction in the number of people killed by the police since the early-1970s (e.g., Fyfe and Walker 1990; Walker 1993; White 2001). Policing scholar Sam Walker (1993, 52) argues that these cases resulted in a subtle shift in the police subculture, noting that "the principle that there are limits on police officer behavior, and penalties for breaking those rules…[became] facts of life in police work."

Accordingly, as a direct consequence of the judicialization of administrative behavior, police departments in the 1970s and 1980s developed a framework of "legalized accountability" in response to citizen suits. Built around "written rules, formal systems of training, and internal systems of oversight to assess compliance with the rules," this framework established a very tangible system for controlling officer discretion, driven by legal values and mindset borne out of the adversarial process (Epp 2010, 3). Though officer liability has enabled redress for misconduct, and on some level strengthened individual rights in the face of sizeable government authority, such developments have not proved entirely effective in deterring police misconduct.

Research examining the effects of civil liability on police department policy in uneven. Civil suits alleging unlawful police behavior are common, as are large financial settlements and damage awards (Kappeler et al. 1993; Hughes 2003; Kappeler 2006). For various reasons,

however, suits are an imperfect indicator of the problem of misconduct or the risk associated with unlawful officer behavior. As a result, evidence suggests that many "police departments do not keep track of which officers were named, what claims were alleged, what evidence was amassed, what resolution was reached, or what amount was paid" (Schwartz 2010, 3). Despite this seeming indifference, police departments have for decades proactively adjusted their internal policies (e.g., Walker 1993; Epp 2010) and procedures (e.g., officer training) to comply with changes in constitutional or statutory law (e.g., Skolnick and Fyfe 1993; Fyfe 1996). Today, many police departments continue to employ risk management agents in an effort to proactively limit liability and reduce the size of financial payouts (Archbold 2005). In the past several years some have also begun using advanced statistical techniques to identify and screen police recruits deemed more likely to engage in misconduct (Toldson 2006).

On an individual level, many of the most conscientious and rule-bound cops fear being sued. A study of police cadets in Kentucky found that some 50 percent of 220 incoming officers admitted to worrying about individual liability (Kappeler 1996). Another more recent survey found that 15 percent of 658 officers surveyed ranked civil liability as their third biggest job-related challenge, behind such things as being injured in the line of duty (Stevens 2000). Some scholars believe that fear of litigation has the potential to affect an officer's confidence, which may reduce her willingness or ability to police aggressively (Schofield 1990). Others argue that efforts to avoid liability "may foster protectionism, police cover-ups, and a division between the police and community" (Kappeler 2006). Interestingly, the empirical findings on the issue are split, with some data showing that a majority of officers believe that civil suits impede effective law enforcement (Hughes 2001), while others indicate that a majority of officers believe that fear of liability did not have an effect on their ability to do their job (Garrison 1995; Stevens 2000).

Many American police officers see the possibility of liability as an unfortunate reality of the job. These officers believe that allegations of misconduct – and the resultant threat of liability – can occur as a result of nearly every encounter with members of the public, regardless of how an officer approaches the situation (Scogin and Brodsky 1991). According to a 2001 survey, some 87 percent of Cincinnati Police Department officers surveyed believe that they can be sued "even when they act properly" (Hughes 2001, 257). As a result, many patrol cops choose not to alter their approach to everyday encounters so as to avoid litigation (Garrison 1995; Reynolds 1988; Novak et al. 2003). Summarizing the literature, police liability expert Victor Kappeler (2006, 7) concludes, "It would seem that the prospect of civil liability has a deterrent effect in the abstract survey environment but that it does not have a major impact on field practices."

Several other factors seem to support the conclusion that individual liability is a less than fully effective deterrent of police misconduct. Police officers rarely, if ever, pay civil damages out of pocket; most municipalities have funds in place to cover the costs of litigation, from legal fees to damage award and settlement costs, in effect indemnifying their police staff (Cheh 1996; Emery and Maazel 2000-2001). It is also notoriously difficult to convict police officers in criminal court (Mastrofski 2004), even those accused of the most high-profile and egregious misconduct, as in the cases of Amadou Diallo (Fritsch 2000) and Rodney King (Mydans 1992). The line between criminal behavior and the necessary use of force, for example, is difficult to draw clearly and even harder to explain to a jury of citizens who tend to sympathize with a police officer the public credits with shielding them from the unseemly and criminal segments of society.

The fate of Stephen Roach, the Cincinnati Police Department officer who fatally shot Timothy Thomas, painfully illustrates this point. Roach argued that because Thomas's actions

threatened the safety of Roach and his fellow officers, the shooting was justified under state and federal law, and within the bounds of CPD policy (Clines 2001D). Despite the fact that Thomas was found to be unarmed, a Cincinnati jury agreed with Roach, acquitting him of negligent homicide and "obstructing official business," with the judge concluding that Thomas's shooting, though unfortunate, was "not a culpable criminal act" (McCain and Prendergast 2001). Ultimately, distinguishing a well-meaning error in judgment from criminal behavior remains very difficult. Needless to say, these rationalizations bring accountability no closer, and do nothing to palliate those who see injustice in the Thomas shooting and others like it.

In addition to court-based regulation, police reformers have also relied on managerial strategies to shape street-level behavior and control incidents of misconduct. In the 1990s, as Al Gore was advocating a reinvention of government, police departments across the country were also moving away from purely top-down organizational and operational strategies. The community policing movement is on some level a product of these initiatives, built around the idea of taking patrol officers out of their cars and placing them in situations where they can more easily interact with the public (Rosenbaum 1994; Skogan and Hartnett 1997; Morash and Ford 2002). Though more of a crime-control strategy than a specific means of managing street-level discretion, community policing aims to foster a more democratic approach to order maintenance and to promote accountability through police legitimacy.

Despite mixed empirical reviews (National Research Council 2004, Chap. 6), community policing is noteworthy for the shift to decentralized policy-making it represents, and for the 'customer-first' ethos it has come to stand for in policing. Today, police departments tend to supplement such community policing initiatives with enhanced officer screening techniques (Grant and Grant 1996) and advanced training programs designed to minimize abusive behavior (Skolnick and Fyfe 1993; Fyfe 1996), particularly that related to the use of excessive force (White

2001). What is more, throughout the 1990s, the use of performance data to manage patrol-level discretionary behavior diffused Compstat-style programs throughout the American policing landscape (e.g., Weisburd et al. 2003; Moore 2003; Willis et al. 2007).

In a similar vein, citizen oversight boards designed to hold the police accountable to their constituents have also been moderately successful at enhancing police legitimacy and reducing rates of police misconduct (Walker 2001). As is true with most other street-level agencies, police departments have tested several strategies to control the discretion of street-level officers. Organizational mechanisms have ranged from purely top-down, centralized models to more customer-driven, community based approaches.

It is worth noting that until recently the legal mechanisms underlying civil and criminal liability were based entirely on efforts to identify and sanction *individual* cases of misconduct. This emphasis on individual remedies was based on necessity, largely as a result of two Supreme Court cases, which together foreclosed the use of judicial mechanisms to promote department-wide remedies to alleged police misconduct or abuse.

In 1976, the Supreme Court rejected as unconstitutional a U.S. District Court's effort to require the city of Philadelphia and the Philadelphia Police Department to address citizen complaints of unlawful police behavior through department-wide policy changes and other operational reforms (*Rizzo v. Goode* 1976, 367-70). Framed in terms of broad theoretical principles, including the proper role of the judiciary and federalism, the *Rizzo* decision cast serious doubt on the ability of courts to order "mandatory equitable relief in some form when those in supervisory positions do not institute steps to reduce the incidence of unconstitutional police misconduct" (*Rizzo*, 378). In short, by striking down the District Court's mandate, the Supreme Court ensured that future police reform decisions were to be made by local governments, not federal judges.

The Supreme Court's decision in *Los Angeles v. Lyons* (1983) rejected for lack of standing an individual's request for an injunction against a type of choke hold used by the Los Angeles Police Department (LAPD). The Court reasoned that because the plaintiff did not show "a real and immediate threat that he would again be stopped. . . by an officer who would illegally choke him into unconsciousness," Article III's "case or controversy" requirement was not satisfied (*Lyons* 1983, 105). In other words, the Court was willing to provide a remedy for an individual past use of the unlawful chokehold, but despite the fact that "from 1975 to 1982, 15 people died as a result of LAPD chokeholds" (H.R. 102-242 Part 1A), it would not intervene to stop the use of such a chokehold at some hypothetical future date.

With the decisions in *Rizzo v. Goode* and *Lyons*, courts had foreclosed the use of litigation to address unlawful police department policy or practice.[1] Until passage of the Violent Crime Control Act (1994) and the institution of Section 14141, there was no available means to regulate malfeasant police *departments*, whose permissive views toward street-level legal compliance may have undermined managerial strategies like training and screening, in place to curb abuse, or tacitly promoted many of the problems individual liability is in place to deter. At the time, many believed that the ability to identify and correct systematic illegal behavior at the department level would prove a more effective way to control undesirable exercises of street-level discretion.

[1] Mechanisms exist, for example, in the form of the Fourteenth Amendment's equal protection clause, civil rights statutes like the Americans with Disabilities Act (1990) and the Equal Employment Opportunities Act (1972) to constrain department-wide unlawful hiring and personnel management within police departments. Federal enforcement of such rights is part of the story in the twentieth century history of many urban police departments. As I discuss briefly in Chapter 2, in 1980, the U.S. Department of Justice initiated action against the city of Cincinnati, the Cincinnati Police Department, and the Cincinnati Civil Service Commission alleging that together they had engaged in discriminatory hiring and promotional practices against African American and women officers in violation of Title VII of the Civil Rights Act of 1964. In lieu of formal litigation, the parties entered into a consent decree on August 13, 1981.

If anything, an agency-based approach would have the potential to offer regulators a way of avoiding the circumstantial, fact-intensive review of police-involved shooting incidents and other misconduct complaints that so often hinge on the ambiguity of discretionary action. By placing the focus on identifying agency-level policies that either encourage or facilitate department-wide abuse of federal law, enforcement of Section 14141 would make the search for police accountability more concrete. Instead of attempting to sanction and deter misconduct through the post hoc evaluation of an officer's discretionary decision, Section 14141 would empower federal officials to identify and remedy cases of systematic, agency-wide abuse, in the process establishing the policy, training, and internal accountability systems designed to promote lawful, accountable discretionary behavior.

At least that was the hope of those members of Congress who voted to incorporate Section 14141 into the Violent Crime Control and Law Enforcement Act of 1994 (H.R. 102-242 Part 1A). First discussed as part of the Police Accountability Act of 1991,[2] development of this provision was driven by two factors: (1) dismay over the Rodney King tape and the perceived culture of abuse and impunity that had infected many of the country's police departments; and (2) a recognition by members of Congress that existing federal remedies, including criminal enforcement of police misconduct statutes, were incapable of providing necessary levels of accountability and deterrence. In effect, Congress acted to "address patterns or practices [of unlawful behavior] such as the lack of training or the routine use of deadly techniques like chokeholds, or the absence of a monitoring and disciplinary system" by creating a department-level remedy (42 U.S.C. Section 14141). By moving the issue from the courts to the federal executive branch, Congress sidestepped the *Rizzo v. Goode* and *Lyons* decisions, making possible

[2] Passed in 1991 by the House (see H.R. 102-242 Part 1A; 102 H. Rpt. 242; Part 1A; The Omnibus Crime Control Act of 1991), but not included as part of the Senate's Omnibus Bill.

a prospective, systematic remedy for police misconduct driven by the enforcement of constitutional rights.

Section 14141 Pattern or Practice Police Misconduct Reform

Section 14141 of the Violent Crime Control and Law Enforcement Act of 1994 makes unlawful any "pattern or practice of conduct by law enforcement officers…that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States" and establishes that the Attorney General "may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice" (42 U.S.C. Section 14141).

Since the law's inception, the Special Litigation Section (SPL) of the Justice Department's Civil Rights Division has completed at least 50 investigations of police departments alleged to engage in a pattern or practice of misconduct.[3] In 19 of those 50 cases, the DOJ found a pattern or practice of misconduct and sought formal legal means to remedy the illegal activity.[4] The DOJ has negotiated settlement agreements to remedy several categories of systematic police department misconduct, including illegal use of chemical agent propellants (e.g., Buffalo, NY),

[3] These data are drawn from an internal Department of Justice memo prepared in advance of a June 2010 conference on Section 14141. On file with author. The Special Litigation Section website (http://www.usdoj.gov/crt/split/) lists investigations into police departments in the following jurisdictions: Alabaster, AL; Austin, TX; Bakersfield, CA; Beacon, NY; Buffalo, NY; Cincinnati, OH; Cleveland, OH; Columbus, OH; Detroit, MI; Easton, Pennsylvania; Inglewood, CA; Los Angeles, CA; Orange County, FL; Miami, FL; Mt. Prospect, IL; Pittsburgh, PA; Portland, ME; Prince George's County, MD; Schenectady, NY; State of New Jersey; Steubenville, OH; U.S. Virgin Islands; Villa Rica, GA; Warren, OH; Washington, DC; and Yonkers, NY. The DOJ does not release information regarding ongoing investigations.

[4] Including Buffalo, NY; Cincinnati, OH; Cleveland, OH; Detroit, MI; Los Angeles, CA; Mt. Prospect, IL; Orange County, FL; Pittsburgh, PA; Prince George's County, MD; State of New Jersey; Steubenville, OH; U.S. Virgin Islands; Villa Rica, GA; and Washington, DC. The Special Litigation Section maintains a database of all materials related to Department investigations, formal complaints filed, settlements, and other court documents. The database is found here: http://www.usdoj.gov/crt/split/ (last visited on January 22, 2011).

racial profiling (e.g., Mt. Prospect, IL; State of New Jersey), illegal canine control and management policy (e.g., Prince George's County, MD), improper search and seizure practices (e.g., Steubenville, OH; Villa Rica, GA), and unconstitutional holding cell conditions (e.g., Cleveland, OH; Detroit, MI). Of the several categories of alleged misconduct, police use of excessive force is the most common.[5]

The Department of Justice may not rely on "sporadic bad incidents or the actions of the occasional bad officer" to establish a pattern or practice of misconduct ("Special Litigation Section FAQ" 2003). Rather, DOJ investigators, who are typically SPL staff attorneys and policing experts, must establish that the department in question either maintains an unlawful policy and/or that department officers have over time engaged in repeated, systematic behavior that deprives private citizens of their rights under the U.S. Constitution or federal law ("Addressing Police Misconduct Laws" 2003). The case of Cincinnati is again illustrative. Though the Timothy Thomas shooting may have been enough to motivate a DOJ investigation of the CPD, the shooting alone would not have been enough to substantiate a pattern or practice finding. Because the DOJ found that the shooting was part of a much broader, more regular series of incidents, however, the DOJ was able to demonstrate that CPD had engaged in a pattern or practice of unlawful use of force.

Investigations into alleged pattern or practice related to the use of excessive force have resulted in formal agreements between the DOJ and police departments in several major U.S. jurisdictions,[6] including, Cincinnati, OH; Detroit, MI; Pittsburgh, PA; Prince George's County, MD;

[5] According to the DOJ memo, 16 of the 19 settlement agreements have terminated. When I started this research, only six had terminated. Two of those six – the State of New Jersey and Steubenville, OH – are not included in the current study. This is primarily due to data accessibility issues and a lack of substantive compatibility between those agreements and the four that are included.

[6] In each case, police departments facing suit chose to avoid formal litigation by signing negotiated settlements in the form of a Consent Decree (CD) or Memorandum of Agreement (MOA).

Washington, D.C.; and Los Angeles, CA.[7] Broadly, the goal of these settlement agreements is to "provide for the expeditious implementation of remedial measures, to promote the use of the best available practices and procedures for police management, and to resolve the United States' claims without resort to adversarial litigation" (Los Angeles Consent Decree 2001).

Though the content of each agreement is tailored to the specific pattern or practice of abuse, the DOJ relies on a core set of reform mechanisms to affect department-wide change. In each case, the settlement agreement uses aggressive timelines and a court appointed independent monitor to implement changes to police department organizational structures; operational policy and oversight mechanisms; training protocols; and accountability systems.

The depth of these reforms, the aggressive pace at which they are pursued, and the high profile nature of the malfeasance at issue, highlight the practical importance of the pattern or practice initiative. Not only do Section 14141 reforms have the ability to change the process and focus of policing, but may affect the legitimacy of the police department in the eyes of local communities, civil society groups like the ACLU and NAACP, and the media. Such reforms also dramatically affect police department budgets and have the potential to shape long-term relationships between the police and the political branches of state and local government.

Section 14141 reform implicates many of the fundamental theoretical questions that underlie the study of policing – and, more generally, the administration of highly discretionary agency policy – in a democratic society. For decades scholarly debates surrounding the role of the police in society have mirrored professional discussions along the same lines (e.g., Bittner 1967; 1970; Goldstein 1993; Manning 1977; Sherman 1978; Wilson 1968). What is more, policing experts continue to weigh the effects of legal rules and judicial values on the conduct of street-level officers (e.g., Skolnick 1966; Skolnick and Fyfe 1993; Walker 1993; 2005), the

[7] Several of the police departments found to exhibit a pattern or practice of misconduct were in violation of more than one law/right/principle.

strategic emphasis of law enforcement agencies (e.g., Skolnick and Bayley 1986; Harris 2005; Manning 2010), and the ability of the police to affect broader compliance with the law (e.g., Tyler 2006; Meares 2009).

Public administration scholars have also wrestled with the role of constitutional law and broader legal values in shaping the operation of executive agencies (e.g., Rosenbloom 1983; Rohr 1988; Rosenbloom et al. 2010), as well as on the behavior of those individual actors who populate them (e.g., Rosenbloom et al. 2010; Lipsky 1980; Maynard-Moody and Musheno 2003). The enforcement of Section 14141 reform also raises important questions for constitutional scholars and other legal academics. The legitimacy of federally-driven reform of core state and local institutions like the police have for years preoccupied top legal minds (see, e.g., Fiss 1978; Fuller 1978; Horowitz 1977; 1983). Similarly, the use litigation as an instrument of reform remains a controversial subject (e.g., Schlanger 1994; Schuck 1984; and Feeley and Rubin 1998).

Many of these scholars, including Rosenbloom et al. (Chapter 8, 2010), Wise and Christensen (2005), Wise and O'Leary (2004), Bertelli (2004), Bertelli and Lynn (2003), have also addressed these issues from a management perspective. What is more, policy scholars continue to debate several of the theoretical issues that characterize the implementation of Section 14141 reform. Questions about the direction of reform (compare, e.g., Elmore 1978 and Sabatier and Mazmanian 1979; 1989), the importance of policy design (e.g., Ingram and Schneider 1990), and the role of leadership (Wood 1990; Canon and Johnson 1999), for example, are illustrative of this work.

Despite the high profile nature of this process, and the importance of pattern or practice reform to legal, public administration, and criminal justice scholarship, to date there has been very little published research focused specifically on the issue itself. Most of what does exist

takes a descriptive and/or analytical approach. For example, Livingston (1999), in what remains perhaps the most widely-cited piece on the issue, describes key components of 14141-related settlement agreements, and urges further attention to the effects of the reform process on criminal procedure and law enforcement. Other research, including studies by Human Rights Watch (1998), McMickle (2003), Markovic (2006), and Ross and Parke (2009) examine the policy implications of various components of the pattern or practice reform template. In that vein, Walker (2003A, 6) suggests that when pattern or practice reform is seen in the broader context of police reform efforts, Section 14141 represents a "new paradigm" of police accountability, one that "includes not just a specific set of 'best practices' but also an overarching conceptual framework of accountability" (see also, Walker 2005).

Much of the remaining scholarship on the issue has a strong reformist bent. A series of law review pieces present ideas for either improving the statute itself (Gilles 2000; Harmon 2009; Simmons 2008; 2010) or using it in such a way as to benefit other areas of criminal justice policy (Walker and Macdonald 2009; Silveira 2004; Kim 2002; Kupfenberg 2008).

Empirical research on the issue is even more scarce. The Vera Institute of Justice[8] studied the implementation of Pittsburgh's consent decree (CD), relying on full access to police department staff and citizen surveys to track progress (Davis et al. 2002). In 2005, less than three years after the CD was terminated, Vera published a follow-up study that evaluated the effects of the consent decree on police behavior and police-community relations (Davis et al.

[8] The Vera Institute of Justice "is an independent, nonpartisan, nonprofit center for justice policy and practice, with offices in New York City, Washington, DC, and New Orleans." Vera "combines expertise in research, demonstration projects, and technical assistance to help leaders in government and civil society improve the systems people rely on for justice and safety." For more information, see www.vera.org.

2005).[9] In the only other effort to examine empirically a Section 14141 settlement agreement, a team led by Harvard University professor Christopher Stone, considered the effects of the LAPD's consent decree on incidents of racial profiling, public opinion, and officer morale, among other indicators (Stone et al. 2009).[10]

To date, no systematic, cross-jurisdictional analysis is available. What is more, neither the Vera studies nor the Harvard effort are rooted in theory. Both do well to provide insight into the process and access to the departments under review, but in that process make no attempt to couch their analyses in terms of broader administrative, organizational, or policy questions. Despite their significant contributions to the field's understanding of pattern or practice reform, these studies were not framed as academic research.

This dissertation is the first effort to examine comparatively the Department of Justice's enforcement of Section 14141. Using theory from a diversity of academic literatures and empirical data gathered from four jurisdictions – Pittsburgh, PA; Washington, D.C.; Cincinnati, OH; and Prince George's County, MD – I explore a host of questions related to the implementation and institutionalization of pattern or practice reform.

[9] The Rand Corporation published a series of reports evaluating the effects of Cincinnati's Collaborative Agreement (CA), a private settlement between plaintiff groups represented by the local branch of the ACLU, the Black United Front, a civil rights organization, Cincinnati's police union, and the city. As will be discussed in subsequent chapters, the CA and Cincinnati's Memorandum of Agreement (MOA) with the Department of Justice were implemented concomitantly, and overseen by the same team of independent monitors. The five Rand reports, published annually from 2005 to 2010, examine two of the central components of the CA: racial profiling and police-community relations. The reports did not mention the MOA only in passing. See Riley et al. 2005; Ridgeway et al. 2006; Schell et al. 2007; Ridgeway et al. 2009; and Ridgeway 2010.

[10] Though not an analysis of the consent decree broadly, Ayers and Borowsky (2008) published a report, commissioned by the ACLU of Southern California, designed in effect to counter claims made by the LAPD (and Stone et al., whose study was completed at the behest of then-Chief Bratton and with full cooperation of the LAPD) that racial profiling had essentially been eliminated. In effect, both the Stone et al. and Ayers and Borowsky studies were attempts by the ACLU and the LAPD to influence Judge Feess in his decision over whether or not to lift the consent decree (see Rubin 2009 and Rosenbaum and Bibring 2009).

This research contributes in several ways to both theory and practice. First, this study places pattern or practice reform in the context of existing scholarship on policy implementation. Building on concepts developed in both "first" and "second" generation implementation literature, as well as research examining the implementation of policing initiatives and other relevant policies, I develop and test a generalizable implementation framework with the goal of understanding and explaining the implementation of Section 14141. Results of this inquiry highlight the complexity of the implementation process and help to define the importance of various organizational, environmental, and contextual elements in shaping police department success in implementing terms of pattern or practice settlement agreements.

Second, this dissertation draws on literature examining organizational change, institutionalization, and police reform, to develop a framework designed to both evaluate and explain the extent to which affected departments have undergone meaningful, lasting change. This comparative analysis, which is based on an examination of pattern or practice reform in the years following settlement termination (i.e., after Department of Justice and independent monitor oversight has ended), emphasizes the need to distinguish pattern or practice reform as a legal instrument from that of a policy mechanism. When framed as a legal instrument, a Section 14141 settlement serves as a binding contract between the jurisdiction and the DOJ. The means and ends of the agreement are clearly articulated, with the terms of compliance made tangible and objective. Initiation and termination dates are fixed, with the latter predicated on the achievement of very precise and finite conditions. As a result of this legal objectivity, the distinction between "implementation" and "institutionalization" becomes quite clear and relatively simple to define.

When framed as a policy instrument, however, analysis of the process becomes more complex. The goals of the reform effort necessarily move beyond legal compliance; changes to

organizational culture, officer value systems, police department outcomes, police-community relations, and public opinion, among others, become relevant metrics. Further, fixed termination dates and standards of legal compliance become less crucial, as do artificial distinctions between pre- and post-termination implementation efforts. Though the agreement's termination may signal the end of formal DOJ involvement, organizational changes initiated by the settlement agreement may in fact represent early stages of the policy cycle.

Third, in light of these and other findings, there is an effort to link the pattern or practice reform initiative to wider themes driving the study of public administration, criminal justice, organizational reform, law, and democratic governance. By placing each of the four reform initiatives into a broader historical, political, and socio-economic context, I attempt to link those themes to issues affecting the practice of policing and tensions defining bureaucratic reform, including the use of discretion, centralized accountability, and agency transparency. What is more, I examine the relationship between pattern or practice reform and race, community relations, pluralism, and the use of litigation to drive rights-based change. In short, this is the deepest and most ambitious scholarship on the issue of Section 14141 pattern or practice reform to date.

Cases, Data, and Method

Case Selection

My decision to focus on these four cases was driven largely by practicality: In mid-2009, when this project began, these were the only four jurisdictions to have completed the entire settlement reform process and where data were publically available. Other jurisdictions, including Steubenville, OH and Buffalo, NY, had fully implemented settlement agreements with the DOJ, but monitor reports were not available for those cases. Los Angeles, CA, Detroit, MI,

and the State of New Jersey, on the other hand, each made their progress reports available publically, but in mid-2009 had yet to fully implement the terms of the negotiated settlements. Thus, Pittsburgh, Washington, Cincinnati, and Prince George's County represent the entire set of available cases.

Because unlawful use of force was at the heart of each DOJ investigation, much of my analysis will necessarily be a comparison of like cases. Though the specific findings do vary from case to case (i.e., some involved the excessive use of deadly force, while others involve improper use of canines, and so on), and the DOJ's stated explanations for the pattern or practice also vary, the similarity of the settlement terms applied in each case facilitate an "apples to apples" analysis. What is more, the framework underlying reform initiatives in Pittsburgh, Cincinnati, Washington, and Prince George's County is fundamentally representative of settlement initiatives used by the DOJ to remedy unlawful patterns or practices in other jurisdictions. As such, this study's findings may be generalized fairly to settlement initiatives designed to remedy other instances of systematic, unlawful behavior, ranging from racial profiling and search and seizure to false arrest and inadequate holding cell facilities.

Differences between the selected cases will also contribute to the value of my findings, and ultimately strengthen the generalizeability of my conclusions. Each of the four jurisdictions varies across several metrics considered important to the process of implementing settlement terms, as well as their ability to sustain reforms after the settlement agreements are terminated. For example, Washington, D.C. and Prince George's County, MD represent similar geographical areas, but vary greatly across economic, social, and government-related indicators. The District is a federal enclave; Prince George's County is a sprawling, largely suburban county that includes over thirty autonomous jurisdictions. Cincinnati and Pittsburgh, conversely, both

represent Midwestern municipal jurisdictions, and share a similar demographic, socioeconomic, and historical profile. But the two cities reflect unique political and social environments.

In sum, the four cases share important commonalities, including, most critically, the nature of their unlawful misconduct and the terms of the settlement agreements instituted to remedy such abuse. They also vary widely enough so as to have the potential to generate research that is both analytically interesting and capable of producing broad, generalizeable findings.

Data

The project's data derives from four groups of sources: (1) Reports filed by independent monitor teams, affected police departments, and other city, county, and state public agencies; (2) Publicly available data, including that gathered from city, county, state, and federal databases; (3) News reports and other available public commentary; and (4) In-depth interviews with key stakeholders in the reform process, including police department staff, relevant city personnel, independent monitors, and DOJ attorneys. What follows is a brief description of each source and an explanation of how they will be used.

In every instance where a DOJ investigation has led to a negotiated settlement, the terms of that agreement require an independent monitor to oversee the implementation of the reform. As part of this process, independent monitors must file quarterly reports documenting the affected department's progress. As a product of each monitor's evaluative, managerial, and consultative roles, these reports contain a detailed descriptive account of the implementation process, and give their readers intimate access to the internal workings of the department as it works toward comprehensive reform. Beyond their descriptive value, monitor reports usually contain some analytical depth, as well as in select instances, relevant quantitative data.

Together, monitor and department reports construct a detailed narrative of the implementation process that proved invaluable to this research.

In addition to the monitor and department reports, I conducted semi-structured interviews with 28 key participants, including Department of Justice's Special Litigation Section (SPL) staff, independent monitors, police department leadership, and relevant political and community leaders involved in the 14141 process.[11] These interviews provide deep background information about the process, and serve to verify and supplement the data contained in the quarterly reports. Finally, where necessary (and where possible), I rely on publicly available data and media coverage of the process as a means of adding context and depth to the data culled from implementation reports and participant interviews. These data allowed me to track metrics like budgetary figures, crime statistics, and police department staffing, among others, and ensures that my analysis of these issues extends beyond internal accounts of the process.

Method

Owing to the lack of existing research on Section 14141 reform and the uniqueness of the issue itself, this project will be driven by exploratory research methods. Because there is not an existing theoretical framework that lends itself seamlessly to this project, much of my research is designed as an effort to building theory. That said, where possible, I have based specific research design and analytical decisions on existing theoretical literature and attempt to describe a systematic approach to the analysis undertaken within each Chapter. Doing so allows me to benefit from the rigor of earlier research on policy implementation and institutionalization while maintaining an analytical flexibility that may not be possible in other research built around well-established theoretical constructs.

[11] Interviews granted for attribution are documented in Appendix 1. Additional background interviews, which were conducted "off the record" are not listed and thus will remain anonymous.

When conducting the interviews themselves, I hewed closely to recommended ethnographic field research techniques (e.g., Becker, 1998). I organized interview questions around the various substantive components of the project and attempted to touch on specific variables included in my implementation model, as well as issues related to policy institutionalization, including a descriptive and analytical discussion about the structures, strategies, and procedures each jurisdiction has employed to minimize backsliding. I recorded each interview, whether conducted in person or over the phone, and had them professionally transcribed. When possible, I took "field notes" about the interview setting and the interviewee in order to supplement the transcripts by providing context and to capture details about intonation, body language, and facial expression (Emerson, Fretz, and Shaw, 1995; Becker, 1998).

Finally, I analyze my interview and report data using ATLAS.ti, a leading qualitative data analysis software package. Based loosely on the principles of grounded theory (i.e., the "coding," "memoing," and "sorting" process developed by Glaser and Strauss; see Glaser, 1992), this process is designed to facilitate an "explorative approach to theory building" (Muhr, 1991). ATLAS.ti simplified the segmentation and coding of data, which facilitated my examination of relationships between various themes and networks of ideas embedded within data.

In many ways, this research is unique. Unlike many public administration and criminal justice studies, this project depends on and emphasizes a multidisciplinary approach. In my attempt to generate theory, identify research questions, and build empirical knowledge of a critically important, yet dramatically understudied policy issue, I draw on literature from several fields of expertise and leaders, stakeholders, and experts from various ideological and experiential perspectives. Before moving on to preview the remainder of the dissertation, however, it is imperative to address a significant qualification to this research.

This study is largely from the perspective of an outsider looking in on what is a complex, intricate, and lengthy reform process. Though I have done my best to draw on the observations and first-hand experiences of participants and endeavored to present a detailed review of reform in each jurisdiction, my insight is limited by exposure to a very narrow slice of those involved. I did not have the benefit of speaking to mid-level officers and can report no first-hand conversations or survey responses from department rank-and-file, community leaders, or individual citizens affected by the reform effort.

Composition of the Study

Chapter 2: History, Context, and Pattern or Practice Reform

In Chapter 2, I present brief case studies of the four jurisdictions under review. With the understanding that local police departments "are independent entities with their own unique structures, cultures, policies and procedures" (Maguire 2003, 3; see also, Ostrom et al. 1978), I attempt to give the reader a sense of the study's context. Specifically, each case study includes four components, which together are designed to convey a broad understanding of the jurisdiction, and to give a sense for the role that history plays in helping to explain the process of Section 14141 pattern or practice reform. These four parts include:

(1) The recent (from about the second half of the 20th century) social, political, and economic history of each jurisdiction, with an emphasis on police-community relations, and earlier efforts at reform;

(2) Those events that led to the DOJ's investigation, as well as the details surrounding the settlement negotiation;

(3) Reaction to the settlement from politicians, police leadership, and community members; and

(4) A short synopsis of events that characterize broadly the post-reform environment.

After presenting the four descriptive case studies, I summarize briefly the several themes that run through the experiences in each jurisdiction.

Chapter 3: Implementation

The inquiry presented in Chapter 3 is driven by two questions. First, to what extent have the four affected departments implemented successfully the terms of the settlement agreements? And second, which elements are most important to understanding the implementation of Section 14141 reform?

To develop the intellectual framework necessary to examine these questions, I review nearly four decades of policy implementation scholarship. In so doing, I highlight the complexity of the task and the important thematic contributions to understanding the process of implementation made by "first generation" scholars like Pressman and Wildavsky (1973), Martha Derthick (1972), and Eugene Bardach (1977). Next, I summarize several of the field's "second generation" analytical developments, ranging from Elmore's (e.g., 1979-80) discussion of 'top down' versus 'bottom up' implementation to the competing explanatory visions of Nakamura and Smallwood (1980), Rein and Rabinowitz (1978), and Paul Berman and Milbrey McLaughlin (e.g., Berman 1978; McLaughin and Berman 1975).

Building on many of these key concepts, I construct a framework designed to explain the implementation of pattern or practice reform. Drawing on the work of Mazmanian and Sabatier (1989), as well as research on the implementation of criminal justice policy and case law, I hypothesize that four sets of elements shape the implementation of Section 14141. Specifically, I argue that elements related to (1) the tractability of the policy problem; (2) the policy instrument itself; (3) the environmental context; and (4) the implementing agency itself will

determine the extent to which affected police departments will successfully implement the terms of the settlement agreement.

Chapter 4: Implementation Results

In Chapter 4, I describe and analyze comparatively the implementation of pattern or practice settlement agreements in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County. Drawing on data from independent monitor reports and in-depth interviews, I evaluate the extent to which each jurisdiction successfully implemented three key settlement components, including: (1) changes to use of force policy, reporting, and investigation protocols; (2) development of an early warning personnel management system; and (3) establishment of internal and external citizen complaint investigation systems.

Beyond their centrality to the goals of each settlement document, I selected these specific components for in-depth analysis in order to provide a diverse and varied examination of the implementation process. Each constituent part emphasizes different actors, requires unique substantive emphases (e.g., use of force policy change demands high-levels of behavioral change at the patrol officer level while the implementation of an early warning system is more about the development and utilization of technology), and when considered individually reflect distinct aspects of the reform initiative. Results from the constituent analysis show considerable variation between agencies across each of the components. In some cases, departments struggled to implement certain components, but not others, without much consistency in or pattern to the data.

In addition to considering the implementation process related to these three constituent parts, I examine settlement implementation "holistically." In so doing, I aim to measure each department's substantial compliance with the settlement agreement in its entirety. In other words, I assess the extent to which the four affected departments were able to

achieve substantial compliance with all aspects of the settlement agreement. Results from my holistic analysis show that each department implemented successfully the terms of their agreement within five to seven years of settlement.

After presenting these results, I use the framework developed in Chapter 3 to examine the several factors that shaped the implementation efforts, focusing on explaining the variation between the four jurisdictions. Several factors help to explain both constituent and holistic implementation in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County. In general, implementation is more likely to be faster and more effective in cases where department leadership is committed and involved directly; where adequate resources exist; where the independent monitor participates actively; and where lower-level staff remain committed to the process. What is more, these findings show that the implementation may be complicated by the need to involve multiple actors and by a high degree of required change.

Chapter 5: Institutionalization

Whereas Chapters 3 and 4 examine the implementation of a legal document in a process overseen by the Department of Justice and an independent monitor, Chapters 5 and 6 consider the departments' ability to perpetuate both the letter and the spirit of the settlement agreement in the absence of external oversight. This analysis considers the process from a policy rather than a legal perspective, and is critical to assessing the value of pattern or practice settlement agreements as a means to policy and organizational change (as opposed to simply evaluating the ability of a settlement agreement to bring unlawful departments into compliance with the law). By shedding light on the extent to which Section 14141 led to meaningful, sustainable change in the four departments under review, this analysis contributes to a richer and more complex understanding of the reform process.

To that end, I begin Chapter 5 by developing a multidimensional framework for evaluating the sustainability of pattern or practice reform. Specifically, I argue that a department's progress along those lines can best be assessed by considering: (1) The existence and operation of accountability systems and structures developed as part of the reform process; (2) The extent to which department culture reflects the values underlying the reform effort; and (3) Several relevant outcomes, including data on citizen complaints; police use of force; department civil liability; and public opinion.

Next, I draw on a diverse body of research – ranging from organizational and institutional theory to scholarship examining reform in the private sector context and within education and police bureaucracies – in order to identify those factors that best explain variation between departments in terms of reform sustainability. Reminiscent of the framework I develop in Chapter 3, the institutionalization framework includes elements from four broad categories, including the (1) implementation process; (2) substance of the settlement agreement; (3) organizational context; and (4) environmental context. This explanatory framework serves as the primary means of comparing results from reform efforts in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County, a task I consider in Chapter 6.

Chapter 6: Institutionalization Results

In Chapter 6 I present results of my comparative analysis of the institutionalization of pattern or practice reform. Using interview data and secondary sources, I describe the current state of the settlement reform effort in the four jurisdictions under review, referencing each department's ongoing efforts to perpetuate the use of reform-related policies, systems, and structures; shift organizational culture to promote accountability and respect for the rule of law; and maintain desirable levels of certain key outcome metrics.

I find that Cincinnati has for the most part been very effective in perpetuating the changes made during the pattern or practice reform process. The Cincinnati Police Department (CPD) maintains a strong accountability infrastructure and has succeeded thus far in maintaining desirable levels of several key outcomes, including citizen complaints and police use of force. Prince George's County, on the other hand, continues to struggle to reform its police department. Pittsburgh and Washington, D.C., show mixed results, with both jurisdictions demonstrating simultaneously signs of progress and indications of slippage.

Using the framework developed in Chapter 5, I examine those factors thought to explain the differences between jurisdictions. Of the various elements considered, several were found to promote sustainability, including consistent support for the effort among department leadership, jurisdictional political actors, and police union members. Further, sustainability is more likely in those jurisdictions that are able to cultivate a prolonged engagement with the issue by civil society and members of the broader public.

Chapter 7: Conclusions, Implications, and Wider Themes

I conclude the dissertation by summarizing the study's key findings, as well as the theoretical and practical contributions this project makes to policing, public administration, legal, and policy studies research. Next, I make a series of policy recommendations with the hope of improving the implementation of future reform efforts and enhancing the ability of affected stakeholders – including departments, political actors, civil liberties organizations, and citizens – to sustain pattern or practice reform over the long term.

Finally, I frame the pattern or practice reform initiative in terms of four major themes that appear frequently throughout the course of the dissertation, including (1) longstanding efforts to balance the utility of police discretion with the need to promote the rule of law through street-level control; (2) remedial law and rights-driven organizational reform; (3) race

and unlawful police behavior; and (4) federalism, the separation of powers, and policy-making in a democratic-constitutionalist system. As a part of this discussion, I suggest several areas of potentially valuable future research, raising a series of empirical and theoretical questions along the way.

CHAPTER 2

HISTORY, CONTEXT, AND PATTERN OR PRACTICE REFORM

> It's important for the nation to focus here on ground zero. If we can fix it here, we can fix it elsewhere. But if it doesn't get fixed here, it turns into anarchy and all of us are left wondering, Is justice blind?
>
> ---Kweisi Mfume, Former NAACP President

Introduction

It is well-established that public policy initiatives are at least in part a function of the environment within which they occur. In addition to legal and administrative rules, politics, economics, sociology, and history converge to help shape the behavior of government institutions and the individuals that populate them. In other words, context matters. Thus, the federal government's response to allegations of local police abuse may be properly considered only after a thorough accounting of those factors that shape the context of such misconduct.

In Chapter 2 I present short case studies of Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County in order to establish context for further examination of pattern or practice reform. I begin each case by examining recent history in each jurisdiction. Though much of my focus here is to document the nature of police-community relations, I rely on economic, political, and sociological context as a means of presenting a broad description of the jurisdiction before the Department of Justice pattern or practice investigation.

In the second section of each case I discuss the Justice Department intervention, beginning with those events leading up to the DOJ's initial police misconduct investigation. After discussing DOJ findings, I present the broad framework of the four settlement agreements, outlining the major tenets of each.

Next, I address reaction to the four settlement agreements. This section of each case includes the views of from members of the political class in each jurisdiction, as well as police leadership, union representation, members of the civil rights community, and, in some cases, the public. I close each of the four cases with an epilogue, wherein I discuss settlement termination and give a short review of the current state of affairs in each jurisdiction.

The cases appear in chronological order, beginning with Pittsburgh. Washington, D.C. and Cincinnati are next, followed by Prince George's County. A short summary closes the Chapter.

Pittsburgh, Pennsylvania

History and Context

On April 16, 1997, Judge Robert J. Cindrich of the Federal District Court for the Western District of Pennsylvania signed a consent decree (CD) between the city of Pittsburgh and the U.S. Justice Department. This settlement agreement, which acknowledged the existence of a pattern or practice of unconstitutional use of force among Pittsburgh Police Bureau (PBP) officers, was a significant event in the city's history. In particular, the CD's language of remedy and reform represented a change of course, a fresh start of sorts after decades of animosity between Pittsburgh's African-American community and the city's police department.

In many ways, Pittsburgh, Pennsylvania is a typical rust belt city, defined by a modern history characterized by vacillation between periods of growth and decline, economic prosperity and stagnation, social stability and urban upheaval. The city was for much of the twentieth century at the heart of American steel production, coal mining, and manufacturing. These roots shaped Pittsburgh's tough, working class self-image and continue to define the city's political and social sensibility (Davis et al. 2002; O'Neill 2009).

In 1950, Pittsburgh's population had reached its peak; the 677,000 residents marked a time of economic well-being and represented the promise of reliable, well-paying, unionized jobs. By the 1980s, however, the decline of heavy industry, mill closings, and increased competition from foreign steel producers brought unwanted changes to the city's economic and social landscape (Davis et al. 2002). In 1982, unemployment reached a high of over 17 percent (Briem 2008), just as the city's credit rating careened toward junk bond status (O'Neill 2009, 18). With high unemployment came increased poverty and crime, facts that likely contributed to rapid flight of white Pittsburghers to the suburbs (Cullen and Levitt 1999). Not only did the city lose a significant portion of its middle class residential population during this period, but this process served to reinforce race and class tensions in place since the 1960s (Haynes 2008).

Unlike other rust belt cities, however, Pittsburgh in the 1990s saw significant growth in several white collar economic sectors, including health care, technology, and banking. This rebirth brought a measure of economic stabilization (Briem 2008), but also served to exacerbate already sizable economic disparities between blacks and whites (Center in Race and Social Problems 2007). Black Pittsburghers, who in 2000 represented 28 percent of the city's 334,563 residents, on average earned substantially less than the city's 69 percent white population (Center in Race and Social Problems 2007). According to a 2000 University of Pittsburgh report, Pittsburgh also ranks in the top ten among major urban areas in the U.S. in terms of residential segregation (Center for Social and Urban Research 2000).

Though this lack of diversity and absence of integration appears not to have dramatically affected the city's crime rates – Pittsburgh consistently ranks well within the main in terms of both Part I and Part II offenses – it clearly has contributed to the views of minority residents regarding the city's government, and in particular its police department (Davis et al. 2002; 2005; O'Toole 1997A). Since the 1960s, the Pittsburgh Bureau of Police (PBP) has in the

eyes of many black Pittsburghers come to represent injustice and systemic inequality. According to one local attorney, this dynamic persisted throughout the 1990s, despite the city's economic renaissance: "The perception is the reality. You see, there is no difference, or there's substantially little difference between the police perception of the black community today and the black community's perception of the police at the time of the [1968] Kerner Commission" (Roddy 1999).

Beginning in the late-1980s, several high-profile policy decisions defined this climate of animosity and skepticism. In 1989, as part of her "tough on crime" political agenda, Mayor Sophie Masloff created a highly visible anti-drug unit within the PBP.[12] Charged with eradicating drugs and drug-related crime from inner-city Pittsburgh, the "Impact Squad" took an aggressive, often antagonistic approach. Though generally considered effective, the anti-drug unit was the subject of numerous citizen complaints, many of which involved allegations of abusive tactics and blatant search and seizure violations (Fuoco 2001).

Fearing that such complaints would undermine progress, Masloff chose to silence critics rather than rein in the Impact Squad. Shortly after the Impact Squad was created, Masloff "cut the budget of the Office of Professional Standards (OPS), the agency that investigated civilian complaints, laid off half the [OPS] staff, and filled the vacant positions with police officers instead of civilian investigators" (Davis et al. 2002, 5). Not only did this decision send a strong message to minority communities regarding the preferences of the Masloff Administration, it weakened OPS to the point where it could no longer function properly.

[12] The PBP is organized around "six policing zones, as well as an operations division, investigative branch, and administration branch. The Bureau also incorporates a community policing program; traffic, SWAT team, and mounted units; and school guards" (Davis et al. 2002, 3). All PBP officers are represented by the Fraternal Order of Police Fort Pitt Lodge 1 (FOP), which continues to be is a major source of power within the city. Pittsburgh's government structure is a traditional legislative-executive model, with the Bureau of Police under the direct oversight of both the mayor's office and the city council.

Some four years later, in part owing to an early retirement initiative (instituted by Masloff as a cost-saving measure), PBP had lost nearly half of its most experienced sworn officers and a large percentage of its supervisory staff (Fuoco 1999). By 1996, the Bureau was back to well over 1,100 officers, but what was once a seasoned, diverse force had become much younger and comparatively inexperienced. Some also believed that in order to fill open positions, PBP cut corners on the screening and background checks necessary to maintain a high quality department (Fuoco 1999). This may have contributed to the perception that the "new officers' inexperience led to numerous errors in judgment and performance[, which] …further alienated not only blacks but white members of the community as well" (Davis et al. 2002, 4).

In the wake of PBP's controversial staff turnover, two high-profile police-involved deaths further inflamed the city. In April 1995, 44-year old black male, Jerry Jackson, was shot at least 45 times while fleeing police in a stolen car (Fuocco 1995). In October 1995, Jonny Gammage, a 31-year old black male, was beaten to death after being stopped by police while driving his cousin's car through a Pittsburgh suburb (McKinnon and Pro 1995). Though the PBP was not involved directly in the Gammage incident, city residents were outraged (Newman 1995). When the acquittal of a white officer implicated in the beating prompted marches in protest and a city-wide call for justice (Bucsko 1995).

The Gammage incident brought to the fore issues of police misconduct that had for years been bubbling just beneath the surface. High profile events were only part of the perceived problem. A consistent lack of accountability for PBP officers fueled much of the city's frustration. In the early-1990s members of the local ACLU noticed what they describe as "a significant uptick in police misconduct complaints from the city," and by 1996 had documented some 550 police misconduct complaints (Witold Walczak, Interview with author, April 19, 2010).

Complaints ranged from use of excessive force and racial profiling to false arrest and a disregard of search and seizure requirements.

Further, after reviewing city files, ACLU staff determined that both OMI and PBP investigations into misconduct were "biased and incomplete," and that even when recommendations for officer discipline were forthcoming, they were often overridden by city officials (Davis et al. 2002, 6). The city comptroller's 1996 audit of Pittsburgh's police misconduct complaint system described over 1,600 citizen complaints filed without any disciplinary action taken (Davis et al. 2002).

Justice Department Intervention

In March of 1996, with local media attention still focused on the Jonny Gammage incident, the ACLU filed a class action suit against the city of Pittsburgh alleging that the PBP maintained a pattern or practice of police misconduct (Pitz 1997). In addition, the ACLU reached out to the Justice Department with the hope that federal attention to the matter would strengthen their position vis-à-vis the city. The case also represented an opportunity for the Justice Department, which had yet to take formal action in enforcing the terms of Section 14141. According to ACLU attorney Witold Walczak, the DOJ was "in town before we hung up the phone" (Interview with author, April 19, 2010).

In April 1996, the Special Litigation Section of the Justice Department's Civil Rights Division began a formal investigation into alleged Pittsburgh Bureau of Police misconduct. DOJ attorneys and policing experts examined PBP and city files and conducted interviews with several stakeholders, including members of the ACLU plaintiff class, leaders from various civil rights groups, police and other public officials.[13] After nearly a yearlong investigation, the DOJ

[13] There is some dispute over whether Justice Department officials interviewed members of the City's police union. In a report published in 2002, Vera Institute of Justice researches described the

identified systematic misconduct that included a pattern or practice of use of excessive force, false arrests, failure to investigate properly misconduct complaints, failure to discipline officers adequately, and a failure to supervise officers (City of Pittsburgh Investigative Findings Letter n.d.). Shortly after concluding their investigation DOJ attorneys began taking formal steps to bring a remedial suit against the city.

PBP officials, angry over being singled out as the first subject of Section 14141 enforcement and skeptical of the DOJ's ability to demonstrate a pattern or practice of PBP misconduct, initially considered fighting the allegations. After some reflection, however, the city decided against litigation and agreed to settlement terms (Robert McNeilly, Remarks given at the 2008 PERF Annual Meeting, Miami, FL, 2008). According to a 2002 report produced by the Vera Institute of Justice, three factors motivated the decision not to challenge the DOJ in court. First, owing to severe inadequacies with PBP's record-keeping system, the logistics behind gathering and presenting evidence to combat the Justice Department's claims would be very difficult. Second, and far more important, the city felt confident that its new, reform minded police chief, Robert McNeilly, was the right person to lead the Bureau's reform efforts.[14] And third, the city saw the process as an opportunity to make capital improvements the police department viewed as necessary but otherwise nearly impossible to fund. For example, many believed the early warning system at the heart of the DOJ's settlement demands to be a powerful tool for collecting and marshalling the kinds of data necessary to refute future critics, and one that was otherwise too expensive or unattainable (Davis, et al., 2002, 7).

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controversy that resulted from what the authors described as the FOP's unwillingness to speak on the record (see, Davis et al. 2002, 7, fn.26). Conversely, in a phone interview on April 1, 2010, former Assistant City Solicitor Susan Malie made clear that the FOP was interviewed as a part of Justice's investigation into the Bureau's alleged misconduct.

[14] Consider as an example McNeilly's reaction to the terms of the Decree: "I think most of what's in there will help us, just on the things we should have been doing a long time ago. We should have been using use-of-force forms, we should have been doing performance evaluations. I believe in an early warning system, I believe in tracking an officer's history" (Fuoco 1997a).

On April 16, 1997, after a lengthy negotiation involving high-level city officials, police leadership, and Justice Department attorneys, the DOJ and the city of Pittsburgh agreed to settle the case. The terms of the settlement, detailed in a consent decree (CD), establish a set of reforms designed to combat documented inadequacies in the "City's management systems for training, misconduct investigations, supervision, and discipline" (Pittsburgh Consent Decree 1997, 1). Key components of the reform effort included: the development of an automated early warning system; changes to the PBP's use of force policy and incident reporting schemes; internal accountability systems related to use of force, search and seizure, and traffic stop incidents; enhanced officer training requirements across several substantive areas of conduct; officer disciplinary requirements; and community outreach initiatives (Pittsburgh Consent Decree 1997).

Further, the CD detailed substantial personnel and management reform of the city's "internal affairs" bureau, the Office of Municipal Investigation (OMI), which is charged with receiving and investigating citizen complaints against the police. Today, the OMI is comprised of both civilian and police staff and is overseen directly by the city's Public Safety Director, Michael Huss, who was appointed by and reports to Pittsburgh's Mayor, Luke Ravenstahl.

The consent decree established tight timelines for implementation of each substantive provision, and required the appointment of an independent monitor to oversee the process. Dr. James Ginger, a policing expert and former academic, began filing quarterly reports in December 1997 documenting PBP and OMI progress (Pittsburgh Monitor First Quarterly Report Dec. 1997). The CD further established that the federal District Court would maintain jurisdiction over the reform initiative for up to five years, unless the city shows that it had maintained substantial compliance with the terms of the agreement for a minimum of two years (Pittsburgh Consent Decree, ¶79), at which point the CD would terminate.

Public Reaction

Predictably, the consent decree was seen as a polarizing force. Civil rights leaders responded with jubilation, lauding city leadership and the Justice Department: "I think it's a great day. This is the most far-reaching order governing any police department in the United States," said Witold Walczak, director of the local ACLU. "The Justice Department took our case and used their clout to get what we both wanted, which is meaningful reform" (Pitz and Bull 1997). PBP leadership was a bit more circumspect, but defended the terms of the agreement while attempting to reassure both PBP rank-and-file and the city's residents: "For 95 percent of police officers, this entire decree will mean that there's basically no change in what they're doing now except that they will be required to document a few things more, like traffic stops," said Chief McNeilly. "People are making more of it than it most likely will be…They're panicking before their questions are answered" (Fuoco 1997b).

Marshall "Smokey" Hynes, president of the city's FOP, believed that the consent decree threatened officer morale and ultimately made Pittsburgh residents less safe: "The discretionary actions by officers will be much more limited. The result is going to be fewer vehicle stops, more drive-by shootings, more drugs and the crime rate is going to increase" (Fuoco 1997b). "Morale's low," said one PBP official. "The officers I spoke to…feel that if you do right or you do wrong you're going to get sued. So what's an officer supposed to do?" (Fuoco 1997a).

Despite this divergence among police labor and management, and between members of the city's political establishment (O'Toole 1997a; 1997b), many Pittsburghers saw the Consent decree as part of a much needed move in the direction of police accountability. Shortly after the CD took effect, city residents passed by referendum a law to create the Citizen Police Review Board (CPRB). Comprised of seven unpaid board members appointed by the Mayor and the City

Council, the CPRB maintains independent authority to investigate all citizen complaints against the PBP (Citizens Police Review Board 2010).

Epilogue

On September 13, 2002, just over five and one half years after its inception, U.S. District Court Judge Robert Cindrich approved a joint motion signed by the U.S. Department of Justice and the City of Pittsburgh to terminate the consent decree (Ove 2002). Cindrich agreed with the Mayor, the city's Police Chief, and the independent monitor, that the PBP had reached substantial compliance with the majority of CD components. As a result of the consent decree process, the Pittsburgh Bureau of Police continues to operate a model early warning system[15] (Harris 2005) and a much more robust set of internal accountability protocols (Pittsburgh Monitor Final Report Sept. 2002).

Despite this progress, federal oversight of those consent decree terms related to the Office of Municipal Investigations (OMI) was extended for an additional two years. Even after five years, OMI still took too long to complete misconduct investigations and was not able to clear a longstanding and sizable backlog of open investigations (Ove 2002; Pittsburgh Monitor Nineteenth Quarterly Report Aug. 2002).

On April 7, 2005, after nine years of oversight and monitoring, the Court released OMI and the city of Pittsburgh from all federal oversight.

[15] According to Walker, Alpert, and Kenney (2001), "An early warning system is a data-based police management tool designed to identify officers whose behavior is problematic and provide a form of intervention to correct that performance. As an early response, a department intervenes before such an officer is in a situation that warrants formal disciplinary action. The system alerts the department to these individuals and warns the officers while providing counseling or training to help them change their problematic behavior."

Table 1. Summary of case study – Pittsburgh

History and context

- Rust belt city reduced in size, transformed into white collar economy
- High level of animosity between police and minority community
- Mid-1990s characterized by several high-profile police-involved killings

Justice department intervention

- By 1996 ACLU documented over 500 police misconduct complaints; turns files over to DOJ
- DOJ initiates first pattern or practice investigation in major U.S. city
- DOJ finds pattern or practice of unconstitutional use of force. Settlement structures reforms to accountability infrastructure and misconduct investigation protocol
- On April 16, 1997 city of Pittsburgh and Pittsburgh Bureau of Police avoid litigation by signing a consent decree (CD)
- CD termination date set for April 2002

Public reaction

- Civil rights groups and city leaders supportive; city residents hopeful
- Police Union opposed, claims CD will lead to higher crime

Epilogue

- Components of consent decree related to police department lifted on September 13, 2002, after five and a half years
- Components of consent decree related to Pittsburgh's Office of Municipal Investigation lifted on April 7, 2005, after nine years of oversight

Washington, D.C.

History and Context

On June 13, 2001, after a lengthy and frequently contentious negotiation, the United States Department of Justice, the District of Columbia, and the Washington, D.C. Metropolitan Police Department (MPD) entered into a Memorandum of Agreement (MOA) designed "to minimize the risk of excessive force, [and] to promote the best available practices and procedures for police management" (Washington, D.C. MOA, ¶3). In the minds of many, this settlement agreement represented a crossroads in the long and troubled history of policing and police-community relations in Washington, D.C.

This history includes a series of violent episodes that illustrate a simmering discontent among minority residents over perceived racial injustices and violence. Over time, the District's MPD, frequently characterized as violent and unaccountable, became the avatar of this perceived unequal and unjust treatment (Police-Community Relations in Washington, D.C., June 1981). Though a contentious relationship between a city's minority population and its police department is certainly not unique in the United States, in many ways Washington D.C.'s particular demographic, economic, and government profile helps to explain the District's case.

As the nation's capital and a Constitutionally-established federal district, the city's government structure is one of a kind. In 1973, Congress passed the District of Columbia Home Rule Act (Public Law 93-198, 2008), which devolved congressional authority to administer public services in the federal district to an elected mayor and city council. For the first time, District residents were able to elect a government of their own. Today, despite the D.C. government's broad administrative responsibilities, Congress maintains the authority to shape public policy in the District through the use of federal legislation, budgetary restrictions, and the ability to override D.C. law (D.C. Home Rule Act 2008).

Perhaps this political and organizational complexity has contributed to the kinds of social and economic problems that perpetuate dissatisfaction among certain segments of the city's population. The District has the widest income disparity among all American states. In 2006, the city's per capita income of $55,755 was highest in the country (U.S. Census Bureau 2007), while its poverty rate of 19 percent was second only to Mississippi (U.S. Census Bureau 2005). What is more, a recent study found that one in three District residents is functionally illiterate, a rate considerably higher than the national average of one in five (Associated Press 2007). This fact is all the more disheartening when juxtaposed with recent findings from a

Brookings Institution study that names the District as the most highly educated city in America (Berube 2010).

Despite this economic and professional stratification, the District remains a racially diverse and highly integrated city. According to 2009 estimates, 40 percent of Washington D.C.'s 599, 657 residents are African-American, 41 percent are white, and 9 percent are Hispanic (U.S. Census 2010). The MPD's demographic make-up reflects this diversity as well: 66 percent of officers are African-American; 28 are white; and five percent are Hispanic (Reaves and Hickman 2002).

Of course, these the roots of urban poverty date to the city's pre-Civil Rights Era history, when attitudes and legal structures of the Jim Crow South permeated the District (e.g., *Bolling v. Sharpe* 1954). In 1968, the District was engulfed by violence and destruction as residents rioted in response to the news that Martin Luther King, Jr. had been assassinated. The riot, which lasted for three days, was contained only after President Johnson sent in some 13,000 federal and National Guard troops (Schwartzman and Pierre 2008). Despite the earnest and thorough work of several blue ribbon commissions dedicated to improving police-community relations in the wake of the 1960s,[16] many of the District's residents continued to see the MPD as significant part of a wider problem. According to a 1981 report to the U.S. Civil Rights Commission,

> Rich and poor, white and black, young and old, handicapped, Chinese, and Hispanic – all these groups have different expectations and complaints about the police. But in many areas of the city, "fear is the common thread that links everyone together….The police department is in a state of fear for their lives; there are some good citizens who are afraid to out and some who are afraid to come in (4).

Throughout the latter half of the twentieth century, crime and drugs continued to complicate this decades-long push to normalize relations between the police and District residents. The

[16] Including, among others, *Report of the National Advisory Commissions on Civil Disorders* (The Kerner Commission) 1968; and *National Advisory Commission on Criminal Justice Standards and Goals, Report on Police* 1973).

District suffered through the crack epidemic of the 1980s and by 1991 the city's homicide total was among the highest in the nation ("A Study of Homicides in the District of Columbia" 2001; Urbina 2006). MPD's long-standing response to the violent crime, drug use, and poverty of this period was aggressive use of force, an antagonistic approach to criminal suspects, and the adoption of an insular culture (Leen et al. 1998).

A three-day riot in May of 1991 in the District's Mount Pleasant neighborhood is tangible evidence that the police-community tension of the 1960s continued to permeate the District's inner-city communities (Lewis and Rupert, 1991). Allegations of racist and overly aggressive police behavior once again were at the heart of the disturbance (Morin and Henderson, 1991; Wheeler, 1992).

In 1998, the Washington Post published a series of stories that encapsulated much of the troubled history between minority residents and the Metro Police Department. The week-long exposé characterized the MPD as a force whose violence, lack of discipline and unaccountability were unrivaled by any other major American police department (Leen et al. 1998; Washington, D.C. First Monitor Report, June 2002). According to the Post:

- MPD "shot and killed more people per resident in the 1990s than any other large American city police force."
- Between 1994 and 1998, "D.C. officers shot and killed 57 people – three more than police reported in Chicago, which has three times the police force and five times the population."
- Over the same time period, "D.C. officers were involved in 640 shooting incidents – 40 more than the Los Angeles Police Department, which has more than double the officers and serves six times the population."
- "Washington's officers fire their weapons at more than double the rate of police in New York, Los Angeles, Chicago, or Miami."

Just as troubling was the Post's description of a Department incapable of (or unwilling to) conducting legitimate and careful investigations into police-involved shootings and other use of force incidents. In the 1990s, there simply was no system in place to hold police officers accountable:

> In case after case when a District police officer shot a citizen during the 1990s, the Metropolitan Police Department's investigations were riddled with errors and omissions that make it impossible to sort out why the officer fired and whether the shooting was legitimate.
>
> The poorly documented investigations protected officers who may have wrongly shot citizens or lied about the incidents, while making it difficult for blameless officers to clear their names in the civil lawsuits that often follow police shootings (Jackson, 1998).

The Post series not only documented MPD's problems in painstaking detail, but attributed the Department's use of excessive force and weak investigative infrastructure to years of administrative and managerial deficiency (Leen et al. 1998; Harriston and Flaherty 1994; 1994B; Flaherty and Harrison 1994).[17] What is more, negative consequences of efforts in the mid-1990s to grow the size of the force, including the easing of hiring and training standards (Harriston and Flaherty 1994A; 1994B), had become apparent. MPD Chief Charles Ramsey, hired in April 1998, agreed with the Post's description of a broken department:

> I inherited a good police department….But I also inherited a police department that was sorely lacking the infrastructure, support and leadership needed to do the job – and do it effectively….A police department where accountability was not clearly affixed, and training (beyond recruit instruction) was almost non-existent. A police department demoralized by leadership instability and externally lacking the trust and confidence of much of the community (Metropolitan Police Department 1998 Annual Report, 3; Washington, D.C. First Monitor Report June 2002).

Justice Department Intervention

In January 1999, less than two months after the Post series was published, Chief Ramsey invited the Department of Justice to investigate all aspects of MPD's use of force policy, not limited to officer training and oversight, investigative protocols, and record keeping systems

[17] The Post series also precipitated the establishment of Washington, D.C.'s Citizen Complaint Review Board (CCRB), an independent agency charged with implementing "an effective, efficient, and fair system of independent review of citizen complaints against police officers in the District of Columbia" (D.C. Code Section 5-1102; see also, CCRB Fiscal Year 2001 Annual Report). The CCRB oversees the District's Office of Citizen Complaint Review (OCCR), an independent, civilian-run government agency charged with managing an "effective, efficient, and fair system of independent review of citizen complaints against police officers in the District of Columbia" (OCCR Annual Report 2002). The OCCR was designed to fill the void left when the District's previous citizen oversight mechanism, the Civilian Complaint Review Board, was eliminated in 1995 (OCCR Annual Report 2002). In 2004, the CCRB became the Police Complaints Board (PCB) and the OCCR became the Office of Police Complaints (OPC).

(Ramsey Letter 1999). The request – driven by Ramsey's belief that the department's problems were so entrenched that he could not fix them himself (MOA News Conference June 13, 2001) – was unprecedented.

The DOJ's lengthy investigation revealed "a pattern or practice of use of excessive force by MPD" ("Findings Letter" 2001). 15 percent of the cases reviewed involved the use of excessive force, well higher than the 1-2 percent expected in a well-functioning department ("Findings Letter"). DOJ investigators also determined that "MPD policies regarding the reporting of force…[were] under-inclusive and inconsistently followed" and that use of force investigations lacked "competency, thoroughness and impartiality" ("Findings Letter" 2001).

On June 13, 2001, the District of Columbia, the Metro Police Department and the U.S. Department of Justice entered into a Memorandum of Agreement in order to remedy the pattern or practice of unconstitutional use of force. As with all Section 14141 settlement agreements, the 194-paragraph Washington, D.C. MOA included provisions for bringing MPD use of force policy in line with Fourth Amendment requirements and emphasized when appropriate "de-escalation…[and] the use of advisements, warnings, and verbal persuasion" rather than force ("Findings Letter", ¶36). The MOA also established timelines for the implementation of specific changes to MPD recordkeeping, force investigation protocols, and the development of several layers of internal and external accountability. Michael Bromwich, former Justice Department Inspector General, filed his first independent monitor report in June of 2002 (Washington, D.C. First Monitor Report June 2002).

Public Reaction

Understandably, members of the D.C. government considered MOA's signing a positive development and a unique opportunity for the MPD to distance itself from the problems of the mid-1990s. According to Chief Ramsey, "The MOA will strengthen our department…will enhance

officer safety through better policies, better training, and better equipment…[and] will improve the quality of the service we provide to the community" (MOA News Conference June 13, 2001).

The rank and file, however, were less sanguine. In fact, the Fraternal Order of Police (FOP), MPD's labor union, challenged the MOA as a violation of District of Columbia labor law. Shortly after the MOA was signed, the FOP filed an Unfair Labor Practice Complaint alleging that "that MPD's leadership failed to negotiate certain MOA provisions that affect the terms and conditions of the collective bargaining agreement negotiated between MPD and the FOP," including those sections addressing changes to MPD record-keeping and the development of an early warning system (Washington, D.C. First Monitor Report June 2002 fn.24).

The Complaint went nowhere, but it signified a strong opposition the substance of the MOA. In particular, union members voiced concern over changes to MPD use of force policy, which they felt was far too strict. According to FOP Chairman Sgt. Gerald Neill, "You're telling an officer he can't draw a gun until someone puts one on you. At that point, it's way too late. We object to anything that endangers our officers, and parts of this [use of force] policy endanger our officers" (Drake 2001).

Opponents also challenged the MOA on philosophical grounds, arguing that the agreement violates the District's home rule. "I think we give too much away in running the department to the Department of Justice," said FOP Chairman Neill. "The city has fought hard and long for home rule. By signing this letter at the request of the chief, we give up control of our police department. Where's the home rule issue now?" (Johnson 2001). Another commentator suggested that the MOA is "just in keeping with the federalization of our local criminal-justice system. We're saying the police department can't control their own affairs. We should have enough confidence in ourselves to do this" (Johnson 2001).

Anger over the MOA prompted an FOP vote in August 2001 to oust Ramsey, a move that to Kathy Patterson, Chair of the D.C. Council's judiciary committee, believed showed evidence of a wider problem: "I regret that serious concerns with morale throughout the police department prompted the FOP labor committee to take this unprecedented action" (DeBose 2001).

Epilogue

MPD's implementation of the MOA was delayed initially by internal organizational challenges and complicated by the events of September 11, 2001. As indicated by the timing of Bromwich's first report,[18] progress toward implementation did not begin until nearly a year after the MOA was signed. Perhaps owing to this slow start and to the complexity of the changes mandated, the parties amended the terms of the MOA no fewer than four times. Pursuant to these changes, the MOA terminated on June 13, 2008, seven years after the MOA was signed and two years after the original June 2006 deadline.

Significant change occurred during the seven year reform process. Today, MPD boasts of an award winning Force Investigation Team and a solid, if not perfect, record of misconduct (see, e.g., Police Complaints Board Office of Police Complaints, Annual Reports 2006-2009). In their final report, the monitor team lauded the Department, stating that its progress toward police accountability "should serve as a model for law enforcement agencies across the United States that are serious about improving their use of force-related policies, procedures, and practices" (Washington, D.C. Monitor Final Report June, 2008, 1).

[18] The MOA was signed in June 2001; Bromwich's first monitor's report was issued in June 2002.

Table 2. Summary of case study – Washington, D.C.

History and context

- Long-standing history of mistrust and animosity between minority residents and the District's Metropolitan Police Department (MPD) that includes two riots
- High income and education stratification despite city's racial integration
- 1998 Washington Post series chronicles MPD's high rates of deadly force incidence and lack of accountability

Justice department intervention

- In 1999, at the behest of new Chief Charles Ramsey, DOJ begins investigation into MPD use of force
- Investigation reveals a "pattern or practice of use of excessive force"
- On June 13, 2001 DOJ signs Memorandum of Agreement (MOA) with District and MPD
- MOA termination date set for June 2006

Public reaction

- Police leadership and District politicians excited about MOA
- Police rank-and-file, represented by FOP, opposed

Epilogue

- In June 2006, MOA extended by two years
- MOA terminated on June 13, 2008

Cincinnati, Ohio

History and Context

On April 12, 2002, U.S. District Court Judge Susan Dlott signed a Memorandum of Agreement (MOA) between the city of Cincinnati and the U.S. Department of Justice. The MOA, together with the Collaborative Agreement (CA) to reform policing in Cincinnati, was a significant milestone for a city whose history is plagued by a longstanding tension between minority residents and its police department.

Black Cincinnatians have for decades accused the Cincinnati Police Department (CPD) of discriminatory treatment of minority residents. The 1968 Kerner Commission report, which investigated race riots in several American cities, including Cincinnati, noted that CPD's

disparate enforcement of city loitering laws was a key factor in explaining the outburst. The report also described an "intense…resentment against the police" rooted in a belief that CPD officers subjected African American residents to a brutality and a degree of harassment and degradation unknown to whites (Kerner 1968, 302).

In 1979, following a series of high-profile police involved shootings, the Cincinnati Mayor's Community Relations Panel (The Hawkins Report), observed that Cincinnatians believed that members of the

> City Council, the City Administration, or the Police Administration neither really care nor are willing to do anything about reported incidents of misconduct. The existing complaint mechanisms have little credibility…The perceived lack of concern on the part of official Cincinnati for disciplining police misconduct has contributed to an atmosphere of fear and distrust. The public questions whether or not the Police Division can police itself, and more seriously, whether elected officials are willing to control the police (Hawkins Report III-2).

This observation was echoed in a 1981 report by the Ohio Advisory Committee to the Civil Rights Commission. The report determined that the CPD lacked sufficient standards to guide the use of force, maintained inadequate officer training protocols, and operated within a government-wide system incapable of holding abusive officers either legally or professionally accountable ("Policing in Cincinnati" 1981).

Some fourteen years later, a 1995 panel instituted by the City Manager to review a police brutality case found a pattern of discriminatory practices still in place. Such discrimination infected not only the treatment of black city residents by CPD officers but the investigation of misconduct complaints (Expert Report of Cecil L. Thomas 1999 [Thomas Testimony]). The report concluded that such policies were thoroughly institutionalized: "[D]iscriminatory attitudes and actions involving both race and gender bias on the part of individuals within the Police Division [persisted because of] a reluctance to institute necessary organizational and procedural reforms'" (Thomas Testimony 1999).

Another consistent theme of the several reports investigating alleged mistreatment of black Cincinnatians by CPD officers is the discriminatory treatment of black officers by the CPD. Allegations include a failure to hire black officers and a failure to promote black officers to leadership positions. Despite the existence of consent decrees signed in 1981 and in 1987 to advance minority hiring and promotion within the CPD (Sack 2001), the CPD remained disproportionately white through the 1990s. In 2001, 28 percent of the Department's 1,020 officers were black (Clines 2001). Though relatively high compared to other cities of similar size, this figure was not representative of the city's 43 percent black minority (Clines 2001). What is more, the city has never had a black police chief and few high level police leadership positions have been occupied by African Americans (Sack 2001).

Beginning in 1968, with the Kerner Commission report, at least 17 reports have investigated allegations of race and class-based discrimination by the Cincinnati Police Department (CPD). These various investigations have generated

> over 200 recommendations, most frequently addressing ways to improve informing the public about police actions, policies and procedures, external oversight, police involvement with the community, and the promotion and assignment of African American police officers within the CPD (Cincinnati Monitor Final Report Dec. 2008, 3).

Despite their persistence and the consistency of their findings and recommendations, these reports have often fallen on deaf ears, ignored by city and police leadership and undermined by the status quo (Thomas Testimony 1999; Sack 2001). Taken together, the history of alleged discrimination and the recalcitrance in the face of such allegations, no doubt helps explain the city's violent reaction to the 2001 shooting death of Timothy Thomas.

Thomas, a nineteen year-old African American, was shot and killed by Officer Steven Roach after 2 AM on April 7, 2001 (Vela 2001). Wanted in connection with 14 outstanding misdemeanor warrants, most of them related to traffic violations, Thomas ran upon spotting two CPD officers (Vela 2001). After a brief chase through the Over-the-Rhine neighborhood,

Cincinnati's "most drug infested and dangerous" neighborhood, Roach shot and killed Thomas (Mac Donald 2001). Though the officer believed Thomas was reaching for a weapon when he was shot, no gun was found on the victim (Clines 2001C). Thomas's death was the fifteenth such police-involved killing since 1995; all fifteen victims were black males (Klepal and Andrews 2001).

The incident outraged many of the city's African-American residents. After a contentious meeting with City Council members, during which black leaders "demanded an explanation for the use of deadly force against" Timothy Thomas (Clines 2001a), an impromptu rally developed in front of CPD headquarters. CPD officials failed to quiet the increasingly discordant and angry group, which by some accounts numbered in the hundreds (MacDonald 2001).

Less than 48 hours after Thomas's death, city streets erupted in violent protest. According to one account, "[a]t the height of the trouble, ranks of police officers fired rubber bullets, beanbags and tear gas to turn back scores of protesters and vandals who set fires and threw bricks at cars and store windows" (Clines 2001A). All told, three days of violence led to over 800 arrests (Aldridge 2002) and at least 63 criminal indictments (McCain 2001). One estimate listed the cost to the city at almost $14 million (Anglen et al. 2001).

In Cincinnati, the nation's sixth most segregated city (Maag 2006), the Thomas incident was a tipping point for many African-Americans: "[The riot] wouldn't have happened if they had listened to us in those years back then," said one resident. "So now we have a new generation of young black men running the streets again to stir things up for what is right," he lamented (Clines 2001C). Many city officials shared this sentiment. According to City Councilwoman Alicia Reece, "The situation has been festering for over five years. It is a time bomb that has exploded" (Clines 2001A).

The Cincinnati riot became a rallying cry for local and national civil rights leaders. Revs. Jesse Jackson and Al Sharpton visited the city, as did NAACP president Kweisi Mfume, who spoke with community groups about how to best address racial profiling by CPD officers: "Cincinnati's a microcosm, the belly of the whale," Mfume said. "It's important for the nation to focus here on ground zero. If we can fix it here, we can fix it elsewhere. But if it doesn't get fixed here, it turns into anarchy and all of us are left wondering, Is justice blind?" (Clines 2001B).

Justice Department Intervention

The tension between the CPD and the civil rights community in Cincinnati was manifest not only in violent reaction to the death of Timothy Thomas, but in the formation of a wide-ranging class action lawsuit filed in March 2001, against the city. Spearheaded by the Ohio Chapter of the American Civil Liberties Union and the Cincinnati Black United Front, a local civil rights group, the suit was based on an allegation that African Americans had for more than 30 years been treated disparately by the CPD and "that the recent deaths of African Americans, and the disproportionate stop and search rate for African Americans, illustrated a discriminatory pattern or practice employed by the CPD" (Cincinnati Monitor Final Report Dec. 2008, 4).

Driven by a belief that formal litigation would fail to achieve the desired ends and run the risk of perpetuating police-community animosity, Federal District Court Judge Susan Dlott led an effort to settle the case (Cincinnati Monitor Final Report, Dec. 2008). With the help of a special master and a Magistrate Judge, Dlott used an unprecedented form of Alternative Dispute Resolution (ADR) to bring together the plaintiff class, the police department, and the local chapter of the FOP. Leaders from each of these groups, who together became known as the

"Collaborative," met regularly with the Judge throughout most of 2001 in an effort to craft a remedy to the suit.[19]

The Collaborative continued to meet as the Department of Justice began a formal investigation of the Cincinnati Police Department, initiated at the behest of Cincinnati Mayor Charlie Luken in the wake of the riot (Cincinnati Monitor Final Report Dec. 2008, 5). The DOJ's investigation concluded in October, 2001, with a finding that the CPD engaged in an unconstitutional "pattern or practice" of use of force, maintained a lack of public accountability infrastructure, and perpetuated systematically inadequate internal accountability systems, officer training, and community outreach efforts ("Preliminary Technical Assistance Recommendations" 2001).

In August 2001, against the backdrop of ongoing negotiations between members of the Collaborative and release of the Justice Department findings, the Black United Front, initiated a national boycott of Cincinnati (Alltucker 2001). The boycott's supporters, which included the NAACP and the Urban League, made hundreds of demands, including "a complete reform of the way council members are elected, amnesty for rioters, and millions of dollars for inner-city development projects and programs to benefit African-Americans" (Korte 2002). In its first two years, the boycott led to the cancellation of conferences, exhibitions, and appearances by Bill Cosby, Whoopi Goldberg, and Spike Lee (Aldridge 2002; 2003).

In April 2002, after months of negotiation, the Department of Justice and the city of Cincinnati entered into a Memorandum of Agreement (MOA). Simultaneously, the city, the FOP and the Plaintiff Class, led by the ACLU and the Black United Front, entered into the Collaborative Agreement (CA) (Cincinnati Monitor Final Report Dec. 2008, 5). The significance of the date – almost one year to the day Timothy Thomas was shot – was not lost on anyone. The

[19] It is worth noting here that the Collaborative's first meeting was held less than one month *before* Timothy Thomas was shot and killed by the CPD.

CA established specific reforms designed to improve the CPD's relationship with the community, and build mutual trust and accountability by focusing on strategic changes to CPD protocol through:

(1) Adopting Community Problem Oriented Policing (CPOP) as the principal crime fighting approach for CPD;

(2) Addressing bias-free policing through policy, training, and data collection;

(3) Requiring evaluation to determine if the measures implemented are working (a review that focuses on outcomes, not just process); and

(4) The creation of the Citizen Complaint Authority, which conducts independent reviews of citizen complaints (Cincinnati Monitor Final Report Dec. 2008, 5-6).

The terms of the MOA correspond seamlessly with those established under the Collaborative Agreement. While the CA targeted the CPD's external policies, the MOA emphasized remedying those internal processes that contribute to the pattern or practice of unconstitutional behavior. As with settlement agreements signed in Pittsburgh and Washington, D.C., Cincinnati's MOA is built around reform to use of force policy and incident reporting guidelines; officer training; internal accountability mechanisms, including an early warning system to track officer behavior; a complex hierarchical oversight system, designed to spread responsibility throughout all levels of the agency; and an enhanced citizen complaint protocol (Cincinnati MOA 2002).

The Cincinnati settlement agreement, like those of other jurisdictions, established timelines for reform, as well as mandated the use of an independent monitor to oversee and manage the process. What is unique about Cincinnati, however, is the fact that the monitor team, led by Saul Green, a former federal prosecutor, and policing expert Richard Jerome, managed the implementation of *both* the CA and the MOA. Despite their distinct origins and unique substantive emphases, the MOA and the CA were seen by Judge Dlott and the monitor

team as two parts of the same comprehensive reform initiative (Cincinnati Monitor Final Report Dec. 2008, 5-6).

Public Reaction

As one might expect, reaction to the Collaborative Agreement and the MOA were mixed. Those involved in the negotiation, including members of the plaintiff class and city leaders, were overwhelmingly supportive of the settlement. Scott Greenwood, general counsel of the ACLU of Ohio and lead lawyer for the plaintiffs called the Collaborative Agreement "the best police-community relations agreement ever negotiated in the U.S." (ACLU 2002). Greenwood added,

> For the first time, a city, its police force, and the community have formed a real partnership to protect civil rights, to ensure accountability, and to make the community safer. This agreement can make Cincinnati the model for police-community relations and for resolution of race-based policing claims (ACLU 2002).

For his part, the city's Mayor, Charlie Luken, who had requested the DOJ investigation nearly a year earlier, called the Agreement "a historic moment for Cincinnati," one he believed would serve as "a national model for improving police-community relations" (Clines 2002).

Some members of Cincinnati's African-American community – particularly those involved with the plaintiff class and the settlement negotiation – were similarly heartened by the terms of the CA and the MOA. Rev. Damon Lynch III, president of the United Black Front, co-plaintiff in the initial racial profiling suit against the city declared, "We think we have an agreement that will be a landmark for this city and for this nation" (Clines 2002).

Others residents, however, were less optimistic. Some expressed skepticism that externally-driven reform would work to change a police culture that had endured decades of investigations and blue ribbon reports. "Nothing has changed," said one resident. "I know a lot of police as friends, black and white," he added. "They are good and fair. There are some who

will judge you just on the color of your skin. If you are going to change that, you have to change people's hearts. I don't know how an agreement does that" (Wilkinson 2002). Barbara Glueck, chair of the Citizens Police Advisory Commission echoed this sentiment: "Simply tinkering with the infrastructure won't do it," said Glueck. "Firing people won't change the disparity" between the views of blacks and whites on key policing issues, including the use of force and racial profiling (Clines 2001C).

Kathy Harrell, President of the Cincinnati Fraternal Order of Police, was more circumspect in her analysis of the reform initiative, making clear that the substance of the agreement was anathema to the traditional orientation of the union, but that the opportunity to take some ownership of reform process superseded those concerns: "We weren't happy about the possibility of the collaborative. But we felt that at last, for the first time, the FOP could be part of what would affect us as an organization. The officers voted to take part in this" (Vaccariello 2006).

Epilogue

On April 12, 2007, Judge Dlott formally terminated the agreement between the Justice Department and the city of Cincinnati. In their final report, the independent monitors summarized the CPD's progress thusly:

> Over the course of the Agreements, we have seen vast improvement within the Cincinnati Police Department relating to oversight and accountability, particularly in the area of force and the investigation of force incidents. While a review of the history over the past several years reveals peaks and valleys with regard to the Department's efforts that were undertaken and implemented in this important area, the end result is favorable to the Department, the City of Cincinnati, and the diverse community they serve" (Cincinnati Monitor Final Report Dec. 2008, 37).

Despite ups and downs during the five year implementation, the city and its police department appear to have benefited greatly from the federal intervention. In 2011, use of

force incidents are down (Cincinnati Police Department 2010),[20] evidence of racial profiling has all but disappeared (Ridgeway 2010), and the city's participation in cutting-edge programs to reduce gang violence continues to make national news (Seabrook 2009; Engel et al. 2008).

Table 3. Summary of case study – Cincinnati

History and context

- Beginning in 1960s, several reports document accusations of discriminatory treatment and excessive violence by Cincinnati Police Department (CPD) officers against city minority residents
- City and CPD agree to settle class action suit prepared by ACLU alleging CPD racial profiling and disparate treatment of minorities
- Collaborative Agreement (CA) is product of settlement; parties to agreement include ACLU, Black United Front, and the FOP
- In April 2001 city erupts in riot after controversial police shooting
- In wake of riot, Cincinnati Mayor requests that DOJ investigate CPD use of force

Justice department intervention

- DOJ finds a pattern or practice of excessive force
- On April 12, 2002 MOA agreement signed; termination date set for April 2007
- CA and MOA implemented together, overseen by same monitor

Public reaction

- City leaders and civil liberties community supportive
- CPD leadership offer hesitant, almost forced, support
- Police union grudgingly supportive
- Reaction of city residents very mixed

Epilogue

- MOA terminated on April 12, 2007 after five years

Prince George's County, Maryland

History and Context

On January 22, 2004, Prince George's County, the Prince George's County Police Department (PGPD), and the U.S. Justice Department signed a Memorandum of Agreement (MOA) designed to remedy a pattern or practice of excessive force (Prince George's County

[20] Data on file with author.

Police Department Memorandum of Agreement [MOA] 2004, ¶1). Though several of the precipitating events in this case echo those from Pittsburgh, Washington, and Cincinnati, Prince George's County represents a unique context within which to discuss police reform.

The story of Prince George's County's growth very much mirrors the rise of most suburban areas in the United States during the 1960s and 1970s. Driven by the promise of affordable homes, safe streets, and good schools, Washington D.C. residents set out for Prince George's County in great numbers (Johnson 2002). Unlike other neighboring suburban counties, however, those headed for Prince George's County were predominantly African American (Johnson 2002). Several factors contributed to this pattern, including Prince George's County's relatively affordable rural land, proximity to Southeast Washington, D.C., and the racially restrictive policies adopted by other surrounding suburban counties. Fairfax County, VA and Montgomery County, MD, among others, each promulgated zoning codes and real estate covenants designed ostensibly to prevent the development of "low-income" neighborhoods (Johnson 2002, 31), but resulted in de facto segregation.

The effect of such policies was clear: In 1980, "85 percent of African Americans migrating from the District moved to Prince George's County, only 12 percent of whites migrating from Washington, D.C., moved into Prince George's County. On the other hand, 9 percent of African Americans migrating from the District moved into Montgomery County, compared to 41 percent of whites" (Johnson 2002, 36-7). Prince George's County's African-American population continued to grow through the mid-1980s and "by 1990, black and white adult residents had reached essential equality in levels of education, percentages of home ownership, the size of personal income, and in total numbers" (Kohn 1998, 10). In 1992, the New York Times Magazine called it "the closest thing to utopia" in America (Dent 1992).

In 2008, Prince George's County was the wealthiest majority-black county in the U.S., with a median income of $71,696 (U.S. Census 2010). African Americans comprise 66 percent of the county's 834,560 residents (U.S. Census 2010) and hold leadership positions throughout the executive, legislative, and judicial branches of government. The county's prosperity and relative racial and socioeconomic equality has not prevented consistently high rates of violent crime, however. Between 1985 and 2006, homicide in Prince George's County accounted for 20 percent of the total in the state of Maryland, with over 15 murders per 100,000 county residents. County residents and public officials appear to have anticipated these data: "There is a cultural problem in this county and this violence has been accepted as the norm," said Maryland State Representative Albert Wynn. "I'm not surprised by the data" (Shewfelt 2007).

Violent crime no doubt contributes to the many challenges facing Prince George's County police officers, as does the county's diverse population, and complex administrative arrangements. (e.g., PGPD shares jurisdiction with at least 30 other departments in the county). Over time, the department developed a very aggressive approach to law enforcement – referred to by some as a "go for bad" attitude, "a crime-fighting strategy that relied on physical intimidation" and a measure of impunity (Whitlock and Fallis 2001G). This philosophy dates to at least the 1960s, when a string of police homicides elicited little or no formal legal or administrative response from the county (Whitlock and Fallis 2001A).

In 1975, less than five percent of the county's police department employees were black (Johnson 2002, 94). That same year, the local president of the NAACP referred to the county as "the Police Brutality Capital of the World" in response to the torrent of police abuse complaints lodged by black residents against white PGPD officers (Whitlock and Fallis, 2001G). In 1976, the U.S. Department of Justice filed suit against the PGPD alleging discriminatory practices in hiring police officers (Johnson 2002, 94).

Despite PGPD efforts to integrate the department and to eliminate a culture of aggression and violence, high profile force-related incidents continued to occur throughout the 1970s and 1980s (Whitlock and Fallis July 1, 2001B). After the 1990 shooting death of an unarmed immigrant by four white officers, County Executive Paris N. Glendening appointed a special commission to examine police-community relations (Stockwell 2001). The commission's report detailed incidents of police brutality and lack of accountability and proposed several ways to reform the department and strengthen its ties with the community (Whitlock and Fallis 2001G). Few of the report's 50 recommendations were ever discussed, even fewer implemented (Stockwell 2001).

Given the lack of response to the 1990 report, it is no surprise that the police-related violence and dearth of accountability in Prince George's County continued throughout the next decade. A July 2001 four-part series in the Washington Post reported that between 1990 and 2000 the PGPD shot 122 people, 47 of whom were killed, a per-officer rate higher than any other major department in the country (Whitlock and Fallis July 1, 2001A). Almost half of the 122 victims were unarmed, and many had broken no law. Despite this, PGPD officials determined that every single police involved shooting during this period was justified under department policy (Whitlock and Fallis July 1, 2001A).

PGPD's violence and lack of internal accountability existed within a broader department-wide culture of corruption. According to the 2001 Post series, PGPD officers repeatedly lied on incident reports, and supervisors either refused to investigate incidents properly or took to an officer's defense before a formal investigation was completed (Whitlock and Fallis 2001A). Despite an early warning system created in 1994 to identify and intervene to correct problematic behavior, the Post's reporting shows that 20 percent of the department's shooting incidents involved an officer who had shot someone before (Whitlock and Fallis 2001C). These

findings seemed to corroborate reporting from an earlier Washington Post investigative series that documented several cases where in the late-1990s PGPD homicide detectives "coerced confessions and denied suspects lawyers during marathon interrogations that appear[ed] to violate state rules and exceeded bounds set by other police agencies" (Witt 2001).

Many of the problems documented by the Post appear to be a reflection of formal legal and policy choices going back decades. In 1974, for example, the Law Enforcement Officer's Bill of Rights (LEOBR, 2003) became law in Maryland. The LEOBR establishes "that officers who are under investigation for anything that could lead to disciplinary action cannot be questioned about their actions unless they have been notified 10 days ahead of time" (Whitlock and Fallis 2001D). Despite claims by a police union lawyer that the law has "never…impede[d] an investigation" (Whitlock and Falis 2001D), Former County Prosecutor and County Executive Jack B. Johnson has stated repeatedly that the LEOBR grace period perpetuates a "blue wall of silence," and served to frustrate several high-profile investigations into PGPD shooting incidents during his tenure as Prince George's County State's Attorney (Whitlock 2000; Johnson Transcript 2001).[21] Another relevant example is the department's official policy regarding the release of information related to misconduct allegations. While refusing the repeated inquiries by Post reporters into such cases, PGPD continued to assert that a policy that permitted the release of information would be "contrary to the public interest" (Whitlock and Fallis 2001F). Though certainly not unique to Prince George's County, such policies contribute to the perception of PGPD as an insular department driven by a mistrust of the public and a lack of transparency.

The kind of violence and corruption described by the Post's reporting on PGPD in the 1990s on some level reflects an inability of agency leadership to combat a permissive officer

[21] In May 2011, Johnson "pleaded guilty to two felony counts, extortion and conspiracy, and witness and evidence tampering" (Castaneda and Spivack 2011). The effect of Johnson's corruption on the PGPD's efforts to implement and institutionalize the pattern or practice agreement is discussed at length in later Chapters.

culture that appears to have developed over several years. Yet such problems cannot persist in a community empowered with robust and active tools for citizen oversight of the police. Clearly, despite the existence of the county's Civilian Complaint Oversight Panel (CCOP), Prince George's County is not such a place. CCOP was established in 1990 in response to recommendations made by the 1989 Blue Ribbon Commission on Public Safety. The Panel is responsible for reviewing PGPD investigation of police misconduct complaints as well as PGPD Internal Affairs Division investigations of police misconduct incidents (Prince George's County Council Agenda Item Summary 1990). The board lacks the power to gather independent facts, and maintains no authority to interview officers or other witnesses. Even when it disagrees with the findings of the PGPD, the CCOP has no formal authority beyond issuance of non-binding recommendations (Alpert and Dunham 2004). The result is a notoriously ineffectual agency, whose weakness in the 1990s failed to improve police accountability in Prince George's County.

The culture of violence and impunity that appears to have enveloped the PGPD in the 1990s is also closely related to the complex and highly charged political environment within which the police operate. On one hand, some evidence from the early-2000s suggests that Prince George's County officials took seriously the problem of police violence and alleged corruption. In February 2001, a commission appointed by County Executive Wayne Curry to examine police accountability issued a report designed to promote police reform and strengthen community relations (Stockwell 2001). Despite reiterating many of the same changes suggested by the 1990 commission, members of the 2001 Community Task Force on Police Accountability, emphasized the importance of implementation: "We don't just want to make recommendations," said committee member and Maryland State Representative Rushern L. Baker.[22] "We want to make sure there are changes" (Stockwell 2001).

[22] Rushern Baker is currently the County Executive in Prince George's County.

On the other hand, comments from several high profile Prince George's County officials suggest complacency and denial. For example, despite the decade-long pattern of excessive force, then-Chief John S. Farrell used a downturn in citizen complaints to champion a series of modest reform efforts: "We're not sitting around here in a cheering section for officers who use excessive force," he said. "We're spending lots of time and lots of money on training. And I think we've turned the corner" (Whitlock and Fallis 2001A). John A. Bartlett, president of the local chapter of the Fraternal Order of Police agreed: "We don't believe we have a brutal police department," he said. "There is absolutely no corruption in the Prince George's police department" (Whitlock and Stockwell 2000). It is reasonable, perhaps, to expect that police leadership would defend the status quo; that is part of their job, even under the worst of conditions. When the County Executive takes such a stance, however, the message takes on a much greater significance. In October 2000, that is exactly what Wayne K. Curry did. In the wake of several reported fatal beatings and shootings by PGPD officers, Curry seemed to sanction police misconduct by stating simply, "People don't want no pansy police force" (Whitlock and Fallis 2001B).

Justice Department Intervention

In October 2000, almost nine months before the Post series was published, Justice Department officials began a formal pattern or practice investigation into PGPD's use of force (PGPD MOA 2004, ¶1). Several factors led to the DOJ inquiry, the most important of which was the spike of violence involving PGPD officers in the late-1990s and early-2000s. In 1999 alone eight men died after struggling with department officers (Whitlock 2000) and in the eighteen months leading up the DOJ's announcement, the FBI had reviewed over 20 separate PGPD-related incidents, including several police shootings (Whitlock and Stockwell 2000). Between 1999 and 2002, the DOJ initiated 33 criminal investigations into alleged civil rights violations

involving PGPD officers (Schwartzman 2002). What is more, the DOJ's investigation began shortly after two federal courts awarded victims of PGPD abuse some $4.6 million in damages (Whitlock 2000). One estimate put the county's police misconduct-related payouts between 2000 and 2004 at $10 million (Castaneda and Stockwell 2004).

By October 2000, the Justice Department was already intimately aware of problems within the PGPD; several months earlier, the DOJ initiated an investigation into PGPD's canine unit in response to almost thirty lawsuits filed by people claiming to have been attacked by police dogs (Whitlock and Stockwell 2000; Castaneda and Stockwell 2004).[23] Members of the Prince George's County's civil rights community also supported DOJ intervention. In an April 2000 meeting with DOJ officials, members of the local NAACP presented a "long list" of complaints against the police while urging a wider federal investigation into the department (Whitlock, 2000).

After a lengthy investigation, the DOJ determined that PGPD had

> failed to adequately train, supervise, and monitor officers; to investigate, review and evaluate use of force incidents; to investigate alleged misconduct, and discipline officers who are guilty of misconduct; and to implement effective systems to ensure that management controls adopted by the Prince George's County Police Department are properly carried out (*U.S. v. Prince George's County, Maryland*, Jan. 22, 2004).

To remedy these problems, the PGPD MOA adopts a structure and content very similar to those settlement agreements established in Pittsburgh, Washington, D.C., and Cincinnati. The terms of the MOA require changes to PGPD use of force policy and reporting protocols (¶¶ 34 – 39); "evaluation, documentation, and review of uses of force" (¶¶ 40 – 48); officer training (¶¶

[23] On January 22, 2004, Prince George's County, the Prince George's Police Department, and the Department of Justice entered into a formal Consent Decree to remedy what the DOJ termed "a pattern or practice of excessive force by officers of the Prince George's County Police Department Canine Section (the "Canine Section") and by the failure of the County Defendants to adopt and implement proper management practices and procedures." See Consent Decree Between the United States Department of Justice and Prince George's County, Maryland and The Prince George's County Police Department, Jan. 22, 2004.

49 – 59; "receipt, review, and investigation of misconduct allegations" (¶¶ 60 – 74); and the development of further officer accountability systems, including an improved "early identification" system and a protocol for conducting internal "integrity audits" of the department (¶¶ 75-90). Without any explanation, the DOJ set the PDPG MOA's termination date at three years from the agreement's inception, rather than the customary five years. Eduardo Gonzalez, a former police chief in Tampa, Florida led the independent monitor team selected to oversee the implementation process. Their first report was issued in September 2004.

Public Reaction

Reaction to the MOA was very similar to that of agreements in other jurisdictions. County officials, many of whom took part in the DOJ negotiations, touted the agreement's potential for reform. Former state's attorney Jack B. Johnson, elected as County Executive in 2002 on the strength of his campaign pledge to change the culture of the PGPD, said that the canine-related consent decree and excessive force MOA together "allow our police department to effectively work with our community, to carry out its duties and obligations" (Castaneda and Stockwell 2004). For his part, PDPG police chief Melvin C. High, hired by Johnson in 2003,[24] called the changes detailed in the MOA "necessary," adding that the department is "committed to ensuring the civil rights of our citizens and our officers. We're committed, we're dedicated, and we're determined to make this work" (Castaneda and Stockwell 2004).

Percy Alston, president of the Prince George's County FOP, saw the MOA in more reasoned terms. Alston noted that most union members were satisfied with the terms of the agreement and confident that police leaders would work to efficiently implement changes. He also made clear that such mandates were not going away: "I'm not sure it's something I like, but

[24] Melvin High resigned on July 31, 2008, after guiding much of the MOA implementation. He was replaced by Roberto Hylton, a twenty-five year veteran of the PGPD.

it's something that we have to work with, Alston said. "And we will work with it in a positive manner" (Stockwell and Castaneda 2004).

Some members of the county's civil rights community chose to take a positive view of the DOJ intervention. Eileen Thomas, head of the Citizen Complaint Oversight Panel, made clear that her agency is "trying to keep a positive spin" on the MOA. Thomas went on to assert her belief in the power of the settlement to change police-community relation in Prince George's County: "We want people to know that changes are being made so that their negativity toward the department can turn into a positive attitude" (Castaneda and Stockwell 2004).

Others, however, were more skeptical. Redmond Barnes, a member of the People's Coalition for Police Accountability, said that "many of the officers who have engaged in misconduct are still on the force. I don't see them changing their spots just because of" the MOA. "It's not a cure-all," said Barnes. "Maybe it's a step in the right direction. The burden is now on the chief to hold officers accountable" (Stockwell and Castaneda 2004). Gustavo Torres, executive director of CASA of Maryland, an immigrants' rights non-profit organization, agreed, noting the many challenges ahead, including "follow[ing] through and mak[ing] sure the police department makes good on its promises and ceases to brutalize people of color" (Castaneda and Stockwell 2004).

Epilogue

On January 15, 2009, some five years after the MOA was instituted, the independent monitor team filed its final report, documenting PGPD's substantial compliance with all but one of the 69 substantive provisions of the agreement (PGPD Eighteenth Independent Monitor

Report Jan. 15, 2009).[25] In announcing the MOA's formal termination, two years after the scheduled three-year deadline, County Executive Jack B. Johnson claimed victory: "We have rebuilt a police department that was once and now is considered a model for law enforcement," Johnson said. "I want everyone to know that our commitment to improvement that we have made while under DOJ oversight will not wane simply because the department is not longer watching" (Davis 2009).[26]

Despite achieving the reforms mandated by the MOA to the satisfaction of the independent monitor and the Justice Department, much of the broader context that contributed to the problems in the 1990s remains unchanged. The LEOBR 10-day waiting period remains part of Maryland state law, as do limitations placed on the CCOP's power to subpoena information regarding police misconduct and to levy binding recommendations.

Like much of the rest of the county, crime in Prince George's County is down precipitously. On February 4, 2009, shortly after the MOA was terminated, the Washington Post published an editorial lauding what it calls a "stunning three-year drop in crime," and attributing some of this success to enhanced PGPD officer training requirements and other MOA-driven reforms (Washington Post 2009).

Officer use of force data tells another story, however. In an August 14, 2008 piece, the Post documented 14 shootings in Prince George's County in the first 8 months of 2008, six of them fatal, noting that the 2008 total was the highest number of fatal shootings since 2004, when the DOJ intervened (Washington Post 2008). Taken together, a series of incidents that

[25] At the end of the five-year implementation process, PGPD was still unable to meet the 90-day requirement for completing misconduct investigations (PGPD Eighteenth Independent Monitor Report Jan. 15, 2009, 16).

[26] As will be discussed at length in Chapter 6, Jack Johnson was indicted recently on several counts of official corruption as part of a widespread pay-to-play scheme. On May 17, 2011, Johnson pleaded guilty "to two felony counts, extortion and conspiracy, and witness and evidence tampering" in federal court in Greenbelt, Maryland (Castaneda and Spivack 2011). As of this writing, Johnson awaits sentencing.

occurred in the last ten months involving the Prince George's County police – including, among others, the severe beating of a University of Maryland student and attempted cover-up (Castaneda 2010); a cheating scandal that implicated several PGPD officers taking a department promotional examination (Zapotosky 2010); and several criminal indictments of PGPD officers (Castaneda et al. 2010; Thompson and Cauvin 2010) – seem to suggest at even after five years under federal control PGPD remains a work in progress.

Table 4. Summary of case study – Prince George's County, MD

History and context

- Prince George's County is a primary destination for African-Americans moving from Washington, D.C. to the suburbs
- Beginning in mid-1980s, Prince George's County Police Department (PGPD) develops a reputation for violence and racial insensitivity
- In 1990s and early-2000, the Washington Post documents in several stories corruption and unlawful activity among PGPD officers

Justice department intervention

- In October 2000, DOJ officials began an investigation into PGPD use of force
- On January 22, 2004, the DOJ, Prince George's County, and the PGPD agreed to a memorandum of agreement (MOA)
- MOA termination date set for January 2007

Public reaction

- City officials and police leaders tout potential of MOA
- FOP response mixed, as is response of community groups

Epilogue

- After being extended by two years, MOA terminated on January 22, 2009 after five years

Conclusion

This Chapter described the context within which alleged police misconduct led to Justice Department Pattern or Practice settlement reform initiatives in Pittsburgh, PA; Washington, D.C.; Cincinnati, OH; and Prince George's County, MD.

Though each case presents a set of unique facts, several generalizations can be made. First, the inextricable link between race and police misconduct is particularly acute in pattern or practice jurisdictions. Though policing scholars have for years noted the connection between race and police use of force (e.g., Skolnick and Fyfe 1993), the data presented in each of these cases highlight the importance of this connection to the context of Section 14141 enforcement. Since the late-1960s, formal reports, legal opinions, and newspaper accounts have documented thoroughly the toll police violence can take on a community.

Second, each of these jurisdictions have a long history with police misconduct. Dating at least to the 1960s, police use of force and perceptions of bias and official impunity shaped the relationship between the police and the community in Pittsburgh, Washington, Cincinnati, and Prince George's County. Further, there is a long history of failed reform. In many cases, blue ribbon commissions, from the Kerner Commission report in 1968 and the work of the Civil Rights Commission in the 1980s to local efforts in several jurisdictions, have studied the problem and offered prescriptions for change. In most cases, these suggested reforms appear to have either been ignored or have not taken hold. Simply put, the persistence of police abuse is not a matter of failed diagnosis.[27]

Third, policy decisions – be they "get tough on crime" initiatives like those developed in Pittsburgh or laws in place to protect the rights of police officers – often have unforeseen and unintended consequences. And these consequences may serve to complicate police-community relations while entrenching pathologies in the police culture.

These themes help to provide a broader understanding of the complex issues surrounding official responses to systematic police misconduct, and make possible a detailed

[27] A central question of this study – and a critical issue in both civil rights law and criminal justice policy – is whether the enduring nature of these problems reflects failures of policy prescription, political will, or some combination of these and other factors.

discussion of Section 14141 reform generally, as well as the implementation and institutionalization of settlement initiatives generated by DOJ Pattern or Practice interventions.

CHAPTER 3

THE PROBLEM OF IMPLEMENTATION

> A policy's value…must be measured not only in terms of its appeal but also in light of its implementability.
>
> ---Jeffrey Pressman and Aaron Wildavsky, *Implementation*

Introduction

This Chapter explores the challenge of policy implementation. For generations, policy scholars and practitioners from countless fields have documented the importance of implementation yet struggled to understand and manage the process. Despite decades of research and practical experience, a very distinct set of questions continue to define the issue, including, most essentially, how to bring actual agency behavior in line with the goals described in the policy instrument.

Section 14141 investigations into police misconduct have resulted in a distinct type of public policy, one whose implementation has not been the subject of formal scholarly analysis.[28] Pattern or practice settlement agreements have many of the same characteristics as policy generated by the 'normal' process of legislative, executive, and even judicial policymaking, but represent an unfamiliar hybrid, with a process, structure, and policy substance entirely unique to the American landscape.

The existing policy implementation literature neither contemplates Section 14141 reform, nor any policy type that approximates it. The scholarship that focuses specifically on

[28] Scholars have conducted empirical analysis of the consent decree/MOA process in three cities: Pittsburgh (Davis et al. 2002; Davis et al. 2005), Cincinnati (e.g., Riley et al. 2005; Ridgeway et al. 2006), and Los Angeles (Stone et al. 2009). These reports focus primarily on outcomes and address only in very brief passing those factors that either hindered or helped implementation.

Section 14141 tends to emphasize the legal implications of the process and to date has yet to consider policy implementation in any sort of depth. In general, criminal justice scholars tend to overlook the importance of policy implementation: Despite the extensive research into reform efforts like community policing and strategic innovations like Compstat, policing scholars tend to focus on outputs and outcomes rather than on the process of change.[29] There are exceptions, however. A small cadre of criminal justice scholars, including Maguire (e.g., 1997) and Willis, Mastrofski, and Weisburd (e.g., 2007), have for years recognized the importance of implementation, yet none has examined the implementation of pattern or practice reform. Similarly, none of the justice-based research into the Section 14141 initiative has considered the implementation of pattern or practice settlement agreements.

With that said, this Chapter attempts to answer the following research questions:

(1) To what extent have effected jurisdictions implemented the terms of pattern or practice settlement agreements developed pursuant to Section 14141?

(2) Which factors explain the implementation of pattern or practice agreements?

(3) To what extent are those factors consistent with research that examines implementation of other policy types and substantive foci?

The Chapter begins with a review of the relevant literature. I start by attempting to define the nature of the problem – what makes policy implementation so difficult? In so doing, I address early implementation literature and draw on organizational theory to describe why so many public programs and government initiatives have stalled at the implementation phase. In the broadest terms, organizations generally, and in particular highly discretionary organizations like police departments, tend to resist change. These organizations are highly effective at maintaining the status quo, an equilibrium often seen as threatened by policy reform or

[29] There are exceptions, of course, including, Skogan's (1994; 1996) research on community policing in Chicago. Relevant findings from these and other studies will be discussed as I develop the model of analysis.

organizational change. This reality tends to increase the challenge of policy implementation, which, even under ideal circumstances, is inherently difficult.

Next, I describe the earliest implementation scholarship. In surveying this literature, much of it driven by detailed case studies, I attempt to summarize the field's key theoretical underpinnings and set the foundation for the current analysis. In the Chapter's third section I develop a framework for identifying the several factors that help to explain successful implementation efforts. To that end, I build on Mazmanian and Sabatier's 1989 policy implementation framework as a means of organizing findings from what is a broad and diverse body of implementation research. I conclude by reviewing briefly both the data and the methods I use to test the framework.

Theoretical Underpinnings

Much of the early implementation literature – especially that of the "first generation," written in the late-1970s and early-1980s – is profoundly negative. The field itself sprung from disappointment surrounding two signature federal policy efforts: (1) the perceived failures of Great Society programs to achieve their idealistic goals; and (2) the defiant recalcitrance of Southern public schools following the Supreme Court's decision in *Brown v. Board of Education* (1954). Several early works examined these perceived failures with a coroner's attention to detail in assigning the cause of death. The goal of this work was to consider carefully the *process* of implementing public programs in order to assess what worked, what did not, and to evaluate why so many well-designed initiatives ended in frustration. These studies are descriptive, highly analytical, and mostly diagnostic in nature. Though many attempt to salvage the wreckage with a set of prescriptions, the emphasis clearly is on identifying the problem, not fixing it. In reading this work one cannot avoid the strong sense that certain things might/could matter greatly, but

that even attention to those elements will not likely lead to success. Beyond the notion that policy implementation is a complex and inherently difficult task (Pressman and Wildavsky 1973), there is no central theoretical principle, nor a prevailing organizational structure to these findings. Like many early efforts, these works are ad hoc, with narrow, often conflicting findings.

Despite this lack of generalizability, this early work set the field on a valuable new trajectory. Most importantly, these authors demonstrated the value of implementation as a means of achieving policy ends. As such, this scholarship was a departure from public administration's orthodox thinking – that of Wilson and Weber, Gulick and Urwick – which conceived of the government agency as machine-like, steadily translating political decisions into objective policy outputs. Though these early administrative theorists were concerned with top-level organizational structures rather than policy development or service delivery, a natural extension of this intellectual design is the notion that public policy was self-executing and would operate in reality exactly as it was designed on paper.

By the 1950s, the myth of this early thinking was supplanted by a recognition that what happens in government agencies is in fact eminently political and largely the function of human behavior. Despite every effort to control bureaucracies, agency output was rarely mechanistic and seldom adhered to policy blueprints. In many cases, the unpredictability and non-compliance observed in the operation of bureaucratic agencies was tied to a disconnect between line employees and their superiors. According to Halperin and Clapp (2007), three broad categories of behavior explained such "noncompliance" (see also, Kaufman 1973):

(1) Lack of knowledge (i.e., agents do not know what their superiors want)

(2) Lack of agency (i.e., agents are not capable of doing the job)

(3) Lack of will (i.e., agents refuse to do what their superiors want)

Organizational theorists have for decades counseled that government agencies are almost uniformly resistant to change, an orientation driven at some level by the individual employee "noncompliance" (e.g., Merton, 1957; Downs, 1967; Fernandez and Rainey, 2006). Clearly, a steadfast commitment among agency employees to the financial, structural, intellectual, and emotional status quo would complicate the process of implementing new policy (Staw, 1976). But, as early policy implementation scholars discovered, an agency's resistance to change is only one small part of the challenge. What follows is a closer look at several examples from the early implementation literature.

The "First" Generation

Pressman and Wildavsky's (1973) examination of a signature Great Society program – the Economic Development Administration's (EDA) effort to create 3,000 jobs in Oakland, CA – emphasized the perils of "the complexity of joint action," or the additive effects of problems caused by shifting actors, divergent perspectives, and multiple decision points. In what many see as the seminal work on policy implementation, the authors anticipated few if any problems in the implementation of the EDA's jobs program. After all, federal, state and local officials favored the program, as did business leaders and labor groups.

Pressman and Wildavsky's "great expectations" were dashed by the discovery that even the most artfully constructed and widely supported policy was inherently too complex to succeed. Following a close review of the EDA's experience in Oakland, the authors conclude that failure will overcome even the most highly motivated, well-informed, thoroughly funded policy initiative. The implementation problem – defined by the "evils that afflicted the EDA program in Oakland were of a prosaic and everyday character" – was intractable (Pressman and Wildavsky 1973, xii).

Despite their pessimistic outlook, the authors do prescribe several potential solutions, most of which seem to revolve around tempered expectations. First, they argue, policy implementation should be considered at the design phase. The more thoroughly policy designers conceive of and anticipate implementation problems, the more successfully they will be able to avoid them. This may be accomplished by "consider[ing] more direct means for accomplishing…desired [policy] ends" (143) and by focusing on the "organizational machinery for executing a program" (146). Second, Pressman and Wildavsky stress the importance of continuity of leadership during the implementation process as well as the value of simplicity: "The more directly the policy aims at its target, the fewer the decisions involved in its ultimate realization and the greater likelihood it will be implemented…Simplicity can be ignored only at the peril of breakdown" (147).

Eugene Bardach's 1977's volume, *The Implementation Game*, reviews California's effort to reform state mental health services, an initiative that he describes as a consistent failure. Much of Bardach's pessimism is rooted not in the structure or characteristics of the process itself or the varied preferences of outside actors, but in the mostly internal political and bureaucratic "games" that impede implementation. Much of his time is spent describing these games and developing strategies for overcoming them.

The games Bardach identifies – whether related to agency resources, deflection of responsibility, shirking, or policy fatigue – are about the pursuit of power, resistance to organizational change, and perhaps most crucially, the exercise of bureaucratic discretion at all levels of the implementation structure. These games reflect issues of politics and control and in the author's view tend to infect the implementation of nearly every policy implementation initiative, regardless of form or substance. Despite the long literature on organizational

resistance to change, Bardach's work was one of the first to identify the link between this type of bureaupathology and implementation-driven policy failure.

Bardach sees several possible solutions to overcoming the drag of implementation games, beginning with those driven by policy design: "The most important approach to solving, or at least ameliorating, [implementation problems], is to design policies and programs that in their basic conception are able to withstand buffeting by a constantly shifting set of political and social pressures during the implementation phase" (Bardach 1977, 5).

In addition to strategic policy design, Bardach identifies the use of specific management tools, political skill, and a deep commitment to change as antidotes to common implementation games. In fact, according to Bardach, the "major explanation" for problems related to implementation of organizational innovation is "failure on the part of management or of some 'change agent' to overcome the natural resistance of organizational members" (Bardach, 45).

Bardach characterizes the process of overcoming such resistance as "fixing the implementation game." "Fixers" can be coalitions or individuals, insiders or outsiders, but they must be resourceful, endowed with an abundance of information, and capable both politically and managerially of identifying and working to solve problems. It is perhaps the difficulty of the job and the scarcity of circumstances where fixers can operate successfully that force Bardach to note that his is "not an optimistic book" (Bardach, 6).

For its purportedly negative view on the issue, Bardach's analysis is more positive than Martha Derthick's 1972 analysis of the President Lyndon Johnson's New Towns program, a federal initiative designed in 1967 to bring low cost, high quality housing to inner cities in the United States. Like Pressman and Wildavsky, Derthick describes a program whose considerable organizational and institutional challenges brought it down before much if any progress was made.

Unlike Bardach, Derthick does not blame failure on a resistance to change. In fact, her analysis had little to do with the operation of the implementing agencies themselves. The problem in her view was rooted in the inherent weakness of the federal government as a mechanism for bringing about change at the local level. The federal government simply lacked the tools to shape local incentives and the knowledge of local politics to anticipate and overcome resistance. Further, federal officials were unable grasp the complexity of the issue and failed to identify the diversity of preferences among municipal actors, constituent groups, and private residents. These flaws were exacerbated by the federal government's hubristic sense of its own authority on the issue and the propriety of the New Towns program. In short, "[f]ailure resulted mainly from the limited ability of the federal government to influence the actions of local governments and from its tendency to conceive of goals in ideal terms" (Derthick, 83). As Section 14141 reform is based on the enforcement of federal law against local actors, Derthick's observations are of clear relevance.

Derthick offers various prescriptions for overcoming the problems that characterize the implementation of federal programs like New Towns. She highlights the value of cooperation and political alignment among local actors; ample resources for the initiative, particularly in terms of federal aid; and heightened attention among members of the federal government to the particularities of local politics.

The deep pessimism described in the social policy cases presented by Derthick, Pressman and Wildavsky, and Bardach, is not unique among early implementation scholarship. Myriad other examples could be substituted, including, for instance, Radin's 1977 study of Title VI of the Civil Rights Act of 1964, which examines the federal department of Health, Education, and Welfare's (HEW) efforts to manage school desegregation in the mid-1960s.

What is clear from these early case studies is that the implementation of public policy is possible, but very difficult, even under ideal conditions. Failure is often found in the banality of everyday tasks and the inherent complexity of a process that requires the interaction of multiple actors and varying perspectives. Active resistance to change can define certain implementation challenges, whether in the form of internal game-playing or other expressions of recalcitrance, opposition, or outright defiance. The very nature of the policy and the definition of the implementation process may also affect success or failure.

This research showed that interorganizational implementation is more complex than single-agency implementation, particularly when the policy initiative mandates local implementation of federal programs. Further, highly discretionary agencies like police departments tend to have a harder time with the task than do centralized, heirarchical bureaucracies. In short, the early policy implementation literature suggests that the implementation of Section 14141 pattern or practice reform will be a steep climb. What follows is an examination of a set of prescriptive and theoretical literature that at once questions the premises of "first generation" findings, while counseling readers on how to make the implementation climb a little less treacherous.

The "Second" Generation[30]

The experience of studying carefully the plight of laws passed with such idealism and hope prompted the likes of Derthick, Pressman and Wildavsky, and Bardach to advocate for a retrenchment of government ambition. Implicit in Pressman and Wildavsky's call for "simplification" was a narrowing of government's aims. If even the ideal type was doomed to fall short, how could anything work? With the lessons of this early literature – and the endemic

[30] Implementation scholars have also christened a "Third Generation" (Goggin et al. 1990), which examined implementation using quantitative, large-n data. Because this dissertation relies on qualitative data to examine comparative cases, the third generation research is not discussed in detail.

negativity it surfaced – internalized, several other policy implementation academics took to the task of developing analytical and theoretical models to promote success. Though framed using different terms and disparate emphases, these works present many of the same themes that appear in earlier literature: politics; discretion and authority; resources; and the value of flexibility.

Paul Berman and Milbrey McLaughlin published a series of papers in the mid-1970s evaluating the federal government's effort to promote "innovative practices in local public schools" (McLaughlin 1990, 11). Their research, which examined reform efforts in over 200 American school districts, offers yet another set of descriptive findings and at least two major conceptual ideas. First, Berman and McLaughlin characterize organizational change in terms of two levels of implementation: macro and micro (McLaughlin and Berman 1975, 1). Though similar to other descriptions of "macro" problems faced by federal actors during the design phase (following Derthick) and "micro" problems seen by local level bureaucratic agencies during the implementation phase (following Pressman and Wildavsky), their work emphasizes in a unique way the interrelated and interdependent nature of this two-tiered federalist system.

What is more, Berman and McLaughlin focus on the importance of discretion and power maintained by teachers and other front-line workers: "[E]ffective power lies at the base of the macro-structure with the local implementers and the 'street-level bureaucrats'" (Berman, 1978, 20). It is perhaps this understanding that allows the authors to recognize the importance of what they term "mutual adaptation," or the flexibility of actors throughout the implementation process to adjust the original program goals and the orientation of the institutional environment in order to create a feasible policy implementation. By echoing the importance of organizational learning, policy adaptation, and program evolution, Berman and McLaughlin, Majone and

Wildavsky (1984), and others, highlight the pathology of Derthick's rigid, arrogant federal government.

Richard Elmore's work illuminates many of these same themes in his discussion of "backward mapping." To Elmore, implementation success is less a function of the top-down, command and control style approaches described by Derthick, Pressman and Wildavsky, and Berman. Not only does Elmore question the viability of unidirectional efforts, he minimizes the importance of structural elements altogether. Instead, Elmore emphasizes the centrality of "factors that can only be indirectly influenced by policymakers: knowledge and problem-solving ability of lower-level administrators; incentive structures that operate on the subjects of policy; bargaining relationships among political actors at various levels of the implementation process; and the strategic use of funds to affect discretionary choices" (Elmore, 1979-80, 605).

Elmore's questions about the direction of implementation, the allocation of power and the attempt to control bureaucratic discretion all appear in Rein and Rabinowitz's 1978 piece, "Implementation: A Theoretical Perspective." Rein and Rabinowitz (1978) argue that the divergence between a policy's stated goals and its operation in practice is a function of three "potentially conflicting imperatives" among those actors tasked with policy implementation. These actors face a legal imperative to "do what is legally required" by the policy instrument; there is a rational-bureaucratic imperative to do what the actor believes is "rationally defensible," moral, and most effective; and the consensual imperative "to do what can establish agreement among contending influential parties who have a stake in the outcome" (308). The authors suggest that these imperatives tend to be represented by different actors: the legal imperative by the policy makers themselves (whether legislative, executive, or juridical); the rational-bureaucratic by those agency employees charged with implementation (whether

federal or non-federal); and the consensual by third party actors (whether public, private, for- or non-profit) with a stake in the outcome of the process itself.[31]

According to Rein and Rabinowitz, these competing imperatives lie at the heart of most implementation problems, and reflect the core of the issue more acutely than does any "complexity of joint action" or innate pathology in our federal system. The authors argue that the problems described by Pressman and Wildavsky, Derthick, and others are mere symptoms of the tri-part tension they observe. In fact, it is the politics of overcoming conflicts between and among these imperatives that best define policy implementation. They conclude by reminding readers that the bureaucratic and political setting within which these conflicts occur matters greatly: "The way which conflicts are resolved is a function of the purposes (their clarity, salience, and consistency), the resources (kind, level, and timing), and the complexity of the administrative process of implementation" (333).

Nakamura and Smallwood (1980) propose a model quite similar to that of Rein and Rabinowitz. Rather than framing the implementation process around 'imperatives,' they rely on the metaphor of 'environments.' To Nakamura and Smallwood, the policy implementation environment is characterized by several specific actors; organizational structures; and bureaucratic norms, which include an agency's internal procedures, the resources available to manage the implementation, and the psychological motivations and norms that drive individual behavior within the implementing organization. The implementation environment is linked to separate 'environments' that define policy formation and policy evaluation. These three

[31] Contrast the Rein and Rabinowitz framework with that of David Rosenbloom's 1983 piece, which argues that public administrative theory is defined by three distinct approaches: the "managerial," the "legal," and the "political." According to Rosenbloom, each approach "has relatively separate origins, emphasizes different values, promotes different organizational structures, and views individuals in different terms. These three approaches reflect the constitutional separation of powers, which has tended to collapse into the administrative branch as a consequence of the rise of the contemporary administrative state."

environments are held together through 'linkages,' the phrase Nakamura and Smallwood use to describe the politics of defining policy goals, the assignment of discretionary authority, and the development of command structures through which policy implementation and evaluation will occur.

Nakamura and Smallwood introduce to the discussion a concept that other studies largely omitted from full discussion: leadership. Specifically, the authors charge 'leaders' with holding the policy process together by managing the 'linkages' between the three policy environments. Without a strong and capable leader to coordinate the process, they argue, few policy goals will ever be met. Though their definitions could be much broader and more clearly defined, the presence and importance of organizational and policy leadership to the implementation process adds needed depth to picture.

This "second generation" of policy implementation scholarship expands greatly the theoretical concepts and analytical approaches to studying policy implementation. The abject pessimism of Derthick, Bardach, and Pressman and Wildavsky was largely overcome by a diversity of ideas. Taken together, one gets an expansive, almost unwieldy, picture of the policy implementation process. It is clear, for instance, that when translating policy goals – typically, as set by Congress – into agency outputs, several factors are thought to matter, including the availability of resources, the role of politics and negotiation, agency organization, bureaucratic discretion, and environmental context, among others. But much of the advice found in this literature is ad hoc, and often either inconsistent or contradictory. What is more, there is no theoretical framework to guide the interpretation and application of these early findings. As Berman and McLaughlin (1973) note, in the absence of a theoretical framework within which to marshal these insights, policy implementers may face "principles leading to divergent

alternatives and inadequate information (and understanding) to choose among them" (see also, O'Toole 1986; O'Toole 2000).

The next step, then, is to establish a means of bringing together this disparate learning so as to explain systematically the implementation of public policy. To do so, one must first account for the effects of policy type.

Policy Type and Policy Substance

Does policy type matter when considering implementation? The answer provided by existing research is very much ambiguous. Perhaps owing to the field's genesis in Great Society post mortem, most early policy implementation studies focus on the federal government's efforts to affect social policy change by either legislative or executive branch means. Pressman and Wildavsky evaluated an inner city economic development program borne out of the Public Works and Economic Development Act of 1965. Radin considered the implementation of public school desegregation policies within the U.S. Department of Health, Education, and Welfare under authority established in Title VI of the Civil Rights Act of 1964. Derthick's New Towns program was developed by President Johnson and implemented by several agencies within his executive branch.

As such, with an emphasis on federal legislative and executive policy, much of this theoretical policy implementation scholarship overlooks judicial policy. And many of those that do consider judicial policy treat it as indistinguishable from other policy types, arguing implicitly that their theoretical models can be applied seamlessly to the implementation of court cases. Mazmanian and Sabatier, for example, test their comprehensive framework on the implementation of *Brown v. Board* in school districts across the United States and report no significant distinctions between the implementation of the Court's opinion and that of the several other policy types they examine. Some scholarship does consider judicial policy a unique

case, and have developed models to examine them specifically (see, e.g., Wasby 1970; Baum 1976; Nakamura and Smallwood 1980, Chap. 6; Canon and Johnson 1999), but offer few if any prescriptions that matter considerably for the study of Section 14141 reform.[32]

How should a Section 14141 pattern or practice settlement agreement be characterized? The answer to this question is also largely ambiguous. One could conceivably argue that it bears some imprint of policy created in each of the three federal branches. As discussed in Chapter 1, the authority of the DOJ's Special Litigation Section (SPL) to investigate systematic violations of U.S. Constitutional law is derived from Congress's 1994 Violent Crimes Act. Of course, SPL is an office within the Department of Justice, a core component of the Executive Branch; and SPL attorneys are unelected, nonpartisan federal bureaucrats enforcing legislative policy. Unlike legislative or executive policy, however, pattern or practice settlements operate like binding, judicially enforceable contracts. Their implementation is overseen at the highest levels by federal judges and monitored by agents who carry with them the imprimatur of the court. What is more, at issue in the Section 14141 investigation-settlement process is a systematic violation of constitutional law, a standard that is traditionally determined by judges.

In terms of substance, process, actors, and policy consumers, implementation of constitutionally-driven remedial law is probably the closest analogue.[33] The legal scholarship examining remedial law, which tends to focus on normative arguments related to a judge's managerial competency, does not emphasize implementation. Of the handful of studies that

[32] Baum (1976), like many others, emphasizes the importance of *stare decisis* and the structural particularities of the judicial system as distinguishing judicial policy from legislative or executive policy types. Supreme Court cases, for instance, are interpreted by lower level courts, a fact that may or may not affect the policy's broad implementation. Though of considerable interest, this process is not especially relevant to a policy type that must limit its influence to one jurisdiction.

[33] Remedial law is a term used to describe the judicially-managed process of brining public bureaucracies in line with constitutional law. Through the enforcement of constitutional rights, remedial litigation has contributed to the desegregation of local school districts (e.g., *Milliken v. Bradley* 1977), reform of public prisons (e.g., *Ruiz v. Estelle* 1980), the deinstitutionalization of mental health facilities (e.g., *Youngberg v. Romeo* 1982).

consider remedial law from the perspective of the affected agency, including, for example, Rosenbloom et al. (2010, Chap. 8), Wise and Christensen (2005), Wise and O'Leary (2004), Bertelli (2004), Bertelli and Lynn (2003) none considers implementation in detail. Several case studies do touch on the implementation of remedial decrees, including Wood (1990), Chilton (1991), Harris and Spiller (1977), Cooper (1988), DiIulio (1990), and Feeley and Rubin (1998), though most do not treat the issue systematically.

Pattern or practice settlement agreements represent a unique policy type, heretofore unexamined by either policy implementation or organizational change scholars. In order to build on the theoretical literature described above and to marshal the several competing analytical approaches to the issue, I attempt to develop a framework that will account for their uniqueness and help to explain the implementation of Section 14141 reform. Because Section 14141 settlement agreements have yet to be the subject of scholarly analysis, I use as the rough building block what I believe is the most coherent, comprehensive, and generally applicable of the existing frameworks: Mazmanian and Sabatier's 1989 effort.

In the next section, I describe the Mazmanian and Sabatier framework while supplementing it with the empirical findings of scholars who have studied the implementation of remedial decrees, judicial decisions, and police department organizational reforms. The goal of this effort is to build a framework designed specifically to explain the implementation of pattern or practice reform.

A Framework for Implementing Pattern or Practice Reform

In 1989, Daniel Mazmanian and Paul Sabatier developed a theoretical approach to the implementation process that attempts to explain implementation success and failure by

marshalling many of the themes, observations, and elements discussed in earlier research.[34] It is arguably the most comprehensive, easily accessible, and thoroughly tested framework available.

Mazmanian and Sabatier present four categories of factors thought to affect the implementation of public policy, beginning with those defined by the nature of the problem at issue. Simply put, some policy issues are more tractable than others, and the "easier" a problem is to solve, the more likely it is that the policy solution will be implemented successfully. The second set of factors include those variables that are defined by the policy instrument itself, including, for example, the clarity and precision of the policy's objectives. Contextual factors comprise the framework's third category, and include such things as the nature of sovereign support for the initiative and the health of the economy. The final component of the framework incorporates factors related to the implementing agency itself.

Though the framework that follows is built around the work of Mazmanian and Sabatier, there are several areas where my framework diverges. As will become clear in subsequent passages, I do not subscribe to many of the authors' assumptions and add considerable depth to their original vision.

Problem Tractability Factors

The first set of variables included in the Mazmanian-Sabatier framework addresses those elements related to the tractability of the public problem at issue. On the theory that some problems are simply easier to solve than others, Mazmanian and Sabatier argue that these elements account for variability in problem tractability, beginning with *(a) the "ability to develop relatively inexpensive performance indicators and an understanding of the principal causal linkages affecting the problem"* (Mazmanian and Sabatier 1989, 21). To illustrate this point, the

[34] Mazmanian and Sabatier's 1989 volume is the second edition; the first was published in 1983. This material is heavily influenced by the writings of Donald Van Meter and Carl Van Horn (1975).

authors compare the examples of school desegregation in the south with federal efforts to control air pollution. In the case of the former, measuring the percentages of black and white children in public schools across the southern United States presents few if any technological problems or challenges in the development of causal solutions to the defined problem. Measuring air pollution, on the other hand, presents a much deeper challenge. The development of standards for ambient air quality and the uniform measurement of carbon emissions, for example, defy objective, clear-cut solutions. In short, Mazmanian and Sabatier see those problems that are easier to articulate as more tractable and thus easier to implement as designed.

The second variable affecting problem tractability is *(b) the diversity of the proscribed behavior*. The authors state simply, "the more diverse the behavior being regulated or the service being provided, the more difficult it becomes to frame clear regulations and thus the greater discretion which must be given to field level implementers" (Mazmanian and Sabatier 1989, 23). Decades of research on the use of discretion among public actors (e.g., Davis 1969; Lipsky 1980) supports the notion that broad discretion at the lowest levels of an agency, especially when coupled with autonomy and a lack of supervision (Lipsky 1980), tends to result in greater variation in the performance of individual responsibilities. This degree of variation and relative unpredictability no doubt affect program implementation.

The third set of variables affecting problem tractability are those related to (*c) the extent of behavioral change required by the policy solution*. The authors operationalize this concept in terms of both "the number of people in the ultimate target groups and the amount of change required of them" (Mazmanian and Sabatier 1989, 24). They go on to state that the "basic hypothesis is…that the greater the amount of behavioral change, the more problematic

will be successful implementation" (Mazmanian and Sabatier 1989, 24). Several studies, including Durant (1984) and Mueller (1984), have found empirical support for this notion.

Table 5. Modeling the implementation of Section 14141 police department reform

Framework factors	Theoretical source(s)
<u>Problem tractability factors</u>	
Performance indicators	Mazmanian and Sabatier (1989)
Diversity of proscribed behavior	Mazmanian and Sabatier (1989)
Behavioral change required	Mazmanian and Sabatier (1989)
<u>Policy design factors</u>	
Clarity of goals	Mazmanian and Sabatier (1989)
Validity of causal theory	Mazmanian and Sabatier (1989)
Sufficiency of financial resources	Mazmanian and Sabatier (1989)
Hierarchical integration/ Complexity of joint action	Mazmanian and Sabatier (1989); Pressman and Wildavsky (1973)
Stipulation of agency decision-making rules	Mazmanian and Sabatier (1989)
Third-party access to implementation process	Mazmanian and Sabatier (1989)
Judge	Cooper (1988); Wood (1990)
Presence of independent monitor	Wood (1990); Sandler and Schoenbrod (2003)
<u>Contextual/environmental factors</u>	
Socioeconomic conditions	Mazmanian and Sabatier (1989)
Public and media support	Mazmanian and Sabatier (1989)
Constituency group support	Mazmanian and Sabatier (1989)
Support among political leaders	Mazmanian and Sabatier (1989)
Government system	Mazmanian and Sabatier (1989)
<u>Implementing agency factors</u>	
Street-level officers	Van Meter and Van Horn (1975); Mazmanian and Sabatier (1989)
Agency leadership	Bingham and Wise (1996); Dilulio(1990)
Internal implementation strategy	Wood (1990); Rainey and Fernandez (2006)
Incentives to promote compliance	Wood (1990)
Agency resources	Van Meter and Van Horn (1975)

Though these elements are logical, and their relevance to implementation outcomes largely self-evident, the authors caution against "placing too much emphasis on the tractability

of the problem being addressed" (Mazmanian and Sabatier 1989, 24). In their view, the focus for practitioners and analysts should instead be placed on those factors that may be shaped directly by government action.

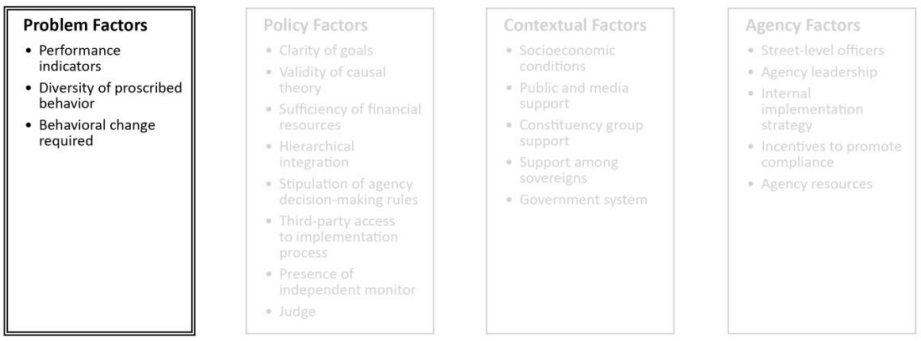

Illustration 1. Problem tractability factors affecting implementation

Policy Design Factors

The second prong of the Mazmanian-Sabatier framework is built around the argument that "policymakers can substantially affect the attainment of legal objectives by utilizing the levers at their disposal to coherently structure the implementation process" (Mazmanian and Sabatier 1989, 25). The first such element used to that end is *(a) the precise and clear articulation of legal objectives* pursued by the policy instrument. In other words, a statute that describes in lucid terms the goals of the program and attaches specific priorities to the means associated with each goal, the more likely it is that the program will achieve the desired ends. What is more, the framework hypothesizes that those programs that articulate tangible, measurable objectives will be easier to implement than those built around broad, loosely-defined goals (see also, e.g., Baum 1976; Berman 1978; Nakamura and Smallwood 1980; O'Toole 1986; O'Toole and Montjoy 1984; Canon and Johnson 1999). The importance of articulating clear, precise goals extends to remedial decrees as well. In discussing the implementation of

school district desegregation decrees, administrative theorist and remedial law expert Shep Melnick urges judges to "be clear in writing an opinion….Try to have your goals as operational as you can at the very beginning….Spell those goals out" (quoted in Wood 1990, 80).

Next, Mazmanian and Sabatier argue that policy implementation is directly affected by *(b) the validity of the causal theory underlying the policy change*. According to the authors, a valid causal theory demands that "the principal causal linkages between government intervention and the attainment of program objectives be understood" and that the government officials responsible for implementation have the ability to actually attain the stated objectives (see also, e.g., Ingram and Mann 1980; Majone and Wildavsky 1984; Durant 1984). This element is closely related to the identification and clear articulation of tangible program goals. The development and assignment of causal theories underlying policy change is much more easily accomplished when program goals are precisely defined. Consider again the example of school desegregation. The causal theory underlying a program designed to increase percentages of black students in previously white-only school districts is more tangible and thus much easier to identify and pursue than is a causal theory tied to a policy geared toward delivering "high quality" education on an equal basis to students of every race.

The third policy-driven factor affecting implementation is *(c) the sufficient allocation of financial resources* needed for program fulfillment. Simply put, without money to hire teachers, train police officers, build infrastructure, et cetera, the policy will not reach its desired end. For example, Cooper focuses on the problems created by a lack of resources when describing the history of mental health reform implementation in the United States: "tensions between administrators and elected officials who nodded in the direction of improved mental health policy by creating new statutes but then refused to appropriate funds for their implementation has been an ongoing problem" (Cooper 1988, 155). The importance of resource allocation is a

central finding of several other implementation studies, including, for example, Berman (1978); Van Meter and Van Horn (1975); Radin (1977); Elmore (1977; 1978; 1979-80); Hogwood and Gunn (1984).

The fourth policy-driven element thought to affect implementation is *(d) the "hierarchical integration within and among the implementing institutions"* (Mazmanian and Sabatier 1989, 27). This element is related directly to the complexity of joint action, which Pressman and Wildavsky identify as the prime cause of policy implementation failure. Mazmanian and Sabatier define the concept of hierarchical integration as a function of the number of "clearance points" involved in the attainment of policy goals, and the degree to which the implementing agency is capable of providing policy supporters the necessary "inducements and sanctions sufficient to ensure acquiescence among those who have a potential veto" (Mazmanian and Sabatier 1989, 27). Successful policy implementation is more likely to occur, then, when there are relatively fewer stages in the process where actors may have the ability to obstruct or delay the achievement of program objectives (Bowen 1982; Durant 1984). This notion also appears to hold true for the implementation of judicially-managed remedial decrees. In reference to school desegregation implementation, Robert Katzmann, a Harvard-trained political scientist and U.S. Second Circuit Court of Appeals judge, states simply: "To the extent that you have many actors involved…obviously it becomes more difficult" (quoted in Wood 1990, 67).

A policy instrument can also affect implementation by *(e) "stipulating the formal decision rules of the implementing agencies"* (Mazmanian and Sabatier 1989, 27). The argument is straight-forward: the extent to which a policy can itself preempt internal debate or negotiation within the implementing agency over the terms, standards, or protocol related to the implementation, the more likely implementation is to succeed.

Next, the implementation literature suggests that *(f) formal access to the implementation process by third-party actors* has the potential to enhance policy implementation. According to Mazmanian and Sabatier, a policy instruments that "permit citizens to participate as formal interveners in agency proceedings and as petitioners in judicial review…are more likely to have their objectives attained" (1989, 29). The argument does not extend equally to third-party supporters and potential opponents, however. Logically, implementation success is thought to be affected by access to the process among supportive groups, and denial of access to those groups whose opposition might complicate, delay, or impede successful implementation (Bardach 1977).

The final two design-based elements thought to affect implementation are drawn from the remedial law literature. Remedial decrees, of course, find much of their force in the language of the law, the authority of the court, and the individual oversight of a federal judge. In these cases, it is *(g) the specter of judicial sanction* that compels agency implementation (e.g., Cooper 1988; Wood 1990; Feeley and Rubin 1998) and forces change. The pattern or practice cases under review do not involve a judge to the same degree as a typical remedial law case, federal judges do maintain final authority of specific aspects of the process and must sanction all decisions affecting the content of the settlement agreement and the process of their implementation. As a result, one might expect that the oversight role of the judiciary will prove crucial to the implementation of Section 14141 agreements.

Lastly, I will consider the effect of *(g) the presence of an independent monitor* to oversee the implementation of pattern or practice settlement decrees. As with remedial cases (see, e.g., Cooper 1988; DiIulio 1990) and other court-based reform initiatives (see, e.g., Sandler and Schoenbrod 2003), the presence of an substantive expert who carries the authority of the court is thought to enhance implementation efforts.

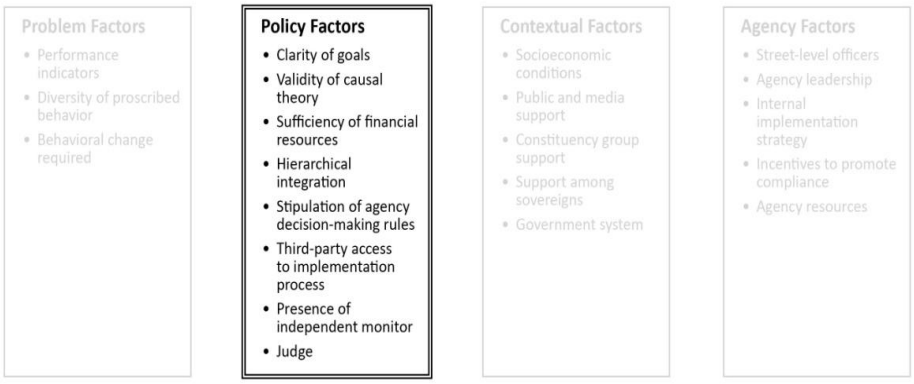

Illustration 2. Policy design factors affecting implementation

Contextual/Environmental Factors

The third component of the analytical framework describes four sets of contextual variables thought to affect the policy implementation process. First, the framework posits that changes in *(a) socioeconomic conditions and technology* have the ability to shape jurisdictional policy goals, which in turn forces changes to an ongoing implementation process (Mazmanian and Sabatier 1989). Several illustrations make the point. Certainly, a reduction in overall government revenue has the potential to disrupt or delay policy implementation. What is more, the rise of a competing public problem may shift both resources and public attention away from the original policy implementation effort and toward the new problem (Bowen 1982). As Mazmanian and Sabatier see it, "[t]o the extent that other social problems become relatively more important over time, political support for allocating scarce resources to the original [policy instrument] is likely to diminish" (1989, 30-31). The argument can certainly be extended to other longer-term movements in political and environmental forces, including, for example, unemployment levels or rates of violent crime (see, e.g., Berman 1978). In evaluating the effects of shifts in high-level indicators, one must consider the political and economic standing of the group targeted by the policy change. Those policies aimed at prosperous (and thus more

politically influential) target groups, for instance, are more likely capable of withstanding fluctuations in economic, political, and social indicators. Minority groups, those with lower socio-economic status, as well as segments of society traditionally seen with a negative valence, on the other hand, may be disproportionately threatened by such changes (see, e.g., Ingram et al. 2007).

The second set of contextual factors thought to affect policy implementation relate to the degree of *(b) public and media support for the policy initiative*. Mazmanian and Sabatier argue that public attention to the issue – either positive or negative – has the potential to drive the behavior of policy actors at every phase and level of the implementation process. When combined with media attention, this public opinion can affect political actors, agency leaders, and street-level implementers alike, and can shape interactions of all three groups with members of the public. In fact, one former public school superintendent faced with implementing a court-based desegregation decree argued that the community presented his greatest challenge: "In short, we're testing whether this remedy can be supported by the society at large. We are a democratic institution, and the remedies we bring about…have to be acceptable to the population or they'll excise the whole process and leave it" (Wood 1990, 73).

According to Mazmanian and Sabatier, public concern over an issue and thus support for related solutions "wanes as the costs of such programs on specific segments of the population draw away previous supporters and intensify opposition and the public and media turn to other issues" (1989, 32). Policy proponents must attempt to mobilize support for the initiative in order to combat this inevitable decline in public attention and support. It is here where *(c) the attitudes and resources of constituency groups* may have a substantial effect on the policy implementation initiative. Active and well-resourced third-party groups can not only influence public opinion related to the policy initiative through outreach campaigns or policy

papers, for example. They may also have the ability to influence implementation success by intervening, either directly or indirectly, in the process itself.

The fourth non-statutory factor believed to affect policy implementation is *(d) the existence of support from political, legal, and financial sovereigns*, a group that may include legislators, executive officials, and judges at all levels of government. These actors may promote successful implementation by influencing the "amount and direction of oversight; [the] provision of financial resources; and the extent of new (i.e., after the original [policy instrument]) and conflicting legal mandates" (Mazmanian and Sabatier 1989, 33). In addition, as Bardach argues, policy sovereigns may serve as "fixers," with the ability to aid in overcoming delays or other problems with the implementation process.

As is true with other policy types, there is some evidence to suggest that lack of political support has crippled the implementation of remedial decrees (Wood 1990; Cooper 1988). This has also been the case in the context of pattern or practice implementation. Several community leaders interviewed for the Vera Institute of Justice's report on Section 14141 consent decree implementation in Pittsburgh found lack of support from political leaders complicated an already difficult process. More specifically, those respondents "felt that the reticence of city leaders contributed to low morale within the department and resentment among police officers and the F.O.P. (the police union) towards the decree and the police chief" (Davis et al. 2002, 36). Lack of support does not necessarily mean outright opposition; in some cases, mere indifference can stall implementation progress: "The hands-off position of truly powerful political figures in a community robs target agency administrators and judges of more than just political support and leverage. It also diminishes the cooperation and help from other public agencies" (Wood 1990, 68).

The framework's final contextual element is *(e) the nature of the government system within which the implementation occurs*. Arguments about the potential import of governmental structure on policy implementation have appeared in public administration (e.g., Mazmanian and Sabatier 1989), policing (e.g., Wilson 1968; Maguire 2003), and remedial law literature (e.g., Cooper 1988; Wood 1990). Much of the scholarly discussion has centered on whether the implementing agency is "a line agency reporting to a governor or mayor or whether it comes with the policy apparatus of an elected lay board" (Wood 1990, 66). In the context of remedial decrees, the presence of a oversight board has "complicated enormously" the task of agency leadership. What is more, "for political chief executives, involvement in programs under popular court order is most often seen as a no-win situation" (Wood 1990, 66) with potential electoral costs behind every possible outcome.

City managers, on the other hand, have considerable executive authority and are seen as "free to make decisions without political interference, thus producing a more efficient system of government," a fact that clearly has the potential to affect policy implementation (Morabito 2008, 467; see also, Wilson 1968; Stucky 2003). In a recent study comparing implementation of community policing initiatives in city manager jurisdictions with those in jurisdictions governed by elected executive leadership, one policing scholar found evidence to suggest that implementation was more successful in manager jurisdictions (Morabito 2008).

This set of variables presents an especially interesting test for the current research, as the four cases under review each maintain distinct government structures. Cincinnati is a city manager jurisdiction. Pittsburgh is a traditional municipality whose residents elect their executive and legislative representatives. Prince George's County has an elected county executive who is responsible for the administration of county-wide policy. The county government must share authority with the twenty-seven municipal governments that exist

within county limits (Prince George's County Government Overview 2010). Finally, Washington, D.C. is a home rule city with a traditional mayor-city council system, but whose legal and policy decisions are technically subject to federal congressional approval.

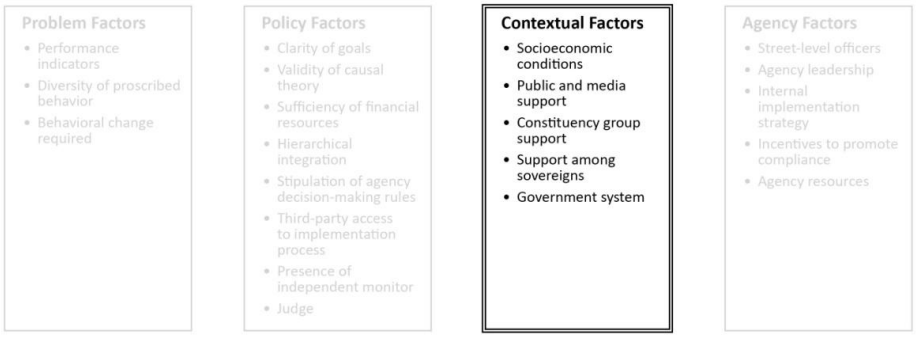

Illustration 3. Contextual factors affecting implementation

Implementing Agency Factors

Theoretical and empirical implementation literature suggest several implementing agency characteristics that may affect the implementation process, beginning with *(a) the disposition of street-level implementers* (Van Meter and Van Horn 1975; Lipsky 1980). It seems relatively clear that the views – and the intensity with which they are held – of agency rank and file regarding the goals of the policy, the chosen implementation process, and so on, may affect the likelihood of implementation success. In fact, despite omitting a thoroughgoing treatment of internal, agency-level factors, Mazmanian and Sabatier (1989, 34) consider the commitment of agency actors to the realization of statutory goals "the variable that affects most directly the policy outputs of implementing agencies."

This argument appears to be particularly salient when considering implementation in the context of policing. Police departments necessarily grant significant authority and autonomy

to patrol officers. These street-level bureaucrats maintain wide discretionary control over their day-to-day tasks and in many instances are the employees whose behavior is targeted by the implementation effort (e.g., Skogan 1994; Skogan and Hartnett 1997; Greene et al. 1994; Skolnick and Fyfe 1993; Toch 2008). These factors combine to suggest that patrol officers maintain considerable influence over the implementation of Section 14141 settlement agreements. However, according to leading police experts, Kelling and Bratton (1993), it is not a department's patrol officers who most profoundly shape an implementation effort, but its captains and lieutenants – the middle management.

Relatedly, *(b) the disposition of organizational leadership* is likely to affect policy implementation. Leadership in this case may include, among other things, the commitment of agency leadership to the implementation and a leader's skill in developing and communicating implementation plans (see, e.g., Bingham and Wise 1996). In short, the presence of strong leadership that places a high priority on the policy implementation process is seen as being critical to overall success (e.g., Fernandez and Rainey 2006).

Students of remedial law identify organizational leadership as a core component of the institutional reform litigation process. DiIulio (1990), and Feeley and Rubin (1998), Chilton (1991), among others who have examined court-led prison reform, document clearly the centrality of the prison warden to the policy implementation process. In fact, according to Feeley and Rubin, it was the widespread inability among prison administrators to accept policies articulating the concept of prisoners' rights that forced District Court judges into managerial roles: "all the judges realized that the conscious and unconscious resistance of the prison administrators rendered traditional approaches [to managing implementation] ineffective, and that they would need to adopt more interventionist methods" (1998, 302). Similar findings are common among studies of school desegregation. In fact, to Willis Hawley, a close observer of

efforts to implement post-*Brown* desegregation decrees, motivation of administrators is *the* determinative factor in a successful remedial action:

> The problem, of course, is to change the behavior of people in the agency, and if that's the case, one can ask simple questions. What are the motivations that people bring to the enterprise? Is that the problem? Or is the problem an absence of resources? Or is the problem an absence of competence? Competence, resources, and motivation are not unrelated, but….[i]f the problem's not fundamentally one of motivation, then [implementation] is not a big problem. If it is then…[implementers will be] whistling Dixie – literally (quoted in Wood 1990, 53).

Each of the three existing empirical studies of pattern or practice reform document the importance of police department leadership. According to a 2002 Vera Institute report, which examined the consent decree process in Pittsburgh, Police Bureau leadership was the "key factor in the effective implementation of the decree" (Davis et al. 2002, 36). Leadership was also noted briefly in the series of Rand reports evaluating Cincinnati's implementation progress (Riley et al. 2005; Ridgeway et al. 2006), and driven home by the authors of a Harvard University review of the LAPD's experience under a Section 14141 consent decree: "[LAPD Police Chief William Bratton's] vision, his experience in other departments, and his confidence that the city and Department can meet the requirements of the consent decree are widely reported as factors driving the success of the LAPD" (Stone et al. 2009, 10).

A third agency-related factor thought to affect implementation is *(c) the existence of a well-devised and highly organized internal strategy for implementation*. According to Rainey and Fernandez (2006, 169), "[t]his strategy serves as a road map for the organization, offering direction on how to arrive at the preferred end state, identifying obstacles, and proposing measures for overcoming those obstacles." Mazmanian and Sabatier (1989) argue that clear, specific goals and a sound, underlying causal theory increase the likelihood of successful implementation. By extension, a precise, definitive internal implementation strategy justified by a well-reasoned causal theory should also contribute to implementation success. According to

Federal Judge Robert Katzmann, policy administrators "should determine what means are available to achieve that desired end….In identifying the means…we could look as such things as the mission, the goals, the power structure, the task structure, problems of autonomy and coordination…[and] thinking in terms of a checklist of things to consider" (quoted in Wood 1990, 81; see also Katzmann 1980). In addition to facilitating the kinds of detailed blueprints needed for successful implementation, a direct line of consistent communication between agency leadership and street-level implementers is also thought to contribute to implementation success (e.g., Fernandez and Rainey 2006; Bingham and Wise 1996).

Policy implementation scholars also believe that the *(d) existence of incentives for promoting street-level compliance* has the potential to affect implementation. These incentives may include either the threat of possible sanctions for noncompliance and/or the promise of rewards for a commitment to satisfying the implementation requirements (e.g., Wood 1990).

Finally, *(e) the availability of implementing agency labor, capital, and political resources* is thought to contribute to successful implementation. Just as external resources, including for example, federal funding for and/or political support of the policy implementation, are considered components of successful implementation, internal resources to support the process are necessary as well (e.g., Van Meter and Van Horn 1975). This element is closely related to many others, including the orientation of agency leadership, mid- and street-level officers, the political and economic climate in the implementation environment, and others.

In this section I have used empirical policy implementation, remedial law, and policing literature to develop a comprehensive framework designed to explain the implementation of Section 14141 settlement agreements. I have discussed several variables thought to affect the implementation of various public policy types, including those addressing police change in myriad substantive areas, including police innovation and rights-based structural reform. In the

following section, I operationalize "successful implementation," or the primary "dependent" variable of concern. Next, I review briefly the several data sources from which I gather information related to the study's results and discuss the analytical method used.

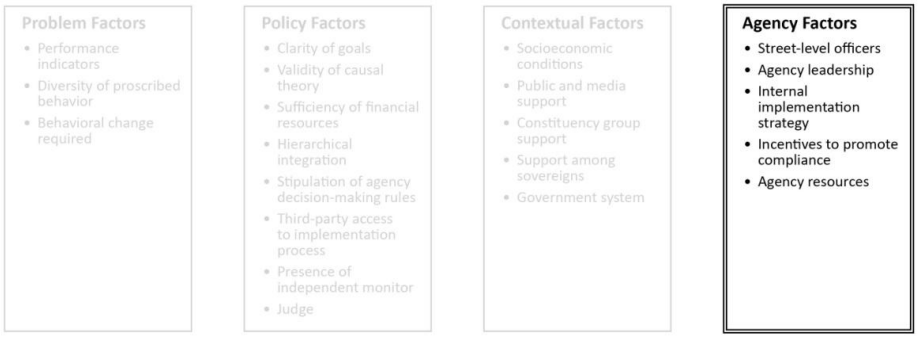

Illustration 4. Agency factors affecting implementation

Variables, Data, and Method

The implementation of pattern or practice settlement reform agreements is a complex and multi-faceted process. On one hand, a police department under a consent decree or a memorandum of agreement is evaluated in terms of its ability to implement "constituent" pieces of a settlement agreement. Objectives related to these constituent parts include the various substantive components of the agreement, including the department's ability to make change to agency policy, officer training protocols, internal accountability systems, community outreach initiatives, and citizen complaint investigation processes, among others. A department is also evaluated in terms of "holistic" objectives, or the sustained implementation of each substantive constituent piece. In other words, holistic implementation is both a direct and indirect function of lasting constituent implementation.

As such, I operationalize the construct "successful implementation" in terms of two groups of independent variables. First, I operationalize constituent implementation by tracking

the extent to which the police departments were able to implement pursuant to the terms of the agreement the settlements' three central components: (a) changes to use of force policy; (b) development of an Early Warning system; and (c) the revision of citizen complaint investigation protocol. Though each settlement agreement consists of scores of mandated policy and operational changes, time and space limit my ability to evaluate everything of interest.

I have chosen to focus on these three components for at least two reasons. First, they represent a diverse cross-section of reforms, touching on agency policy, managerial, and structural changes. Together reflect the core of the pattern or practice settlement reform efforts: to bring a police department's use of force protocol in line with constitutional law and to strengthen the agency's accountability infrastructure. Second, these components represent areas of both substantive interest and procedural diversity. These reforms appear to "matter" to all parties (i.e., there is evidence of debate and negotiation related to the terms of the agreements in each of these areas), including the involved police departments, local government officials, and Department of Justice attorneys, and raise the possibility of producing variability across settlement terms, implementation procedure, and outcomes.

In addition to evaluating the implementation in terms of constituent parts, I consider the process from the perspective of "holistic" success. Though holistic implementation is a function of the implementation of each constituent piece, it is not necessarily the case that the same "independent" variables will affect or explain both constituent and holistic implementation.

The primary metric of evaluation is time. I consider the length of time it took each department to implement successfully the three constituent components under review, as well as the length of time it took the affected departments to get out from under DOJ oversight, or holistic implementation. The notion of 'success' used here measures *legal compliance*, or the

agency's ability to meet the specific terms of the settlement agreement. As a result, the evaluation is of purely objective ends, and does not incorporate the kinds of intangible metrics like 'cultural change' that appear in some implementation studies (e.g., Golembiewski 1985).

This is an important point. There are several competing visions of how to conceive of pattern or practice settlement agreements. The Department of Justice frames each agreement in legal terms, using the language, goals, and enforcement strategies typical of a binding contract in order to bring the affected department into compliance with the law. Through this legal lens, means and ends typically associated with policy change and/or organizational reform – including cultural change and the achievement of specific outcome-based goals, for example – are not considered critical. In the alternative, when a pattern or practice settlement agreement is viewed through a policy lens, definitions of 'success' are necessarily broader and more diverse. So too are the analytical tools that may be employed to help understand the reform process. I will address these distinctions more carefully in Chapters 5 and 6.

Data

As discussed in Chapter 1, this project's data is drawn from several sources, including: (a) quarterly reports filed by the independent monitor hired to manage settlement reform implementation; (b) quarterly progress reports filed by the police departments themselves; (c) settlement agreements, court pleadings, and other legal documents; (d) public data, like crime statistics and economic trend information; and (e) structured interviews with key participants in each implementation effort.

Independent monitors have been hired to oversee the implementation of each Section 14141 settlement reform effort and to evaluate whether the affected departments have reached "substantial compliance" with the provisions of the agreement. As described above, these monitors, who have been academics (Pittsburgh), former police chiefs (Prince George's

County), and other high-level government administrators (Washington, D.C.; Cincinnati), are expected to serve both as objective reviewers as well as intermediaries between the DOJ and the police department leadership. They attend every important planning meeting, communicate regularly with all critical staff, and follow closely progress toward the goals outlined in each clause of the settlement document.

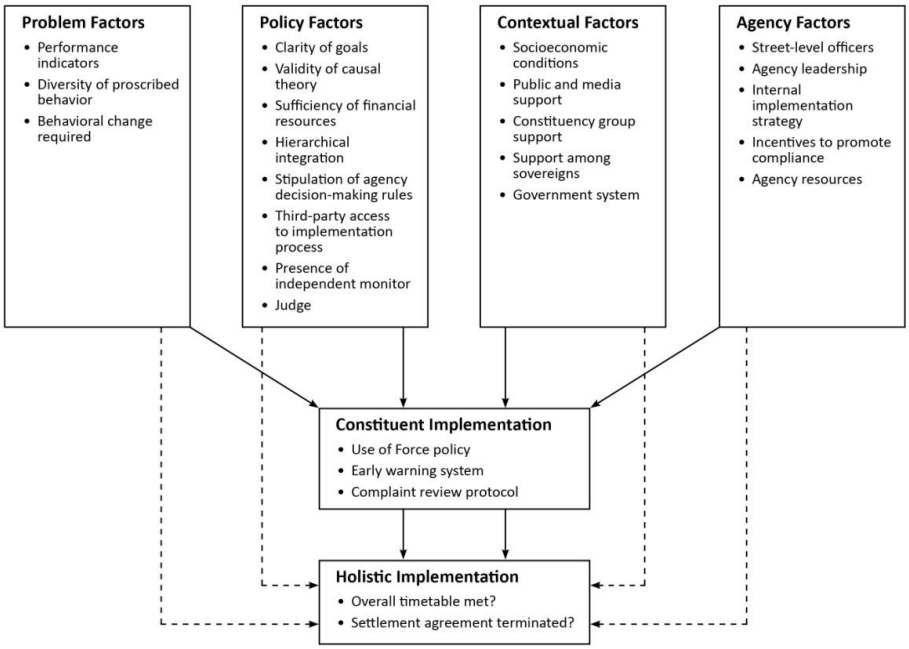

Illustration 5. Implementing Section 14141 pattern or practice settlement reform

In addition to their assessment responsibilities, monitors are charged with managing the process and helping each side overcome obstacles that threaten successful implementation. A key feature of this job is the quarterly reports each monitor is required to file in order to document the implementation process. These reports use both quantitative and qualitative data to develop a detailed, analytical review of the department's progress toward "substantial compliance." As the term substantial compliance is not specifically defined by any of the four settlement agreements under review here, it is the monitor teams that are charged with

establishing appropriate standards of compliance. Each of the four monitors use a 95% compliance threshold to define "substantial compliance."[35]

Two examples illustrate the point. First, Washington, D.C.:

> The parties agreed that, while MPD's and the City's compliance with the substantive provisions of the MOA will be measured, where feasible, based on objective standards (generally requiring at least 95% compliance), the evaluation of MPD's and the City's achievement of substantial compliance also will include a subjective component involving assessments made by the OIM [Office of the Independent Monitor] (or DOJ, where DOJ review and approval are required) and supported with appropriate analysis and explanation (Twenty-Second Quarterly Report Oct. 2007, 4).

Prince George's County:

> Once it has been determined that an appropriate GO [General Order] and/or SOP [Standard Operating Procedure] has been established, the AG-IMT [Monitor team] will determine if the policy has been effectively implemented. If a provision of the MOA has been fully and effectively implemented at a >94% level then Phase II, or Full Compliance will be attained (First Quarterly Report Sept. 2004, 5).

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 or the considerable subjective authority maintained by each team. For example, when considering Pittsburgh's Office of Municipal Investigation'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 Monitor Nineteenth Quarterly Report Aug. 2002, 53). Similarly, when assessing MPD's progress in completing Use of Force Incident Reports (UFIRs), the Washington, D.C. 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" (Washington, D.C. Monitor Final Report June 2008, 30).

[35] Of course, the use of such specific terms to define implementation reflects the legal vision of the settlement process and conflicts directly with assumptions made by Mazmanian and Sabatier and others (e.g., May and Wildavsky 1978; Jones 1984; Anderson 1996; Kingdon 2010) who describe policy implementation as part of an ongoing, cyclical process.

Table 6. Independent monitors

Jim Ginger – Pittsburgh, PA

- Former police officer and Associate Professor, St. Mary's University
- Hired while serving as a private management consultant for police departments and other municipal government agencies
- Hired as independent monitor for pattern or practice reform in the State of New Jersey

Michael Bromwich – Washington, D.C.

- Former Inspector General of the U.S. Department of Justice
- Trained as a lawyer; partner, Fried Frank, LLC in Washington, D.C.
- Hired as independent monitor for pattern or practice reform in the U.S. Virgin Islands
- Currently the Director of federal Bureau of Ocean Energy Management, Regulation and Enforcement

Saul Green – Cincinnati, OH

- Trained as a lawyer; former partner, Miller, Canfield, Paddock & Stone
- Served as the U.S. Attorney for the Eastern District of Michigan from 1994 through 2001
- Currently the Deputy Mayor of the city of Detroit

Eduardo Gonzales – Prince George's County, MD

- Former chief, Tampa, Florida Police Department (1992-1993)
- Served as the Director of the U.S. Marshals Service from 1993 through 1999

With full acknowledgement of the differences found in the four sets of monitor reports, and an understanding that these differences have the potential to create some variability in the results of their evaluation, I have done my best to present their descriptive findings in a systematic, standardized way. In short, regardless of the language used or the analytical approach favored, each monitor team established a point where the department was in full, sustained compliance with each clause of the settlement agreement. When presenting my own results – in the form of time required to meet specific settlement agreement requirements – it is to this substantial compliance status that I refer.

Of course, there is variability too in the complexity and depth with which each monitor team describes the implementation process. Monitor teams in Cincinnati and Washington, D.C. tended to present a more sophisticated analytical picture than teams in Pittsburgh and Prince George's County. What is more, some participants believe that what appears in the monitor reports is a sanitized version of the facts, and may not present the "real story." As such, quarterly reports filed by the departments themselves and in depth "background" interviews have been invaluable in supplementing the monitors' narrative.

In each of the four cases, the departments undergoing Section 14141 reform issued their own internal quarterly reports. These reports are similar to the monitor reports in that they describe the implementation process step-by-step, but do so from the department's perspective. This second set of reports offer an interesting counter-point to the monitor reports and have been used as a supplement with the hope of injecting into the analysis a diverse perspective.

In addition to analyzing independent monitor and department quarterly reports, I have conducted semi-structured interviews with twenty-eight pattern or practice stakeholders and experts, including police leadership, independent monitors, city officials, DOJ attorneys, civil society leaders, and academics. See Appendix B for a full list of interviewees.

The initial list of interviewees was generated from information culled from monitor and department reports, as well as media coverage of the four reform efforts. My initial contact with the prospective interviewee was been via email. In cases where I did not receive a direct response within a week or so, I followed up with a second email and then a phone call. Beyond these "cold emails," I benefited from personal introductions and professional contacts. I also relied on the snowball technique to broaden my initial list and benefited directly from interviewee recommendations and introductions.

When conducting the interviews themselves, I hewed closely to recommended ethnographic field research techniques (e.g., Becker 1998). Individual conversations occurred both over the phone (using Skype) and in person. In all but two instances, I recorded each interview and had them professionally transcribed. To supplement the interview transcripts, I took detailed notes about the interview setting and the interviewee in order to provide context and to capture details about intonation, body language, and facial expression (Emerson et al. 1995; Becker 1998).

The conversations themselves were conducted between December 2009 and September 2010, and lasted between 30 and 120 minutes. The interviews tend to vary only moderately in terms of content and substantive emphasis. In each case, I prepared a detailed interview guide around which to frame the discussion,[36] but was open to moving beyond the list of questions depending on the interviewees area of expertise, interest, and willingness to discuss certain issues. In all but one case the interviews were conducted "on the record," with interviewees consenting to quotations with full attribution.

Missing Data

There are two sets of missing data that merit discussion. First, there are several missing independent monitor reports from the Pittsburgh reform effort, including those filed in Quarters 2, 11, 12, 14, and 20 through 25. These missing reports comprise two-fifths of the twenty-five total reports filed, and do present some challenge to my ability to describe the implementation process with full consistency and sufficient detail. What is more, there are no available police department reports that document the Pittsburgh Bureau of Police's view of the implementation process. Again, this presents a slight problem in terms of my own description of the implementation process.

[36] See Appendix C for a sample interview guide.

For several reasons, however, these missing reports do not weaken the overall quality of my analysis. Most importantly, researchers from the Vera Institute tracked the implementation of pattern or practice reforms in Pittsburgh as it occurred. The Vera team spent considerable time in Pittsburgh, attended several monthly meetings with Bureau leadership and members of the independent monitor staff, interviewed key police department stakeholders, city officials, and community leaders. Their observations, which appear in a 2002 report, *Turning Necessity Into Virtue* (Davis et al. 2002), should more than account for any gaps in the independent monitor's narrative.

The second problem of missing data is the absence of any interview data from participants or stakeholders in Prince George's County. I have emailed and called several police department and county elected officials, civil society leaders, and DOJ attorneys involved with the effort there. In every case I have either been ignored or denied outright.

This gap in my data is much more problematic than the missing Pittsburgh reports. I have no independent corroboration of the narrative established by the monitor and the department, and have no background information upon which to draw insight or generate analytical depth. Despite the considerable obstacle this presents for a thorough and comprehensive analysis of the reform effort in Prince George's County, I do not think this detracts substantially from my analysis. Interviews from stakeholders in each of the other three jurisdictions have confirmed much of what appears in the independent monitor reports. In no case has an interviewee contradicted the monitor's narrative. It is true that without being able to interview stakeholders from Prince George's County, I have not be able to develop background knowledge of the Prince George's County effort to the extent that I have for the other jurisdictions. This issue presents a problem of contextual depth, not descriptive or analytical accuracy, and should not affect substantially the overall quality of the review.

CHAPTER 4

IMPLEMENTATION RESULTS

> There is every reason to believe and little reason to doubt that these decrees have been effective in raising the professionalism of delinquent departments, improving managerial knowledge and oversight, and thereby reducing the incidence of constitutional violations.
>
> ---John Jeffries and George Rutherglen, *University of California Law Review*

In Chapter 4 I present results from my analysis of the implementation of pattern or practice reform. I begin with a fairly narrow discussion of the implementation, focusing on three constituent parts of each settlement agreement. Next, I review the each department's progress holistically. After presenting these descriptive results, I analyze comparatively the effects of several variables arranged within the pattern or practice framework, with the goal of identifying those elements that are most salient in explaining variation between each of the four jurisdictions under review. I close the Chapter with a brief summary of findings.

Constituent Results

In this section I describe the implementation of three constituent parts of the pattern or practice settlement agreements implemented in Pittsburgh, PA; Washington, D.C.; Cincinnati, OH; and Prince George's County, MD, including (1) changes to department use of force policy; (2) the creation of early warning systems; and (3) the development of citizen complaint protocols. The section is organized by constituent part, beginning with use of force policy change. In each subsection I present results by jurisdiction and then provide an analytical examination of those variables that significantly affected the process in each.

Use of Force Policy

I consider here the implementation of reforms to use of force policies in the four affected jurisdictions, discussing where relevant three separate components of the process: (1) department policy reform, with formal approval from the DOJ;[37] (2) street-level officer compliance (in the form of written use of force incident reports);[38] and (3) supervisor compliance with changes to use of force protocol (in the form of command level reports).[39]

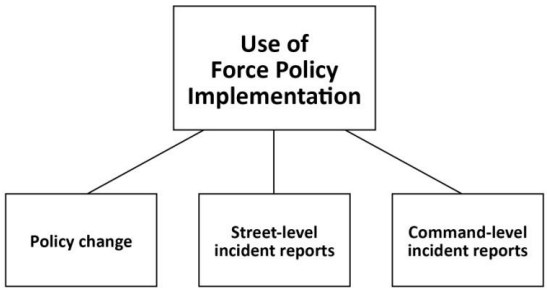

Illustration 6. Implementing use of force-related settlement components

Pittsburgh

Implementation of the required use of force policy change presented a low level challenge for the Pittsburgh Bureau of Police (PBP). In Pittsburgh, the independent monitor determined that within four months of signing the consent decree, PBP leaders had drafted a use of force policy that allowed PBP "to control effectively" police use of force (Pittsburgh Monitor Third Quarterly Report 1998, 10). Further, the monitor determined that within six months of the start of the agreement, PBP had developed the requisite use of force reporting protocol. According to the monitor, this policy change, which required street-level officers to

[37] See: Pittsburgh: ¶13; Washington, D.C.: ¶¶36-40; Cincinnati: ¶¶12-13; Prince George's County: ¶34.

[38] See: Pittsburgh: ¶15-16; Washington, D.C.: ¶¶53; Cincinnati: ¶¶24-25; Prince George's County: ¶¶40-41.

[39] See: Pittsburgh: ¶18(a); Washington, D.C.: ¶53; Cincinnati: ¶¶31; 32-35; Prince George's County: ¶¶41-44.

"complete a written report each time a PBP officer…exercises a use of force" (Pittsburgh Consent Decree, ¶ 15), had been "developed, disseminated, and implemented" in accordance with the terms of the settlement (Auditor's Third Quarterly Report, 10).

Several factors contributed to PBP's relative success – both among street-level officers or with their supervisors – implementing changes to department use of force policy. The first relates directly to the tractability of the problem itself. The emphasis of the DOJ's investigation and subsequent settlement with PBP focused on the department's citizen complaint protocol rather than its pattern or practice of excessive force (Davis et al. 2002), a fact that indicates a less serious problem with department use of force. What problems may have existed seem to have been overcome by strong leadership from PBP Chief, Robert McNeilly. McNeilly, who took over as Chief weeks before the initial DOJ investigation, accepted the job with the goal of reforming the Bureau: "I thought I knew what the problems were, and I wanted the challenge of fixing them" (Robert McNeilly, interview with author, Mar. 1, 2010). Not only did McNeilly place compliance with the consent decree at the top of his managerial priority list, but was personally involved in emphasizing the importance of the agency reforms, planning strategies for their implementation, and enforcing provisions that were either being ignored or allowed to let slide (Robert McNeilly, interview with author, Mar. 1, 2010).

<u>Washington, D.C.</u>

In Washington, D.C., reaching an agreement between the DOJ and department leadership on the language of a new use of force policy took much longer than it did in Pittsburgh. As a result, Washington D.C.'s Metropolitan Police Department (MPD) struggled with both policy development and the implementation of corresponding operational changes.

Though MPD received DOJ approval of the Department's revised use of force policy (i.e., when to use force) in Quarter Two of the implementation process, there were substantial

problems with the development of policies related to use of force reporting (i.e., when to report incidents of officer use of force). Critically, policy dictating when an MPD officer is required to file a Use of Force Incident Report (UFIR), the primary mechanism for tracking use of force incidents, was not finalized until January of 2006, almost five years after the MOA was signed. This delay in finalizing UFIR policy certainly affected use of force policy implementation and weakened over an extended period of time a core component of the MOA.

According to MPD Police Chief Cathy Lanier, many of these policy-related delays occurred because of a lengthy internal review process: "[Former Chief] Ramsey even said in hindsight he wished he had found some way to make that policy review a lot less lengthy" (Cathy Lanier, interview with author, Jan. 13, 2010). Lanier also laid some blame at the foot of the DOJ, who did not grant formal approval of policy changes as quickly as the MPD might have liked: "Sometimes we could get policies done and get them over there, and weeks would go by" (Lanier, interview with author, Jan. 13, 2010). Lanier's assessment is consistent with that of the independent monitor, who characterizes the delay as a function of a contentious back-and-forth between the two parties: "The precise language of the UFIR was the subject of substantial discussion and negotiation between MPD and DOJ subsequent to the execution of the MOA" (Washington D.C. Monitor Final Report, June 2008, 24).

No doubt the lengthy review process on the part of both the DOJ and MPD contributed to the delays in developing use of force and especially UFIR policy. But other jurisdictions were bound by the same DOJ approval process and were required to make the same kinds of substantive policy adjustments as was MPD, a fact that suggests alternate explanations for the lengthy delay in Washington, D.C.

Several contextual factors played a part in delaying use of force policy implementation, including the complications brought on by the events of September 11, 2001 and the

unpredictable nature of the city's budget, particularly the availability of funds for police work not related to anti-terrorism efforts. The overall complexity of the settlement agreement (and in particular the MOA's mandated use of force reporting changes) was substantially higher in Washington than in any of the other three jurisdictions under review here, a fact that may also have contributed to delays in MPD's ability to affect formal policy change.

MPD also experienced significant delays implementing those policy changes related to use of force reporting. In fact, it was only in the final months of the settlement agreement, some seven years after the agreement's inception, that the independent monitor approved the quality and timeliness of MPD use of force reporting (Washington, D.C. Monitor Final Report, June 2008, 25-31). Throughout the course of the implementation, MPD officers consistently failed to submit UFIR reports as required by the MOA and Department policy, a trend the independent monitor noted throughout the implementation process. For example, in the Thirteenth Quarterly Report (July 2005, 27), the monitor noted,

> during the months of October through December 2004, months in which MPD reported very high UFIR completion rates, MPD officers actually completed UFIRs in only approximately 16% of the cases in which a UFIR was required under the MOA and MOD's Use of Force General Order. Most of the incidents we discovered involved a hands-on use of force by an officer to subdue and handcuff a suspect, which are relatively minor uses of force. MPD's policy and the MOA are clear, however, that such incidents qualify as uses of force and must be documented through the completion of a UFIR.

MPD officers also struggled with UFIR reporting quality, often filing reports with missing information, insufficient detail, or inaccurate incident description. Table 7, drawn from the Monitor's Tenth Quarterly report (Nov. 2004, 25), documents the situation clearly over time.

If delays to changes in MPD use of force policy can on some level be explained by inefficient internal procedures and the complexity of joint action, implementation of those policies (i.e., use of force reporting) was hampered, at least initially, by the absence of an organized, strategic approach to disseminating throughout the agency information regarding

the policy changes and training officers in new policy areas. For example, in his third quarterly report, the monitor concludes that "MPD's roll-out of the Use of Force General Order was not as effective as it could have been primarily because MPD's initial efforts to train its officers were poorly coordinated and executed" (Washington, D.C. Monitor Third Quarterly Report, Jan. 2003, 5). What is more, there is some indication that early hiring missteps further complicated what was an inauspicious first several months (Cathy Lanier, interview with author, Jan. 13, 2010; Maureen O'Connell, interview with author, Feb. 5, 2010).

Table 7. Washington, D.C. UFIR completion quality, January 2003 – May 2004

Month/ Year	Total UFIRs in file	Missing supervisor's signature or finding	Missing date/time notification to supervisor	Missing CS number	Missing Narrative	Missing other information
01/03	26	19	11	8	5	0
02/03	17	13	6	3	5	0
03/03	15	9	8	3	2	0
04/03	20	13	7	2	4	1
05/03	21	12	7	7	1	2
06/03	19	9	5	7	1	1
07/03	17	9	7	2	1	2
08/03	34	17	9	10	2	1
09/03	20	11	4	7	0	1
10/03	7	4	1	1	2	0
11/03	12	10	3	5	1	2
12/03	9	8	2	3	1	0
2003 Total	217	134 (61.18%)	70 (32.26%)	58 (26.73%)	25 (11.52%)	10 (4.60%)
01/04	10	3	2	5	0	1
02/04	22	14	8	7	2	4
03/04	14	12	8	2	0	0
04/04	21	9	5	2	0	0
05/04	11	4	4	0	3	0
2004 Totals	78	42 (53.85%)	27 (34.62%)	16 (20.51%)	5 (6.41%)	5 (6.41%)

The Department was finally able to overcome the initial training-related missteps toward the very end of the seven-year implementation process, a fact the monitor attributes to a change in attitude among MPD staff. The monitor concludes that a spike in UFIR completion rates that began in Q1 of 2007 was due largely to "MPD's focused attention and proactive efforts…to improve the rate at which MPD officers report use of force incidents" (Washington, D.C. Monitor Final Report, June 2008, 30). This dramatic movement in street-level compliance is at least partially explained by a shift in orientation among agency leadership and a change in the level of individual involvement on the part of the department chief. In fact, according to MPD independent monitor Michael Bromwich, the key to MPD's implementation of changes to use of force protocols was "willing acceptance by the leadership of the department" (Interview with author, Feb. 23, 2010).

The dedication of internal resources and the emphasis of department leadership also helps explain the successful implementation of MOA terms related to the creation and operation of MPD's Force Investigation Team (FIT). the primary mechanism for the internal investigation of use of force incidents. As the centerpiece of MPD's use of force accountability system, FIT is charged with leading the investigation of any "incident involving deadly force, a serious use of force, or any other use of force suggesting potential criminal misconduct by an officer" (Washington, D.C. Monitor Final Report, June 2008, 35-6). All other use of force incidents are investigated by MPD's internal affairs unit, the Bureau of Professional Responsibility (BPR). FIT investigations are overseen by the Department's internal Use of Force Review Board, which is comprised of six high-level MPD officers and one non-voting member from the District's Fraternal Order of Police (MPD General Order GO-RAR-901.09, May 15,

2009).[40] Almost from the date of MOA execution, the FIT investigations achieved a "high standard in terms of quality and comprehensiveness" (Washington, D.C. Monitor Third Quarterly Report, Jan. 2003, 25) as well as consistent timeliness. These high standards continued throughout the implementation process. For example, the Monitor notes in his final report that every FIT investigation completed in the first three quarters of 2007 (56 total) was completed within the mandated 90-day window (Washington, D.C. Monitor Final Report, June 2008, 39).

MPD struggled with the implementation of MOA terms related to non-FIT investigations and Use of Force Review Board oversight. The independent monitor noted at an early stage MPD's lack of success (e.g., Sixth Quarterly Report, July 2003, 25) in each area, but tracked steady improvement over time. In the case of non-FIT investigations, the improvement is in large part attributed to consistent attention to the matter from MPD leadership:

> In recent years, MPD took several steps to improve the quality and timeliness of its internal investigations, including revising and distributing investigation templates and issuing Department-wide guidance requiring documentation of special circumstances justifying delays in the completion of investigations (Washington, D.C. Monitor Final Report, June 2008, 49).

Cincinnati

In Cincinnati, the independent monitor formally approved the new Cincinnati Police Department (CPD) use of force policy in the second reporting period, three months after the monitor's initial policy review and fifteen months after the MOA was signed (Cincinnati Monitor Second Quarterly Report, July 2003, 16).

CPD did not implement settlement use of force reporting requirements with the same speed, however. A dispute developed between the DOJ and CPD over the comparative length

[40] In the original MOA, MPD's Use of Force Review Board was required to review all use of force investigations. According to the Monitor, however, "[r]ecognizing that the UFRB might be overwhelmed by reviewing all use of force investigations, DOJ and MPD agreed to modify the MOA to require the UFRB to conduct timely reviews only of use of force investigations investigated by" FIT (Washington, D.C. Monitor Third Quarterly Report, Jan., 2003, fn. 36).

and level of detail required by an officer's report following incidents that involved a 'take-down without injury' versus what was required following take-down incidents injuring either suspect or officer. Though seemingly minor, CPD insisted that requiring officers to expend the same time and energy filing reports for non-injury takedowns, which are much more common than injury-producing incidents, would force officers to spend inordinate amounts of time on paperwork and ultimately detract from the CPD's ability to do its job properly.

After nearly two years of negotiation, the DOJ relented, and CPD was given approval (albeit on a trial basis) for their new policy, which permitted fewer reporting requirements for non-injury incidents (Cincinnati Monitor's Tenth Quarterly Report, July 2005). At that point, several years into the implementation process, the monitor determined that CPD was in compliance with MOA provisions related to street-level reporting for all use of force reports (including both injury and non-injury) that did not involve the use of department-issue Tasers. As of Quarter Fifteen, a full five years after the MOA signing, the monitor still maintained some reservations about CPD's reporting of Taser-related incidents.

Prince George's County

The Prince George's Police Department (PGPD) faced similar challenges in developing and implementing a use of force policy consistent with the terms of their settlement agreement. After over nineteen months of internal deliberation and negotiation with the Department of Justice and the independent monitor, PGPD promulgated use of force regulations that met the conditions of the agreement (Prince George's County Monitor Seventh Quarterly Report, March 2006, 14). This lengthy delay may at some level be fairly attributed to the complexity of the MOA provision itself. ¶34 mandates that the Prince George's County Police Department adjust not only the language of their policy and the accountability mechanisms in place to enforce

violations, but to shift the philosophical orientation of the entire department. In relevant part, the MOA states:

> The PGPD will review and revise its use of force policies as necessary to…(c) incorporate a use of force model that teaches disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements or calling in specialized units as appropriate responses to a situation; [and] (d) advise that, whenever possible, individuals should be allowed to submit to arrest before force is used [PGPD Memorandum of Agreement, Jan. 22, 2004, ¶34 (c-d)].

As this negotiation was ongoing, PGPD struggled to find consistency and quality among Commander Incident Reports (CIR), which supervisorial officers are required to submit after every use of force incident (PGPD Memorandum of Agreement, ¶40). For example, in the monitor's Sixth Quarterly report, a review of 125 CIRs filed in that period indicated that "[w]hile there are reports that do indicate notification and/or response and action of supervisors, most of the reports reviewed do not contain complete information" (Prince George's County Monitor Sixth Quarterly Report, Dec. 2005, 16). What is more, it took Prince George's County PD over four years to reach full compliance on those MOA terms related to oversight of the Department's use of force.[41] These provisions establish a three-tiered accountability structure within the chain-of-command, which, together with the CIR protocol, is designed to maintain quality control and oversight over street-level officer behavior.

Much of this compliance delay was directly related to a lack of consistency in oversight and reporting. For example, in Quarter Twelve, the PGPD monitor examined 120 supervisor performance reviews and determined that only 89 (74.1%) contain sufficient detail to merit full compliance. According to the monitor, "The specific areas lacking sufficient detail…[include] identification of all officers on the scene (5), the taking of witness officer statements (5);

[41] MOA ¶44 states that PGPD supervisors "shall conduct a performance review of all uses of force…by any officer under their command." MOA ¶45 mandates that the District or unit Commander evaluate each supervisor performance review. ¶42 requires that PGPD's internal affairs agency, the Bureau of Professional Responsibility (BPR), respond to the scene of all serious uses-of-force and oversee the supervisor's performance reviews of such incidents.

interviewing of other witnesses (9); and the photographing of injuries before and after treatment (15)" (Prince George's County Monitor Twelfth Quarterly Report, June 2007, 16).

Use of Force Implementation Analysis

Several elements drawn from the explanatory framework explain the variation observed in the implementation of use of force policy change across the four jurisdictions. First, the nature of the specific behavioral change required by the settlement agreement is important. The Pittsburgh consent decree used simple, clear language to mandate changes designed to bring PBP policies in line with current law. In each of the other three jurisdictions, mandated use of force-related reforms were largely policy-driven, requiring affected departments to emphasize de-escalation, disengagement, and non-violent submission, in addition to legal compliance.

Though long-term results from each type of reform – including officer respect for civil rights and reduction in use of force incidents, citizen complaints, and litigation – remain to be seen, the more complex reform requirements proved harder to develop and to implement. Other policy design factors, including the clarity of settlement goals and the validity of causal theories driving the reform, were of little relevance here, largely owing to their uniformity across the four jurisdictions.

Beyond differences in the behavioral changes mandated by the settlement agreements themselves, several internal, agency-related factors are salient, beginning with the importance of department leadership and the reliance on bureaucratic accountability structures to rectify problems with use of force policy implementation. Independent monitors in Washington, Cincinnati, and Prince George's County described police departments that struggled initially to find consistency and quality in their use of force reporting. For example, throughout MPD's first ten quarters, the monitor observed consistently low use of force report completion

Table 8. Implementation of use of force policy

		Use of Force Policy Change	Use of Force Street -Level Reporting	Oversight/ Investigation of Misconduct
Pittsburgh, PA	Deadline	4 months	4 months	4 months
	Implementation (Completion date)	9 months (12/1997)	14 months (06/1998)	14 months (06/1998)
Washington, DC	Deadline	4 months	6 months	6 months
	Implementation (Completion date)	15 months (08/2002)	84 months (6/2008)	*Re FIT** 76 months (10/2007) *Re IAB*** 76 months (10/2007)
Cincinnati, OH	Deadline	3 months	3 months[42]	3 months
	Implementation (Completion date)	27 months (07/2003)	*Re Use of Force*: 60+ Months (04/2007) *Re Tasers*: 60+ Months (04/2007)	*Re Investigation and Oversight*: 60 Months (04/2007) *Re Firearms Oversight*: 60 Months (04/2007)
Prince George's County, MD	Deadline	4 months	4 months	4 months
	Implementation (Completion date)	24 months (01/2006)	45 months (09/2007)	54 months (06/2008)

**FIT*: Force Investigation Team; ***IAB*: Internal Affairs Bureau

[42] In their 16th (and final MOA-related) Quarterly Report, dated April 10, 2007, the monitors determined that CPD had reached only partial compliance with MOA ¶24, which required CPD officers to document uses of force. The monitors do not address the issue in any subsequent reporting.

percentages and among the completed reports, high rates of missing information or insufficient descriptions of key events. Though there is no explanation given as to why these deficiencies persisted for as long as they did, in his 11th quarterly report, the Washington, D.C. monitor acknowledges dramatic improvement in terms of both quality and consistency. In his eleventh quarterly report (Oct. 2006, 32), the monitor suggests that MPD leadership's newfound commitment to the issue made a difference:

> MPD has initiated internal controls with respect to [use of force reporting], and we recommend that MPD continue to devote significant attention, in terms of training and supervision, to sustaining the high completion rates reported this quarter and to improving the information recorded.

A similar situation occurred in Prince George's County. The first report filed by the PG County monitor described a use of force reporting system that was rife with inconsistencies and lacked even the most basic quality assurance and accountability measures (Prince George's County Monitor First Quarterly Report, Sept. 2004, 4). It was not until the Chief himself began reviewing specific use of force data reports did the existing discrepancies begin to clear up (Prince George's County Monitor Third Quarterly Report, Mar. 2005, 5). A directive signed by the Chief to "ensure…that all…[use of force reports] are accounted for and transmitted to the appropriate locations" proved instrumental (Prince George's County Monitor Fourth Quarterly Report, June 2005, 5), as did the Chief's establishment of a Use of Force Reporting Committee to assist in addressing use of force reporting system inconsistencies (Prince George's County Monitor Fifth Quarterly Report, Sept. 2005, 16). These managerial and organizational changes aided in the development of a use of force checklist and a recommitment to training (Prince George's County Monitor Sixth Quarterly Report, Dec. 2005, 4), which helped to generate near-term improvement in the quality of use of force reporting and oversight.

Though the PGPD Chief's attention to the issue improved matters in the short run, his involvement and leadership on the matter did not generate lasting compliance with the terms of

the agreement. In December 2006, almost two years after PG County's Chief issued the directive related to street-level officer use of force reporting, the Monitor's Tenth Quarterly Report determined that:

- "Rather than a 'precise description of the facts and circumstances,' [CIR] reports contain generalities and unsupported conclusions" (13);
- Only 65% of supervisor performance review reports "contained sufficient detail to determine compliance with the…MOA requirements " (15); and
- Of the eight serious use-of-force incidents that occurred during the MOA's Tenth Quarter, "all eight case files lacked the required written…review and evaluation of the appropriate supervisor's performance review of each incident" (14).

These issues occurred despite the Chief's periodic involvement with use of force reporting compliance, and in spite of the establishment of several layers of bureaucracy to oversee changes in policy, including the "Use of Force Reporting Committee" and the "General Order Working Reformation Group." Despite the Chief's stated "goal of changing the department's DNA" (Prince George's County Monitor Sixth Quarterly, Dec. 2005, 4), one gets the impressionistic sense, that there was something short of full organizational commitment to the process, at least with respect to this component of the PGPD MOA. Though several possible explanations exist for the inconsistencies observed, it appears from the outside looking in as if some of the steps taken toward implementation – the issuance of orders or the creation of a working group and operational checklists, for example – were perfunctory, designed to satisfy the monitor and the DOJ, rather than change substantially PGPD's use of force infrastructure.

Though not addressed directly by Mazmanian and Sabatier, an organization's pursuit of symbolic goals often conflicts directly with the achievement of technical goals like improving street-level use of force reporting. This tension between symbolic and technical reform is a recurrent theme in the policy implementation literature (e.g., Berman 1978; Matland 1995; McLaughlin 1987; see also Edelman 1971), in addition to some strains of organizational reform

research (e.g., March and Olson 1983; Seidman 1997), and is very much relevant to a full understanding of differences observed between the four jurisdictions.

It is interesting to note that in both Washington, D.C. and Prince George's County many of the problems with use of force reporting occurred at the mid-level manager level, rather than at the street-level. Given the strict hierarchical accountability structures in place, the direct oversight of external monitors and agency leadership, one wonders whether department middle managers were simply overwhelmed by the increases in responsibility the settlement agreement placed on them or were responding to what they believed was an unclear or inefficient policy (see, for example, Prince George's County Monitor Fifth Quarterly, Sept. 2005, 5). Or, in the alternative, perhaps that they were simply reflecting the broader attitude of their organizations.

Early Warning System

In this section I describe and analyze the implementation of department early warning systems, emphasizing (1) system development; and (2) system utilization.[43] Early warning

[43] Several clauses from each of the four settlement agreements under review comprise these two aspects of early warning system implementation. For those related to system development, see: Pittsburgh: ¶12; Washington, D.C.: ¶¶106-111, 113-117; Cincinnati: ¶¶57-66; Prince George's County: ¶¶75-82. For those clauses related to system utilization, see: Pittsburgh: ¶12; Washington, D.C.: ¶¶112; Cincinnati: ¶¶67-69; Prince George's County: ¶¶83-86.

Table 9. Factors affecting the implementation of use of force policy

	Salient factors		
	Use of force policy change	Use of force street-level reporting	Oversight/investigation of misconduct
Pittsburgh, PA	- Behavioral change req'd - Leadership	- Behavioral change req'd - Leadership	- Behavioral change req'd - Leadership
Washington, DC	- Behavioral change req'd - Leadership	- Goal ambiguity - Complexity of joint action - Street-level officers - Leadership	- Behavioral change req'd - Goal clarity - Leadership - Agency attention to matter - Independent Monitor
Cincinnati, OH	- Behavioral change req'd - Leadership	- Goal ambiguity - High level of institutional change req'd - Leadership - Agency orientation - Monitor - Authority of judge - Mutual adaptation and flexibility	- High level of institutional change req'd - Lack of agency infrastructure - Independent Monitor
Prince George's County, MD	- Behavioral change req'd - Goal clarity - Internal implementation strategy - Symbolic reform	- Mid-level officer behavior - Incentives to promote compliance - Leadership - Symbolic reform	- Mid-level officer behavior - Leadership - Symbolic reform

systems are a critical component of the DOJ's pattern or practice reform template, in that they (at least in theory) provide each affected jurisdiction with a sophisticated database to track officer compliance with existing law and department regulations. When fully operational, these early warning systems afford department leadership the ability to identify officers who have violated the law at a rate statistically significantly higher than relevant peers, and to intervene

with extensive training, counseling, or a more punitive sanction, depending on the nature and persistence of the problem. As early warning systems are complicated and expensive to develop, and require a substantial change in department culture and individual officer behavior, they present a sizable challenge for implementers.

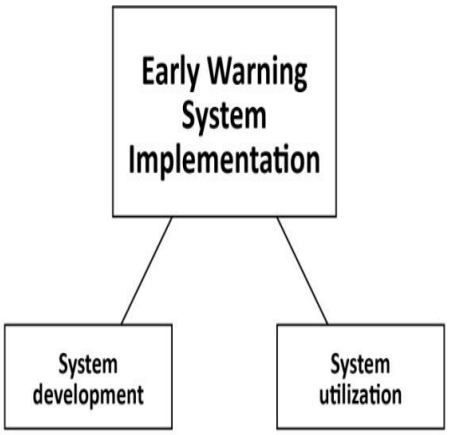

Illustration 7. Implementing Early Warning system-related settlement components

Pittsburgh

In three of the four jurisdictions under review, EW system implementation was delayed several months. As with use of force policy compliance, Pittsburgh was anomalous. By the ninth quarter of reform, some two years after the agreement had been signed, the Pittsburgh Bureau of Police had developed, tested, and fully implemented an electronic database that satisfied the terms of the agreement (Pittsburgh Monitor Ninth Quarterly Report, Jan. 2000, 10). Even when one considers the various problems encountered along the way, the speed with which PBP implemented this section of its consent decree was nothing short of remarkable. Though they had been considering the development of an early warning system prior to signing the CD (Robert McNeilly, interview with author, Mar. 1, 2010), in less just over two years, the Bureau "went from not having any computers to being recognized throughout the country for having

one of the best systems to track" and manage individual officer compliance with department policy, use of force incidents, citizen complaints, and civil suits filed against individual officers (Robert McNeilly, interview with author, Mar. 1, 2010).

The monitor attributed what delays PBP did experience to "over-optimistic" project timelines, the inherent complexity of the system, and the coordination required to implement system development, not to the city's "substantive work on the project requirements" (Pittsburgh Monitor's Third Quarterly Report, June 1998, 6). In fact, according to the monitor, "Understanding the delay in deployment of the EWS requires an understanding of the complexity of the proposed system, which, in reality taps virtually every area of the PBP, and requires coordination of dozens of city work units, as well as coordination with consulting groups not under the direct control of the city" (Pittsburgh Monitor's Fourth Quarterly Report, Sept. 1998, 6). Simply put, Pittsburgh came farther, faster than the three other jurisdictions. Department leadership and a firm commitment to the EW system are no doubt part of the explanation as to why.

Washington, D.C., Cincinnati, and Prince George's County

Significant delays hindered the implementation of EW systems in each of the other three jurisdictions. Prince George's County PD spent over four years implementing their version of the system, while in Cincinnati it took CPD just short of four years to give their system the minimum level of capability it needed to satisfy the terms of the settlement agreement. Washington, D.C.'s Metropolitan Police Department was unable to fully implement their EW system within the 5-year term required by the settlement agreement, and even with the significant time and resources invested in this system, several (albeit minor) problems remained almost seven years after the agreement's inception (Washington, D.C. Monitor Final Report, June 2008, 84-86). As of June 2008, "the City and MPD [were] required to submit bi-monthly

reports directly to the DOJ concerning their progress…relating to development of the electronic" Early Warning system (Washington, D.C. Monitor Final Report, June 2008, 3). As of January 2010, this system remained inoperable (Cathy Lanier, interview with author, Jan. 13, 2010).

Early Warning System Implementation Analysis

Diagnosing the problems experienced in each jurisdiction begins with a discussion of resources. In Washington, D.C., for example, budgetary shortfalls completely halted for 18 months all work on MPD's EW system (Washington, D.C. Monitor Sixteenth Quarterly Report, Apr. 2006, 94), despite then-Chief Ramsey's personal attention to the matter. Prince George's County's system was complicated by the demands of "acquiring the total $1.4 million dollars required to fully fund" their EW system (Prince George's County Monitor Ninth Quarterly Report, Sept. 2006, 3).

Second, jurisdictional budgetary shortfalls were often complicated by complexity of joint action challenges, typically confronted due to the technical nature of the system and the resultant need to use of private contractors to develop the systems' capability. Shortly after the budget crisis in Washington, D.C. was averted, a dispute with the development contractor over labor costs delayed progress an additional four months (Washington, D.C. Monitor Sixteenth Quarterly Report, Apr. 2006, 94).

In PG County, development of the EW system was delayed from the start by lengthy contract bidding process and negotiations between PGPD and the Department of Justice over the terms of the Request for Proposal (Prince George's County Monitor Fourth Quarterly Report, June 2005, 31). Implementation of Prince George's County's EW system was also complicated by negotiations related to "costs of customizing" the system (Prince George's County Monitor Seventh Quarterly Report, Mar. 2006, 38), and by incongruities between priorities of

Table 10. Implementation of early warning systems

		System development	System utilization
Pittsburgh, PA	Deadline	12 months	12 months
	Implementation (Completion date)	27 months (07/1999)	29 months (08/1999)
Washington, DC	Deadline	21 months	21 months
	Implementation (Completion date)	NA MPD has continued reporting req'ments	NA MPD has continued reporting req'ments
Cincinnati, OH	Deadline	19 months	3 months
	Implementation (Completion date)	27 months (07/2004)	43 months[44] (11/2005)
Prince George's County, MD	Deadline	19 months	25 months
	Implementation (Completion date)	60 months (01/2009)	60 months (01/2009)

Department staff and private contractor employees (Prince George's County Monitor Tenth Quarterly Report, Dec. 2006, 39). Cincinnati PD experienced some delay due to their chosen contractor's failure to deliver on time critical components of the EW system (e.g., Cincinnati Monitor Fourth Quarterly Report, Jan. 2004, 40).

Internal issues also plagued the implementation of Early Warning systems, beginning with inconsistent commitment of mid- and upper-level management to the full use of the

[44] In their 16th (and final MOA-related) Quarterly Report, dated April 10, 2007, the monitors note that despite having resolved the technical issues related to the development of their early warning system, the Employee Tracking System (ETS), CPD's utilization of ETS had yet to reflect the broader goals of the instrument. According to the monitors, "the data and analysis in the ETS must be used by the CPD supervisors and management to manage risk and liability, and promote civil rights, as required by ETS protocol and the MOA," provisions which the CPD had reached only partial compliance (Cincinnati Monitor Sixteenth Quarterly Report, Apr. 2007, 3).

system, particularly as a disciplinary mechanism. Early Warning systems are designed to detect patterns of excessive force, citizen complaints, civil or criminal suits against, and so on, among individual officers. Mid- and high-level department supervisors are charged with using the data from these reports to provide "problem" officers with additional training, counseling, or a change in job responsibility. The system will not serve its purpose if department supervisors are unwilling to act on the "early warnings" they are given.

In Cincinnati, this was the case throughout much of the implementation process. As early as the Fifth Quarterly Report, CPD monitors documented several instances where officers who met the threshold for misconduct (typically, a combination of three use of force incidents, illegal search and seizures, citizen complaints, etc.) failed to receive the intervention mandated by the terms of the settlement (e.g., Cincinnati Monitor Fifth Quarterly Report, Apr. 2004, 38). In Quarter Twelve, a full eighteen months after the system itself was deemed operational, the monitor team reported that

> District and Section Commanders concluded in their January 2006 quarterly reports that there were no officers whose ETS data showed a pattern of behavior that needed intervention. This was true even for officers who engaged in a significant number of uses of force or generated citizen complaints. Instead, these data often were interpreted as reflecting that the officer is 'an active officer' and a leader in arrests for his or her shift (Cincinnati Monitor Twelfth Quarterly Report, May 2006, 4).

In light of these findings, the monitor reminded CPD officers that their EW system "will only meet its potential if the command staff critically examine the incidents and pattern underlying…[system] data. Follow-up and monitoring is the key to ensuring that corrective actions that may be needed can be taken early in an officer's career, before more serious issues develop" (Cincinnati Monitor Twelfth Quarterly Report, May 2006, 5). Monitors in Washington, D.C., and Prince George's County observed similar patterns of supervisorial noncompliance. Clearly, without the resources necessary to implement the system, and the full commitment of

critical mid-level management to use the systems as designed, even the most advanced bureaucratic accountability tools can be rendered ineffective.

In Washington, D.C., a beta-version of the EW system was developed by Quarter 18 (October 2006), over five full years after the MOA was initiated. Though "well-designed and relatively user-friendly" (Washington, D.C. Monitor Final Report, June 2008, 85), like many cutting-edge applications, the system was plagued by technological problems, including software limitations and a "critical system failure." Of greater concern to the monitor, however, were the managerial issues seen as exacerbating such resource shortages. For example, in their final report, the monitor team in Washington, D.C. "found that MPD had not assigned a single supervisor to be responsible for monitoring the information contained in and notices generated by [the EW system] concerning each MPD officer," which has the potential to increase the "risk that reports and notices generated by [the EW system] will be overlooked or disregarded without necessary action being taken" (Washington, D.C. Monitor Final Report, June 2008, 85). At the risk of oversimplifying what is certainly a complex issue, this finding does seem to suggest that either the department underestimated the challenges that correspond with such fundamental changes in officer accountability and oversight, or did not have an internal implementation and oversight strategy capable of managing non-compliance. Either conclusion does seem to implicate department leadership, monitor team staff, and the Department of Justice.

Finally, there is evidence that monitors in some jurisdictions declared an EW system to be fully implemented despite noting significant substantive and operational shortcomings. Consider the example of Prince George's County. The MOA requires that PGPD develop a "computerized relational database for maintaining, integrating, and retrieving data necessary for supervision and management of the entire PGPD" (MOA ¶75). Once the system is

developed, the MOA stipulates that PGPD establish a detailed system usage protocol and employ the system fully (MOA ¶80, ¶82). PGPD was given "full compliance" in the monitor's Final Report, dated January 2009, despite the fact that "expected periodic audits and evaluations of the system have not had time to occur" (54). Though it is perhaps understandable that the monitor was unable to oversee the system's early Department-wide operation, such a finding suggests that terminating the agreement had become the monitor's (and the DOJ's, by proxy) first priority, above and beyond holding PGPD accountable to the spirit of the settlement.

Though not necessarily troubling in and of itself, the drive to terminate the agreement may have affected the monitor's judgment on matters more fundamental to the EW system's proper operation. In that same report, for instance, the monitor discussed what he determined to be a problem with the way the existing PGPD early warning system identified problem officers:

> The current [EW model] uses a threshold system in which officers are identified if they have two uses of force in a single month or three in two months. In reviewing intervention letters to the Chief of Police generated by the officer's commanders, almost all the uses of force have been determined to be within the guidelines and that the involved officers are not having any problems.
>
> These findings raise a concern that has been noted by the Monitor and has been raised by PGPD commanders in their discussion of the [system]. With thresholds established as they are, the system identifies [as problematic] a large number of officers whom supervisors describe as good officers….This may have a negative effect on the credibility of the system in the long run (6).

That these types of problems were allowed to persist over the length of the implementation process echoes earlier concerns about the Department's commitment to utilizing such a system of officer accountability. According to the PGPD monitor, "the value of the system will depend heavily on the quality of the commanders' interventions with officers identified as potentially experiencing problems related to use of force or other practices" (Prince George's County Monitor Eighteenth Quarterly Report, Jan. 2009, 7). A unilateral declaration by

department supervisors that the officers in question were in fact "good officers" and were flagged only due to a problem with the system calibration suggests that such a system is illegitimate in the eyes of department supervisors, the very class of officer charged with upholding it.

Table 11. Factors affecting the implementation of Early Warning systems

	Salient Variables	
	System development	System utilization
Pittsburgh, PA	- Leadership - Resources - Street- and Mgmt-level staff	- Leadership - Resources - Street- and mid-level staff
Washington, DC	- Lack of Leadership - Lack of Resources - Complexity of Joint Action	- Lack of leadership - Lack of resources - Complexity of joint action - Absence of sound internal strategy - Staff commitment
Cincinnati, OH	- Resources - Complexity of joint action	- Lack of leadership - Lack of mid-level staff commitment - Complexity of joint action
Prince George's County, MD	- Staff commitment - Resources - Complexity of joint action - Monitor	- Staff commitment - Resources - Complexity of joint action - Monitor

A monitor concerned with the proper implementation of a system designed to institute department-wide accountability would not continue to overlook such a significant problem over the course of several years. In fact, this issue suggests that the Monitor's complacency here may have contributed to the lack of attention to such detail during the implementation and may

have contributed to delegitimizing the system in the eyes of PDPG officers. As if emphasizing his own indifference to the matter, the monitor closes discussion of the problem by stating simply, PGPD's "Supervisory Support Review Team will need to continue to monitor the issue" (Prince George's County Monitor Eighteenth Quarterly Report, Jan. 2009, 6).

The PGPD monitor's forgiving approach to oversight of EW system implementation raises significant questions about the legitimacy of his perspective and suggests that he may have been "captured" or "co-opted" by the PGPD. The academic theory underlying this concept describes the fate of government regulators who come to identify with the industry they are charged with regulating (Bernstein 1955). As a result of this convergence of world views, the regulator loses requisite levels of "impartiality and zealousness" and is thus not capable of enforcing the law effectively (Prenzler 2000, 662). Regulatory capture is more likely to occur in cases of frequent personal contact between regulator and regulated (Kohlmeier 1969). It seems logical to conclude that capture may be accelerated if regulators are former members of the regulated industry and thus may understand if not share those values driving the regulated industry.

The very nature of the pattern or practice monitor's job presents the risk of capture. Monitor teams meet very regularly (bi-monthly in some cases) with affected department leadership and spend several days at each site visit working through department files and observing day-to-day operations. That said, in my view, PGPD monitor Eduardo Gonzalez was more susceptible to capture than any of the other three monitors, largely based on Gonzalez's status as a police insider. He spent twenty-six years as a police officer in Miami, FL, and has extensive experience serving in police executive roles, including as police chief in Tampa, FL and as Director of the U.S. Marshals Service. Gonzalez also served as a board member of the Commission on Accreditation for Law Enforcement (CALEA), the policing industry's primary

accreditation body. Though I have not been able to pursue this theory by interviewing stakeholders familiar with the PGPD implementation or with Gonzalez himself, Gonzalez's capture by PGPD would help to explain the incongruity found when contrasting PGPD's inconsistent implementation and subsequent lack of meaningful department change with Gonzalez's largely uncritical description of the reform process.

Citizen Complaint Review Systems

The third – and most complex – tenet of DOJ settlement agreements with Pittsburgh, Washington, DC, Cincinnati, and Prince George's County, is the stipulated reform of each jurisdiction's system for receiving and investigating citizen complaints. Though there are marginal distinctions between the systems mandated by each agreement, several fundamental changes were required in all four jurisdictions: (1) facilitate the complaint process by expanding the means by which citizens may file complaints;[45] (2) set parameters for ensuring quality internal (i.e., non-chain of command) investigations, including witness identification, interview protocols, and review of evidence;[46] (3) staff an independent agency responsible for investigating and adjudicating complaints;[47] and (4) mandate that the independent agency's complete investigation of all submitted complaints occur within the 90 days of receipt.[48]

[45] See: Pittsburgh: ¶¶47-48; Washington, D.C.: ¶¶92-93; Cincinnati: ¶¶35-38; Prince George's County: ¶¶61-62.

[46] See: Pittsburgh: ¶¶49; 52-63; 65-69; Washington, D.C.: ¶¶98-104; Cincinnati: ¶¶39-46; Prince George's County: ¶¶65-74.

[47] See: Pittsburgh: ¶¶44-46; 50; Washington, D.C.: ¶¶94-95; Cincinnati: ¶51; Prince George's County: NA.

[48] See: Pittsburgh: ¶64; Washington, D.C.: ¶103; Cincinnati: ¶50; Prince George's County: ¶71.

llustration 8. Implementing citizen complaint investigation-related settlement components

Each of the four departments faced significant problems in developing and implementing citizen complaint systems to comply with settlement terms. Some of the components presented more of a challenge than others. In most cases, those reforms requiring just a change in policy – i.e., redefining eligibility and means of filing complaints – were met with little resistance in any of the four departments. These changes demanded little in terms of resources and required minimal levels of behavioral change or organizational movement. Low hanging fruit, as it were. This finding is both intuitive and fully consistent with implementation literature that highlights the link between low levels of behavioral change and implementation success: the smaller the scale of the organizational change demanded, the fewer the opportunities for problems related to officer resistance, the complexity of joint action, resource shortages, et cetera (e.g., Mazmanian and Sabatier 1989; Durant 1984).

Department Investigation (Internal Affairs)

The implementation of changes to department behavior, on the other hand, presented considerable problems. In several instances, departments struggled to comply with mandated reforms to internal investigation protocols, which among other things, detailed procedural changes related to the gathering and use of evidence, questioning of witnesses, and established strict reporting requirements. As depicted in Table 12, none of the four departments were able to implement these requirements in a timely, consistent manner. In Prince George's County, the DOJ terminated the settlement agreement before the monitor team was ever satisfied with the quality of PGPD's Bureau of Professional Responsibility (BPR) investigations.

Washington, D.C.

In Washington, D.C., investigation of "non-serious," force related police misconduct complaints – whether they originate with a citizen complaint, an incident report, or an officer's administrative complaint – are handled by MPD's internal affairs office, the Bureau of Professional Affairs (BPA). BPA's early struggles and steady improvement over the latter half of the implementation process are well documented, and largely attributable to consistent Department attention to the matter and proactive steps to correct deficiencies in both quality and timeliness of investigations.

Cincinnati

In Cincinnati, the monitor team found periodic failure among investigators to reconcile evidentiary inconsistencies between officer statements and those given by witnesses (e.g., Cincinnati Monitor Fourteenth Quarterly Report, Sept. 2006, 32-33). Though on the surface such issues may appear to be minor, they underpin the very essence of the complaint investigations process and affect directly the quality of the internal investigation process and the legitimacy of

the outcomes generated. To their credit, CPD leadership appeared to understand the importance of attention to detail with respect to these components of the MOA. In July 2005, the CPD discovered several instances in early-2005 where the Department's Internal Investigations Section (IIS) "did not assign an investigator to [complaints received] and did not investigate the complaint[s]" (Cincinnati Monitor Eleventh Quarterly Report, Oct. 2005, 26). Rather than overlook the matter or minimize its importance, the CPD "identified the problem, opened investigations in these cases, and transferred the Commander of IIS to a different command" (Cincinnati Monitor Eleventh Quarterly Report, Oct. 2005, 26).

Prince George's County, MD

In Prince George's County, BPR was never adequately staffed to manage the volume of complaints received. According to the monitor:

> [The] achievement of the 90 day turn around on these cases could only have been accomplished through an infusion of a large number of investigators into the Internal Review unit or by reducing the extensive review process for internal affairs cases utilized by Prince George's County [and mandated by the settlement agreement]. Manpower constraints and operational necessity appears to have precluded the infusion of the large numbers of investigators require. Prince George's County opted not to diminish the review process they had instituted (Prince George's County Monitor Eighteenth Quarterly Report, Jan. 2009, 16).

This perceived tension between investigation speed (compliance with the 90-day requirement) and quality runs counter to the broader goals of the pattern or practice settlement initiative. Perhaps one way to avoid forcing jurisdictions to choose between two complimentary and mutually reinforcing values is for the Department of Justice to provide further clarity when requiring cities to "provide [citizen complaint review offices] sufficient qualified staff, funds, and resources to perform the functions required" (Memorandum of Agreement, U.S. Department of Justice and the District of Columbia and the D.C. Metropolitan Police Department 2001, ¶ 37).

Independent Agency Investigation

Settlement agreements in Pittsburgh, Cincinnati, and Washington, D.C. mandate that each jurisdiction create and staff an independent citizen complaint investigation agency (the Prince George's County MOA does not include such provisions). In each of the three cases, the settlement agreements articulate staffing, funding, and investigation procedures to be followed, and mandate that all investigations be completed within 90 days of initiation. Further, settlement terms dictate information sharing arrangements between the police departments and the independent agencies. This is necessary, as in many instances the external agencies are conducting parallel investigations of alleged incidents and may need access to department files and/or staff to consider the matter fully.

Pittsburgh

As of the Pittsburgh monitor's Nineteenth quarterly report, some five years after the CD was signed, Pittsburgh's Office of Municipal Investigations (OMI) had failed to produce the requisite investigation quality or speed. Investigations were missing necessary information, lacked rigorous standards for witness identification, were not taped or transcribed, and neglected to include proper supervisor approval. What is more, in several instances, officers under review failed to provide their names and badge numbers to OMI investigators. In sum, the monitor concluded that OMI's "performance [in Quarter 19]…represents a significant systems failure, with only 27.2 percent of the 55 cases reviewed found to be appropriately investigated" (Pittsburgh Monitor Nineteenth Quarterly Report, Aug. 2002, 47-48).

Several factors help explain Pittsburgh OMI's failure to implement CD terms related to investigation quality, beginning with problem tractability. The City's weak citizen complaint protocol was a central finding in the DOJ's initial investigation: In addition to several deficiencies in the City's complaint investigation procedures, the DOJ found that

> PS/OMI's failure properly to investigate all allegations of misconduct by PBP officers…means that some officers cannot be disciplined for misconduct. In addition, we found a pattern by PBP management designed to avoid disciplining its officers by changing OPS/OMI's sustained dispositions of complaints to a lesser disposition, resulting in no discipline or management intervention. This is usually done without sufficient explanation (City of Pittsburgh's Investigative Findings Letter, Jan. 17, 1997).

These problems were embedded in the fabric of the police bureau and OMI, a fact that remained throughout the CD's five-year implementation period. One plausible explanation for this prolonged delinquency is the failure of PBP staff, all the way up the chain of command, to pursue this aspect of the settlement agreement with the same intensity as they did other consent decree provisions. At least two additional explanations are possible. First is the outright resistance of department staff, which theory suggests is borne out fear of change or an unwillingness to accept the reality of new policy (e.g., Kaufman 1973). The second possibility is that problems of a much more "prosaic and everyday character" (Pressman and Wildavsky 1973, xii) – lack of knowledge about the program or an inability to complete the task, as Halperin and Clapp (2007) describe it – stalled OMI's implementation of these provisions. OMI's limited resources and woeful understaffing throughout the implementation process are perhaps the most salient of these more mundane explanations.

In either case, these issues were exacerbated by a joint action problem, which forced the police bureau to coordinate on staffing and oversight of the complaint review process with OMI and other municipal offices. Support from the PBP was critical to developing and implementing new procedures for investigating police misconduct complaints. Not only did the new procedures rely on access to PBP staff and incident files, but required the police to take proactive steps to empower an external agency charged with holding the department accountable. Given the police profession's traditional preference for self-regulation and opposition to citizen complaint agencies (Wagner and Decker 1997; Gaines and Kappeler 2008) it is unsurprising that this requirement delayed implementation.

Washington, D.C.

In Washington, D.C., the independent monitor consistently reported overall satisfaction with the quality of the City's Office Police Complaints (OPC; formerly the Office of Citizen Complaint Review, or OCCR) investigation process. As of the Ninth Quarterly report (July 2004), the monitor concluded that "while OCCR investigations are generally sufficient (85.7%), there is significant room for improvement in both the completeness and timeliness of those investigations" (48-9).

Those problems that did arise in Washington, D.C., including some case backlog and the inconsistent quality of OPC investigations, may be attributed fairly to a lack of coordination between MPD and OPC and some difficulty in reconciling the agencies' competing missions. Much of OPC's work is dependent on cooperation between that office and the Metro Police Department. OPC is frequently asked to investigate complaints initiated at MPD stations, and often reports an inability to complete the investigation without access to MPD staff and internal MPD documents. Successful coordination is predicated on MPD's cooperation with OPC requests, something that was not consistently given throughout much of the implementation process. In 2005 and 2006, for example, OPC complained formally of several instances where MPD officers refused to cooperate with OPC investigations, and MPD's unwillingness or inability to take disciplinary action against those officers refusing to cooperate (Washington, D.C. Monitor Final Report, June 2008, 67).

In January, 2007, four and one half years into the implementation process, the MPD created the OPC Liaison Unit (OPCLU), an office solely responsible for coordinating between the MPD and OPC (MPD January 2007 Progress Report, 27). Though a positive step, this did not solve the problem entirely. In fact, according to one former OPC liaison,

> efforts to obtain information responsive to OPC requests were hampered by several factors, including her inability to access certain internal information systems, the lack of a designated point person in each of the districts responsible for gathering documents to be produced to the OPC, and insufficient sharing of information between MPD and OPC regarding pending requests (Washington, D.C. Monitor Final Report, June 2008, 65).

Though OPC investigations continued to take much longer than the required 135 days, the problems of coordination and communication continued to improve over the last year and a half of the implementation process. According to the monitor, much of this was the result of continued MPD attention to the matter. Specifically, in 2007, "MPD appointed a new… [OPC liaison], eliminated the backlog of OPC document requests, and implemented a new electronic system for receiving and responding to OPC's document requests (Washington, D.C. Monitor Final Report, June 2008, 66).

The personal attention to the matter from new MPD Chief Cathy Lanier, who took office on January, 2, 2007, was also critical to promoting coordination between the two agencies. Consider as an example Lanier's role in helping to overcome tension created by OPC's policy on interviewing MPD officers. In April, 2007, Lanier issued an internal policy memo "clarifying for MPD officers OPC's procedures for taking statements and making clear that OPC's procedures are 'reasonable' (Washington, D.C. Monitor Final Report, June 2008, 68). In a meeting later that month, "representatives from OPC indicated that they were quite satisfied with the teletype issued by Chief Lanier and considered the issue of cooperation with respect to the taking of officer statements resolved" (Washington, D.C. Monitor Final Report, June 2008, 68).

Cincinnati

As is clear from the results presented in Table 12, none of the three jurisdictions were able to implement completely those settlement terms that relate to independent complaint investigation. Some of this difficulty is no doubt due to the highly detailed nature of the

mandated investigation protocol. For example, the Cincinnati MOA (¶41) establishes that Cincinnati Citizen Complaint Authority (CCA) investigators are

- Required to "consider all relevant evidence, including circumstantial, direct and physical evidence, as appropriate…"
- Prohibited from giving "automatic preference for an officer's statement over a non-officer's statement" or disregarding "a witness's statement merely because the witness has some connection to the complainant."
- Prohibited from "improperly asking officers or other witnesses leading questions."

Citizen Complaint Investigation Analysis

Perhaps the area that presented the most substantial implementation challenge for the affected departments was the stipulation that no citizen complaint investigation last longer than 90 days. As each of the four monitors described in detail, no jurisdiction proved consistently able to meet this requirement. In Pittsburgh, this problem was clearly a manifestation of that city's inability to fully staff the Office of Municipal Investigations (OMI). Finding money in the budget for officers and civilians willing and able to perform the job capably remained an issue throughout the term of the settlement. Consider, as a result, that almost three years into the implementation process, OMI "completed and forwarded…for review 26 cases this quarter, the office received 99 complaints [during the same quarter], adding an additional 73 cases to the backlog of 559 cases currently pending. OMI cases currently pending total 632 cases" (Pittsburgh Monitor Tenth Quarterly Report, Feb. 2000, 59). In Quarter 19, the backlog remained, with hundreds of cases remaining unresolved long past their 90 limit, and over 100 of those for longer than 1,440 days (Pittsburgh Monitor Nineteenth Quarterly Report, Aug. 2002, 56).

Table 12. Implementation of citizen complaint protocols

		Expand means of receipt	Internal investigation parameters	Independent investigative agency parameters	90-day resolution limit
Pittsburgh, PA	CD deadline	3 months	3 months	3 months	3 months
	Time required (Completion date)	17 months (08/1998)	111 Months (06/2005)	111 Months (06/2005)	111 Months (06/2005)
Washington, DC	MOA Deadline	4 months	6 months	6 months	6 months
	Time required (Completion date)	18 months (01/2003)	84 months (06/2008)	84 months (06/2008)	*IAD** 76 months (10/2007) *OCCR/OPC** 84 months (06/2008)
Cincinnati, OH	MOA deadline	3 months	3 months	4 months	4 months
	Time required (Completion date)	17 months (10/2003)	45 months (01/2006)	45 months (01/2006)	*Internal Investigation* 45 months (01/2006) *Independent Agency* 45 months (01/2006)
Prince George's County, MD	MOA deadline	4 months	4 months	NA	4 months
	Time required (Completion date)	21 months (09/2005)	21 months (09/2005)	NA	NA Compliance not reached (5+ years)

** IAD: Internal Affairs Division*; ***OPC: Office of Police Complaints*

Though the link between staffing and adjudication speed was not as clear in the other three jurisdictions as it was in Pittsburgh, one cannot interpret the following snapshot without considering resources and staffing:

- Prince George's County: "None of the 20 cases reviewed were completed in less than 90 days" (Prince George's County Monitor Fourteenth Quarterly Report, Dec. 2007, 35).

- Cincinnati: Of the "total of 67 cases [that] were cleared [in Q1 of 2005]…42 exceeded the 90-day investigative requirement" (Cincinnati Monitor Tenth Quarterly Report, July 2005, 27).

- Washington, D.C.: Of the 128 cases reviewed by the monitor, the average length of time needed to complete the investigation of a citizen complaint was well above 300 days (Washington, D.C. Monitor Eighth Quarterly Report, May 2004, 47).

Three years into the settlement implementation, none of the independent investigative agencies were meeting consistently the mandated 90-day ceiling on length of investigation.

Some of these may fairly be attributed to the newness of the independent agencies charged with investigating citizen complaints. Consider, for example, that almost three years into the implementation process in Washington, D.C., OPC had eight investigators, four of whom, including the Chief Investigator, had been with OPC for less than nine months. This staffing issue epitomizes the types of challenges new agencies face, and may explain some of persistent case backlog. In fact, according to the Washington, D.C. monitor,

> As a new agency, it has been necessary for OCCR to establish internal procedures related to the receipt, investigation, and resolution of citizen complaints. Accordingly, OCCR attributes some portion of the delays it has experienced in completing investigations to the time it has taken to establish the agency and to develop procedures for the scheduling of interviews with MPD officers, obtain documents from MPD, and complete other investigative steps (Washington D.C. Monitor Eighth Quarterly Report, May 2004, 47-8).

Does Halperin's typology of bureaucratic noncompliance – lack of knowledge, agency, and/or will – help explain delays in citizen complaint investigation? Are any of Bardach's bureaucratic "games" as issue here? It seems doubtful that investigators were unaware of the 90-day limit,

given the extent to which the MOA and independent monitor teams stressed compliance with investigative time limits. One could argue that a lack of agency, or an inability to perform the tasks required may fairly be attributed to weaknesses in training, which may render investigators incapable of adjudicating complaints as efficiently as necessary. This explanation is similarly unlikely, however. In all four jurisdictions monitors determined that the investigator training programs in place each met the standards set by the DOJ.

Alternatively, perhaps the 90-day window was just too aggressive, and more time was actually needed to do the job properly. The plausibility of this suggestion is undercut by the fact that of the four jurisdictions, only Washington, D.C. actively pursued an extension of the 90-day window, a fact that lends at least some credence to the notion that other jurisdictions believed the 90-day period was both reasonable and attainable. Incidentally, in July 2005, the DOJ agreed to allow MPD investigators an additional 45 days to adjudicate citizen complaints (Washington, D.C. Monitor Thirteenth Quarterly Report July 2005, 72, n.150).

Another viable explanation for the trouble among the four agencies to investigate and resolve citizen complaints in a timely manner is a lack of institutional commitment to the process. Though an agency-wide "lack of will" is not what either Halperin or Bardach had in mind, agency culture does seem to help explain some of the delay. For example, in October 2001, despite an ongoing struggle to eliminate the massive backlog of citizen complaints, Pittsburgh "disbanded the [OMI] 'backlog' case squad, sending most police officers assigned to the [OMI citizen complaint investigation] squad back to the bureau of police, and reassigning the supervising sergeant to other investigative duties within OMI" (Pittsburgh Monitor Sixteenth Quarterly Report, Oct. 2001, 50). In general, police departments tend to be skeptical of the value of citizen complaints and the community-based accountability their investigation endeavors to provide (e.g., Walker 2001; Finn 2001; Maguire 2003; Wells and Schafer 2007). A

low resource environment may serve to exacerbate these feelings of opposition, particularly when department labor and capital are transferred from patrol and "crime fighting" tasks to those related to receiving and investigating citizen complaints.

On the other hand, however, the existence of sufficient resources and persistent attention to the matter from police department leadership contributes to reducing case backlogs and helps to establish a faster investigation process for new complaints. Consider the example from Washington, D.C.:

> Between November 2005 and August 2006, OPC closed 177 investigations. These cases took an average of 397.9 days to complete, which is a significant improvement over the prior period and reflects that OPC is making progress in clearing its investigations backlog. Of these 177 cases, 52 were assigned in 2006. These more recent investigations took OPC an average of 44.5 days to complete, which is well within the MOA's [revised] 135-day requirement" (Washington, D.C. Monitor Nineteenth Quarterly Report, Jan. 2007, 96-7).

Table 13. Factors affecting the implementation of citizen complaint protocols

	Salient factors			
	Expand means of complaint receipt	Internal investigation parameters	Independent investigative agency parameters	90-day case resolution limit
Pitt., PA	- Leadership - Problem tractability	- Lack of leadership - Lack of resources - Lack of staff commitment - Complexity of joint action	- Lack of leadership - Lack of resources - Complexity of joint action	- Lack of leadership - Lack of resources - Lack of staff commitment - Monitor
Wash., DC	- Resources - Agency commitment	- Leadership - Behavioral change req'd - Lack of goal clarity - Agency commitment - Monitor	- Leadership - Resources - Complexity of joint action - Agency commitment - Agency age - Agency coordination - Systemic weakness	*IAD** - Resources *OPC*** - Leadership - Resources - Complexity of joint action - OPC agency age - Agency commitment
Cincinnati, OH	- Leadership - Behavioral change req'd	- Leadership - Resources - Problem tractability	- Resources - Problem tractability - Complexity of joint action	*Internal investigation* - Leadership - Resources *Independent agency* - Resources - Complexity of joint action
Prince George's County, MD	- Behavioral change req'd	- Behavioral change req'd	- NA	- Leadership - Resources - Goal ambiguity - Staff commitment

** IAD:* Internal Affairs Division; *** OPC*: Office of Police Complaints

Implementation: Holistic Results

The foregoing analysis traced the implementation of three components of pattern or practice reform in four police departments: (a) use of force policy; (b) early warning system development; and (c) citizen complaint investigation systems. These "constituent" results tell only part of the story. The comprehensive reform process included agency implementation of changes to officer training, community outreach, and internal agency accountability systems, and others, in addition to the three components reviewed here. What follows is a brief description of the results from each of the four departments' efforts to achieve holistic implementation, beginning with Pittsburgh. Results are presented in Table 14.

Illustration 9. Holistic analysis of pattern or practice reform implementation

Pittsburgh

On April 16, 1997, the City of Pittsburgh entered into a federal consent decree designed to bring into constitutional compliance certain operations of the Bureau of Police and the Office of Municipal Investigations. ¶79 of the Decree establishes that the Decree may be terminated "[a]t any time after five (5) years from the date of entry of this Decree, and after substantial

compliance has been maintained for no less than two years." On September 30, 2002, the parties entered into a Stipulated Order establishing that the City had reached substantial compliance with several provisions of the Decree, including those related to police use of force, officer training, and internal accountability. In addition to terminating federal oversight of the Bureau of Police, the Order extended indefinitely those provisions pertaining to the Office of Municipal Investigation (*United States v. Pittsburgh*, Stipulated Order, CIVIL NO. 97-0354). On April 6, 2005, after nearly eight years, the City and the Justice Department filed a joint request to terminate the several outstanding provisions, agreeing that OMI had reached substantial compliance with the terms of the Stipulated Order (Over 2005). Formal DOJ involvement with the City of Pittsburgh ended in June 2005 (Over 2005).

Washington, D.C.

The Memorandum of Agreement between the Justice Department and Washington, D.C. came into effect on June 13, 2001. The MOA established that the "agreement shall terminate five years after the effective date…if the parties agree that MPD and the City have substantially complied with each of the provisions of this Agreement and maintained substantial compliance for at least two years" (¶182). The terms of the MOA were modified four times over the course of the implementation process. The last of which, signed on November 26, 2007, moved the termination date back to June, 2008, extended the term of the settlement from five to seven years. Further, the final MOA modification included language granting to the independent monitor "discretion to identify for possible termination additional provisions with which MPD has achieved substantial compliance, but for less than eight quarters" (Fourth Joint Modification, June 2008, ¶IIB). This provision all but guaranteed that the reform effort would not extend beyond seven years regardless of where MPD's overall implementation progress

stood. This fact was confirmed on June 13, 2008, the seventh anniversary of the MOA, when the monitor team filed its final report.

Cincinnati

On April 13, 2002, the City of Cincinnati signed its Memorandum of Agreement with the Justice Department. As in both Pittsburgh and Washington, D.C., the Cincinnati MOA would "terminate 5 years after the effective date of the Agreement or earlier if the parties agree that the CPD and the City are in substantial compliance with each of the provisions…and have maintained substantial compliance for at least two years" (¶111). On April 12, 2007, the MOA was formally terminated (Cincinnati Monitor Sixteenth Quarterly Report, May 2007).

Prince George's County

The Prince George's County MOA was enacted on January 22, 2004, instituting use of force-related reform initiatives almost identical to those established in Pittsburgh, Washington, and Cincinnati. Unlike the other three jurisdictions, however, the PGPD MOA, states that the reform implementation "will terminate *three years* after the effective date of the Agreement or earlier if the parties agree that the PGPD and the County are in substantial compliance with each of the provisions…and have maintained substantial compliance for at least two years" (¶111). The adjustment, which was included without explanation by either the monitor or the Justice Department, does not seem to have had much of an effect on the overall length of the implementation process. The monitor's final report was issued in January, 2009, almost five years to the date of the MOA signing, and a full two years after the three-year deadline.

Table 14. Holistic implementation of pattern or practice settlement agreements

	Length of settlement agreement	Implementation period	Continued reporting obligations
Pittsburgh, PA	5 years	5+ years (04/1997 – 08/2002)	CD extended for provisions in re Office of Municipal Investigation
Washington, DC	5 years	7 years (06/2001 – 06/2008)	MPD required to file bi-monthly progress reports with DOJ re EW System
Cincinnati, OH	5 years	5 years (04/2002 – 04/2007)	NA
Prince George's County, MD	3 years	5 years (01/2004 – 01/2009)	NA

Analysis and Implications for Theory and Practice

As the foregoing section made clear, several of the factors included in the explanatory framework influenced the implementation of specific constituent parts of each agreement, as well as the holistic pattern or practice settlement effort. What follows is a comparative analysis of the most salient elements, and a discussion of the implications of these findings for theory and practice, beginning with elements pertaining to the tractability of the policy problem.

Problem Tractability

Mazmanian and Sabatier (1989) argue that the "tractability" of a policy problem has the potential to affect the implementation of policy solutions. Of the several variables included in the explanatory framework, implementation of pattern or practice settlement reform was

affected directly by the extent of the policy change required. This holds true both in terms of constituent and holistic implementation analysis.

Evidence to support this finding is seen when comparing, for example, the extent to which departments were required to adjust their use of force policies in order to meet the terms of the settlement agreement. In Pittsburgh, the problem with PBP's use of force policy was deemed one of compliance with the law: "The City shall develop and implement a use of force policy that is in compliance with applicable law and current professional standards" (Consent Decree, Pittsburgh Bureau of Police, ¶13). In the other three departments, the problem was framed in terms of both law *and* policy. Consider as an example language from the Washington, D.C. MOA:

> MPD shall complete development of a Use of Force Policy that complies with applicable law and current professional standards. The policy shall emphasize the goal of de-escalation and shall encourage officers to use advisements, warnings, and verbal persuasion when appropriate (MOA, Washington, D.C. Metropolitan Police Department, ¶37).

This difference affected not only the ease with which each department reached compliance in terms of the language of their policy, but with the corresponding reporting and oversight requirements as well. In either case, however, an outmoded or unlawful policy should be considered a fairly tractable problem. After all, bringing a use of force policy into compliance with the law is simply a matter of drafting new language to replace the existing policy. Given the several "model" use of force policies that exist online and among members of the policing community,[49] such a task should be fairly simple (Cordner and Williams 1996). As may already

[49] In 1987 The International Association of Police Chiefs (IACP) and the U.S. Department of Justice's Bureau of Justice Assistance created the National Law Enforcement Policy Center with the goal of "assist[ing] law enforcement agencies across the country in the critical and difficult task of developing and refining law enforcement policy." As a part of this mission, the National Law Enforcement Policy Center makes available for sale several model policies, including those, for example, those related to officer use of force; off-duty arrests; and response to civil litigation. For more information, see: http://www.theiacp.org/PublicationsGuides/ModelPolicy/tabid/135/Default.aspx.

be clear, actual implementation of the revised policy presents a much more challenging set of problems.

Comparing the nature of citizen complaint protocol reform in Prince George's County with that of other jurisdictions raises another relevant example. In Prince George's County, the Department of Justice believed that citizen complaint investigation ought to be conducted solely by the police department itself. The PGPD settlement agreement did not mandate the creation of an independent investigative agency, and thus did not force either the city or the department to spend time, money, or energy staffing, training, and monitoring such an agency. In other jurisdictions, Pittsburgh most acutely, these types of challenges were the source of significant delay.

Of course, one cannot overlook the difficulty inherent in bringing comprehensive, externally-driven, rights based reform to departments that have proved to be both dysfunctional and resistant to change. In addition to affecting the pace and quality of component part implementation, the intractable nature of the initiative generally shaped the holistic implementation of pattern or practice reform in each of the four jurisdictions under review.

The Department of Justice becomes involved with only those departments who have an established track record of systematic constitutional abuse established over a period of years. These departments begin the reform process literally as some of the worst departments in the county in terms of their compliance with legal principles established under the Fourth Amendment. In the words of police accountability expert Sam Walker, "one of the inherent problems here, almost by definition, [is that] we're talking about departments that administratively are really dysfunctional" (Interview with author, Mar. 17, 2010).

This dysfunction may be compounded by an insular, defensive organizational culture, one that is skeptical of outside experts and resistant to change. Even some of the country's best departments have institutionalized the notion that regulation of police work is most effectively done by the police themselves (e.g., Walker 1977; Skolnick and Fyfe 1993). External oversight is viewed as being both inefficient and ineffective; it simply gets in the way. The experience of Richard Jerome, a former monitor in Cincinnati, illustrates this attitude: "The initial approach was, Cincinnati is the best police department in the country, and if you're not from Cincinnati, you can't tell us anything that is of any use. Because nobody outside of Cincinnati knows how to run the police department the way we do" (Interview with author, Mar. 24, 2010). Tom Streicher, Chief of Police in Cincinnati, makes the point a different way when he describes CPD's reaction to the DOJ investigation:

> So we started moving through the entire process, and it was very contentious. Because from the very beginning…the idea was, you're a police department and this is your fault. Everything that happened here is your fault. You need to fall into this cookie-cutter approach. Everything [in the settlement agreement] can make you better, no matter what you did, and pitch everything else aside (Comments at PERF Annual Meeting, Miami, Florida, April 24-26, 2008).

These kinds of attitudes may be exacerbated by a sense that external legal constraints on police behavior are similarly inefficient, and in fact disruptive of the "real" business of police departments: crime-fighting (e.g., Packer 1968).

In Cincinnati and Washington, D.C., members of the city leadership requested the involvement of the Justice Department, whereas in Pittsburgh and Prince George's County, the initial investigation was at the DOJ's own initiative. One could imagine that the request for DOJ participation was a sign that each department was less opposed to the process, more inclined to proactively implement the mandated reforms, than departments whose involvement with the DOJ was involuntary. This does not appear to be the case, however. In both Cincinnati and Washington, D.C., the available evidence suggests that the primary goal of requesting DOJ

assistance was not necessarily to reform the department or to bring operational protocol in line with constitutional standards. Rather, it appears that both Mayor Luken and Chief Ramsey sought DOJ assistance as a instrument designed to provide political cover for the city and the department during what were in each instance very trying circumstances.

In Washington, D.C., many believe that then-police chief Charles Ramsey used the technical assistance provision of Section 14141 to bring the Department of Justice in as a means of overcoming the negative attention surrounding the Department following the publication of a Pulitzer Prize-winning 1998 Washington Post series that was highly critical of the Department use of deadly force (see, e.g., Leen et al. 1998). Kathy Patterson, a former member of the Washington, D.C. City Council, described Ramsey's motivation thusly:

> I think there was sufficient political sophistication in the leadership of the police department, particularly Charles Ramsey, to recognize a problem that surfaced through the Washington Post articles and to do something that could address the problem without losing control [of the MPD]. And I think going to DOJ, working with DOJ, putting some of his top people on the team, the MPD side of the monitoring team, I think he was able to do or not do things that permitted him to really stay in charge of the department.

It is widely suspected that when Charles Luken, then the Mayor of Cincinnati, called in the Justice Department (Cincinnati Monitor Final Report Dec. 2008, 5), he too did it for political purposes. At the time, CIncinnati was trying to quell a riot that broke out in direct response to a high-profile police shooting, and was fueled by an ongoing animosity between the African American community and the police. The city was under fire – literally – and the mayor's officer was bearing the brunt of the criticism.

Unlike in Washington, where it was the Chief himself who initiated the DOJ request, Mayor Luken's decision was thrust upon Chief Streicher, who was not necessarily inclined to accept external oversight. As Streicher describes it,

> Enter the Department of Justice in the middle of [the riot], our friends from the government, the Department of Justice….We're about the third night of it. I get a phone

> call, and I'm talking on the phone. They said, 'Hey, can you meet with people? They're here from the Department of Justice. They're here to give us a hand.'…We walk into a meeting…[a]nd there's a group of people from the Department of Justice. [The notion was that] 'If you'll invoke all these things, we can make all this better and it will all go away.'…It just started out screaming, contentious (Comments at PERF Annual Meeting, Miami, Florida, April 24-26, 2008).

If the process of initiating DOJ involvement had little or no bearing on holistic implementation, the complexity of the overall reform effort certainly did, at least on the margins. The settlement documents in Washington, D.C. and Cincinnati were considerably more complicated than those in either Pittsburgh or Prince George's County. Though the specific terms of a settlement agreement are the product of contentious negotiation, one must assume that at least on some level the depth with which a settlement document structures reform is reflective of the DOJ's view of the size of the police department's dysfunction. In other words, police departments in Washington, D.C. and Cincinnati were thought to present a more severe set of problems than departments in Pittsburgh or Prince George's County. As is clear from the results presented in Table 14, the overall reform process took longer in the former police departments than it did in the latter.

What is more, in Cincinnati, the complexity of the reform process was blamed for a high profile dispute between the CPD and the independent monitor team, a dispute that certain insiders believed threatened the entire reform effort. The pressure involved with implementing two settlement agreements simultaneously – the provisions of the MOA *and* those established in the Collaborative Agreement, a reform effort derived from a series of private lawsuits filed against the CPD, which mandated a broad set of strategic reforms designed to strengthen CPD's relationship with the City's minority community – weighed heavily. According to Greg Baker, the City official charged with leading the implementation process, the depth and pace of change overwhelmed the Department:

> Well, it probably was just – I'll say probably a issue of fatigue, for a large part. There were a number of changes that had been made. We were continuing to document proofs that the changes had been implemented. There was a continued pushing for more change to be – to be done. And I think that the process just snapped under its own weight….Trying to do both of those at the same time, I think there was just – the system just snapped (Greg Baker, interview with author, Apr. 9, 2010).

From a policy perspective, there are lessons to be learned from the specific challenges to implementation created by a reform effort that attempt to address what are far-reaching and deeply-seated problems. The experiences in Cincinnati, and to a certain extent in Washington, D.C., seem suggest that the complexity and ambition of organizational reform, as well as the pace of change, threatened the agency's very capacity to comply. This finding is not new. In fact, it is very much consistent with Derthick's (1972) early work on the New Towns program. Her study linked implementation problems to a tendency among policy designers, especially federal policy designers, to believing that they have the authority and responsibility to act comprehensively in attempting to solve policy problems – a charge that often leads to overreaching.

The Special Litigation Section approach, which is largely the product of a fleeting opportunity to investigate and a finite period within which to guide reform, is unlikely to change. They view each initiative as their "only bite at the apple" and are apt to continue to include as much as possible in each settlement agreement, even if doing so complicates implementation. What is more, the DOJ has built their settlement agreement "template" around a well-established set of industry best practices (Principles for Promoting Police Integrity 2001). The several components of this template, including revised use of force policies, the establishment of an early warning system, improved training protocols, enhanced citizen complaint investigation units, and others, are thought to work together to bring a dysfunctional agency into constitutional compliance. One is hard pressed to imagine the DOJ including anything less than all thought necessary to achieve accountable, lawful police practices. As such,

much more is to be gained from an examination of those factors defined by the substance of the settlement agreements themselves.

Policy Design Factors

Various elements grouped within the "policy design" category are central to explaining the implementation of pattern or practice reform, beginning with the settlement agreements' ability to establish clear and consistent objectives.

Though there was certainly a concerted effort on the part of the Justice Department to use explicit language in each of the settlement documents, in many instances, precise language failed to mask unresolved disputes over how to articulate the reform efforts' broad philosophical goals. What is the most effective way to ensure a proper balance between department accountability on use of force and its ability to fight crime, for example? In Cincinnati there were significant delays in implementing use of force reporting protocols, despite what appeared to be airtight settlement language. For example, ¶24 of the Cincinnati MOA establishes that "The CPD will require *all uses of force*…to be reported….Use of force reports will continue to include a supervisor's narrative description of the events preceding the use of force, and include the officer(s)' narrative description of events and the officer(s)' audiotaped statements" (emphasis added). Despite this seeming clarity of purpose, the monitor tracked continued disputes over reporting requirements for incidents involving suspect take-downs resulting injury versus suspect take-towns not resulting in injury contributed to delays (e.g., Cincinnati Monitor Fourth Quarterly Report, Oct. 2004, 21-22).

In this case, CPD pushed back on what may have appeared to be unambiguous objectives, largely because the implementation of those objectives detracted from the department's ability to satisfy other, more fundamental aspects of the job. From CPD's perspective, comprehensive use of force reporting requirements necessitate extensive

department investment, both in terms of time and money, and in the eyes of department staff, leave too few resources for "crime fighting." The dispute itself also suggests that no significant negotiation occurred on the issue when the settlement was being drafted, which raises questions about the way settlement language and priorities were developed. In the big picture, these delays also highlight a weakness of the top-down settlement agreement development and implementation strategy.

Another core component of the pattern or practice template is the use of very specific and aggressive deadlines. Each clause of a settlement agreement is linked to an implementation deadline, typically ranging from 3 months to 25 months, depending on the nature of the clause. For example, ¶58 of the of the Prince George's County MOA mandates that within 120 of the settlement date the PGPD must develop a protocol to enhance the department's field training officer program. ¶82 of the same document establishes that within 90 days the PGPD must issue a request for proposal to develop the department's early warning system.

Almost without exception, departments consistently missed meeting these deadlines, in many cases by months and even years. In no case did this matter, however, either to monitor teams or the Justice Department. The component-specific deadlines were aspirational and used not as a means of levying sanctions or forcing compliance, but as a way to instill some sense of urgency into the implementation process. Given the unrealistically aggressive nature of the deadlines, their value as a motivational tool proved ineffective and largely irrelevant. Despite their clarity, in each case, the deadlines were from the start unreasonable and as a result were largely ignored.

The four settlement agreements also include very specific "holistic" termination dates. In Pittsburgh, Washington, and Cincinnati, settlement language makes clear that the implementation period will last no longer than five years. In Prince George's County, the

termination date was set at three years. Unlike the component-specific deadlines, which were largely ignored, the agreement termination deadlines have a substantial effect on the reform efforts' holistic implementation, though the nature of that effect is somewhat ambiguous.

There is some evidence that affected departments made a push to meet the terms of the deadline. In certain instances, the drive to rid themselves of DOJ/monitor oversight accelerated as the termination date approached, with departments working to rectify problems that may have been unattended throughout the implementation process. In some cases, this push appeared to be genuine, with the deadline serving as a motivational tool.

History of the pattern or practice reform efforts suggests clearly that the Department of Justice is uncomfortable with extending for long periods of time its oversight of local jurisdictions. The DOJ will extend agreements in certain cases where implementation issues remain, but has proved unwilling to go beyond a total of seven years. In Washington, for example, oversight was extended two years in order to monitor the implementation of MPD's early warning system, but the agreement was terminated at the end of the seven year period despite no real progress on system utilization. The oversight of local police departments is an expensive proposition, one that can cost taxpayers as much as several million dollars annually (Michael Bromwich, interview with author, Feb. 23, 2010; Pro 1997). Perhaps the DOJ realizes that there is a point of diminishing returns after five or seven years, and that further oversight will not generate further compliance gains.

The possibility of limited returns after a five to seven year implementation window is consistent with broader concerns the DOJ has in establishing a pattern of long-term management. In addition to raising federalism concerns, extended DOJ oversight may also have the effect of removing incentives for departments to agree to settle with the DOJ rather than fight the 'pattern or practice' allegation in court. If departments understand that there is a

relatively firm deadline in place, there is considerably less risk for both department leadership and city officials in agreeing to settlement terms. If the possibility existed that federal oversight could extend indefinitely, the long-term costs related to the loss of departmental control quickly begin to outweigh the short-term benefits of a negotiated settlement. Without this tacit cap on DOJ involvement, departments may be much more likely to fight the pattern or practice allegations in court, which, as discussed in Chapter 3, substantially changes the nature of the Section 14141 reform.

A realization on the part of affected departments that the DOJ is either unwilling or unable to perpetuate a reform effort indefinitely may eliminate the incentive created by a hard deadline. Without the threat of ongoing federal oversight in the absence of meaningful reform, departments have no tangible reason to increase the intensity of their implementation efforts to avoid missing a deadline. Such a theory might help to explain what appeared to be a less intense effort on the part of all involved as termination dates approached, almost as if termination was a foregone conclusion. Department implementation efforts, and the expectations of monitors DOJ attorneys, seemed to wane in later stages of the implementation process.

In sum, the notion of goal clarity has some effect on both the constituent and holistic analysis of pattern or practice reform implementation, though the specific nature of that effect is more complex than the implementation scholarship suggests.

Resources

The importance of resources to the implementation of each constituent part reviewed here is both readily apparent and largely unambiguous. Simply put, implementation stalled where resource shortages existed. City budget shortfalls and lengthy disputes with private contractors significantly delayed development and implementation of early warning systems in Washington DC, Cincinnati, and Prince George's County. An inability to staff properly citizen

complaint offices led directly to substantial delays in adjudicating complaints in three of four jurisdictions, and produced case backlogs that, at least according to one monitor "threaten[ed] the overall success of the consent decree" (Pittsburgh Monitor Tenth Quarterly Report, Feb. 2000, 59-60). This is not a surprising finding. Since the field's inception, policy implementation literature has consistently highlighted the necessity of both labor and capital resources (e.g., Pressman and Wildavsky 1973; Derthick 1972; Nakamura and Smallwood 1980; Berman 1978; Elmore 1979-80). That said, the clarity and decisiveness with which the absence of resources detrimentally affected the implementation of several aspects of these settlement initiatives is noteworthy.

Also noteworthy is the importance of resources to the holistic implementation of the reform effort in each jurisdiction. There is some evidence that the DOJ's investigation and oversight of a police department sends a strong signal to local budget officials that the resources necessary to improve the department must be forthcoming. In addressing an audience at the 2008 Police Executive Research Forum Annual Meeting, former Pittsburgh police chief Robert McNeilly makes this case unequivocally, "I firmly believe that without the consent decree, we would not have made the progress we did....And the federal oversight helped convince local officials to provide all of the resources required to make those changes" (Comments at PERF Annual Meeting, Miami, Florida, April 24-26, 2008). At the same meeting, John Timoney, former Philadelphia Police Chief, took the point even further, "…the consent decree [helps] you get technology. The Philadelphia Police Department went to the front of the list [of city agencies waiting for funding for technological infrastructure], and [the DOJ intervention is] something you can hold over the city administrator's head. You can say, 'Hey, we've got to do this.'" (Comments at PERF Annual Meeting, Miami, Florida, April 24-26, 2008).

Beyond the importance of the initial bump in funding created by the specter of DOJ oversight and the reality that their city's police department needs significant improvement, successful implementation depends on a sustained commitment to pay for what is an expensive process. According to Ron Davis, Chief of Police in East Palo Alto, CA and a former monitor in Washington D.C., the long-term allocation of resources keys implementation progress:

> You have to have political leadership, the will, to pay for early intervention systems, to pay for cameras, to pay for…data collection systems, whatever the recommendations are needed. And to be able to pay it past the crisis that caused the consent decree. It's one thing to acknowledge that reform is needed when you're in the middle of scandal. It's another thing two years later when other priorities appear, but you still have to [make] the expenditure…you still have to factor [the reform] into your budget (Ron Davis, interview with author, Dec. 18, 2009).

It is no surprise that extensive reform requires a consistent, generous allocation of resources. Without the money to pay for system development and to hire the labor needed to investigate citizen complaints, for example, little progress is possible. It goes without saying that any policy change of this (or lesser) magnitude is futile in the absence of sustained financial commitment.

Hierarchical Integration/Complexity of Joint Action

Mazmanian and Sabatier argue that the hierarchical integration of the agencies within the implementation system has the ability to affect the implementation process. Results from the current study indicate that police departments under pattern or practice settlement agreements were coupled with the Department of Justice in a strictly hierarchical relationship, with information and implementation protocol flowing from exclusively from the top down. In each case, information and authority derives from the Justice Department and flows downward to the affected police department through that agency's leadership, beginning with the chief of police.

This tightly-coupled, closely managed implementation system had both positive and negative effects on the pace of reform. In some cases, the Justice Department's close oversight of the process slowed down implementation. For example, in Washington, D.C., the requirement that DOJ attorneys approve all policy changes contributed to some delay in the development of MPD's use of force policy. On the other hand, the DOJ's close, sustained involvement in the implementation of settlement reforms helped to create a clear, unambiguous implementation framework, where the affected police departments were able to seek ongoing guidance and receive authoritative instruction when facing situations that lacked clarity.

The development of Cincinnati's department-wide Taser policy provides another example of the importance DOJ participation. In February, 2004, over two years quarters into implementation of the MOA, CPD leadership expanded dramatically CPD patrol officers' use of Tasers (Cincinnati Monitor Fifth Quarterly Report, Apr. 2004). Taser use was not contemplated at the time of the MOA negotiation and thus was not covered by the terms of the agreement. The DOJ was instrumental in providing technical assistance to CPD leadership and helped incorporate into the MOA the necessary – and substantial – changes to the CPD use of force protocol without much in the way of either delay or quality control. Without such close involvement and direct hierarchical integration, this type of mid-stream change would likely have resulted in significant delays or other more detrimental consequences. What is more, this incident highlights the importance of mutual adaptation and flexibility in promoting implementation (Berman 1978; Majone and Wildavsky 1984).

Role of Independent Monitor

Independent monitor teams were of central importance to pattern or practice reform in each of the four jurisdictions. The monitor served as the conduit between the DOJ and the

affected department, at once serving as a technical advisor to police leadership and the source of objective information about the department's progress. In this sense, the monitor provided the link between a top-down, "DOJ-driven" implementation effort and the departmental goals, priorities, and day-to-day operational emphases that define a bottom-up approach.

To that end, it is the monitors that almost singularly dictate the accountability framework in place to drive the implementation effort. The presence of a team of outside experts overseeing the process has the effect of focusing the department's energy on compliance and minimizing the likelihood that other organizational priorities may interfere over an extended period of time. Monthly status meetings had the effect of creating an environment of accountability, one that forced each department to focus on implementing the terms of the settlement in a steady, incremental manner. These meetings also allowed the monitor to bring issues of concern to the attention of department leadership and to ensure that certain issues remained on the agency's agenda. By making the chief aware of problems, the monitor was able to focus department resources and energy on those areas of need, taking advantage of the chief's authority. Washington, D.C. monitor Michael Bromwich's description of his experience with former MPD Chief Charles Ramsey is illustrative:

> I went to him a very small number of times with -- with what struck me as important enough problems that I needed a special meeting with him. And I said, This is broken. You need to -- you need to fix this. And he did, almost immediately (interview with author, Feb. 23, 2010).

This finding seems to square with the emphasis Bardach (1978) placed on political fixers, and is entirely consistent with previous accounts of special masters facilitating institutional litigation reform (e.g., Cooper 1988). What's more, this further emphasizes the value of implementation system flexibility and adaptability, and a mutual understanding among both monitor and agency leadership that the product of implementation – agency reform – will only be accomplished through cooperation. In each of the four cases, the independent monitor was

an essential component of this cooperative approach, almost like a binding agent between the DOJ and the implementing agency. Consider as an example former Washington, D.C. monitor Ron Davis's description of the monitor's job:

> And so monitors that understand their role to stay within the scope of the agreement, that see it as their -- as one of their responsibilities is to help the organization achieve compliance, then can work with the chief and the management team on making sure they interpreted the conditions appropriately and if they are falling short, help them, through their expertise and best practices knowledge, point them in the best direction to help them come into compliance. And if something in the agreement is not feasible, then work with either the Justice Department or the plaintiff's attorneys to make sure that it is something that is tenable" (Ron Davis, interview with author, Dec. 18, 2009).

This ability to set the parameters for compliance and dictate the pace, emphasis, and effect of the settlement reform process grants considerable power to the independent monitor. Their quarterly reports are the lone independent source of data on reform progress and provide for both the DOJ and the department itself a definitive account of the implementation. The monitor team's charge to evaluate the process necessitates access to police department decision making processes, personnel files, incident and investigation reports, among other information typically reserved for command leadership. What's more, independent monitors are fully integrated into the department's decision-making structure on matters related to the content of the settlement agreement. Ultimately, monitor teams have near unilateral control over the day-to-day implementation of settlement reforms, an authority they may interpret in several ways. Consider the dichotomy framed by former monitor Ron Davis:

> If something is not working, then [the monitor] can sit down with the court and find out what would work and find out what is our ultimate goal. Or, we can come in and simply play 95 percent to a "T" and have the agency at 93 percent and get a scathing report, even though it's [only] 2 percent different" (interview with author, Dec. 18, 2010).

In setting the standards of compliance, the monitor not only has the power to dictate the pace but the tone of implementation as well. If he or she sees interprets the settlement agreement strictly, and sees compliance with deadlines as the only relevant metric of progress, then the

agency will view the reform effort similarly, likely opting for bureaucratic compliance rather than meaningful reform. If, on the other hand, the monitor is able to see technical compliance as part of a bigger picture, so too will the agency.

Despite their potential as fixers and as a source of technical assistance, Ron Davis warns of the potential risk involved in granting an independent agent such unilateral authority: "The monitor can either be a group that assists the department achieve [reform] or it could be inadvertently one of the greatest contributors to undermining it" (Ron Davis, interview with author, Dec. 18, 2009). Beyond the quarterly report filing requirement, there is no accountability structure in place to ensure that the monitors themselves are performing as expected.

Further, there are no mechanisms that exist under the current arrangement to prevent a rogue monitor intent on padding his or her pockets by setting an unattainable standard and thus forcing an extension of the original settlement termination date. In Cincinnati, implementation was delayed for over a year in part due to a conflict over billing between the City and the monitor, Alan Kalmanoff, originally hired to oversee the reform implementation.[50] "Dr. Kalmanoff sounds more like Mr. Ripoff to me," said Cincinnati City Councilmember Chris Monzel. "We want a monitor who is going to make us better, not one who is going to nickel and dime us to death" (Angelen 2002).

The experience in Detroit, whose police department has been under a pattern or practice settlement since June, 2003, illustrates the worst case scenario related to an independent monitor. Many observers lay blame for the City's lack of progress directly at the foot of the monitor, who was alleged to have had an extramarital affair with the City's mayor and has been accused of lying about her fees and expense reports to the tune of millions of

[50] On December 17, 2002, some twenty months after the City agreed to the terms of the MOA, Saul Green was hired to replace Kalmanoff (Cincinnati Monitor First Quarterly Report, Apr., 2003, 1).

dollars (Elrick et al 2009). She has subsequently been replaced, but the city continues to struggle with implementation.

Independent monitors have considerable authority over the implementation of Section 14141 reform, authority that can be used to either "fix" implementation problems, as theorized by Bardach, or establish and perpetuate a dysfunctional process.

Role of the Judge

Unlike most legislative and executive branch policy efforts, pattern or practice settlement reform initiatives are signed under the authority of the U.S. Federal Court. Language in each of the four agreements makes clear that in the case of noncompliance the Justice Department may sue to enforce the terms of the agreement.[51] Though judicial involvement in the implementation effort is a rare occurrence, the specter of court-based sanction does seem to have the effect of motivating departmental compliance.

Of course, if and when a judge does become involved, issues between parties tend to be resolved rather quickly. Consider the example of Cincinnati. In the Eighth Quarter, some three years after the Cincinnati MOA was initiated, the CPD "complain[ed] that is [had] already implemented the terms of the MOA, that the reporting requirements of the Agreements [were] overly burdensome and a 'waste of time'" (Cincinnati Monitor Eighth Quarterly Report, Jan. 2005, 8). This frustration manifested itself in the form of CPD's active resistance to the implementation process, including barring monitors from meetings, refusing to hand over necessary files, and in one case openly "deriding the competence of the Monitor Team,

[51] There are technical differences in the enforceability of a Consent Decree, which is enforceable under court order, and a Memorandum of Agreement, which functions like a court-enforceable private contract (and may, upon breach, be converted into a formal court document, as in the case of Cincinnati). For the purposes of this discussion, what is important is that regardless of the process required, parties to the agreement may enforce in federal court a material violations of provisions established in each may be enforced in court.

criticizing the Monitor Reports, and complaining about the [settlement agreement] reporting requirements" (Cincinnati Monitor Eighth Quarterly Report, Jan. 2005, 8).

In response to the Cincinnati's position that it had "done enough, and shouldn't be expected to do any more" (Cincinnati Monitor Eighth Quarterly Report, Jan. 2005, 9), the monitor and the DOJ took action immediately to have the terms of the agreement enforced in Federal Court (Cincinnati Monitor Eighth Quarterly Report, Jan. 2005, 9). According to Cincinnati monitor Richard Jerome, the judge's involvement had a significant impact in bringing the CPD and its leadership into compliance with the settlement agreement. In finding the CPD in material breach of the terms of the MOA, the judge "convert[ed] the [settlement agreement] into a court order…which meant that there…was potential [for] contempt sanctions….[In the eyes of the police,] that wasn't going to happen….[T]hat order by the judge shifted a lot of things" (Richard Jerome, interview with author, Mar. 24, 2010).

From that point forward, the orientation of the Department leadership was transformed. In their Eleventh Quarterly Report, several months after the initial dispute, the monitor team signaled a sea change:

> [W]e want to focus attention at this moment on the excellent work by the Parties this past quarter…We commend the Parties on more than just the policies and procedures adopted, the personnel trained, and the increased quality of reporting. Just as important as the increased productivity and quality of work completed, is the fact it could not have been accomplished without collaborative, productive relationships being as work between the Parties. We look forward to this work continuing (Oct. 2005, 6-7).

This example highlights the importance of the federal judiciary as an enforcement agent, and emphasizes the undeniable value of a powerful, independent mechanism for resolving disputes that have the potential to derail implementation. When the judicial action is seen in combination with the role played by the monitor in identifying the problem and working to initiate a solution, the Cincinnati example highlights what is in my view the defining characteristic of the pattern or practice implementation system. This function not only serves as

an important deterrent, but has the capacity to facilitate the resurrection of even the most extreme implementation problems.

Contextual Factors

The implementation of police reform does not occur in a vacuum. Scholarship examining the implementation of statutory policy, of case law, and of remedial decrees, indicates that several components of the implementation context have the ability to shape the implementation process. Of the several elements included in the framework, two stand out as affecting both the implementation of specific constituent parts as well as holistic implementation of each pattern or practice settlement agreement.

Attitudes and Resources of Constituency Groups

The development and implementation of settlement agreements between the Department of Justice and affected police departments occurs in a top-down, highly centralized, closed manner. In almost every case, DOJ lawyers, city/county executive officials, and representatives from the police leadership negotiate the substantive terms of the settlement, set the implementation timeframe, and establish relevant compliance standards. Affected constituent groups – including department rank and file, organized labor, and minority community interests, among others – are typically not included at the policy development phase. Nor are members of jurisdiction's legislative branch. In addition to raising serious questions about the democratic legitimacy of the process – and its product – the settlement negotiation necessarily generates a correspondingly centralized, top-down implementation process.

Scholarly debates about the wisdom and propriety of "top-down" versus "bottom-up" approaches to implementation are well known. "Top-down" proponents tend to describe a

process that emphasizes agency leadership and organizational hierarchy (e.g., Pressman and Wildavsky 1973; Mazmanian and Sabatier 1989). "Bottom-up" advocates, on the other hand, argue that implementation success is often a function of support for the policy among those charged with the bulk of the implementation: lower-level staff and independent third-party groups. Bardach (1977) summarizes the bottom-up argument thusly:

> Participation gives [agency employees] a sense of commitment to the program, a pride of sponsorship. Baseless anxieties will be allayed. Defensive maneuvers will be cut short, before they have a chance to do damage to the program (105).

On the other hand, Bardach warns, efforts to develop a bottom-up strategy, which emphasizes the inclusion and co-optation of low-level staff "creates the risk of stalling the entire program should it fail." Potential adversaries "may inadvertently be given too much power to shape, or misshape, the program should they be 'brought in' early and not at the same time be converted into friends and supporters" (Bardach 1977, 105).

In short, the 'top-down vs. bottom-up' debate cuts both ways. An implementation process than emphasizes the participation and support of third-party groups and agency staff may face potential costs – and benefits – of doing so. And vice versa.

Evidence from Section 14141 reform implementation bears this out directly. Of the four jurisdictions reviewed here, settlement negotiations in Pittsburgh, Washington, D.C., and Prince George's County, for the most reflected a top-down approach.[52] In Cincinnati, however, as a result of the community-based Collaborative Agreement, which was developed and implemented along side of the DOJ's Memorandum of Agreement, community groups like the ACLU, the Black United Front, and – perhaps most importantly – the City's Fraternal Order of Police organization, were each included in the negotiation.

[52] For example, former Pittsburgh City Solicitor Susan Malie, describes the DOJ's approach, "They never spoke to a single police officer in their investigation of the ACLU's allegations. So we sort of had this image of the Justice Department interviewing this list of complainants without really getting the other side" (Interview with author, April 1, 2010).

Results indicate that limiting constituency group access to the settlement negotiation and implementation processes may on some level make getting the reform process off the ground much less complicated. In Pittsburgh, for example, Chief Robert McNeilly believes that his decision to exclude FOP leadership from internal debate over how to handle the DOJ's initial investigation into alleged PBP misconduct increased Bureau leadership's ownership of the process by cutting out altogether a dissenting voice, one that wanted to challenge in court the DOJ investigation. McNeilly believes this decision saved the city money, and ultimately, allowed the reform process to move forward in a way that reflected the PBP's priorities. Similarly, in Washington, D.C., Police Chief Charles Ramsey's decision to request the DOJ investigation was made – and carried out – without participation or approval from the rank and file, something Ramsey believes was a practical necessity, despite presenting minor, short-term costs in the form of internal opposition (interview with author, May 20, 2010).

In Pittsburgh, however, the decision to exclude from the process the FOP and the voice of the rank-and-file officer helped to engender a very contentious, almost hostile, implementation environment. The union opposed the process from the outset and to the extent possible, fought the implementation of reforms throughout. The following example from former Chief McNeilly is illustrative:

> [The] union was adamantly opposed to doing anything. In fact, we had one, the vice president of the union, in one of the classes where he got all of the supervisors together…and we started to explain to him what the [Early Warning System] was going to do…. And he became argumentative. He was saying, I don't believe sick time should be part of that….I said, I'm not here to debate this with you. I'm here to tell you how it's going to be. So I had to be very hard-line, because some of them were adamant they were just going to resist (Interview with author, Mar. 1, 2010).

Though it is hard to trace such opposition directly to McNeilly's decision to exclude the union from early decision-making, this decision, in combination with McNeilly's unilateral and combative leadership style does seem to have exacerbated the situation.

The decision to pursue a top-down approach, characterized by the exclusion of third-party groups, including labor unions, from the implementation process can certainly contribute to delays, as in the case of Pittsburgh. Evidence from Cincinnati also demonstrates the potential costs of a "bottom-up" approach, designed to incorporate the broad perspectives of community organizations. These challenges, manifested typically in the form of procedural delays, were relatively minor, and ultimately did not prevent full implementation of the settlement agreement. In fact, such an approach may have led to direct benefits. Former Cincinnati monitor Richard Jerome argues that by including in the process third party groups, in particular the city's police union, may have co-opted their support: "having [the union] at the table, as opposed to kind of outside and criticizing – I mean, I remember Pittsburgh very well – helped tremendously" (Interview with author, Mar. 24, 2010).

What is more, according to Cincinnati's City Manager, Milton Dohoney, broad participation among constituency groups helped generate a more legitimate set of reforms:

> [Y]ou've got to have all the stakeholders represented. So if you had the Department of Justice sort of all over the police department and the community's not there, you're creating a set of standards or expectations that the community has no reason to buy into, because they weren't a part of making it. What we did, as painful as it was, was have the community present, and again, their own ideas, either directly or through their counsel in the ACLU, to lay out, you know, here's what we're asking you to consider. And so when we got to the end, they were a part of the process, part of the solution, and they saw ideas that they had reflected in the agreement that was in writing (Interview with author, May 3, 2010).

Of course, if third-party access has the ability to promote legitimacy in the eyes of the community and police rank-and-file, an exclusive, top-down approach may have long-term destabilizing effects. There is direct evidence from both Washington, D.C. and Pittsburgh, for example, that hostility to the pattern or practice initiative persists among union groups excluded from the process. In each city, there is an ongoing, highly targeted effort by organized labor to

countermand changes brought on by the settlement reform process. According to Kristopher Baumann, head of Washington, D.C.'s Fraternal Order of Police,

> [W]hat has to be understood is, at least in D.C., unions are a function of the law. They're statutory creatures. Our existence and our authority derives from the statute….And if you don't respect that authority and you don't respect the process and the input and the ability of the union to have input, whatever you do is going to be undone… And eventually, even the good things that may have been done by this process could be undone because it wasn't done the right way. And if you don't respect the process from the beginning, you're building a house of cards (Interview with author, March 1, 2010).

To summarize, then, the orientation of third-party groups – the most critical of which, the police department labor union, represents the vast majority of rank-and-file officers – toward the process is a key component of the pattern or practice implementation context. Stakeholder participation, again, particularly that of police unions, is an issue that reflects the complexity and ambiguity of long-standing theoretical debates over the propriety of 'top-down' versus 'bottom-up' implementation. There are costs and benefits of both approaches.

On one hand, it appears that a more inclusive process carries with it short-run costs. Negotiation can be much more contentious and may ultimately take longer. Broad participation may even cannibalize the settlement process altogether. But if there is a way to reach consensus – and Cincinnati shows us that it is possible – then there may be hope that a more inclusive negotiation process could produce a more legitimate end-result. A centralized, top-down approach, on the other hand, is more likely to produce short-run efficiencies. Such an approach may contribute to creating a hostile implementation process however, and may result in less-sustainable, long-term reform.

The relationship between management and labor, i.e., between leadership and rank-and-file staff, emphasizes the importance of politics to pattern or practice reform implementation. This finding is consistent with that of implementation literature ranging from Berman (1978) and Radin (1977) to Bardach (1977), Nakamura and Smallwood (1980), and

O'Toole and Montjoy (1984), among others. Though not easily defined, and harder to characterize than say, the presence or absence of sufficient resources, value-laden disputes between participants at all levels of the implementation system dominate the implementation process. For example, PBP Chief Robert McNeilly's decision to exclude labor unions from initial settlement discussion was on one hand made for strategic reasons; bringing in a dissenting voice would have slowed initial discussion and may have threatened the settlement negotiation altogether. On the other hand, his contemptuous personal relationship with Pittsburgh's FOP leadership all but eliminated the possibility of a productive partnership, regardless of overriding strategic considerations. Similarly, long-standing disputes between labor groups and police leadership in Washington, D.C. continue to threaten reforms achieved by the pattern or practice agreement.

Support from Political Principals

This study's findings are consistent with the notion that support from political principals may facilitate the policy implementation process. In addition to the consistent provision of resources, the support of executive branch leadership for pattern or practice reform was particularly critical at the earliest stages of the process. In describing early meetings with Mayor Anthony Williams, Washington D.C.'s former Chief Charles Ramsey alludes to the fact that opposition from the mayor could have severely complicated Ramsey's decision to invite the DOJ to investigation and ultimately help reform MPD: "The mayor was very supportive. I didn't do this, you know, by myself there. I sat down with the mayor. I explained the situation to him. I explained what I thought needed to be done. And it was risky" (interview with author, May 20, 2010).

Though such tacit support (i.e., the absence of overt opposition) for the process among political principals is a necessary component of successful pattern or practice implementation, it

may not be sufficient. Proactive, public support among political officeholders can also imbue the process with a certain institutional legitimacy. In Cincinnati, for example, after the Police Department's material breach of the settlement terms, the City Council passed a Resolution "expressing the continued commitment of the City to achieve the goals as stated in the MOA with the DOJ…and to continue to work with the Parties to [that] agreement to accomplish the mutually agreed objectives" (Cincinnati Monitor Ninth Quarterly Report, Apr. 2005, 4). This symbolic gesture had the effect of galvanizing public support for the process and putting increased pressure on the CPD leadership to reorient itself toward the department reform.

Evidence from the Cincinnati reform effort also emphasizes the potential value of not just supportive but capable, proactive political leadership. According to Cincinnati monitor Richard Jerome:

> [P]robably the biggest reason why Cincinnati was successful was a change in the city management. And when Milt Dohoney came in… he really recognized the need for change and recognized the advantages to bringing change to the police department in terms of a different approach to policing, a different approach to police/community relations….[Dohoney] basically told the chief, you know, we need to change (Interview with author, Mar. 24, 2010).

In addition to highlighting the value of political support, Jerome's observation also emphasizes the potential benefits of a city manager system where *non-political* principals have responsibility for overseeing the operation of city agencies and the institutional authority to affect both day-to-day management and higher-level agency orientation.

In brief sum, political and environmental context is critically important to pattern or practice reform implementation. Strategic and political relationships between police department management and labor contribute greatly to defining not only the direction of reform and the relative power structure throughout the implementation system, but have the ability to drive the institutionalization of reform. What is more, support from principals, both political and non-political, also has the ability shape implementation progress. Of course, the

support of jurisdictional leadership for Section 14141 reform is an almost exclusively political calculation.

Agency Factors

Several characteristics of the police departments themselves affected the implementation of pattern or practice reform, including the behavior of street- and mid-level staff, agency leadership, and the overall structural alignment of each affected department.

Street-level Officers

Abuse of officer discretion – the systematic use of excessive force – was at the heart of the DOJ's investigation into police practices in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County. Naturally then, pattern or practice reform in each jurisdiction was built around systems of discretionary control and accountability, with use of force reporting schemes, early warning systems, and misconduct investigation procedures as central components. Just as these initiatives are designed to manage officer discretionary authority, in many cases their implementation is predicated on street-level compliance.

The results highlight the role that patrol officers play in bringing a department into compliance with each component of the agreement, as well as to reaching holistic implementation. Officers in Washington, D.C., Cincinnati, and Prince George's County, for example, took considerable time to implement new use of force reporting requirements, and in some cases openly refused to comply with certain changes in policy. Implementation of misconduct investigation protocols were also delayed in several jurisdictions under review, in part owing to street-level recalcitrance. But these conflicts occurred on the margins and tended to present only temporary problems.

There is also evidence of street-level compliance. With few exceptions, beat cops submitted to interviews with citizen complaint investigators, attended mandatory training sessions, and, perhaps most importantly, reduced overall incidence of use of force. What problems did exist were largely overcome by the final stages of the implementation process, however, and none appeared to present lasting challenges to department leadership. When measured in terms of strict compliance with the terms of the settlement, the abuse of discretion that concerned Lipsky, and has preoccupied police leadership and scholars from several academic fields, did not materialize.

There is anecdotal evidence, however, that the increased intensity of discretionary oversight established under the pattern or practice reform led to some incidence of "de-policing," or what some have called the "drive-and-wave syndrome" (Stone et al. 2009). De-policing is a common concern among police officials in jurisdictions facing DOJ intervention. Spurred by opponents of the process, some department leaders have expressed fear that some patrol officers "will hesitate to intervene in difficult circumstances for fear that, despite their best intentions, their actions will be criticized and they may even be disciplined" (Stone et al. 2009, 19). According to Mazmanian and Sabatier, these kinds of responses are to be expected in a reform environment that increases oversight of discretionary behavior: "[S]uch 'red tape' has its own costs and may be quite harmful to program effectiveness in cases that require the *active* commitment of street-level bureaucrats, particularly those with professional autonomy" (Mazmanian and Sabatier 1989, 36).

In Cincinnati, Greg Baker, the Cincinnati Police Department's Executive Manager of Public Relations, and the civilian charged with managing CPD's implementation of the MOA, reported significant instances of de-policing. According to Baker, the first sign of the problem was a noticeable decline in the city's revenue from parking and speeding tickets, and then "it

was just obvious as far as, arrests – everything fell off. Every matrix you could think of." Baker attributes the de-policing to a set of intangible factors: "It's kind of hard to describe the environment to somebody that wasn't here…how extremely difficult [the reform process] was. So I think it was a combination of community sentiments, the media, the Department of Justice, advocate groups, our city council, all focused on these issues…all coming at you at one time" (Interview with author, Apr. 9, 2010).

There is some evidence of de-policing in Pittsburgh, as well. In focus groups conducted by the Vera Institute of Justice, PBP officers reported being "hesitant to intervene in situations involving conflict because they were afraid of having a citizen file an unwarranted anonymous complaint against them or of having to use force that would be perceived as unjustified by the command staff" (Davis et al. 2005, 16). In response to a survey administered less than a year after the consent decree was lifted, a majority of PBP officers identified de-policing as a way to cope with the increased accountability and paperwork demands brought on by the reform effort. According to the 2005 Vera report, "[n]early three in four officers stated that the reforms introduced under the decree had reduced the aggressiveness with which they do their jobs" (Davis et al. 2005, 21). One survey respondent noted that as a result of the consent decree "some officers [are] less prone to interact with people at all because they fear being booked" [by the department] (Davis et al. 2005, 20).

Kristopher Baumann, head of Washington, D.C.'s police union, attributes de-policing among MPD officers to a dramatic increase in paperwork:

> "[T]hese are police officers and sergeants that used to be actually out in the public doing police work, that are now in the office doing reports. I think -- we had a study in '06 or '07 that showed as a result of the MOA, the amount of paperwork for your average patrol sergeant had increased, I think, between 45 and 60 percent in a year" (Interview with author, March 1, 2010).

For his part, former MPD Chief Charles Ramsey denies any incidence of de-policing during his tenure in Washington, D.C., a sentiment shared by former Pittsburgh Bureau of Police Chief Robert McNeilly and several other stakeholders I spoke with. Washington, D.C. monitor Michael Bromwich calls de-policing a "myth." What is more, neither of the studies that examined the issue systematically (in Pittsburgh and Los Angeles) found more than minimal evidence of de-policing, though each reported some discussion of the issue in study focus groups (Stone et al. 2009; Davis et al. 2002).

That there is mixed evidence – and mixed views of de-policing, even among members of the same police department – is not a surprise. Definitions of de-policing vary widely, as do explanations for its supposed presence or absence. Rick Fuentes, Superintendent of the New Jersey state police, an agency that was under a federal consent decree from 1999 to 2009 in order to correct a pattern or practice of racial profiling, argues that a high level of discretion among New Jersey patrol officers explains reform-related de-policing observed in his jurisdiction. With high levels of undirected, discretionary authority comes the power and autonomy to disengage. On the other hand, Fuentes argues that because large metropolitan police departments like Los Angeles or Washington, D.C. are "so busy with calls for service, there's a very high volume of non discretionary police activity," officers in those departments might not have the discretionary authority – or professional autonomy – to selectively avoid patrol stops, arrests, or other citizen encounters (NIJ Conference, Arlington, VA, July 28, 2008).

Police departments are highly discretionary agencies; their operation is defined by the authority placed in street-level agents that operate in high-stress, autonomous environments. Abusive application of this discretionary authority – in the form of a pattern of excessive use of physical force – lies at the heart of Section 14141 reform, and remains central to the discussion of settlement implementation. Though no doubt critical to successful reform, the record of

street-level compliance is mixed. On one hand, specific, tangible issues of non-compliance were relatively infrequent and for the most part, overcome by the inertia of department reform. On the other, evidence of de-policing, though disputed, raises the specter of a street-level resistance that, while amorphous and difficult to either define or identify, may indicate the presence of an undercurrent of dissatisfaction. In either case, the behavior of street-level officials remains central to the implementation of pattern or practice reform, and will no doubt affect the sustainability of settlement initiatives in each of the four jurisdictions under review.

Mid-level Management

Also of critical importance to pattern or practice implementation is the behavior of police department mid-level managerial officers. Though the centrality of mid-level staff has been discussed in the context of police reform (e.g., Kelling and Bratton 1993), such discussions have largely been omitted from the policy implementation scholarship, which tends to emphasize the importance of individuals at the highest (e.g., Mazmanian and Sabatier 1989; Bardach 1977; Van Meter and Van Horn 1975) and/or lowest levels (e.g., Berman 1978; Elmore 1979-80) of the organization.

Several findings merit discussion. First is the centrality of mid-level managerial staff to the implementation process generally. Mid-level staff serve as a conduit between agency leadership and patrol officers, and as such occupy a key position of accountability within each organization. Sergeants and lieutenants are typically charged with overseeing the compliance efforts of street-level officers across various aspects of the reform effort, including use of force reporting, citizen complaint investigation, and the use of early warning system data. According to former Pittsburgh Chief Robert McNeilly, the importance of mid-level supervisors is no coincidence:

> The burden of the work was on management, and I thought that was appropriate, because management in the past had been negligent. They had not been doing their job…They had not been overseeing use of force and whether it was appropriate or not. They were not conducting performance evaluations, sitting with their people and telling them if they're doing a good job, letting them know when they're doing a bad job" (Interview with author, Mar. 1, 2010).

Second, findings from the current study highlight not only the critical role that mid-level staff play throughout the reform process, but of mixed compliance with the required behavioral change. Monitor reports from each of the four jurisdictions provide several examples where implementation progress was slowed by non-compliance among mid-level agency staff. In Prince George's County, for example, supervisors failed to perform mandated oversight of use of force incident reports filed by street-level officers. A second example comes from Cincinnati, where for several quarters mid-level supervisors appeared unwilling to perform the necessary staff intervention or take the appropriate disciplinary measures against those officers identified by the Department's early warning systems.

These examples demonstrate the pivotal oversight and accountability responsibilities of mid-level supervisorial staff, and suggest that non-compliance could significantly affect the implementation of several pattern or practice constituent components. As was the case with problems that arose as a result of street-level noncompliance, the delays caused by mid-level resistance tended to present only temporary setbacks. In almost every case, the monitors' identification of and consistent attention to the issue, together with leadership from the chief and the efficiency of the chain of command, was able to correct problems related to supervisorial staff recalcitrance, inattention, or lack of awareness.

Despite their affect on compliance with specific components of each settlement, these problems did not significantly affect the departments' ability to get out from under the settlement agreement in any of the four jurisdictions, owing largely to the corrective process described above. The pattern or practice reform effort hinges on street-level compliance with

policy change (e.g., in the form of reports filed, investigations conducted, training attended, etc.) *and* mid-level staff oversight (e.g., approval of use of force and investigation reports, attention to and enforcement of early warning system data, etc.). Compliance among mid-level staff is also quite important to department efforts to sustain pattern or practice reform after the formal settlement agreement has been lifted, an issue that will be addressed in detail in Chapters 5 and 6.

Leadership

Police leadership had a significant effect on the implementation of pattern or practice reform. In jurisdictions where leaders made compliance a priority, addressed problems swiftly and assertively, took a personal interest in seeing implementation through, the process was largely successful. In the rare instances where leadership was either hostile to the reform effort or allowed the process to fade from view, progress stalled.

The centrality of leadership to reform implementation is largely a function of the hierarchical, quasi-military structure of the American police department. Within this organizational structure, policy and accountability flow from top to bottom, with department priorities and strategic orientation originating with chief. According to police accountability expert Sam Walker, the recipe for successful pattern or practice implementation is actually quite simple: "[I]t's really leadership, leadership, and leadership" (Interview with author, Mar. 17, 2010). Implicit in this argument is the notion that patrol officers will embody the reform effort only when normative and cultural signals from the top of the organization stress the importance of compliance. Merrick Bobb, a lawyer and police accountability authority, shares Walker's view, arguing further that leadership begins with a commitment to the reform effort:

> I think a strong person at the top is an essential ingredient, in the sense that you really need somebody who's – who personally is committed to the goals of the consent decree for the department he or she heads. And if you have that degree of personal

> commitment, then you can make very good progress. And absent that, it can be a difficult exercise (interview with author, May 5, 2010).

Leadership in this capacity must go beyond making implementation an operational priority. To succeed in promoting change, chiefs must convince the rank and file of the philosophical and instrumental importance of the reform effort. According to Ron Davis, East Palo Alto, CA police chief and former Washington, D.C. monitor, this involves characterizing the pattern or practice reform as essential to the agency's core mission, and as something dramatically more important than a perfunctory set of tasks that must be completed to rid the agency of DOJ involvement. To Davis, agency leadership must convince the rank and file that the initiative compliments rather than competes with the agency's crime fighting responsibilities:

> It has to start with the chief providing the leadership, making [the reform effort] a priority, and incorporating the conditions of any consent decree or settlement agreement as a critical component to their success in not just reform, but in actually fighting crime, and to their core mission. Otherwise, it's always going to be something separate -- we have to fight crime and comply with the consent decree (Ron Davis, interview with author, Dec. 18, 2009).

Several additional components of 'committed leadership' are worthy of mention, beginning with personal attention to the implementation process. Consider, for example, Washington, D.C. Metro Police Department Chief Cathy Lanier's description of her involvement in an effort to quash misinformation about use of force reports among MPD patrol officers:

> They need to see from me when rumors, which are rampant at the lower levels of the organization, would go out. I would go out to roll calls myself and clear those rumors up. Get it from the horse's mouth. You know, there was a rumor that went around about -- oh, what was it. What was the big issue when I first came in? There was a rumor going around about something having to do with the filling out of UFIRs [Use of Force Reports]. It was a crazy rumor. But it was spreading like crazy. And so I went out to the roll calls. I said, 'Look, let me tell you what -- here's the rumor. Here's the truth. Isn't this crazy how this has gotten so out of hand? You know, I'm the chief of police. I'm not going to stand here and lie to you. This is what we're trying to do. This is why we're trying to do it' (interview with author, Jan. 13, 2010).

A second important element of leadership is a willingness to enforce department rules assertively, regardless of where in the chain of command the non-compliance occurs. In one

instance, midway through the implementation of reforms in Pittsburgh, Chief Robert McNeilly confronted three lieutenants who refused to allow themselves to be audiotaped as part of a citizen complaint investigation. McNeilly enforced the Bureau's disciplinary protocols, in the process sending a clear message down the chain of command:

> The third [officer] still refused [to comply]. He came in front of me and I suspended him for a day. I said, 'The second time you refuse, this will be a three-day, and the third time he refuses, he's fired.' And we went to an arbitrator. The arbitrator upheld my suspension. And after that, we've never had another problem" with officers refusing to cooperate with OMI investigations (interview with author, Mar. 1, 2010).

According to Ron Davis, the deterrent effects of such an approach to enforcement are clear: If the rank and file "see that people at the highest levels of the organization are being held accountable…that sends a clear message. If [the chief] is ready to discipline a captain, he's not going to hesitate with me" (interview with author, Dec. 18, 2010).

A third component of 'committed' leadership is a sense of urgency and an ability to focus both energy and internal resources on high-level compliance. On this issue, former Washington, D.C. monitor Michael Bromwich is worth quoting at length:

> I would say a structure or infrastructure within the department that allows implementation of the reforms. And I think one of the things that's most important in that is having a combination of direct access to the chief, unmediated direct access to the chief, and also the ability to command the resources necessary to implement the reforms.
>
> Interestingly, in D.C., you had the first and not the second. And I didn't fully realize until towards the end that despite Chief Ramsey's role in initiating the investigation that led to the memorandum of agreement and his consistently positive attitude and statements throughout, that he had not done everything that could have been done internally to put his department in a better position to reach the goal line sooner.
>
> And that was underscored for me, because when Cathy Lanier came in, which would have been at the end of 2006, the beginning of 2007, clearly one of her mandates from the mayor is, Get out from under this. It's been going on X number of years already -- get out from under it. And so she mobilized the department's resources internally in a way that allowed them to get a lot of unfinished stuff done reasonably quickly. And my sense was that one of the things that she did is she personally oversaw it more closely and intensely than Ramsey had, at least towards the end of Ramsey's tenure. … And it became very clearly a priority for Chief Lanier to get out from under it, and I think she

> very clearly communicated that to her people and they realized that there would be consequences if they failed (interview with author, Feb. 23, 2010).

The importance of agency leadership to successful implementation is evident in data drawn from monitor reports and stakeholder interviews, and largely supports findings from implementation literature and existing research on pattern or practice reform (Davis et al. 2002; 2005; Stone et al. 2009). Among other things, future work on the issue should examine the extent to which leadership in Section 14141 reform implementation conforms to a punctuated equilibrium pattern of change (Baumgartner and Jones 1993).

Very much related to this discussion of the effect of agency staff on reform implementation is the broad observation that Section 14141 enforcement serves to reduce discretionary authority at all levels of affected departments, increasing the role of centralized policy-making vis-a-vis agency use of force, incident reporting, officer training, internal and external accountability, and so on. Consider the following examples:

- Patrol officer discretion limited by use of force policy, reporting requirements
- Mid-level supervisor discretion reduced by rules regarding misconduct investigation, the emphasis on use of force oversight, and requirements related to review of incident reports, and early warning system data
- Leadership staff policy-making and administrative discretion reduced directly by the substance of the settlement agreement and by the presence of the independent monitor and the oversight capacity of both the DOJ and the presiding federal judge

In short, the chosen path to enhancing internal and external accountability in post-14141 departments is the pursuit of a more highly centralized, more bureaucratic, and arguably less nimble organizational and operational design.

This observation is of theoretical interest to public administration and policing scholars for several reasons. To begin with, at the very least, the reform process described herein is inconsistent with the drive for decentralization undergirding both the New Public Management and community-oriented policing movements that to a large degree remain en vogue across the

country. Under the terms of pattern or practice settlement agreements, for example, top-level management are necessarily involved in several fundamental aspects of the department's operation and are less capable of granting broad discretion to street-level and even mid-level supervisors over when to use of force, how to discipline an officer, and how to train new recruits, among several other areas. Though this may be justified – after all, each department was shown to have systematically violated constitutional law – it clearly runs counter to the community policing movement's goal of bringing officer and citizen closer together through neighborhood-based initiatives and expanded street-level discretion.

This research supports the notion that the organizational model effectuated by Section 14141 settlements may be a harbinger of a coming shift in police administration away from an emphasis on decentralized, discretionary organizational models and back to a more traditional centralized, hierarchical model, albeit with dramatically different operational foci. Consider that the DOJ is pushing the "Policy Change – Early Warning System – Citizen Complaint System" template as a model for democratic policing in the United States, and urging departments to preempt investigation and litigation by making changes along these lines. Several of the country's biggest departments – from Los Angeles and Cincinnati to Washington, DC and the State of New Jersey – have already emerged from settlement agreements more centralized than they were before, with several more, including New Orleans, on the immediate horizon. In short, to the extent that Section 14141 reform initiatives establish a best practices, more and more departments, either at the urging of the DOJ or on their own, may begin to take on the look and feel of highly centralized, hierarchical, post-14141 departments.

In sum, from department leadership through mid-level staff and down to street-level patrol officers, agency personnel affect significantly the implementation of the three constituent parts, as well as the holistic pattern or practice settlement agreement.

Conclusion

In Chapter 4 I have presented the first systematic, comparative analysis of the implementation of Section 14141 pattern or practice reform. I track closely the implementation of settlements in Pittsburgh, PA; Washington, D.C.; Cincinnati, OH; and Prince George's County, MD, paying particular attention to three key components of each agreement: (1) use of force policy change; (2) development of early warning personnel management systems; and (3) development of citizen complaint investigation infrastructures. After presenting results of these three constituent parts, I discuss the process holistically, and compare results across each of the four affected departments. Next, with the goal of explaining variation in the results in these jurisdictions, I test the explanatory framework developed in Chapter 3. This analysis suggests that the implementation process was affected by elements from each of the framework's four categories, including those related to: (1) tractability of the problem; (2) the design of the policy (i.e., the settlement agreement itself); (3) the environmental context; and (4) characteristics of each implementing agency.

Several additional findings are worth emphasizing. First is the complexity of the implementation process. The four jurisdictions under review faced considerable yet varied challenges during the process and struggled to implement several components of the reform effort. Pittsburgh, for example, had a comparatively easy time developing a use of force protocol, but experienced significant delays in establishing a functional citizen complaint investigative system. As predicted, delays like those experienced in Pittsburgh were in part owing to the unique nature of the problem faced by each agency and specific choices made in developing the terms of the settlement agreements. Pressman and Wildavsky's (1973) famous lamentation regarding the perils of joint action and the inherent complexity of interagency

implementation remains true today, and characterizes the implementation of pattern or practice reform perhaps more accurately than any other single theoretical work.

A series of agency-related factors also help to explain implementation delays. Resource shortages, for example, hindered the development of MPD's early warning system and prevented Pittsburgh's Office of Municipal Investigation from meeting deadlines related to complaint investigation provisions. Agency personnel, from street-level officers and middle-management up through department leadership are also exceedingly important in defining the implementation of pattern or practice reform. Nearly every aspect of the reform process, from documentation of use of force incidents and the review of early warning status reports to the investigation of citizen complaints and the monitoring of attendance at training sessions, is a function of police department personnel.

Though they maintain considerable discretion, street- and mid-level officers are more likely to comply with the terms of the settlement when police leadership is able to communicate the importance of the process down through the chain of command. In short, the orientation of department leadership together with the compliance of street-level officers and the accountability function of mid-level managerial staff define much of the implementation process. When all three organizational levels are in sync in their support of the reform initiative, implementation is much more efficient and effective. Conversely, even brief lapses in focus or the loss of attention to the issue by organizational leadership – of the kind experienced on occasion in Washington, D.C., Cincinnati, and Prince George's County, for example – can have detrimental and lasting effects on the implementation process. As the experiences in each jurisdiction show, however, departments can and do recover from temporary setbacks.

Recovery along these lines is possible in part because of the several environmental forces that also affect settlement implementation. The nature of oversight and technical

assistance provided by the independent monitor shaped implementation in each of the four jurisdictions under review, as did the support of jurisdictional political leaders, including executive and legislative branch principals. Judicial oversight and the specter of a contempt of court ruling (which may await recalcitrant or noncompliant departments) is another environmental factor that influences the implementation process. In Cincinnati, for example, Judge Dlott's aggressive intervention into a dispute between CPD leadership and the independent monitor team early in the process. Judicial enforcement helped to mollify the CPD and made the remaining several years much smoother and more collegial than they would have otherwise been.

Chapter 3's analysis suggests that pattern or practice implementation is most effectively understood when seen as a function of the interaction of these several variables. As shown in Illustration 10, elements from each of the framework's four categories, including, most importantly, internal, agency-related factors and external, environmental factors, work together to form an implementation system that shapes the implementation process.

The operation of this system, and the interaction of these several factors therein, is mediated by three intangible elements, each of which adds a measure of 'bottom-up' energy to what is otherwise a process dominated by 'top-down' structures. As with nearly every implementation effort, politics influenced the implementation of pattern or practice reform agreements in the four departments under review. Support for the initiative from jurisdictional political leaders as well as members of area civil society organizations has the ability to influence, both directly and indirectly, the implementation of a settlement agreement.

Federal politics may shape the process as well, as DOJ personnel and the policy orientation of the agency writ large, are directly affected by which party controls the executive branch of government. Several interviewees described salient differences in the managerial

approaches taken by between Clinton and Bush Administration DOJ staff. Finally, individual department-level politics help to define the nature of the chain of command as well as the quality of the relationship between police leadership, union representation, community organizations, and residents.

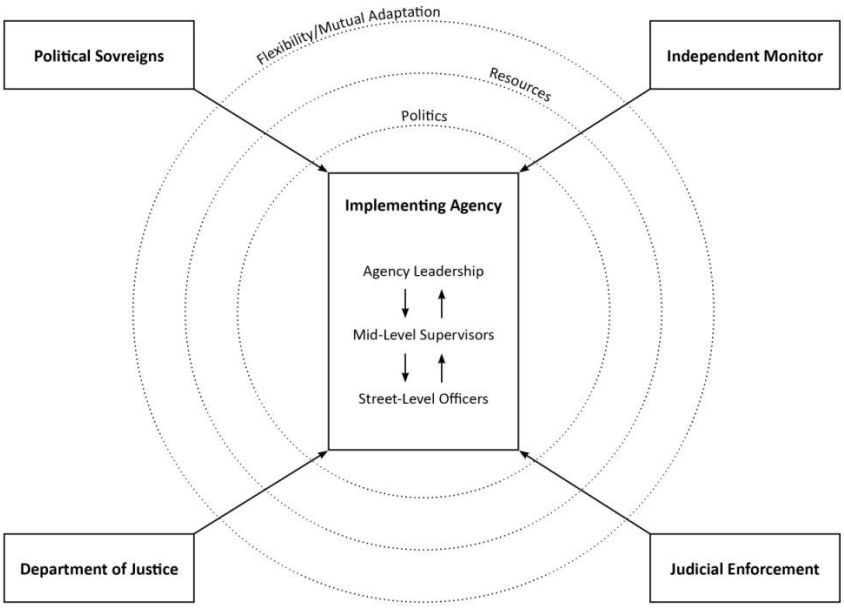

Illustration 10. The pattern or practice implementation system

A second mediating factor that helps to define the operation of the pattern or practice implementation system is the willingness and ability among implementation system actors to mutually adapt (i.e., make adjustments to both the content of the settlement reform and the implementing agency's approach to reform) to changing conditions. In several instances throughout the implementation process, flexibility on the part of DOJ attorneys, independent

monitors, and police leadership was critical for either avoiding altogether or minimizing potential problems that may have led to implementation delays.

In some instances, key actors from each participant group (the police, the monitor team, and the DOJ) served as "fixers," working entrepreneurially to help bridge implementation challenges. Compromises reached over disputed terms of Washington, D.C.'s settlement agreement and confusion over the proper role of the monitor in Cincinnati are examples that further highlight the importance of flexible approach, a shared understanding of the broad goal of the process, and a willingness to sacrifice individually held preferences promote implementation.

Finally, and quite logically, the availability of resources affects the interaction between both internal and external actors, in the process further defining the implementation system. Sufficient financial resources – money to pay for the technology needed to develop and utilize the early warning system, to provide additional officer training, to hire additional complaint investigation staff, and so on – are imperative. Of course, without the necessary finances, the kinds of wholesale change mandated by pattern or practice reform is much more difficult to accomplish. Similar challenges are created by the absence of qualified and committed labor resources.

To summarize, this detailed analysis of pattern or practice reform implementation is the most extensive analysis of Section 14141 pattern or practice reform written to date. This comparative examination provides significant insight into the process that defines the reform process, both narrowly, through my analysis of three 'constituent' parts, as well as broadly, through my holistic assessment of the process. This research builds on work by Pressman and Wildavsky (1973), Berman (e.g., 1978), Mazmanian and Sabatier (1989), and Wood (1990), among many others, in its application of several important concepts to a new and dramatically

understudied policy type. In addition, my findings supplement the limited but valuable empirical work on pattern or practice reform, including descriptive research on the process in both Pittsburgh (Davis et al. 2002; 2005) and Los Angeles (Stone et al. 2009).

What is more, the framework I develop in Chapter 3 and test in Chapter 4 not only expands on existing theoretical literature, but has the potential to provide practical guidance to agency staff, DOJ attorneys, monitor teams, and political leadership involved with current and future pattern or practice initiatives.

With that said, the very nature of the inquiry driving this analysis places limits on the implications of these findings. Simply put, the foregoing examination is restricted to the implementation of settlement agreements framed in legal terms. Successful implementation is predicated on an independent monitor's characterization of a department's "substantial compliance" with the terms of the contract between the affected jurisdiction and the DOJ. The monitor's assessment is circumscribed by the negotiated terms of the settlement (i.e., meeting pre-established performance metrics, development of mandated systems and processes, et cetera) and is focused on evaluating the affected department's compliance with the law. Framed along these lines, both the means and ends of pattern or practice reform are driven by legal concerns; the overriding goal of the reform process is to manage the completion of those tasks thought to remedy a pattern or practice of unlawful behavior. What is more, this "legal" analysis of pattern or practice reform is limited to the timeframe of the settlement agreement itself. Once the department is found to be in compliance, the reform process is terminated and with it the external oversight and independent monitoring that drove implementation. In other words, what happens *after* the implementation process is irrelevant.

Despite the utility of the legal construction, it is also possible – and valuable – to use a policy lens to frame pattern or practice settlement agreements. Though not entirely severable

from the legal goals of the process, the policy manifestations of accountability-driven policy reform, including a shift in a department's view of citizen rights, changes to organizational culture, reduced levels of undesirable outcomes like use of force incidence and department civil liability, must also be considered. Systemic and organizational reforms are important ends in themselves, but they are also means to other ends, the likes of which are only understood when the process is framed in terms of policy rather than law. Beyond enabling a much wider analysis, considering the policy implications of the process allows for an evaluation that extends beyond the narrow terms of the agreement.

In Chapters 5 and 6 I consider the reform process from a policy perspective. In so doing, I take up the task of building and testing an evaluative framework designed to examine the extent to which pattern or practice reform in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County led to meaningful, lasting change in each of those jurisdictions.

CHAPTER 5

REFORM SUSTAINABILITY

> Until new behaviors are rooted in social norms and shared values, they are subject to degradation as soon as the pressure for change is removed.
>
> ---John P. Kotter, Harvard Business Review

> Follow-through, follow-through, follow-through.
>
> ---Cathy Lanier, Chief, Metropolitan Police Department

Introduction

In Chapter 4, my detailed review of the implementation of pattern or practice reforms in Pittsburgh, PA; Washington, D.C.; Cincinnati, OH; and Prince George's County, MD indicated that affected departments have for the most part been very successful in complying with the legal requirements of Section 14141 settlement agreements. Over the course of a five to seven year process, each of the departments under review implemented the terms of settlement agreements that mandated comprehensive organizational and programmatic changes to officer use of force policy and reporting requirements, the depth and breadth of officer training and internal and external accountability systems, including early warning systems and citizen complaint investigation protocols. And all of this occurred to the satisfaction of independent monitor personnel, Department of Justice attorneys, and, in the case of both Pittsburgh and Cincinnati, a presiding federal judge.

As I have mentioned in earlier Chapters, parties to pattern or practice agreements, including the DOJ and members of the affected police department, conceive of such agreements as legal instruments and as a result minimize the policy ramifications of the reform process. As a

direct result of this legal framing, departments (as well as the independent monitors) focus on achieving substantial compliance with the terms of the settlement to the exclusion of other, policy-related considerations. Therefore, the foregoing analysis did not address anything beyond department implementation of legal mandates, and thus omitted any discussion of the extent to which such reforms affected outcomes like use of force incidence, citizen complaints, or public opinion of the police. Further, outstanding questions remain regarding the extent to which pattern or practice reform brought about changes to organizational culture, agency transparency, and legitimacy in the eyes of the community. Though these intangible factors are quite difficult to measure directly, they lie at the heart of meaningful police reform and thus must be considered in any evaluation of the pattern or practice initiative.

The sustainability of pattern or practice reform is in many ways the most critical aspect of the Department of Justice's initiative. The extent to which police accountability and a respect for citizen rights can endure after the independent monitor teams write their last reports and when DOJ attorneys are no longer evaluating a department's every management and procedural decision is what will ultimately determine the value of Section 14141. The most critical component of the program may also be the toughest to accomplish. In short, institutionalized organizational reform – no matter the field or industry, no matter the moment in history – is very difficult to accomplish.

Research has shown that as many as eight out of ten private sector organizational reform efforts fail (e.g., Burns 2005; Brodbeck 2002; Styhre 2002). Prospective change in the public sector faces similarly daunting odds. In discussing the challenges presented by school reform, for example, one recent study notes that "although many innovations can be implemented successfully with effective leadership, sufficient investment, and strong internal and external support… very few innovations reach the institutionalization stage when they

become a routine and effortless" part of organizational practice (Hargreaves and Goodson 2006). Indeed, the corpus of police reform scholarship indicates that failed attempts at change are much more likely than are successful, enduring initiatives (e.g., Skogan 2006).

Yet despite the issue's clear importance to understanding organization change and the management of reform, both in the policing sector and otherwise, scholars have done comparatively little to examine efforts to sustain change. Theoretical writing on the issue does exist, but tends to be fragmented and underdeveloped. Policing scholars have done some valuable work on the institutionalization of community-based and problem-oriented policing strategies, but have thus far failed to use their research to test or build out existing theory. In light of these several outstanding issues, Chapter 5 will address two central research questions:

(1) To what extent to have organizational and programmatic changes associated with the four pattern or practice initiatives under review been institutionalized?

(2) What factors contribute to (or inhibit) the institutionalization of changes associated with pattern or practice reform?

In beginning to answer these broad questions, I start by reviewing the literature related to the institutionalization of organizational structure, policy, and procedure. In what remains an exploratory effort, this review will draw on research from several fields, including organizational change, business, sociology, public management, educational reform, and policing scholarship. After summarizing the existing theoretical and empirical research, I attempt to establish a framework for analyzing the sustainability of pattern or practice reform. This framework will include components related to the evaluation of reform sustainability as well as those factors thought to promote and hinder institutionalization.

I argue that reform sustainability can be measured using three complementary metrics: (1) the extent to which a department perpetuates the policies and procedures established under

the reform; (2) the extent to which an agency's culture reflects the core values of the reform; and (3) the extent to which a department is able to maintain desirable levels of key outcomes related to the reform.

Further, I argue that four broad sets of factors shape a department's ability to institutionalize reform, including (1) the content of the reform effort; (2) the reform implementation process; and aspects of both (3) organizational and (4) environmental contexts within which the reform occurred. After operationalizing the several theoretical constructs under discussion, I review the data needed for a comprehensive evaluation of reform sustainability. As will become clear, evaluating institutionalized change can be a complex process, and is frequently made more so by the limited availability of data and the sensitivity of the issues at hand.

In Chapter 6, I attempt to conduct a very preliminary test of the framework using data gathered from pattern or practice reform efforts in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County. As the primary focus of this aspect of the dissertation emphasizes theory building rather than empirical analysis, the results are offered somewhat tentatively. Despite that, these early findings provide a strong framework for future research and a foundation of knowledge about the depth, breadth, and length of effects pattern or practice reform has on police department accountability and adherence to the rule of law, officer culture, and related outcomes.

The Problem of Sustainable Change

What follows naturally from a discussion of reform implementation are questions related to the extent to which such changes become lasting, enduring components of the organization. Literature dedicated to the nature and process of organizational change is at once vast (Van de Ven and Poole 1995), diffuse, often conflicting and confusing (Fernandez and

Rainey 2006). Researchers from various fields, including organizational sociology, economics, political science, business, and others, continue to disagree about what drives organizational change; which elements promote and inhibit change; the proper timeframes for evaluating reform sustainability; the most appropriate lens through which to view the process; and so on. Despite the variety of perspectives on and approaches to studying the issue, and vast array of models and frameworks produced as a result, "one finds remarkable similarities among them, as well as empirical studies supporting them" (Fernandez and Rainey 2006, 169; Armenakis and Bedeian 1999). Among those points of consensus is the importance of institutionalizing change.

Somewhat surprisingly, the literature addressing issues related to institutionalization is small and relatively undefined. The subject has received comparatively little attention from administrative and policy scholars and "has been overlooked by police researchers and ignored in organizational development literature" (Ikert and Walkert 2010, 5; Adams, et al. 2002). A consequence of this lacuna is an underdeveloped theoretical understanding of two issues of particular relevance to the institutionalization of pattern or practice reform: (1) Which factors most saliently affect the process of institutionalizing organizational reform in police bureaucracies; and (2) How does one evaluate the success of efforts to institutionalize change?

What follows is a review of the literature related to these two issues. Reflective of organization change generally, this review is eclectic and necessarily selective. I draw on research from scholars focused on organizational change in the private sector, as well as research into the sustainability of change in public sector organizations, including educational and police bureaucracies.

After reviewing four groups of elements thought to affect the sustainability of change, I offer a framework for evaluating the sustainability of pattern or practice reform.

Before describing those factors believed to shape institutionalization efforts, I take steps to address how best to evaluative institutionalization. In so doing, I define the terms 'institutionalization' and 'sustainability,' and draw on discussion of each concept to develop a set of metrics designed to measure an organization's ability to sustain organizational and programmatic change.

Terms Defined: Sustainability, Institutionalization, et al.

For the purposes of this Chapter, 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 and Worley 2005, 189) and "a way of regularly conducting…business" (Ikert and Walker 2010, 5). Institutionalized practices are taken for granted as part of the cultural and operational fabric of an organization such that organizational members may not even consciously recognize their existence (Oliver 1992). An intrinsic legitimacy conveys the sense that such practices simply are "the way things are done" (Kotter 1995). According to Oliver (1992, 581), "once organizational activities are institutionalized, they are assumed to become relatively stable, enduring, reproducible and sustainable over long periods of time without continuing justification." In this sense, "institutionalized" reforms are synonymous with "sustainable," "enduring," and "lasting" changes. I will use the several terms interchangeably throughout.

At what point does the implementation process itself end? When does the analysis of implementation end and that of sustainability and/or evaluation begin? The implementation literature is largely silent on the matter, never really addressing when a new program or a reform initiative has been "implemented." This is a difficult determination to make, as 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. Perhaps as a result, the organizational change literature is largely silent on the issue's temporal component. What research does exist – most of it coming from examination of the private sector – provides conflicting guidance. Some scholars believe that analysis should begin after one year (e.g., NHS Modernization Agency 2002); others say institutionalization takes somewhere between five and ten years to manifest (e.g., Kotter 1995).

Even in the absence of definitive guidance, it seems clear that developing and applying a "one-sized fits all" approach has the potential to be counterproductive. Each reform effort presents a unique set of facts and circumstances that will guide both implementation and institutionalization of change as well as the terms of evaluation. Policy-makers, practitioners, and evaluators are wise to treat them as such.

With full recognition of the uniqueness of the pattern or practice reform process, I will use the termination of settlement oversight to draw a line between implementation and institutionalization. In other words, for the purposes of this study, the implementation period discussed in Chapters 3 and 4 is defined as the five to seven year period where independent monitors oversee the implementation of settlement terms. The sustainability or institutionalization period begins on the day that the formal settlement agreement is terminated.

Drawing this clear analytical line allows me to highlight the distinction between framing the issue in legal terms versus viewing the process through a policy lens. When seen as purely a legal instrument, there is necessarily a bright line between implementation and institutionalization. As far as Justice Department attorneys are concerned, as soon as an affected jurisdiction is deemed in substantial compliance with the terms of the settlement, the

agreement is considered implemented. Once the contractual terms of a settlement agreement have been fully implemented, all associated oversight and technical assistance must terminate. It is at that point that any discussion of "sustainability" will begin. On the other hand, when a pattern or practice agreement is framed in policy terms, the lines between implementation and institutionalization become blurred.

I should make very clear that this bright line distinction is a heuristic, used for analytical purposes only. In reality, the line between program implementation and an evaluation of sustainability is ambiguous and often clouded by various factors. This bright line distinction also is not very helpful in terms of organization theory, and conflicts with much of what the policy cycle literature has to say on the matter. What is more, the concepts themselves are inextricable. For example, a department may begin 'institutionlizing' the use of an early warning system or other component of the settlement agreement during what I refer to as the implementation period.

Factors Affecting Sustainability

Process of Change

Scholars have identified several aspects of a reform process that contribute to sustaining organizational change. In their 1999 piece, Armenakis et al. develop a framework for linking management strategies with institutionalized change. Their framework emphasizes the import of efforts on the part of leadership to "modify formal structures, procedures, and human resource management practices; employ rites and ceremonies; diffuse the innovation through trial runs and pilot projects; collect data to track the progress of and commitment to change; and engage employees in active participation tactics that foster 'learning by doing'" (Fernandez and Rainey 2006, 172-73). Policing scholars have similarly identified various management techniques thought to enhance the sustainability of departmental change, including a

commitment to officer training and recruitment, as well as an effort to adjust both performance and promotional standards so as to reflect the reform initiative (e.g., Skogan and Hartnett 1997; Schafer 2001; Ikert 2007; Ikert and Walker 2010).

Armenakis et al. (1999) argue further that pervasive and ongoing communication between leaders and organization members is critical to successful institutionalization. Persistent communication of agency priorities and the importance of the reform initiative to key organizational values helps to clarify objectives and strategies for change. Work by Cummings and Worley (2005, 192-195) also highlights the value of a resourceful, high-level "sponsor," typically an organizational leader, to champion the initiative and promote institutionalization (Cummings and Worley 2005, 192-95).

Lawrence et al. (2001, 630) supplement this point by arguing that "systematic" means of emphasizing organizational changes tend to generate more stable, sustainable organizational reform than do "episodic" mechanisms. In other words, if the substance of the reform effort "is embedded in routinized systems that do not require repeated activation," those changes are more likely to be sustained than are reforms that rely solely on organizational leaders to repeat continuously the message of change. Reforms are more likely to take hold in organizations endowed with the combination of a powerful, vocal leader and well-established, systematic mechanisms for reinforcing both the message and the process of change.

Examination of the relationship between the pace of change and sustainability have generated competing hypotheses and mixed empirical results. Some experts believe that incremental change, pursued in the form of smaller-scale reforms, is necessary to develop support among organizational members and build momentum for a broader effort (Armenakis et al. 1999; Kotter 1995).

Despite these findings, there is evidence to suggest that an incremental approach has contributed to failed police reform efforts. In a 1973 study of "team policing" in seven cities, for example, Sherman, et al. documented the use of "test units," small sub-agencies that would utilize team policing as a means of experimenting with and evaluating the reform initiative before implementing it agency-wide. The incremental roll-out generated dissention among members of several departments and ultimately detracted from the program's legitimacy, resulting in failure (Sherman et al. 1973). For their part, Fernandez and Rainey (2006, 173) note that despite the merits, incremental reform may be more difficult to accomplish in the public sector "because frequent shifts in political leadership and short tenures for political appointees can cause commitment for change to wane."

Consistent with Sherman et al.'s findings, other experts advise that rapid, wholesale change is more likely to overcome organizational inertia and resistance to change among members (e.g., Tushman and Romanelli 1985). Cummings and Worley (2005, 193) posit that reforms targeted to individual departments or sub-agencies instead of to the organization as a whole tend to be less sustainable. According to the authors, such piecemeal reform efforts may be subjected to criticism and countervailing pressure from other groups or departments within the organization.

Cummings and Worley (2005, 193) also document the mixed record of comprehensive reform efforts. On one hand, they note that "a shared belief about the intervention's value can be a powerful incentive to maintain the change, and promoting a consensus across organizational departments exposed to the change can facilitate institutionalization." But such agency-wide efforts have the potential to generate internal and external opposition, threatening their sustainability over time. Evidence from the policing context is similarly mixed. Some comprehensive reform efforts, like those instituted by William Bratton in New York, have

produced enduring change (Sugarman 2010). But failure has also accompanied reforms pursued comprehensively, including the Motor City Police Department's effort to adopt community policing (Shafer 2001).

Organizational change researchers have also examined the extent to which sustainability is affected by how and where a reform effort is initiated. Armenakis et al. (1999, 106) suggest that change brought on by outside forces may be seen as a threat to the status quo, setting off defensive mechanisms intended to "ward off the intervention that will undoubtedly upset the norms." In the context of prison reform, DiIulio (1990) describes in detail the resistance of state prison officials, line staff, and high-level administrators to changes mandated by a federal judge overseeing reform efforts. "This official resistance…derived from a deep commitment by [prison] officials to a management and control system that over at least three decades had become not only legitimized but in some respects romanticized; it was solidified…through socialization of staff to subcultural values" (Crouch and Marquart 1990, 101). Policing experts have long recognized a similar phenomenon. According to Wesley Skogan (2006, 3),

> Enthusiasm by public officials and community activists for innovations in policing encourages [the reform effort's] detractors within the force to dismiss it as 'just politics.' They see reforms as passing fads, something dreamed up by civilians for the police to do. Police are skeptical about programs invented by civilians. This is partly a matter of police culture. American policing is dominated by 'we versus they,' or 'insider versus outsider' orientation that assumes that the academics, politicians and community activists who plan policing programs cannot possibly understand their job. They are particularly hostile to programs that threaten to involve civilians in defining their work or evaluating their performance. They do not like civilians influencing their operational priorities, or deciding if they are effective.

The importance of reform process – including its pace, scope, and direction – to questions of sustainability are no doubt critical, and, as Skogan suggests, neatly interwoven with issues of culture, leadership, and shifting organizational and environmental contexts.

Substance of Reform

Scholars have also considered the extent to which the substantive nature of reform affects institutionalization. Consistent with much of the literature on implementation, both organizational change scholars (e.g., Cummings and Worley 2005) and policing experts (Ikert and Walker 2010) highlight the importance of goal clarity, arguing that organizations driven by specific, clearly articulated goals are more likely able to develop the degree of organizational consensus necessary to sustain changes to structure, policy, and procedure.[53] Cummings and Worley (2005, 192) also argue that institutionalization is more likely when there is a high degree of perceived congruence between the principles underlying a reform initiative and the implementing agency's "managerial philosophy, strategy, and structure." This suggestion echoes advice given by implementation scholars: Reform is easier to implement and more likely to become part of the organization's longer term protocol if the substance of the change is somehow perceived by agency employees to be consistent with the status quo, both operationally and philosophically.

Reform initiatives that incorporate data collection and employee performance appraisal mechanisms are also considered more likely to become institutionalized than those that do not (Armenakis et al. 1999; Cummings and Worley 2005; Moore and Stephens 1991). The logic behind this suggestion is clear: Efforts that allow reformers to monitor and evaluate the implementation process have the potential to reduce the likelihood that change either does not occur at all, occurs in a perfunctory or superficial manner, happens in a way that is inconsistent

[53] It is both interesting and important to note that despite the consistency of the message in the theoretical literature and the general support for "goal clarity" in the relevant empirical research, institutionalization scholars – like their implementation counterparts – have failed to define the term "goal clarity" in any meaningful way. How does one distinguish between goals considered clear enough to propel sustainable reform from those deemed either too ambiguous or opaque to the point of being ineffective or counterproductive? How do we quantify the goal? Future research on this issue is sorely needed.

with the program's new goals, and so on. Further, the extent to which objective measures are used to link employee evaluation and promotion decisions to the operational goals of the reform effort, the more likely it is that such efforts will be sustained (Cummings and Worley 2005).

The drive to "measure what matters" imbues both public and private organizational management (e.g., Langworthy 1999; Julnes and Holzer 2001; Weisburd et al. 2003; Skogan 2006; Bratton and Malinowski 2008). The logic follows that reformers armed with data and knowledge of the progress of change will have a much clearer ability to make course corrections both during and after the implementation process (Ikert and Walker 2010; Schafer 2002). In the context of community policing, for example, Ford (2002) argues that the use of periodic officer surveys can serve to track institutionalization and help leadership identify and respond to areas where changes have either failed to take hold or are beginning to erode. Despite the movement's popularity to both theory and practice, the difficulty of performance measurement should not be overlooked. Characterized by the inevitable existence of multiple and often competing organizational goals, the task of accurately and comprehensively measuring agency performance is rarely without complication (Radin 2006).

Perhaps most important for the sustainability of reform efforts, the process of monitoring change and working to correct problems as they occur helps to establish accountability systems that may remain in place long after the majority of changes have been made. Fernandez and Rainey (2006, 172-73) illuminate this point: "Evaluation and monitoring efforts should continue even after the change is fully adopted" in an effort to guard against organizational slippage.

In sum, scholars view certain substantive components of a reform effort, namely the initiative's goal clarity, the extent to which the reforms are seen as consistent with existing

department values, and those that rely on data collection, as contributing positively to sustainability.

Organizational Context

In addition to both the process associated with institutionalizing change and the substance of reform initiatives, scholars consider the organizational context within which the reform efforts occur as critical to sustaining change over time. Several issues define the environment within which issues of sustainability develop, including the effective and ongoing commitment of agency leadership.

As discussed in Chapters 3 and 4, committed, credible agency leadership is a necessary component of successful, timely policy implementation. Without the support of top management, efforts to change organizational structure, employee behavior, and agency culture are much more difficult and thus less likely to occur. The presence of supportive leadership drove pattern or practice reform implementation; its absence contributed to delays and exacerbated other organizational problems.

Research on organizational change shows that by itself leadership support for implementation is not enough to sustain reform, however. To do so, leaders must continue to emphasize the importance of the reform, highlighting the value of the operational and cultural aspects of the new approach long after any structural changes have been made (Cummings and Worley 2005; Reisner 2002; Skogan and Hartnett 1997; Ikert and Walker 2010). According to Buchanan, et al. (2005, 200), this is necessarily a proactive undertaking: “Management must ‘anchor’, or establish legitimacy for, particular interpretations and courses of action, while delegitimizing the views of opponents. It is the persistence of those dominating ideas that endures the stability of organizational changes.”

Policing scholars have long identified a department's chief as pivotal to establishing and perpetuating support for change among mid-level officers and members of the rank-and-file (e.g., Bratton and Knobler 1998). According to Ikert and Walker (2010, 15), police department management "must make efforts to 'win the hearts and minds of officers in the department' to develop a culture that supports the proposed change." To that end, the authors suggest that a "continued commitment to reform" must be evident among the leadership and communicated directly to the rest of the department (Ikert and Walker 2010, 10).

Maintaining leadership continuity is also considered a pivotal component of sustaining changes to agency policy, operations, and culture (Reiss and Bordua 1967; Murdaugh 2005). The loss of a leader can be acutely felt, particularly if that person (or small management team) played a central role in initiating and implementing reform. This is especially true in the case of police departments, like those under review here, where strategic priorities and organizational foci emanate from the top (Decker and Rosenfeld 1994). Perhaps in part owing to the responsibility and pressure that accompanies such broad influence over a department, average tenure among police chiefs, particularly those in larger metropolitan areas, is by some estimates as short as two or three years (Rainguet and Dodge 2001).

In this climate, then, the ability to maintain continuity of support for the reform – either through the current leadership or by managing successfully a leadership transition – is central to an effort to institutionalize change (Buchanan et al. 2005; Pettigrew 1985; Oliver 1992). This urgency is found clearly in Kotter's (1995, 67) discussion of sustaining reform in the private sector: Organizations must "make sure the next generation of top management really does personify the new approach….One bad succession decision at the top of an organization can undermine a decade of hard work." Empirical research on change in commercial organizations finds support for this hypothesis as well. Pettigrew's (1985, 454) study of the chemical industry,

for example, has demonstrated "the importance in managerial terms of strong, persistent, and continuing leadership to create strategic change."[54]

Themes related to the importance of leadership continuity are prevalent as well in empirical studies across various fields of policy-related work, including education and policing. After studying educational reform in eight American schools over a 30 year period, Hargreaves and Goodson (2006, 18) conclude:

> One of the most significant events in the life of a school that is most likely to bring about a sizeable shift in direction is a change of leadership….[I]t is changes of leaders and leadership that most directly and dramatically provoke change in individual schools.

The importance of leadership continuity has emerged in empirical policing literature as well. In a 2004 report examining the effects of a St. Louis gun-seizure program on crime rates, Decker and Rosenfeld chart the program's success over its first several months. After a year and a half, the chief who initiated and championed the program left the department. The new chief did not support the initiative's "problem-oriented" philosophy and cancelled the program one month after becoming chief. After some cajoling, the program was reinstituted, albeit with a much different operational focus. The revised program proved much less effective than the

[54] It is necessary here to draw a distinction between mission-based and nonmission-based reform. The mission of every private firm, including the chemical companies referenced by Pettigrew, is to enhance profit, and strategic changes are to be considered mission-based to the extent that they are designed to achieve that end. Despite disagreement from some corners, most criminologists would agree that crime reduction and order maintenance are the primary missions of the police. Thus, one must consider the core components of pattern or practice reforms – including bringing use of force policies in line with constitutional law; holding officers accountable to legal norms and values; expanding the receipt and investigation of citizen complaints, et cetera – mission-related, but not necessarily mission-based.

This is a fine point, but an important one. Not only does this distinction qualify Pettigrew's findings, but it helps to explain the persistence of police misconduct and highlights the potential for slippage or backsliding among Section 14141 departments within which police accountability maintains a reduced level of importance. In short, if the police are to be focused on fighting crime, everything else is secondary. Those things, including an emphasis on stamping out unlawful behavior, will necessarily be de-emphasized or overlooked (consciously or subconsciously) if they are perceived to compete with the primary mission of the organization. For a related discussion about the tension between transparency and due process, key nonmission-based values, and the results-oriented New Public Management movement, see Piotrowski and Rosenbloom (2002).

original conception and was eventually cancelled altogether (Decker and Rosenfeld 2004). In the end, the original iteration of the program was not sustainable in the face of internal opposition. Scholars attribute the program's failure directly to the loss of a supportive chief and the lack of commitment among new department leadership (Ikert 2007; Decker and Rosenfeld 2004). Leadership transitions have contributed similarly to the failure of efforts to institutionalize community policing, Compstat, and problem-oriented policing initiatives in cities across the country (e.g., Skogan 2006).

Some organizational change scholars argue that support among mid-level management for change can serve as a powerful institutionalization mechanism and a means of insulating the organization in the case of leadership transition (Pettigrew 1985). Conversely, the absence of support for reform among mid-level managers has the potential to derail even the most promising initiatives. Writing in the Harvard Business Review, former United States Postal Service (USPS) executive Robert Reisner (2002) cited a lack of support among mid-level leadership as contributing to the agency's inability to sustain reforms achieved in the mid-1990s. According to Reisner, these efforts ultimately failed in part because a majority of postal managers did not buy in to the effort (9-10).

The importance of middle-management to successful, lasting police reform is similarly well-documented. Owing to the hierarchical nature of most police departments, oversight of many key policies and programs is delegated to mid-level managers. As such, captains and lieutenants, have a unique ability to affect the institutionalization of change (Kelling and Bratton 1993; Skogan and Hartnett 1997; Adams et al. 2002). Research shows that mid-managers, as the "guarantors of quality" within an organization and the link between street-level officers and department leadership, are positioned to serve as a critical impediment to lasting change (e.g.,

Sherman et al. 1973) or as conduits to success (e.g., Ikert 2007; Ikert and Walker 2010; Nagy and Polodny 2008).

A 2007 study examining the institutionalization of problem-oriented policing (POP) strategies by the Charlotte-Mecklenburg Police Department (CMPD) is illustrative. Using both survey and interview data, Ikert found strong evidence of support for the changes among mid-level officers. This support for the POP initiative manifested in the officers' "knowledge, attitude, and behavior," a fact that contributed to CMPD's "successful institutionalization of POP" (Ikert 2007, 259).

Some organizational change scholars also believe that certain inherent organizational properties also have the ability to affect institutionalization. Whether framed in terms of cultural receptivity to change (e.g., Pettigrew et al. 1992) or the presence of entropy and inertia in an organization (e.g., Oliver 1992),[55] such properties are thought to at least affect marginally the sustainability of change. Though hard to measure credibly, and thus difficult to examine empirically, debates over such concepts have long contributed to theoretical understanding of social systems (e.g., Zucker 1988) and individual organizations (e.g., Hinings and Greenwood 1988).

To summarize briefly: Research from several different fields suggests that organizational context has the ability to affect the process of creating sustainable change. Research has shown that leadership, and especially continuous, uninterrupted leadership, is critical, as is the support for change among mid-level managers.

[55] Oliver (1992, 580) defines each term thusly: "Whereas organizational entropy suggests natural tendencies toward erosion or decay of institutional phenomena, the notion of inertia suggests that institutional values and activities will exhibit inevitable resistance to erosion or change."

Environmental Context

Organizational reform does not occur in a vacuum. Whether public or private, organizations are shaped by the political, social, and economic context that surrounds them. Logically then, the sustainability of changes to organizational structure, policy, and procedure will at least on some level be affected by those forces that comprise their operational environment (Buchanan et al. 2005; Reisner 2002; Pettigrew 1985; Pettigrew et al. 1992; Oliver 1992; Kotter 1995). As Harvard University Professor Mark Moore notes, "organizations that survive over any period of time respond to the demands of their external environment" (Wood 1990, 12).

For government bureaucracies like prison systems, school districts, and police departments, the immediate political context is of central importance in shaping the environment for reform. The degree to which a jurisdiction's elected officials – along with the constituents they represent – support the reform initiative has the ability to affect the sustainability of change. So too does the nature of the relationship – the degree to which outside influences, including those from governmental and non-governmental actors – between a police department and the political climate within which it operates (Wilson 1968; Mastrofski 1988; Maguire 2003).

Political climates – defined by, among other things, policy priorities, political agendas, and public opinion, each which have the ability to affect the sustainability of organizational change – are notoriously fluid. As a result, the stable contextual environments thought to promote institutionalization in private companies (Worley and Cummings 2005) are much more elusive in the public square. In some ways, political and public support for individual reform initiatives is beyond the direct influence of either policy or management (Walker et al. 2007). In the short run, macro indicators like crime levels, economic growth, and unemployment may

affect how a reform initiative is viewed (Allen 2002). If violent crime spikes or unemployment rises, for example, it seems possible that programs geared toward promoting jobs or fighting crime will draw political and financial support away from other unrelated programs. What is more, such reactive swings may disproportionately affect efforts to sustain programs the public perceives as either obsolete or ineffectual, regardless of their substantive focus.

Movement in political support for a reform initiative is most critically measured in terms of resources. Sustained change is less likely in the absence of adequate resources (e.g., Buchanan et al. 2005; Cummings and Worley 2005; Reisner 2002). Writing about the sustainability of theory-based educational reforms, McLaughlin and Mitra's (2001) argument is eminently logical: lasting change is predicated on sufficient physical, human, and financial resources. Without the budget to support continued investment in the kinds of books, classroom space, and teachers needed to perpetuate a reform initiative, the program will cease to function.

To illustrate the connection between municipal politics, resources, and police reform, Skogan (2006) describes challenges created by the "911 problem," which refers to police departments' commitment to respond to calls as quickly as possible. Programs seen competing with a police department's ability to do so are often characterized as "making the city less safe." Forced to choose, as was the case recently in Houston and Seattle, politicians and the public have more frequently opted to kill the reform (Skogan 2006).

On the other hand, external pressure to continue reform efforts can have a catalyzing effect. After studying community policing initiatives in three police departments, Allen (2002, 514) concluded that "organizational change may not have occurred" without a push from external forces. Rudy Giuliani's unwavering support for police reform is often credited with

giving Chief William Bratton the authority and independence to drive change in the mid-1990s New York Police Department (NYPD) (Bratton and Knobler 1998; Sugarman 2010).

Not only is sustainable change contingent on sufficient resources, but post-implementation funding is a subject that should be broached before the reform process is initiated: "Making provision for the resources necessary to sustain a reform effort is a 'bottom line' reformers need to negotiate at the outset with the implementing site or with funders" (McLaughlin and Mitra 2001, 306).

Of course, short-term shifts in the political wind occur against the backdrop of history. Sweeping, sometimes decades-long reform movement – in the parlance, "tides" (Light 1998) or "waves" (Tyack and Tobin 1994) – are reflective of broader societal values and preferences. The extent to which an organizational reform initiative is either consistent with or in conflict with the principles that underlie such broader historical trends has the ability to affect institutionalization (e.g., Hargreaves and Goodson 2006).

A reform initiative's environmental context is also shaped by third-party groups, including, perhaps most importantly, labor unions. The ability of labor unions to affect a reform effort has been well-documented in both the theoretical and empirical literature on organizational change. With reference to the private sector, Cummings and Worley (2005, 193) suggest that institutionalization is more difficult in organizations whose labor force is unionized, "especially if the changes affect union contract issues, such as salary and fringe benefits, job design, and employee flexibility."

In the public sector, where union representation is prevalent,[56] such groups can represent either a powerful opposition or an influential source of support for institutionalizing

[56] According to 1999 union density figures, some 61 percent of police and detectives were represented by unions, and nearly 65 percent were protected by collective-bargaining agreements (Polzin and Brockman 2002, 158).

change. Should organized labor see the reform initiative as a threat to their interests, for instance, their opposition can have powerful political (e.g., Skogan 2006) and operational effects (e.g., Reisner 2002). On the other hand, if the reform is seen as beneficial to – or at least considerate of – labor, then union leaders is likely support the initiative (Schneider 2003). This support has the potential to help establish credibility and legitimacy in the substance of the reform and may facilitate institutionalization. Among others, Armenakis et al. (1999, 106), believe that a concerted effort to secure union support for reform represents a significant step toward sustaining change: "Plans to address the needs of these diverse groups (e.g., union members, professional classifications) and enlist the support of some as change agents can enhance the success of institutionalization." Several policing experts have made similar findings. Writing about the implementation and sustainability of community policing programs, Polzin and Brockman (2002) argue that including organized labor at each phase of the change process – design, implementation, and institutionalization – will minimize resistance and help to promote lasting reform.

Simply including union groups in the reform process does not address the potential hurdle represented by union contracts, however. As Skogan (2006, 5) notes, "[i]n many cities, the contact between the union and the city also binds the department to work rules, performance standards, and personnel policies that run counter to the organizational changes required" by reform efforts. Such realities can affect directly union support for reform – and as a result, its sustainability.

As is clear from the foregoing review, research suggests that the institutionalization of pattern or practice reform – much like its implementation – is a process shaped by four categories of variables: (1) the process of change; (2) the substance of reform; (3) the

organizational context; and (4) the environmental context. See Illustration 11 for a graphical representation.

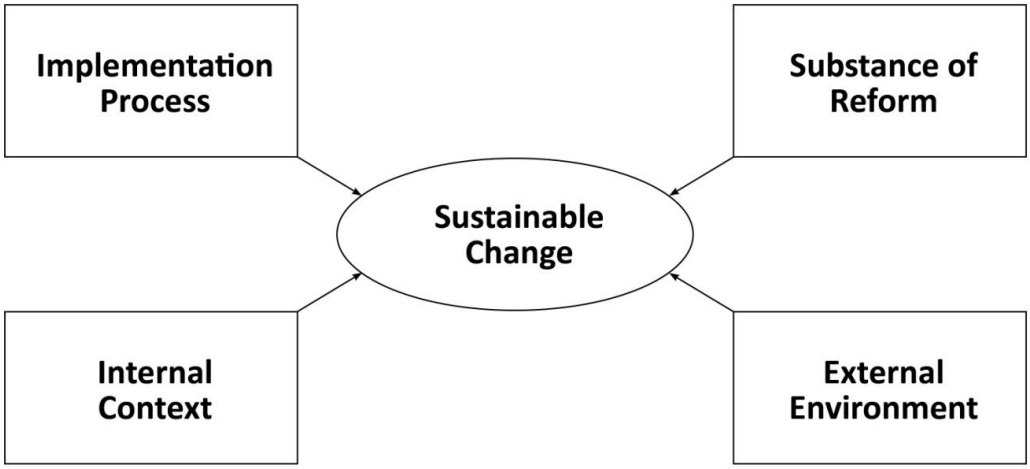

Illustration 11. Elements affecting the sustainability of pattern or practice reform

Evaluating Sustainability

Despite the guidance from experts across several fields on those factors thought to affect the sustainability of change, several critical questions remain unexamined. One such question is of central concern to the analysis of pattern or practice reform: By what metrics should organizational scholars evaluate whether organizational change is being sustained? There is very little existing scholarship that attempts to define or organize how to evaluate or measure an organization's ability to sustain reform over time, and no guidance whatsoever from either policing scholars or practitioners. This is so perhaps because evaluating organizational and administrative reform is a supremely complex task, fraught by multiple goals, varying perspectives, and competing political, administrative, and legal motivations, all conspiring to form what Peters and Savoie (1998, 6) call "a confusing and contradictory picture of change."

With these challenges in mind, what follows is a very rough initial attempt to build a set of guidelines for evaluating the sustainability of pattern or practice reform. The following passage, drawn from a 2002 report from the NHS Modernization Agency, a component of the UK's Department of Health designed to improve patient outcomes, offers useful initial guidance:

> Sustainability is when new ways of working and improved outcomes become the norm. Not only have the process and outcome changed, but the thinking and attitudes behind them are fundamentally altered and the systems surrounding them are transformed in support. In other words it has become an integrated or mainstream way of working rather than something 'added on'. As a result, when you look at the process or outcome one year from now or longer, you can see that at a minimum it has not reverted to the old way or old level of performance. Further, it has been able to withstand challenge and variation; it has evolved alongside other changes in the context, and perhaps has actually continued to improve over time (quoted in Buchanan et al. 2005, 190).

Though their terms remain rather ambiguous, the authors suggest that at least three elements may help to evaluate the extent to which an organization has institutionalized change: (1) organizational structure and operational systems; (2) organizational culture; and (3) reform-related outcomes. See Illustration 12 for a graphical representation. Before attempting to illuminate these metrics, it is worth noting that the institutionalization of organizational reform is not something that should be evaluated dichotomously. Rather, the sustainability of change is measured in degrees (Cummings and Worley 2005), with higher levels of the following several variables indicating a greater degree of institutionalization.

Organizational Structure and Accountability Systems

Certain reform initiatives, like those established under Section 14141 pattern or practice authority, aim to change both organizational structure and operational process. As a result, sustainability-related inquiries will necessarily examine the extent to which such changes endure. In other words, to what degree, if at all, do such changes persist? Have structural changes brought on by the reform initiative eroded over time? Been abandoned or reversed altogether?

In addition to examining whether reform-driven policies and systems exist, this assessment must also consider behavioral change. In order to understand fully whether structural changes persist, one must get some sense for how organizational actors are engaging with the agency's new way of operating. This can be accomplished by evaluating both the extent to which organizational actors know about and understand behavioral changes related to the post-reform process, as well as the "the degree to which intervention behaviors are actually performed" (Cummings and Worley 2005, 196).

An examination into the sustainability of pattern or practice reform will consider whether the policy and organizational changes – including, for example, use of force incident reporting; officer training; and use of department early warning systems – remain in place and fully operational. What's more, institutionalization can be measured by reviewing the extent to which police officers are knowledgeable of and guided by pattern or practice reform.

Culture

The second component of a comprehensive evaluation of reform institutionalization is the extent to which changes to organizational culture endure. Cummings and Worley (2005, 196) argue that in this capacity culture should be considered along at least three lines. They suggest that culture is measured in terms of the individual preferences of organizational members, or "the degree to which organization members privately accept the organizational changes." Together with personally held beliefs, Cummings and Worley suggest that organizational norms, or the extent that agency staff agree about the appropriateness of the organizational changes," define an agency's culture (Cummings and Worley 2005).

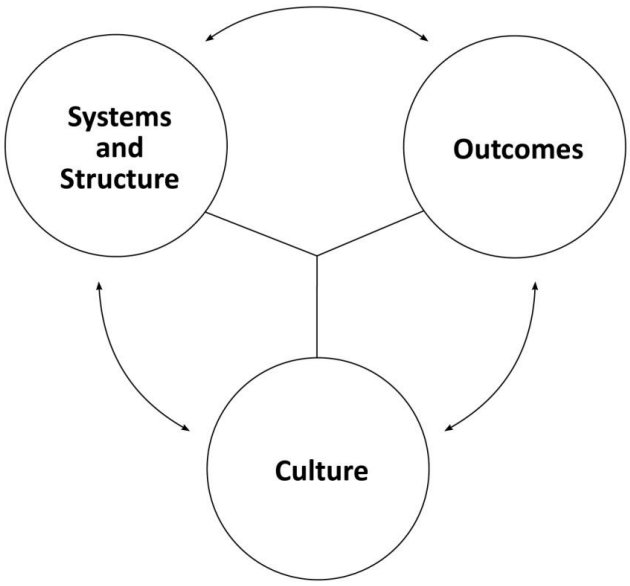

Illustration 12. Evaluating the sustainability of pattern or practice reform

Relatedly, Williams (2003, 123) argues that only those changes that become part of an organization's core mission are likely to become institutionalized: "[I]f innovative changes that challenge the principles, philosophy, and values of the fundamental deep structure and culture of traditional policing are to succeed, they must become the operating philosophy of the entire organization." The final component of this cultural evaluation of institutionalization is the notion of value consensus. Cummings and Worley (2005) suggest that the extent to which values related to the organizational change have reached social consensus among members is a necessary means of evaluating reform institutionalization.

Research on organizational change related to community policing and problem-oriented policing initiatives has consistently found cultural change as a central predictor of institutionalization (Skogan and Hartnet 1997; Greene et al. 1994; Schafer 2001; Ikert 2007; Ikert

and Walker 2010). Cultural change – measured in terms of officer preferences, norms, and values – is certainly an important aspect of pattern or practice reform institutionalization. The sustainability of 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 the substance of pattern or practice as central to the department's mission and reflective of the department's broader approach to policing.

Outcomes

An organization's ability to establish and sustain desirable levels of reform-related outcomes is a third indicator of sustainable change. Organizational reform is rarely an end in and of itself; change is typically instrumental, sought to improve certain measurable outcomes (e.g., Newcomer 1997). The outcome-based evaluation central to the performance movement has swept through public management research (e.g., Hood 1991; Behn 2003), and continues as a strong current in policing research (e.g., Langworthy 1999). Police practitioners have for decades used data – arrest rates, use of force statistics, demographic and geographic data, et cetera – to track performance and evaluate reform efforts. The Compstat movement is one high-profile example (e.g., Weisburd et al. 2004). Hot Spots Policing (e.g., Sherman and Weisburd 1995;) and crime mapping are others (Chainey and Radcliffe).

Agency performance can be measured in at least two ways, both relevant for evaluating the sustainability of organizational change. First, organizations are judged by their ability to sustain desirable levels of various systematic metrics, or those indicators that establish broad, agency-wide performance. In terms of pattern or practice reform, this means that reform institutionalization can be evaluated by tracking specific outcomes – including, for example, use of force incidents and citizen complaints – related to the organizational changes mandated by the Department of Justice. In fact, nearly every key stakeholder that I spoke with, from police

chiefs and political principles to criminal defense attorneys and heads of citizen complaint agencies, stated that trend data is the most effective way to gauge a department's progress.

Second, an organization's ability to sustain change can also be evaluated in terms of its ability to avoid a large-scale "performance crisis." To illustrate the magnitude and effect of such a crisis, Oliver (1992) points to the Challenger disaster as an example. Such incidents quickly undermine the reputation of an agency and shake the public's confidence in the agency's ability to perform their job with quality and reliability. The result is often a shift in public opinion away from a department. Performance crises can also negatively affect employee morale and organizational support for leadership. It is worth noting that such performance crises can take the form of isolated, high profile incidents, like a police shooting or a particularly vicious beating caught on tape. Think Rodney King. The perception of systematic, protracted misconduct or corruption – along the lines of LAPD's Rampart scandal – may also have the destabilizing effect of a performance crisis. Both types of incidents have the potential to change the public's perception of a department.

Milt Dohoney, Cincinnati's City Manager, acknowledged the potential for a high profile shooting or an egregious excessive force incident to threaten a burgeoning confidence in the Cincinnati Police Department (CPD). According to Dohoney, such a performance crisis could shake the trust that has begun to develop between the CPD and the City's minority community as a result of the settlement agreement:

> [T]he only thing that could undo the good that's been done is for us 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, and we – we don't communicate what happened. That – you can have one incident that can bring all of that past baggage back up. You can have one incident that really gets the community on edge. And given the heavy price that the entire community paid for what happened in '01, you know, with national headliners and conventions boycotting the city and all of that, no one wants to go back to that" (Milt Dohoney, interview with author, May 3, 2010).

Thus, a police department's ability to avoid such an event, be it a high-profile police shooting or a department corruption scandal, is another relevant indicator of each police department's ability to sustain changes instituted as part of the pattern or practice reform effort.

Comprehensive, Multidimentional Analysis

Each of the three components discussed above have certain inherent value as a means of evaluating the sustainability of pattern or practice reform. One can, for example, learn much about the orientation of a police department by examining its management systems, its officer culture, or its performance related outcomes. But the most comprehensive, and thus most meaningful, assessment of reform institutionalization is a function of these three elements taken together.

The three components are interrelated and thus not entirely severable. Outcomes, whether measured in terms of trend data or public opinion, are a function of the combined effect of accountability systems, agency management, and officer culture. Culture is in part a function of management systems and the priorities set by agency leadership. Over time both systematic and anecdotal outcomes can work to either undermine or perpetuate culture as well. For example, awards given for thorough investigation of force incidents or praise received from the public and from groups like the ACLU for a reduction in the use of force can serve to reinforce the merits of police culture built around the respect for citizen rights. So too can the kinds of accountability systems developed under pattern or practice reform. If, for example, a department is not able to sustain desirable outcome levels despite strict adherence to established policies and systems, those systems will be undermined.

As a result, the sustainability of pattern or practice reform will not be considered dichotomously. Instead, this evaluation is necessarily multidimensional. I examine each

department's accountability infrastructure, its culture, and relevant outcomes, including use of force incidence, citizen complaints, public opinion, the occurrence of performance crises, among others.

Constructs and Data

As I have argued above, the institutionalization of a reform effort like those undertaken in each of the four jurisdictions under review is a function of at least three factors: (1) the extent to which a department is able to sustain over time those systems and structures established during the implementation period; (2) the department's ability to establish and maintain a culture supportive of the reform effort; and (3) the extent to which a department is able to sustain (or improve) outcomes in areas directly and indirectly related to the reform process. In this section I operationalize these constructs and discuss briefly the data used to measure them.

Systems and Structure

The settlement agreements driving reform in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County require that each affected department make several organizational and procedural changes. It is through the components of the Section 14141 reform template – which include policy and training changes, reporting and oversight requirements, and various systems of internal and external oversight – that the Department of Justice seeks to promote an infrastructure of lawfulness and accountability. The continued existence and utilization of each of the following policies and procedures is critical to an evaluation of pattern or practice sustainability:

- Use of force policy
- Use of force training (frequency and content of trainings; attendance)
- Use of force incident reporting (street-level officers)
- Use of force incident report review and oversight (mid-level supervisors)

- Early warning system (data inputs; reports; enforcement)
- Internal use of force investigation (chain- and non-chain-of-command)
- External use of force investigation (independent agency evaluation)
- Internal audits
- Department performance evaluation metrics
- Department promotional standards

It is important to note that every component of the infrastructure is important both individually and as a part of the agency's broader system of accountability. A department's use of force reporting protocols, for example, are valuable as a means of assessing certain outcomes, including the extent to which street-level officers adhere to law and department policy when using force. Such reporting requirements also serve to limit officer discretion and facilitate a hierarchical system of internal accountability. What is more, the data generated by these reports provide the information needed for department early warning systems to operate.

Thus, a thorough analysis of agency policies and procedures will necessarily review directly the existence and utilization of each key component of the reform initiative. To assess a training program, for example, one must be able to examine training materials, witness several training sessions, access officer attendance records, and consider the enforcement of non-attendance, in addition to examining the relationship between adjustments to training and movement in officer performance. Similar procedures are necessary to evaluate the operation of a department's early warning system, its use of force investigation protocols, officer promotional standards, and other components of pattern or practice reform.

In short, what is needed to assess the continued existence and operation of this accountability infrastructure is a periodic continuation of the kind of review and analysis performed by the independent monitor during the implementation process. Unfettered access to the department's systems and an objective review of their status is the only way to evaluate the extent to which a department has sustained the accountability infrastructure in the years

following termination of the pattern or practice settlement agreement. Unfortunately, no independent researchers – including myself – have been given observational access to evaluate the post-settlement status of any of the departments under review.[57] In lieu of such access, I use as proxy variables data from secondary sources, including other scholarly accounts and media reports, as well and in-depth interviews with key stakeholders.

Culture

The extent to which a department's 'culture' reflects the norms and values core to the reform effort is considered a key indicator of institutionalized change. Organizational change literature, from business to education, health care, and policing, is clear: the more closely values held by agency employees align with the values core to the reform effort, the more sustainable the reform will be.

In a 2007 study on the institutionalization of problem-oriented policing (POP) strategies by the Charlotte-Mecklenburg Police Department (CMPD), which remains the only theoretically driven study of the issue in the policing literature, Ikert measured cultural congruence among street-level and mid-level officers. Specifically, through the use of surveys and structured interviews, Ikert examined the extent to which CMPD officers were knowledgeable of, believed in, and supported the POP initiative's operational goals and value system (Ikert 2007; Ikert and Walker 2010).

Ikert's approach provides a workable template for using department culture to assess the sustainability of pattern or practice reform. The goal of such an effort is to determine (1) the

[57] Owing to a very close relationship between the Cincinnati Police Department and members of University of Cincinnati's Department of Criminal Justice, including Jim Frank, Kenneth Novak, Robin Engel, and John Eck, several observational studies involving the CPD have been published. These studies, including Frank et al. 1997, Engel et al. 2002, and Eck and Rothman 2006, are useful as background research, but lend little direct insight into the CPD's ability to perpetuate pattern or practice-related reforms.

extent to which the views of department employees support the organizational and programmatic changes brought on by pattern or practice reform; and (2) the degree to which officer views reflect the core values that motivated the initiative. Ideally, the data capture would begin *before* a settlement agreement was signed. Doing so establishes a baseline of officer opinion and allows for an analysis of changing views over time. The same interview and survey questions should also be asked periodically during the implementation process, so as to track how attitudes change as new ways of doing things become more familiar. Finally, data should be collected regularly from officers at every level of the department, beginning shortly after the settlement agreement has been lifted. Doing so provides the means to use department culture as a metric for evaluating the sustainability of change brought on as a result of the pattern or practice initiative.

This dissertation does not include an independent assessment of department culture; such empirical research is properly the subject of future research.[58] Where possible, again, I rely on existing secondary sources and what I can glean from stakeholder interviews.

Outcomes and Public Opinion

The institutionalization of pattern or practice reform can also be assessed by examining several categories of change-related outcomes. While the organizational, programmatic, and cultural changes envisioned by the reform process are valuable ends in themselves, they are also means to more accountable, lawful policing, and fewer incidents of police misconduct. As Hechscher and Applegate (1994, 10) argue, an important "test of organizational innovations is their contributions to performance."

[58] Despite the clarity of Ikert and Walker's research, organizational culture remains a very difficult to define. Policing researchers have studied the issue for decades and continue to work toward a more thorough description of police culture (e.g., Reuss-Ianni 1982; Crank 2004; Paoline 2003; Terrill et al. 2003). Future work will surely incorporate this literature in developing an articulate view of the extent to which department culture reflects pattern or practice reform changes.

Sustainability can be evaluated through a review of systematic metrics, measured regularly, including use of force incidence; citizen complaints against department officers; civil suits filed against department officers; financial awards paid pursuant to legal settlements and damage awards, and so on. These kinds of indicators are perhaps the most effective means of evaluating whether the changes brought on by the reform effort have yielded desirable performance levels. As with officer opinion data, to give a meaningful indication of change over time, the use of systematic outcome measurements is valuable only to the extent that one can compare these data to outcome-based data collected both during and after the implementation process.

The availability of systematic performance data varies by metric, by timeframe, and by agency. All four of the agencies under review were required as part of the reform process (specifically, as a function of developing and utilizing an early warning system) to capture data on officer use of force, citizen complaints, and several other 'performance' metrics. Possession of such data does not necessarily mean that the information will be made available to the public, however. And that it is captured now does not at all suggest that it was captured in the years before the settlement process began.

Some jurisdictions do make data publicly available. Data on citizen complaints in Washington, D.C. can be found in annual reports filed by D.C.'s Office of Police Complaints dating to 2001, the first year of the pattern or practice reform process. Cincinnati's Citizen Complaint Agency (CCA) has published reports available from 2005 through 2010. Other jurisdictions, including both Pittsburgh and Prince George's County, make absolutely no data available publicly.

In some cases, I have been able to use information given to me by police departments, legislative representatives, and citizen complaint agencies to supplement publically available

data. Beth Pittinger, head of Pittsburgh's Civilian Police Oversight Board (CPRB) gave me access to citizen complaint data from Pittsburgh captured between 1998 and 2008. Greg Baker, a high-ranking member of Cincinnati Police Department, gave me access to CPD use of force data from 2001 to 2009. Data on several metrics, including civil litigation in Washington, D.C., officer injuries in Cincinnati, and use of force reports in Pittsburgh, was acquired through freedom of information requests.

The occurrence of certain isolated events can contribute to an assessment of reform sustainability. Performance crises may be a sign that changes have failed to take hold. Of course, each event must be considered in context and examined from all appropriate angles in order to extract its true significance. If may be difficult to distinguish a true performance crisis from a regrettable, but necessary and lawful event.

The occurrence of a police use of force incident, even those that attract media attention and draw public ire, may not necessarily say that much about the institutionalization of a lawful and accountable use of force program. The vast majority of shootings are necessary to ensure the safety of either the officer or members of the public, or both, and occur in the absence of any viable alternative, perfectly consistent with law and department policy. The remaining small minority of police-involved shootings may be unnecessary, excessive, and unlawful. In neither case is such an event in and of itself a reliable indication that a department has failed to institutionalize pattern or practice changes. Just as an unlawful shooting, for example, may simply be a function of a rogue officer or "rotten apple," so too could a legitimate shooting occur in a department that exemplifies the pattern or practice ethos.

In most cases, it is the department's response to the incident and the function of the accountability structure established under the reform process that will give the best indication as to whether changes have been institutionalized. With that said, however, much can be

learned from the response from members of the media, civil society groups, and the community writ large. A high-profile shooting, for example, even if found subsequently to be within department policy, may have a destabilizing effect the department, both in terms of systems and culture, and has the potential to affect the department's standing in the community. As a result, I rely almost exclusively on media reports for data related to performance failures.

In addition to systematic and anecdotal outcome-based evidence, it is also possible to rely on certain proxies to get an impressionistic sense of the extent to which a department manifests the less tangible aspects of the pattern or practice reform process. Pattern or practice reform is not simply about making changes to department use of force policy or installing an early warning system. In addition to serving as ends in themselves, such instrumental components are also necessarily a means to a reorientation of the department's view of the law, of citizen rights, and of accountability. The process represents an imputation of judicial values – e.g., liberty, equity, transparency – into agencies that for an extended period systematically overlooked their importance to law enforcement. As such, it is imperative to include as a part of an outcomes-based assessment an evaluation of macro indicators like department transparency.

Tracking changes in public opinion over time may also provide a helpful metric for evaluating the sustainability of police department reform. The broad goals motivating pattern or practice reform are to bring the police in line with laws designed to protect citizen rights and to make the law enforcement more accessible and accountable. Many of the specific provisions at the heart of pattern or practice reform – including mandated outreach meetings; requirements that filing complaints against the police be made easier; and changes geared toward strengthening investigations following force-related incidents – are geared toward changing the way police officers and members of the community relate to one another. Views of the police

held by members of the general public are thus an important source of data on the effects of reform and the sustainability of change. So too are the views of community group leaders, many of whom represent blocks of people that are either underserved by the police or more likely to be victimized by unlawful police behavior. As with other indicators, public opinion is ideally captured before, during, and after the implementation period so as to enable a broad comparative analysis. Because I have not conducted unique public opinion surveys or held independent focus groups, the included public opinion data is drawn from secondary sources.

In Chapter 5 I have developed frameworks to evaluate the sustainability of pattern or practice reform, and to explain variation between the four jurisdictions along those lines. In Chapter 6 I test each of these frameworks using data from reform initiatives in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County. What follows are the results of that analysis.

CHAPTER 6

INSTITUTIONALIZATION RESULTS

> [W]hen we take stock of administrative reforms we are invariably confronted with a confusing and contradictory picture of change.
>
> ---Guy Peters and Donald Savoie, *Taking Stock*

Introduction

In Chapter 6 I present a review of what is known about each jurisdiction's effort and ability to sustain changes made during the pattern or practice reform process. The data available vary widely from jurisdiction to jurisdiction. In some cases, like Pittsburgh, information from several sources gathered over several years allows for a more thorough analysis. In others, like Prince George's County, there remains very little known or understood. As such, these results should be considered very preliminary. Taken together, they raise many more questions than they answer,[59] and are perhaps a better platform for future research than they are for definitive conclusions. With that said, these findings do shed some light on relevant differences between Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County in the years following settlement termination.

[59] For example, I have not been able to drill down far enough to examine differences between the four jurisdictions in terms of their ability to sustain specific constituent elements of their respective settlement agreements. As such, the forthcoming analysis considers the question of institutionalization from a holistic perspective. In other words, I examine each department's ability to sustain the comprehensive set of changes brought on as a result of the reform initiative but do not examine specific individual components of that effort.

Pittsburgh

The reform initiative in Pittsburgh was one of the DOJ's earliest efforts to enforce Section 14141. With the large majority of the process terminating in 2002,[60] enough time has passed to assess the extent to which Pittsburgh has institutionalized changes brought on by the decree. Do the PBP's use of force policies and procedures, officer culture, and agency outcomes reflect the pattern or practice reform process?

Much of what is known about the period following the DOJ's termination of the consent decree in Pittsburgh comes from a 2005 report published by the Vera Institute for Justice. Using data gathered between March 2003 and March 2004, the Vera study draws on in-depth interviews and unfettered access to the PBP staff, as well as public opinion surveys and interviews with leaders from key civil society groups in an attempt to determine whether "local officials can maintain [consent decree] reforms after the federal government and its monitor withdraw" (Davis et al. 2005, 2).[61]

Of course, the Vera study reflects the status of the institutionalization effort less than two years into Pittsburgh's post-Decree period. Much has happened in the six or so intervening years, including two mayoral transitions, the installation of a new police chief, a protracted budget crisis, and, perhaps most saliently, simply the passage of time. I have not been granted access to the inner-workings of the PBP and have not spoken with PBP officers or city residents. Thus, I cannot update Vera's findings related to either Bureau culture or efforts to maintain the use of key systems and structures. My review of both systematic and episodic outcome-based

[60] Several of the decree's stipulations related to Pittsburgh's Office of Municipal Investigations remained in place until April 2005 (Ove 2005).

[61] Because OMI remained under the consent decree during the period when Vera examined the sustainability of reform at PBP, their 2005 report does not address efforts to institutionalize changes at OMI.

data, supplemented by in-depth interviews with key stakeholders in Pittsburgh will bring current certain aspects of the story.

Systems and Structures

Included in the Vera study is an assessment of PBP's effort to sustain three key tenets of the consent decree: (1) the Bureau's early warning system, or PARS, and its corresponding accountability mechanism, known as COMPSTAR; (2) new officer training protocols; and (3) PBP's internal inspection unit. The study concluded that as of mid-2004, many of the systems put in place during the pattern or practice reform effort remained central to PBP operation.

To assess the operation of what was perhaps the central component of the reform initiative – the early warning system, PARS – the Vera team reviewed management of the system and attended at least one COMPSTAR meeting. Modeled on COMPSTAT, the data-driven management system made famous by William Bratton in New York, COMPSTAR was designed as a means of ensuring that PARS remained at the center of the Bureau's efforts to improve officer performance. The study concluded that, "[a] year after the federal monitoring ended, PARS remains a strong presence in the Bureau, the current system and its use have changed little from the earlier period. Supervisors are still required to log in to the system daily and view the performance of officers under their direct command" (Davis et al. 2005, 8). The Vera report also pointed out that in the year or so following termination, PBP leadership extended the reach of PARS, adding four additional performance indicators to the 14 existing metrics on which data is captured and by which PBP officers are evaluated (Davis et al. 2005, 8). These efforts to both oversee and expand the use of PARS convinced the Vera team that the Bureau's "command staff has continued its commitment to PARS and COMPSTAR" (Davis et al. 2005, 8).

What is more, focus group interviews with PBP confirmed that the accountability mechanisms instituted as part of the consent decree process remained intact. Both officers and

supervisors agreed that "the new incident forms for traffic stops, search and seizures, use of force, and subject resistance were still required and closely monitored" in the period following termination (Davis et al. 2005, 17). Further, the subjects reported that "[o]fficers continued to be disciplined for omitting forms or filling them out incorrectly and continued to fear being indicated by PARS" (Davis et al. 2005, 17).

The 2005 report shows similar findings related to PBP's efforts to sustain officer training protocols established under the consent decree. The decree increased the minimum amount of training PBP officers were required to receive and mandated changes to the content of officer instruction. All PBP officers, for example, were trained in cultural diversity, verbal de-escalation, alternatives to the use of force, integrity, and ethics. The Vera team concluded that "training reforms have continued in the post-decree era. Patrol officers still receive yearly in-service training in cultural diversity, verbal de-escalation, and ethics" (Davis et al. 2005, 11).

Despite the positive assessment, the Vera team did state that the cost of officer training was beginning to create budgetary problems. Specifically, the report emphasizes the potential problems created by re-training required for those officers whose behavior is considered problematic:

> According to the commander, a large part of the training program is devoted to remedial training for officers who have been identified by the early warning system (PARS). He noted that about 10-15 percent of officers (163 in 2003) receive some form of remedial training. This one-to-one training directly tailored to the individual officer's deficiency tends to be time consuming and costly. According to the training commander, the main issue covered in the retraining is the proper completion of departmental forms and paperwork (Davis et al. 2005, 12).

The Vera report also addressed PBP efforts to sustain the inspection process developed by Pittsburgh's independent monitor. To ensure that PBP officers were complying with all aspects of the consent decree, the independent monitor team led regular inspections of PBP facilities, files, and management oversight activities to ensure compliance with the terms of the

decree. Following termination, then-Chief Robert McNeilly attempted to incorporate this inspection process into the Bureau's management standard operating procedure.

In September 2003, just over a year after the decree was lifted, Vera researchers accompanied this inspection team on an agency-wide review, conducted at McNeilly's behest. The Vera team concluded that the inspection was "thorough and methodical," differing "very little in the form and function from the monitor's unit" (Davis et al. 2005, 13).

In sum, the Vera report concluded that less than two years removed from federal oversight, the PBP continued to maintain and operate three of the consent decree's key policies and systems and structures. Little is known, however, about the Bureau's commitment to such systems today, or how things have changed vis-à-vis these systems over the last seven years.

Culture

The Vera study also reported on the views of the reform process held by mid- and street-level officers. Using both focus groups and survey data, the study presented a stark view of PBP officer culture and a widespread belief that despite some positive outcomes, the pattern or practice reform process had made their jobs more difficult and less efficient. On balance, the Vera report described a police force suffering from low morale, harboring a resentment of top management, and struggling to accept the post-reform work environment.

Both the focus groups and an anonymous survey given to 129 officers "revealed strong officer resentment of the reforms introduced under the consent decree" (Davis et al. 2005, 17). Members of the rank and file described feeling as if they had been "sold out" by the Bureau leadership. Lower-level officers resented being left out of the initial negotiation process and maintained that the Bureau should have fought the DOJ rather than acquiesce to their demands. The views of one PBP officer are representative:

> Patrol officers directly affected by the decree were never given the opportunity to make positive changes in department policy. [The decree was] implemented by supervisors that did not participate in patrol functions or understand the day-to-day routines of street patrol work (Davis et al. 2005, 24).

Survey responses indicated that though a majority of officers "agreed that the reforms had increased accountability and that central review of officer actions could have positive consequences," most felt that the effect of the reform initiative was on balance overwhelmingly negative. This negativity was borne directly out of changes to use of force reporting requirements, intensified oversight, and an accountability system designed to identify and discipline officers who continue to engage in misconduct. According to the Vera study, a majority of PBP officers surveyed "claimed that fear of consequences made officers less proactive and less willing to engage the public and that increased paperwork made them less efficient" (Davis et al. 2005, 18).

Fifty-four percent of survey respondents saw the decree's centralization of oversight and accountability (and corresponding reduction in discretionary authority given to street-level officers and supervisors) as a negative development. A common reason for this belief was a lack of trust in the leadership's ability to construct a system that fairly evaluates officer performance. According to one survey respondent:

> The administration has taken away the front line supervisors' ability to make a decision on their own. They want to micromanage the way that supervisors do their job. The experience I've witnessed from central supervisors is that they are out of touch and scrutinize the wrong areas of behavior (Davis et al. 2005, 23).

Further, the study's authors reported hearing consistent claims "that fear of complaints and disciplinary actions for minor infractions kept officers from being effective" (Davis et al. 2005, 17). Not only did PBP officers question the terms of the consent decree's accountability and performance evaluation system, but questioned the legitimacy of its operation. Several PBP officers "related stories about being unfairly targeted by the Office of Municipal Investigation as

a result of baseless complains filed anonymously by criminals or citizens with a grudge against the Bureau" (Davis et al. 2005, 17).

The literature on organizational change is clear that culture is a key indicator of reform sustainability. A police department whose officers are supportive of the reform effort and reflective of the core norms and values underlying it is much more likely to sustain change. Conversely, reforms are much less likely to take hold when a department's officers view the changes as illegitimate, unnecessary, or problematic. The Vera report suggests that nearly seven years after the settlement agreement was reached, a majority of PBP officers did not support the changes brought on by the reform initiative.

Outcomes

The sustainability of pattern or practice reform can also be evaluated in terms of outcomes. Several metrics are useful here, beginning with reform-related trend data, including citizen complaints and use of force incidence. The occurrence of singular, high-profile incidents also informs an assessment of reform sustainability, as do the opinions of both community group leaders and Pittsburgh residents. I begin the discussion with a review of citizen complaints against the Police Bureau between 1998 and 2008.[62]

Using data from Pittsburgh's Citizen Complaint Review Board (CPRB), Illustration 13 charts the total number of citizen-based complaints filed against Pittsburgh Bureau of Police officers between 1998 and 2008. Data to the left of the line, between 1998 and November 2003, represent the total number of incidents alleged to have occurred during the consent decree

[62] The absence of other available data by which to evaluate outcomes related to the consent decree process is itself noteworthy. None of the City's key public safety agencies, including the Police Bureau, the Office of Municipal Investigations, and the City's Law Department, publish regular reports, and do not voluntarily release data related to any key indicators, including PBP use of force incidence, civil and criminal suits filed against Bureau officers, or settlement/damage award paid out. Though there was no mandate for the release of data found in the consent decree, transparency and improved community relations were clearly values that undergirded the substance of the reform initiative.

implementation period; those to the right of the line, after termination. The figure shows a steady increase in total allegations over the ten year period, with moderate uptick in the post-termination years. On average, there were 556 allegations made annually against PBP officers during the implementation period. In the six years immediately following termination, the mean annual total increased to 822.

Illustration 13. Total allegations of police misconduct in Pittsburgh, 1998-2008

Illustration 14, which documents those complaints against PBP officers for "conduct unbecoming" of a police officer, shows a similar trend: moderate increases during the implementation years, followed by more dramatic spikes in those years following CD termination. Post-termination mean annual totals represent a 75 percent increase from the implementation years, with the average annual figures increasing from 153 to 268.

Illustration 15 documents the total annual allegations against PBP officers for the use of excessive force. During reform implementation, an average of 84 such allegations were made per year, with a considerable decline seen from 1998 through 2001. In 2002, the last year of formal DOJ oversight (the decree terminated in November), excessive force allegations shot up.

Post-termination annual totals remained much higher as well, averaging just over 109 per year, a 30 percent increase from the implementation period annual average of 84.

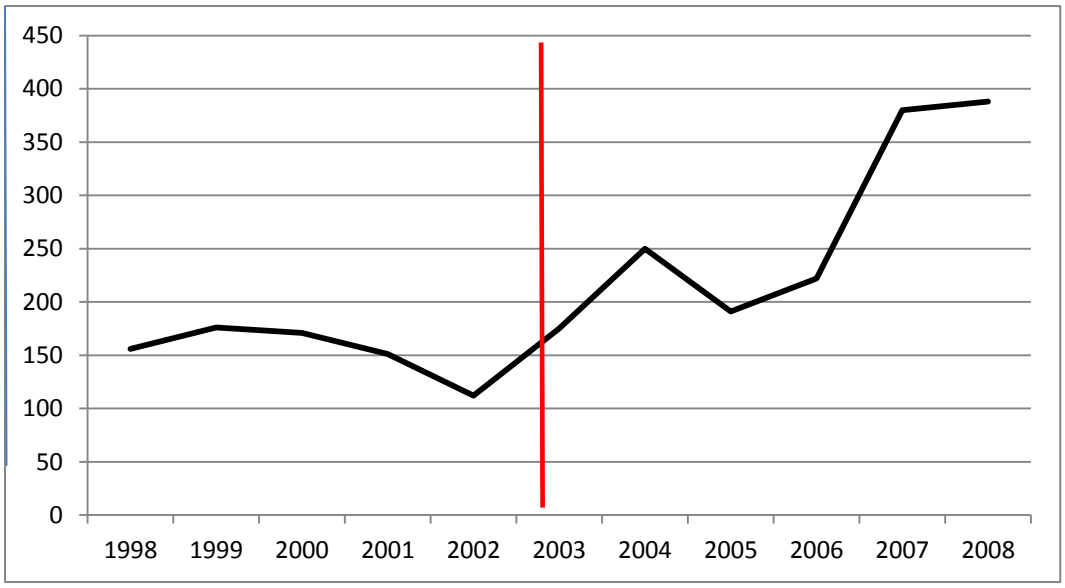

Illustration 14. Allegations of conduct unbecoming in Pittsburgh, 1998-2008

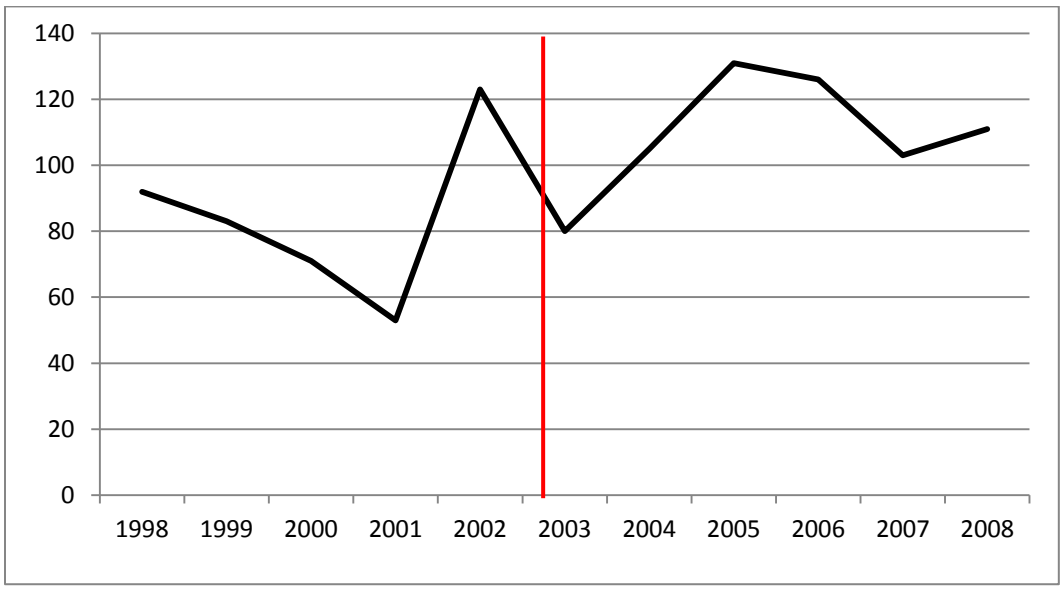

Illustration 15. Allegations of unlawful use of force in Pittsburgh, 1998-2008

Interestingly, annual totals for complaints alleging unlawful search and seizure remain mostly unchanged over the ten-year period documented in Illustration 16. Mean totals remain steady at an average of about 35 per year, with little change year to year, at least until 2005, when the figures began to move a bit more dramatically. Table 15 charts citizen complaints filed against PBP officers between 1998 and 2008.

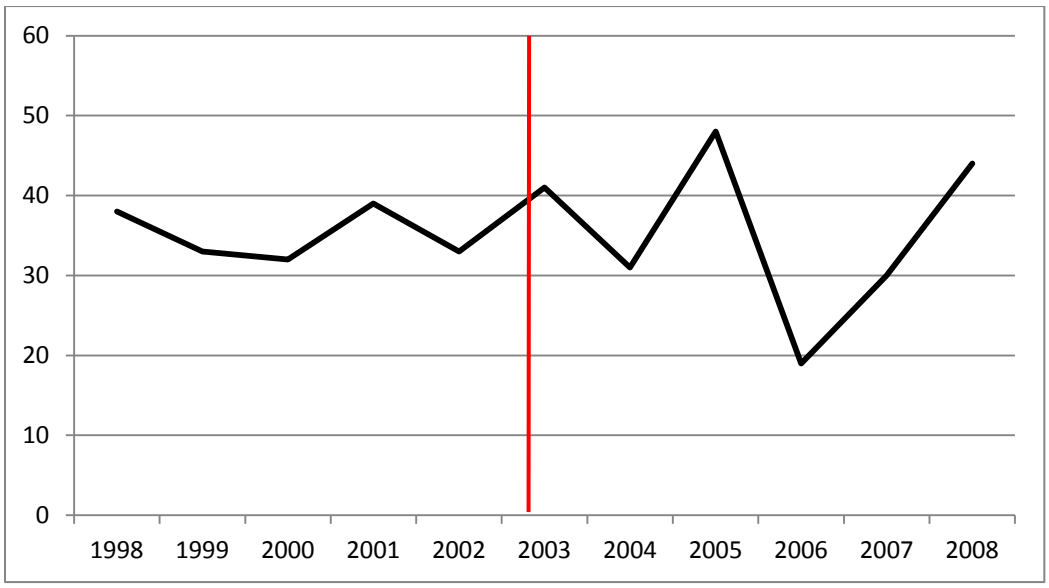

Illustration 16. Allegations of improper search and seizure in Pittsburgh, 1998-2008

Table 15. Allegations filed against Pittsburgh Police Bureau officers, 1998-2008

Year	Excessive force	Unlawful search/seizure	Conduct unbecoming	Total allegations
1998	92	38	156	488
1999	83	33	176	560
2000	71	32	171	598
2001	53	39	151	511
2002	123	33	112	622
2003	80	41	175	635
2004	105	31	250	815
2005	131	48	191	730
2006	126	19	222	783
2007	103	30	380	949
2008	111	44	388	1019

Illustration 17, which tracks annual use of force-related incident reports filed by PBP officers from 2003 through 2010, suggests that use of force in the city has remained fairly constant in the years following the consent decree. Of course, it is impossible to determine how these data compare to annual totals in years either before or during the implementation, and thus it is difficult to get any perspective on the "desirability" of these levels. The data do suggest little if any difference between the Murphy/McNeilly years (2003-2006) and the Ravenstahl/Harper years (2007-2010).

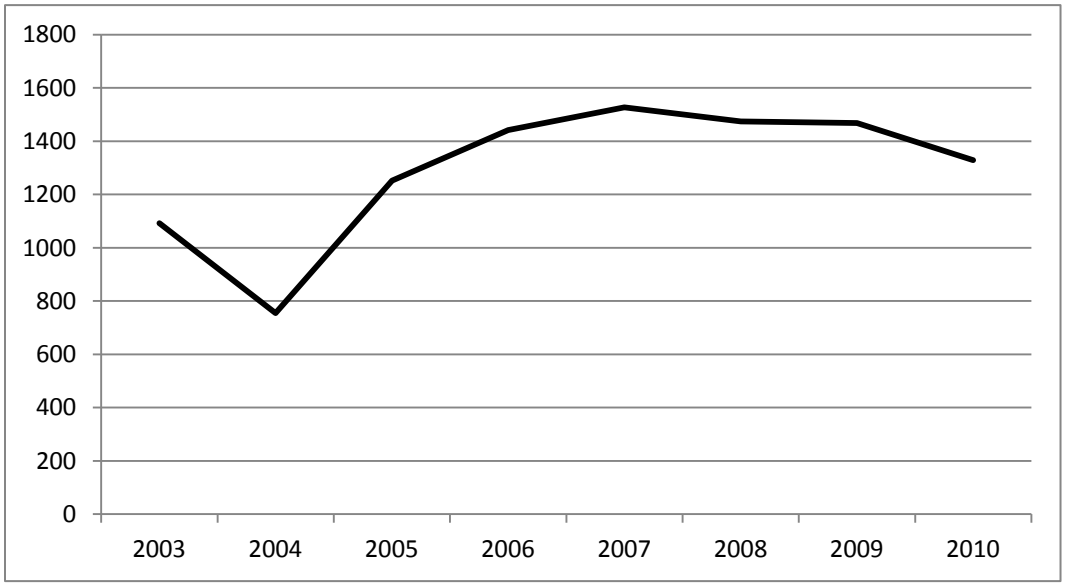

Illustration 17. Total Pittsburgh Bureau of Police use of force incidents, 2003-2010

Data in the foregoing several illustrations should be taken with a grain of salt. Because the analysis does not control for changes in other variables traditionally thought to affect citizen complaint totals, including crime rates and shifting economic indicators, the risk of omitted variable bias is quite high. Further, there is the distinct possibility of measurement error in the use of citizen complaints to evaluate department reform. As Prenzler (2000, 661-62) argues,

> Numbers of complaints do not provide a clear guide to police behavior because public confidence in either internal or external procedures might greatly influence the rate of

complaints. A decline could reflect the deterrent effect of vigorous investigations or a deterioration in public confidence.

Citizen complaint totals are likely to rise, for example, as members of a community become more knowledgeable of and comfortable with the process of filing complaints. A citizen complaint agency that is seen as fair and objective in the eyes of the public is also likely to receive more complaints than those agencies considered either illegitimate or unresponsive. In fact, aspects of the Pittsburgh consent decree (as well as MOAs in Washington, D.C., Cincinnati, and Prince George's County) were designed to publicize and streamline the complaint-making process while strengthening complaint investigation protocols. As a result, the observed increases in citizen complaints may be fairly attributed to higher incidents of unlawful behavior, an increased willingness on the part of Pittsburghers to file complaints, or a combination of both.

Even with all of that said, these data suggest that when measured across several important indicators related to the pattern or practice initiative, the PBP seems to have undergone a change following the termination of the CD. Total complaints increased significantly after 2002, as did those related to both the use of excessive force and conduct unbecoming. Particularly alarming is the large increases in various types of complaints recorded in 2007, 2008, and 2009. One would imagine that public perceptions of the citizen complaint agency and the process of filing a complaint against the PBP were fully formed after a five and a half year implementation process. By 2002, complaint levels should reflect any change in public confidence, etc. brought on by the pattern or practice reform effort, leaving subsequent fluctuations attributed to changes in other variables. Though this should not necessarily be

considered an indictment of the PBP, it does seem to raise the possibility of higher incidence of police misconduct following the termination of the consent decree.[63]

In August 2008, the Pittsburgh's Office of the City Controller submitted a performance audit of the Office of Municipal Investigations (OMI), the agency charged with investigating complaints against City employees, including Police Bureau Officers. The audit examined "post-termination" OMI investigation of complaints filed against PBP officers between April 2005 through January 2008. OMI was released from oversight related to the consent decree in April 2005, after nine years. The Controller's report determined that OMI investigations are "objective," "supported by the evidence," and amount to a "valuable service to the City." But these laudatory conclusions are belied somewhat by the facts included in their report.

In the nearly three years after termination OMI continued to have problems completing complaint investigations within the decree-mandated 120 days. The Controller's report also documented several marginal problems with the OMI case-tracking database and information management systems. Case files were dated incorrectly, investigatory information was destroyed prematurely, and so on. In short, several of the very issue that kept OMI under federal oversight for nine years appear to remain as problems for the agency.

Some of the Controller's conclusions bear directly on the performance of the Bureau of Police. For example, the audit report showed that 46 percent of all officers named by complaints to OMI were the subject of more than one such complaint, with some thirteen percent the subject of three or more complaints. Citizen complaint data is a central component of the Bureau of Police's early warning system, PARS, and such high percentages of "repeat offenders"

[63] Of course, one reaching this conclusion would have to accept the assumption that the willingness of Pittsburgh city residents to file complaints against the PBP remained somewhat constant. In the absence of specific public opinion data, this is impossible to know.

raises questions about both the Bureau's approach to officer training and the operation and enforcement of the PARS system.

Two recent high-profile police-related incidents also contribute to the notion that changes made pursuant to the consent decree may have begun to erode. In September 2009, Pittsburgh hosted the G-20 summit. A cause célèbre for anti-globalization and anti-corporate activists, significant protests tend to accompany the annual G-20 meetings. 2009 was no exception. Over the two-day event, PBP arrested hundreds of protesters and the city sustained an estimated $50,000 in damage (Deitch 2010; Associated Press 2009). The police response to the G-20 protests was highly controversial. A September 2010 suit filed by the ACLU 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 2010C).[64]

The G-20 protests also fueled an already contentious relationship between Pittsburgh's independent Citizen Police Review Board (CPRB) and the City's executive branch (Song 2011B) After receiving scores of G-20-related complaints, the CPRB moved to open a general investigation of PBP's actions during the protest. The Mayor's office attempted to block CPRB access to police records and continues to litigate the issue (Beth Pittinger, interview with author, Sept. 28, 2010). 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 and Balingit 2010). Beyond its reflection of alleged

[64] In fairness to the police, crowd control and protest management were not specific areas of focus under the pattern or practice reform initiative. What is more, the police contend that their behavior in response to the G-20 protests was entirely lawful and well-within department protocol (Frean and Byers 2009).

police abuse, the City's response to the G-20 investigations suggests of a political class, led by the Mayor, that is reflexively defensive of the police and skeptical of transparency and official accountability.

Less than five months out from the G-20 meetings and just over seven years after the consent decree was lifted, the Pittsburgh Bureau of Police suffered a second 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.[65] 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 (McNulty 2010A). 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 officers involved "willfully deprived [Miles] of federally protected right" (Kerlick et al. 2011). Despite this highly controversial decision and a city-wide outcry over the Jordan Miles incident, the officers returned to duty shortly after the announcement was made (Daley 2011).

Of course, these two isolated 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 sociological 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 a 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 and have negatively affected public perceptions of the Bureau.

[65] According to the 2000 Census, the figure is 98 percent. See http://www.city.pittsburgh.pa.us/cp/assets/census/2000_census_pgh_jan06.pdf, pp. 53-55.

University of Pittsburgh Law Professor David Harris describes the volatile tension that defines the ongoing stalemate between the police and the community in Pittsburgh:

> [They] are poles apart in a way that is really a symptom of some dangerous things. You cannot work together, you cannot avoid further conflict, if we find ourselves that far apart, that polarized, and that angry. Because when the next incident comes along we're going to have not only no basis in which to cooperate, we're going to start off angry (Song 2011A).

Public Opinion

Public opinion of the police, as expressed by community leaders and individual residents is another important aspect of a thorough evaluation of reform sustainability. The 2005 Vera report includes interviews with leaders from several area community groups, including the ACLU, the NAACP, and the Urban League. Views of the PBP and the consent decree were mixed. On one hand, some leaders "felt the Police Bureau remained committed to consent decree goals even after most requirements of the decree had been lifted" (Davis et al. 2005, 35). In fact, a majority of community leaders interviewed by Vera saw the consent decree process as having led to "several key changes" with the PBP, and that the PBP was "more diligent in monitoring behavior" and "doing a great job" overall (Davis et al. 2005, 35).

Other community leaders were less sanguine. According to the Vera study, there remained skepticism of the PBP and some concern that the Bureau would backslide in the absence of continued independent monitoring. Several interviewees pointed to a lack of transparency with the PBP and the City's Office of Municipal Investigations. Lamenting the fact that PBP no longer made public those data included in the quarterly monitor reports, including use of force statistics and traffic stop data, one leader drew the connection between transparency and police-community relations:

> It makes sense to promote transparency and it's in the city's best interest to publicize good results. They are losing credibility when they refuse to publish. Public perception is very important, and distrust will grow if the public feels information is being withheld (Davis et al. 2005, 36).

Results from a 2003 survey given to 400 Pittsburgh residents were also mixed. Large majorities of respondents saw the Bureau as effective. In fact, 63 percent of respondents thought the police successfully prevent crime, while 59 percent believe that the police "are effective in dealing with problems that concern people, and 53 percent reported that the police effectively work together with residents to solve local problems" (Davis et al. 2005, 38). On the other hand, high percentages of respondents maintain that the PBP continued to engage in misconduct even after the consent decree had been implemented. For instance, "[s]ixty-three percent of the sample reported that Pittsburgh police stop people without good reason; 51 percent say the police use offensive language, and 67 percent say the police are verbally or physically abusive with citizens" (Davis et al. 2005, 38).

Because I have not had the opportunity to conduct focus groups with community leaders or analyze more recent survey data on public opinions of the police, I cannot update the 2005 findings. Perhaps it is a reaction to the police response to the G-20 protest and the Jordan Miles incident, but between the interviews I have conducted and media reports I have read, however, I am left with the impressionistic sense that people conceive of the police differently today than they did when the Vera report was published.

Based on the data included in the 2005 Vera Institute report, and of the citizen complaint data compiled by Pittsburgh's Citizen Complaint Review Board, a few very limited conclusions can be drawn. First, in the period immediately following the termination of the consent decree, the policies and procedures established during the implementation period remained in existence. Officer accountability continued to be a high priority, with officer training and internal inspection protocols existing to support it. Further, changes in the relationship between members of the community and the Bureau that developed during the reform period remained in place in the months following termination. On the other hand, there is evidence to

suggest that the CD did not succeed in changing officer culture. Data from the Vera study indicates that though some PBP officers may see the benefit of increased oversight and centralized accountability, most continue to resent the loss of discretion associated with the reform. Citizen complaint data also shows a fairly clear difference between police performance during the implementation effort and that following termination.

Washington, D.C.

Washington, D.C.'s Metropolitan Police Department was formally released from federal oversight in June 2008, after operating under a Memorandum of Agreement (MOA) for seven years. Compared to Pittsburgh, not much is known about MPD's ability to sustain changes since termination. As there has been no formal examination of the Department's management policies and procedures, no real assessment can be made as to the operation of the accountability infrastructure established under the MOA. Further, because no systematic data exists to track MPD officer opinions regarding the MOA, first-hand insight into the agency's culture remains an unknown as well. No public opinion data has been captured either.

As such, what follows is an incomplete assessment of reform sustainability, based largely on citizen complaint data drawn from annual reports filed by the District's Office of Police Complaints (OPC) between 2001 and 2009. Where possible, I supplement these findings with data taken from interviews conducted with several key stakeholders, including the current and former Chiefs of Police, the head of the OPC, current and former members of the District Council, and leaders in the civil rights community.

Management and Culture

In the absence of direct access to a police department, it is difficult to get a true sense of how an agency's accountability systems are functioning or to describe with authenticity the

officer culture that pervades. Because of the top-heavy nature of most police departments and top leadership's significant authority to set operational and cultural priorities, some insight about each can be gleaned from department chiefs. Of course, this is mitigated some by the fact police chiefs are necessarily political animals, and know what members of the media and independent researchers want to hear. It is hard to believe that any chief would openly admit to letting pattern or practice reforms disintegrate or to actively working to repeal changes that were made, for example.

With that in mind, it was telling to hear Chief Cathy Lanier discuss pattern or practice reform in Washington, D.C.'s Metropolitan Police Department. Lanier made clear immediately that she believes the seven year monitoring process transformed her department. In her words, MPD "went from a very bad place to a very good place" as a result of the MOA. According to Lanier, the organizational and systemic changes that drove the reform – training, use of force reporting and investigation, among them – remain in place and continue to represent the core of MPD's operational philosophy.

MPD's Force Investigation Team (FIT) is perhaps the most high-profile symbol of MOA-related change. Created in January 1999,[66] and honored by the International Associate for Chiefs of Police, FIT is charged with investigating all serious use of force incidents involving MPD officers (MPD Press Release 2000). Kristopher Baumann, head of the District's police union and a staunch critic of the MOA process in Washington, D.C., points to FIT as the best thing to come out of the reform process and lauds their ongoing work:

[66] The FIT Team was created formally in 1999, several months before Washington, D.C. signed the Memorandum of Agreement. Though its creation predated the MOA, several of the agreement's provisions addressed FIT's organization, operation, and oversight. What is more, the FIT Team model was borne directly out of the DOJ's investigation of MPD and the provision of Technical Assistance that began shortly after the Washington Post's 1998 series on MPD use of force.

> I think [FIT] was great. I think it was good for our police department. I think it would have been good for any police department….this should have been a model…I would have recommended that portion of it to anybody (Interview with author, Mar. 1, 2010).

MPD Chief Lanier credits the MOA with not only contributing to the development of accountability systems like the FIT and PPMS, the department's early warning system, but with catalyzing a shift in the Department's culture:

> [Changes made under the MOA are] the status quo now. It's part of our -- it's part of our daily operations. It's what we do. I mean, we've become, I think, a much better organization, for a lot of reasons. [It] -- is the new culture….[W]e created a new culture, which is important (Interview with author, Jan. 13, 2010).

Lanier was also adamant that the Department will not backslide. In our interview she discussed at length the Department's use of outcome-based data to monitor officer performance and head off any potential problems before they manifest. In her view, the Department's approach to perpetuating changes brought on by the reform is built around early detection, which Lanier characterized as a function of regular reports on key performance metrics and regular audits by MPD's internal auditing team. Lanier herself appears to be personally involved with the oversight process, receiving weekly reports and taking an active role in emphasizing to the rank-and-file the importance of accountability. Asked to summarize her view on sustaining pattern or practice changes, the Chief was concise: "Follow-through, follow-through, follow-through."

Despite Lanier's belief in changes brought about by the MOA, and her stated commitment to sustaining that progress, data gathered from Washington D.C.'s independent citizen complaint office suggests that the Department may be at risk of taking a step backward.

Outcomes

Washington, D.C.'s Office of Police Complaints' (OPC) annual reports publicize several metrics germane to an analysis of MPD's ability to sustain pattern or practice reform. Trend data

on citizen allegations of excessive force, harassment, and the use of inappropriate language are important ways of assessing MPD officers' use of discretionary authority, their willingness to comply with law and Department policy, as well as their general attitudes toward District residents – all of which were affected by the MOA, either directly or indirectly.

Citizen complaint data also provides a window into the operation of management and accountability systems created as a product of the MOA. Department training, accountability systems, including MPD's early warning system, the Personnel Performance Management System, or PPMS, 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 Department's culture. 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 MPD Chief Charles Ramsey, citizen complaints are an important metric for tracking officer behavior and the sustainability of those systems, cultural norms, and values developed during the MOA 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. How are we interacting with the public, you know? I mean, all those things are things that you want to look at and you want to monitor (Interview with author, May 20, 2010).

As shown in Illustration 18, the total number of allegations filed against MPD officers remained relatively steady from January 2001, when the OPC began operating, through the end of 2005.[67] This five-year period, the first five years of the MOA implementation process, gave

[67] Unlike Pittsburgh's CPRB, which reports data by calendar year, the OPC gathers and reports data on the D.C. Government's fiscal calendar, which runs from October to September. OPC's figures for FY 2001 included data from January, when the agency opened, through September. To regularize those

way to a more dramatic rise in allegations. In 2009, the first full year after MPD was released from federal oversight, there was a 48 percent increase in total allegations filed, by far the biggest one-year jump in the OPC's history.[68] As a matter of comparison, total citizen complaints against Pittsburgh Bureau of Police officers dropped by two percent in the year immediately following consent decree termination.

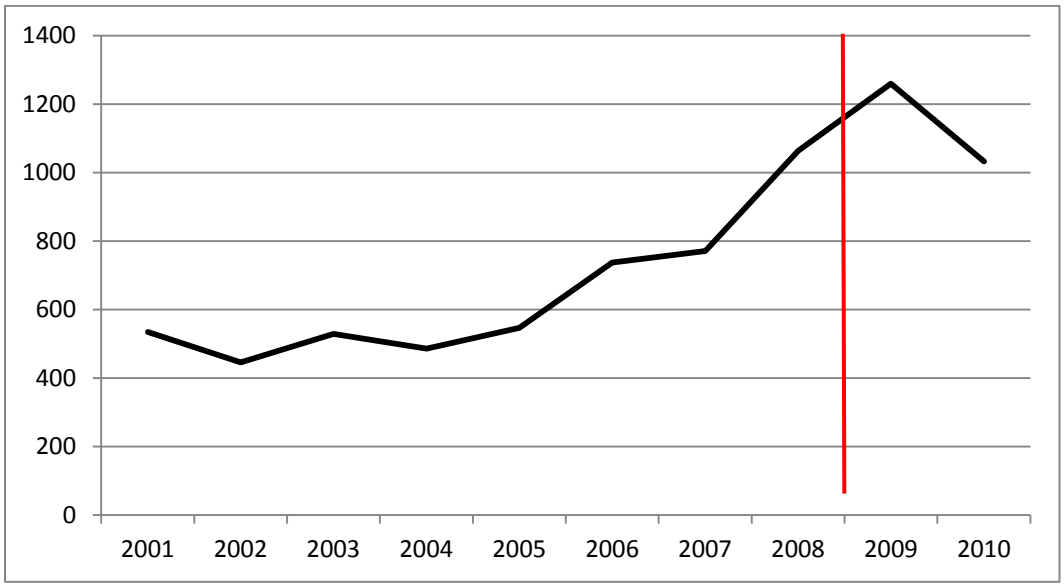

Illustration 18. Total allegations filed against MPD officers, 2001-2009

As is clear from Illustration 19, excessive force-related allegations remained uncommonly steady during the MOA implementation period. From 2001 through 2007, annual totals hovered closely around a mean of 97 allegations per year. In 2008 (the MOA terminated

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data with the 12 months of data captured for FYs 2002-2009, I increased the FY 2001 figure included in the report (428) by 25 percent, to arrive at the number included in Illustration 21 and Table 17 (535).

[68] It is worth re-emphasizing here that an increase in citizen complaints does not necessarily signal increases in police misconduct or an erosion of pattern or practice changes. Such increases may indicate higher trust in the complaint investigation infrastructure among residents and thus a greater willingness to report perceived mistreatment or unlawful police behavior. In the absence of more sophisticated statistical analysis, such measurement error is a reality, and demands that these findings be taken with a grain of salt. As a result of this ambiguity, I would urge the reader to see citizen complaint data (from all four jurisdictions) as but one piece of a much wider evaluative picture.

in June of that year), however, use of force allegations increased to 128. In 2009, the first full year that MPD operated autonomously, use of force allegations climbed from 128 to 245, a

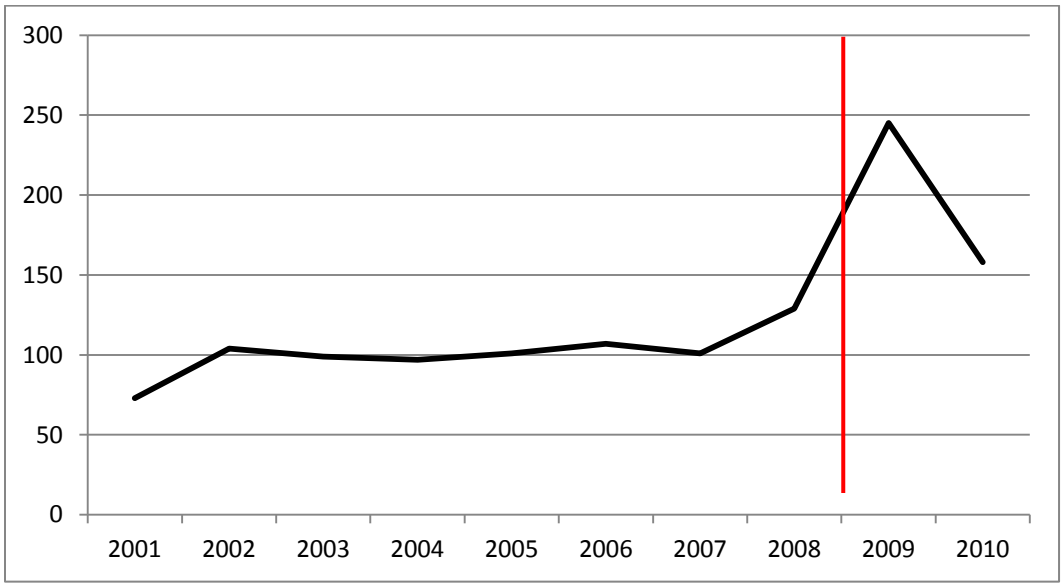

Illustration 19. Allegations of excessive force by MPD officers, 2001-2009

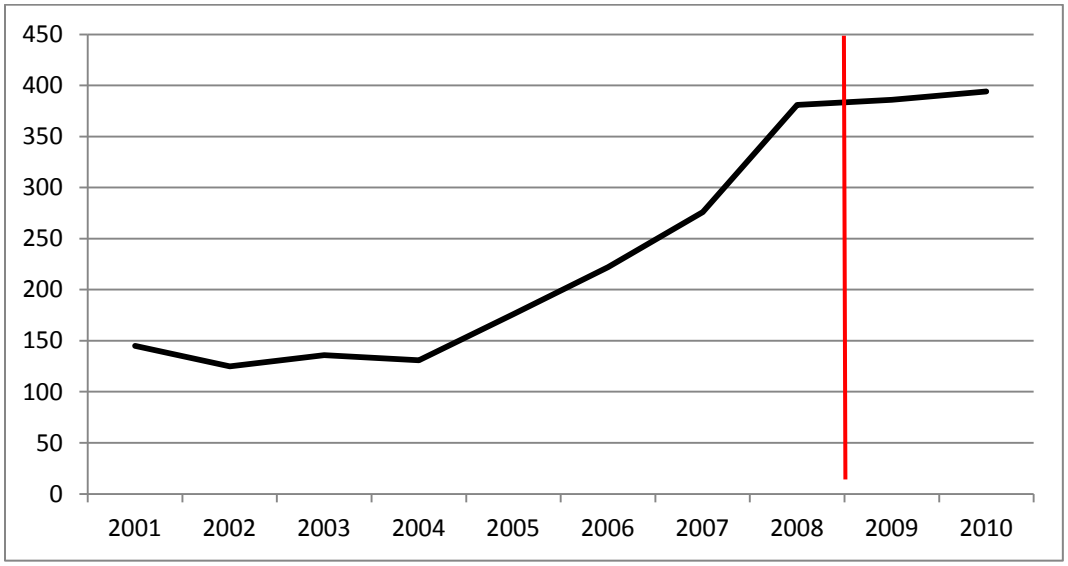

Illustration 20. Allegations of harassment by MPD officers, 2001-2010

stunning 97 percent increase. 2010 figures remain well above the pre-termination mean as well. Again, this pattern was starkly different from the experience in Pittsburgh, where complaints of excessive force by PBP officers dropped by 35 percent in the first full year after termination.

Illustration 20 tells a similar story. Allegations of harassment by MPD officers were flat through the beginning of the implementation period, began to steadily increase in 2004, and climbed dramatically after the reform initiative was terminated.

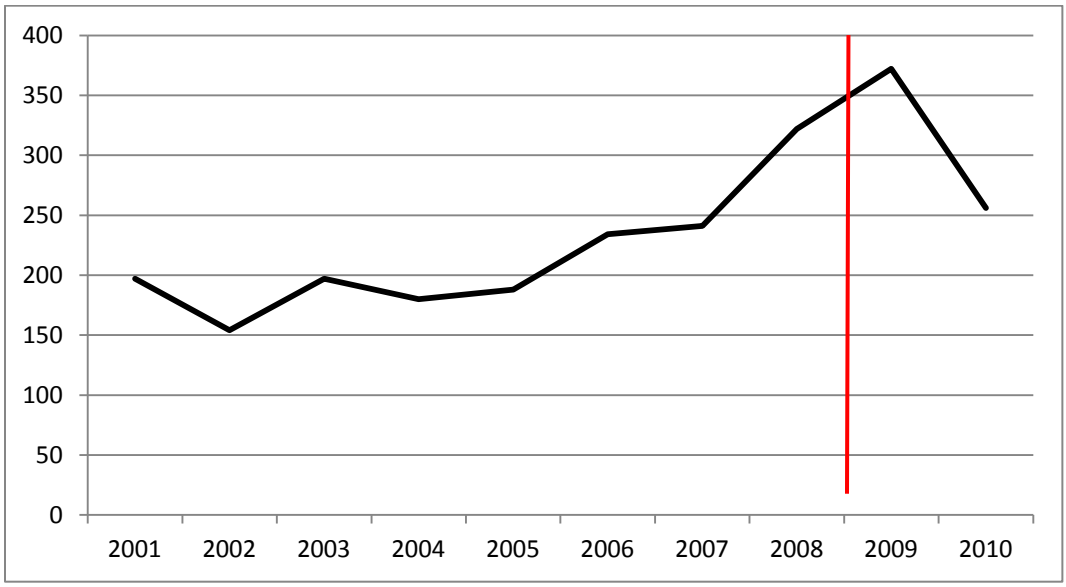

Illustration 21. Allegations of offensive language by MPD officers, 2001-2009

As is true of the excessive force totals, harassment-related allegations saw an unprecedented spike in 2009, jumping some 143 percent from annual pre-termination averages.

In 2009 allegations filed against MPD officers' for use of abusive or unprofessional language also spiked to a high of 372, following a gradual upward trend beginning in 2005, as documented in Illustration 21. In 2010, language-related allegations dropped from 372 down to 256. Table 16 documents allegations of misconduct filed against MPD officers between 2001 and 2010.

Table 16. Allegations of MPD misconduct, 2001-2010

Year	Excessive Force complaints	Language/ conduct	Harassment	Total allegations
2001	73	197	145	535
2002	104	154	125	446
2003	99	197	136	529
2004	97	180	131	486
2005	101	188	176	547
2006	107	234	222	737
2007	101	241	276	771
2008	129	322	381	1063
2009	245	372	386	1259
2010	158	256	394	1032

In general, the data above suggest that citizen complaints of MPD undesirable behavior remained steady throughout most of the MOA implementation, began to increase slightly in 2006, and spiked pretty dramatically in 2009, the first full year after settlement termination. Data from civil litigation in Washington, D.C. over much of the same period shows a different trend.

Using data from Washington, D.C.'s Office of the Solicitor General, Illustration 22 charts the total number of civil suits filed against the MPD for reasons related to the use of force, as well as the total number of those suits that were either settled by the District or where the District lost the case at trial. These data show a pretty clear downward trend across both metrics over the course of the implementation. In 2008, District residents filed 23 force-related suits against the MPD, some 72 percent fewer than the 81 filed in 2001. Of the 23 suits filed in 2008, the District faced only eight unfavorable dispositions (either in the form of a settlement or a decision for the plaintiff), an 83 percent drop from 2001 totals.[69]

[69] For at least two reasons, these findings should also be taken with a grain of salt. First, the data track the outcomes of cases by the years in which they were *filed*. There is no indication as to when the

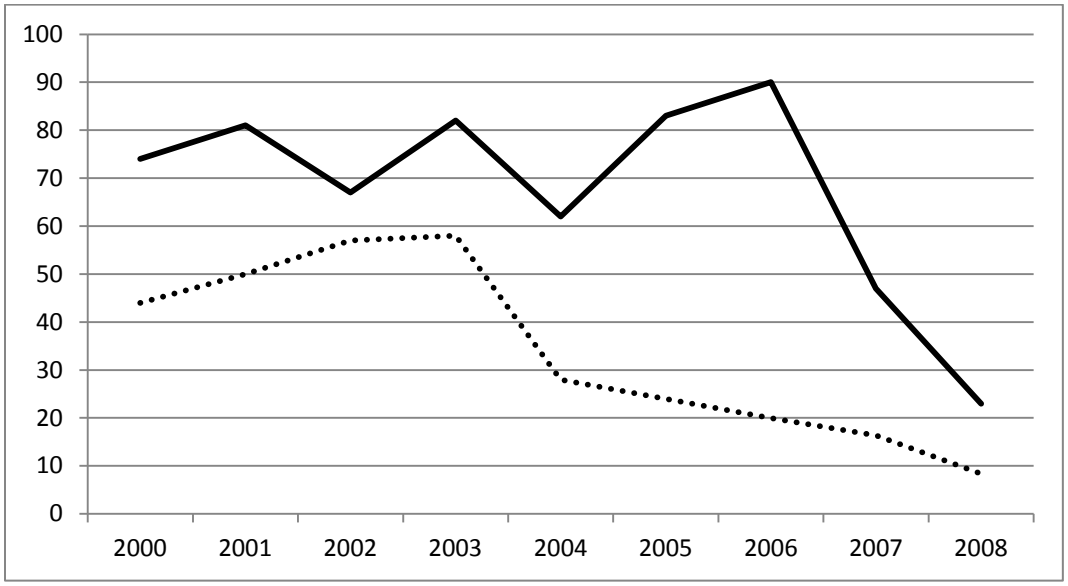

Illustration 22. Total use of force-related civil suits filed against MPD Officers, 2000-2008

Note: Solid line denotes total number of use of force-related suits filed against MPD officers; dotted line denotes the number of dispositions (either in the form of a judgment or a settlement) favoring the plaintiff.

Illustration 23, which tracks the total dollar amounts paid out by the District as a result of force-related settlement/disposition awards for suits filed between 2000 and 2008, shows a similar downward trend. After some fluctuation, payout amounts declined significantly in 2007 and 2008. After averaging annual payouts of over $2.2 million dollars per year between 2000 and 2006, District taxpayers paid less than half a million dollars in both 2007 and 2008.[70]

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incident triggering the suit occurred, and the lag time between incident and filing is unknown. Thus, it remains possible that alleged victims of incidents occurring in 2007 and 2008 have yet to sue the MPD.

Second, several cases from 2006, 2007, and 2008 remain unresolved. As a result, the 2006, 2007, and 2008 figures include some projected outcomes. Specifically, twelve cases filed in both 2006 and 2007 remain open, as to eleven cases filed in 2008. To project the outcomes of these cases, I used the average rate of unfavorable dispositions (i.e., settlement or decision favoring the plaintiff) from 2000 to 2005, 58 percent. Thus, 7 of the 20 unfavorable dispositions listed for 2006, 6 of the 16 listed for 2007, and 6 of the 8 listed for 2008 are projected outcomes.

[70] Total disposition amounts for 2006-2008 also include projections. I multiplied the average per payout figure from cases filed between 2000 and 2005, $53,081, by the total number of projected unfavorable dispositions for 2006, 2007, and 2008 (6.96, 6.38, and 6.38, respectively) and added those totals to the existing data.

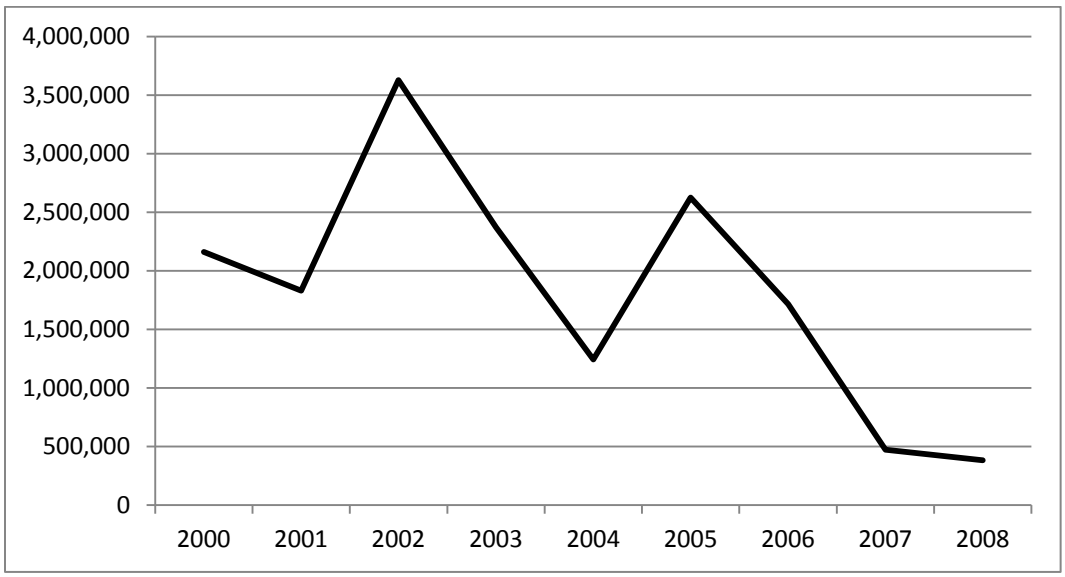

Illustration 23. Annual use of force-related payouts in civil suits filed against MPD officers, 2000-2008 (measured in U.S. Dollars).

Though much further analysis must be done to understand fully what these data mean for police reform in Washington, D.C., it is hard not to conclude, however tentatively, that the MOA had some positive effect on civil litigation stemming from force-related misconduct. As there is no data yet for 2009 or 2010, it is too early to use civil litigation as a means for evaluating MPD's efforts at sustainability, however. Table 17 documents outcomes tied to use of force-related civil litigation in Washington, D.C. between 2000 and 2008.

In addition to both citizen complaint and civil litigation data, it is worth noting that MPD has not faced the kind of major event or scandal that has plagued Pittsburgh in recent years.

These figures also do not include settlement and disposition totals for cases arising from the 2002 mass arrest in Pershing Park. Those figures, which total a whopping $25,363,577 in payouts, stem from one isolated incident early in the MOA implementation period. In my view they are of limited value as a part of a broad review of MPD progress as a result of the pattern or practice reform (which did not address directly policy related to mass protest), and the state of MPD's efforts to sustain reform-related changes. Should a similarly controversial – and expensive – incident occur in 2011, however, that data would prove to be much more relevant than an incident occurring just over one year after the MOA was signed.

Though there have certainly been violations of MPD policy,[71] for the most part, the Department has for the most part remained off the front pages.

Table 17. Use of force-related civil litigation, 2000-2008

Year initiated	Total suits	Dispositions favoring plaintiff	Total payout ($)
2000	74	44	2,159,854
2001	81	50	1,830,622
2002	67	57	3,626,827
2003	82	58	2,370,182
2004	62	28	1,242,846
2005	83	24	2,623,722
2006	90	20	1,716,341
2007	47	16	473,462
2008	23	8	383,655

Cincinnati

The Department of Justice oversaw police reform in Cincinnati from April 2002 through April 2007. During this five-year period, in addition to the reforms required by the MOA, the 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 required not only to reform its approach to police use of force and officer accountability, but to develop and implement an entirely new strategic approach to crime control, order maintenance, and community relations. The changes required of Cincinnati

[71] Consider the following example: On December 20, 2009, the day after an historic snowstorm in Washington, D.C., scores of District residents met at 14th and U Streets for a snowball fight. An MPD detective drove his hummer through the snowball fight and was pelted with snowballs. According to the Washington Post, the officer exited his car and "angrily confronted" the snowball throwers before pulling his service weapon. No one was hurt, and the officer was assigned to desk duty pending the outcome of an internal investigation (Zapotosky, Dec. 21, 2009). Chief Lanier was heavily critical of the officer's behavior: "Let me be very clear in stating that I believe the actions of the officer were totally inappropriate! In no way should he have handled the situation in this manner" (Martinez 2009).

were broader and deeper than in any of the several other jurisdictions affected by the DOJ's pattern or practice initiative.

Four years removed from DOJ and monitor oversight, the Department has experienced little or no backsliding in terms of its accountability infrastructure or its officer culture, 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.

Systems, Management, and Culture

As with most successful pattern or practice initiatives, the accountability infrastructure and management systems established during the reform effort lie at the heart of changes in Cincinnati. According to several key stakeholders, new training protocols, use of force reporting, investigation, and oversight remain a core component of CPD's approach in 2011. The view of Scott Greenwood, a Cincinnati civil rights lawyer and an early participant in the negotiations between the CPD and the plaintiff class whose suit led to the private Collaborative Agreement is broadly representative: "They're still complying with the terms of the collaborative agreement. The use of force provisions of the MOA are unchanged. The department hasn't backslid on any of those provisions at all" (Scott Greenwood, interview with author, Apr. 21, 2010).

By all accounts, the organizational and operational changes brought about during the implementation period, including officer training protocols and the use of an early warning system, Employee Tracking Solution (ETS), have been institutionalized. What is more, over time the values underlying the MOA have been incorporated into officer job descriptions, as well as retention and promotion standards. CPD officers continue to be evaluated on metrics that reflect the broader goals of the reform effort. Further, several of the Department's standard operating procedures have been re-written, such that all CPD "policies and procedures that are

totally in harmony with the collaborative" agreement (Al Gerhardstein, interview with author, Apr. 19, 2010). Such changes, according to Al Gerhardstein, another Cincinnati civil rights attorney heavily involved in the negotiation effort, make it "hard to dismantle the institutions that have now been remade in light of the collaborative mandate" (Interview with author, Apr. 19, 2010).

In addition to these systemic reforms, there appears to have been a wholesale shift in the orientation of the Department, beginning with the Chief, Thomas Streicher. Once a vociferous critic of the DOJ's investigation of his department and the resultant settlement agreement, today Streicher is seen as the embodiment of a police department that has shifted its entire approach to accountability and transparency. In the eyes of Kenneth Glenn, head of the City's Citizen Complaint Authority (CCA), Chief Streicher and the command staff of the police department "get it" (Interview with author, Apr. 15, 2010).

Glenn, perhaps more than any other City official, has his finger on the pulse of the CPD. His agency is charged with conducting independent investigations of all citizen complaint allegations as well as all serious use of force incidents. In this capacity, Glenn and his staff interact regularly with all rank of CPD officer. Glenn sees his agency as having a "very good working relationship with the police department management….Things [between CCA and CPD] continue to function exactly the way that the collaborative agreement and the memorandum of agreement wanted it to function. Things still are working the same way. I haven't seen the police department pulling back or trying to withhold anything from us" in the years after termination (Interview with author, Apr. 12, 2010). According to Glenn, the Department's ongoing commitment to the principles of reform effort is clearly evident in Chief Streicher's willingness to discipline CPD officers whose cooperation with CCA investigations is less than absolute: "[I]f the officers are sometime late or something to one of these hearings they know

that they can be reprimanded for it. And the police department does it" (Kenneth Glenn, interview with author, Apr. 15, 2010).

Outcomes

Trend data show significant – and lasting change – within the CPD. As documented in Illustration 24, police use of force in Cincinnati has steadily declined since 2001, the year Cincinnati residents rioted following the death of Timothy Thomas. According to CPD's own figures,[72] there were 621 use of force incidents in 2009, a 44 percent drop from the 1115 such incidents in 2001. Further, use of force continued to declined after the MOA was terminated. CPD officers used force in 2009 some 18 percent less frequently than they did in 2007, the last year the formal agreement was in place.

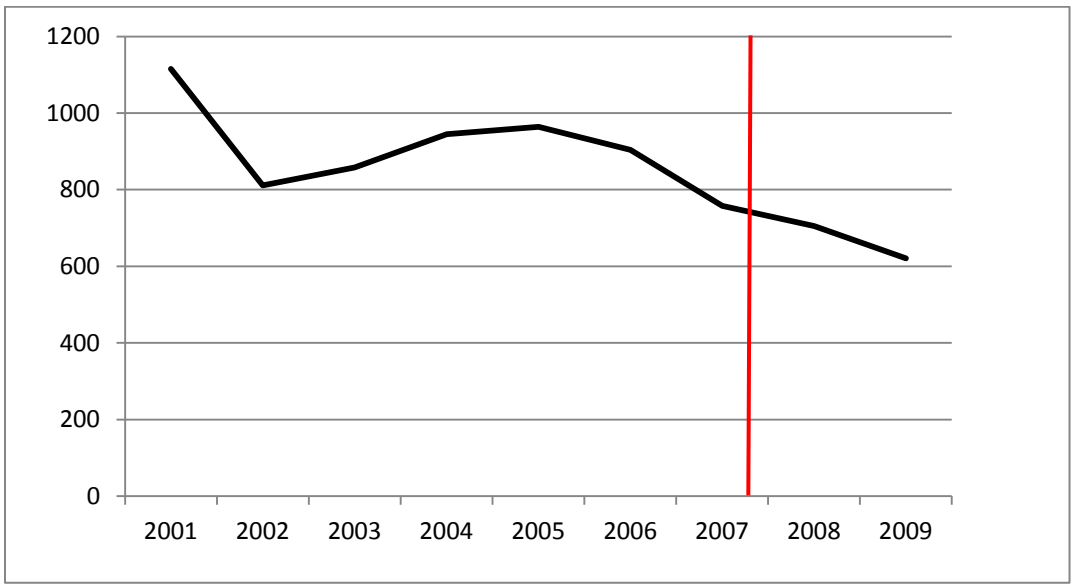

Illustration 24. Total use of force incidents in Cincinnati, 2001-2009

Illustration 25 shows similar decline in injuries sustained by CPD officers. Between 2001 and 2007, annual officer injury totals dropped by an average of ten percent. Between 2008 and

[72] Data on file with author.

2010, an average of 122 CPD officers were injured while on duty, a stunning 209 percent difference from the average number of officers injured during the implementation years.

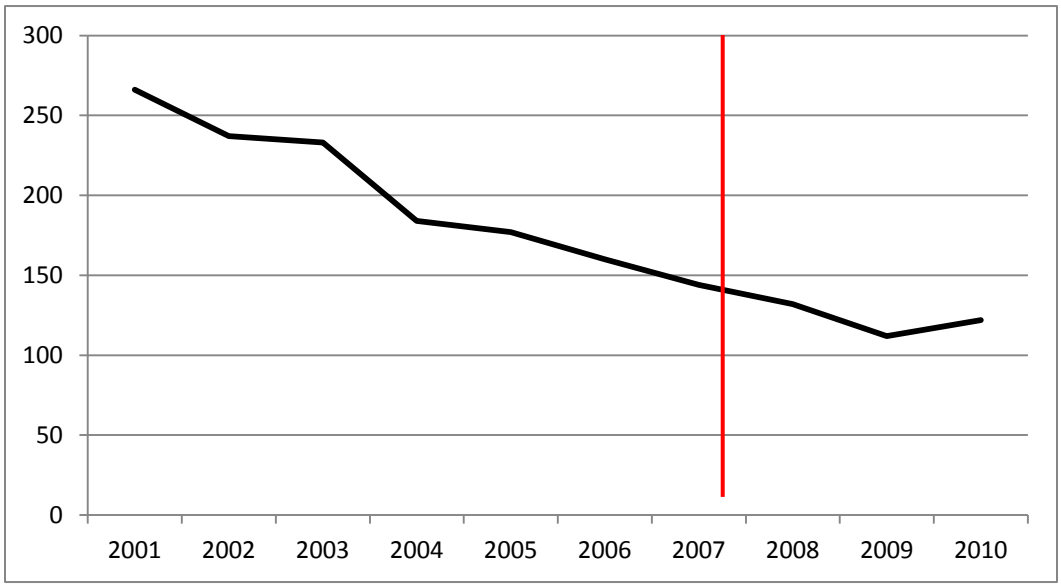

Illustration 25. Injuries to Cincinnati police department officers, 2001 – 2010

Table 18. CPD total use of force incidence and officer injuries, 2001-2010

Year	Use of force incidents	Officer injuries
2001	1115	266
2002	811	237
2003	858	233
2004	945	184
2005	964	177
2006	904	160
2007	758	144
2008	705	132
2009	621	112
2010	X	122

A downward trend is evident in data tracking citizen complaints filed against CPD officers. According to annual reports filed by the CCA between 2005 and 2010, complaints against CPD officers continued to decline even after the department was released from formal

oversight. As Illustrations 26 – 29 document, this is true across several key categories of allegation, including total allegations, allegations of excessive force, and allegations of discourteous behavior.

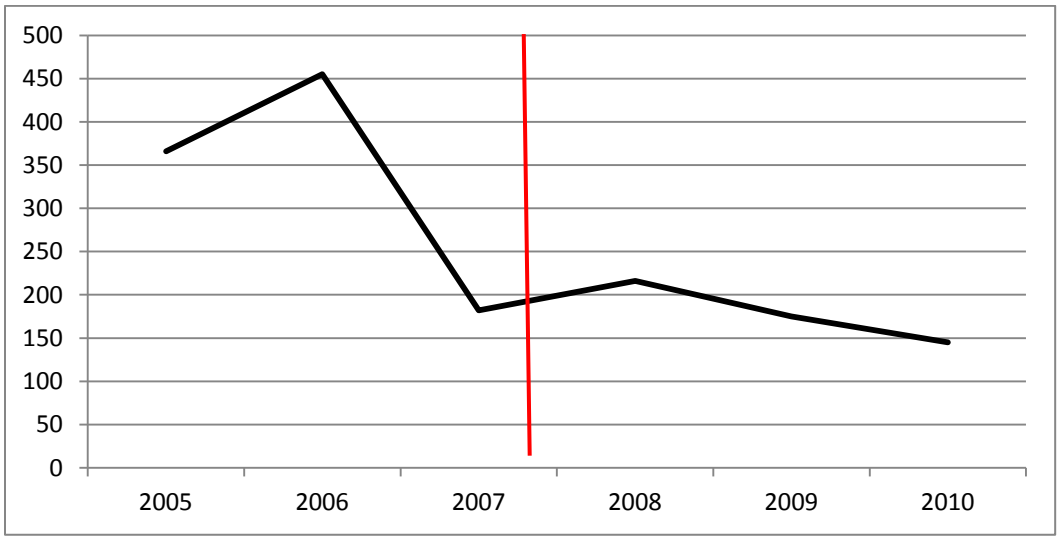

Illustration 26. Total allegations investigated by the CCA, 2005-2010

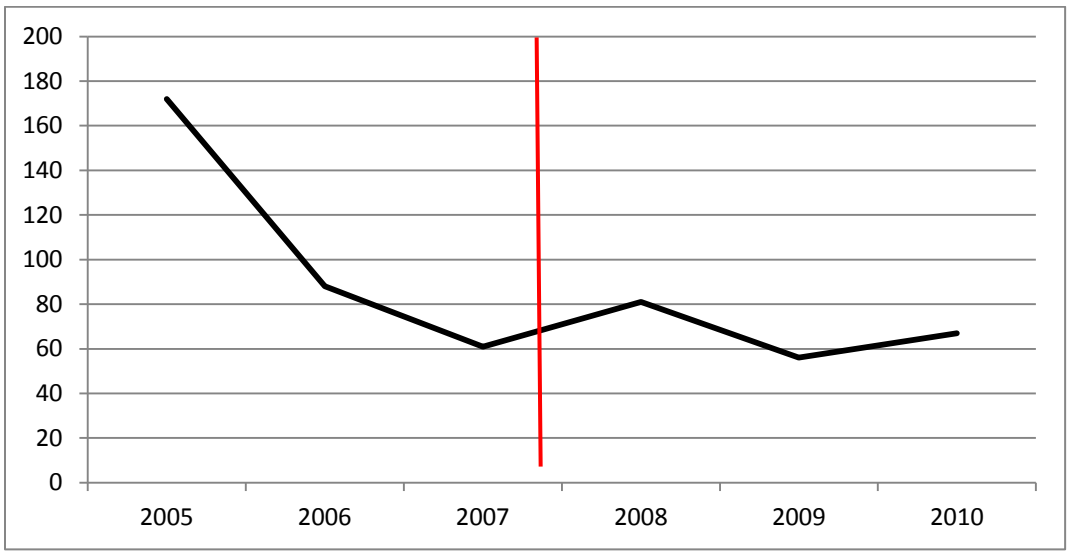

Illustration 27. Allegations of unlawful use of force investigated by the CCA, 2005-2010

The 56 allegations of excessive force investigated by the CCA in 2009 represents a 36 percent drop in the number of similar allegations made in 2006, the last full year that the MOA

was in existence. Over the same period, total allegations fell by 62 percent, while allegations of discourteousness dropped by 23 percent.

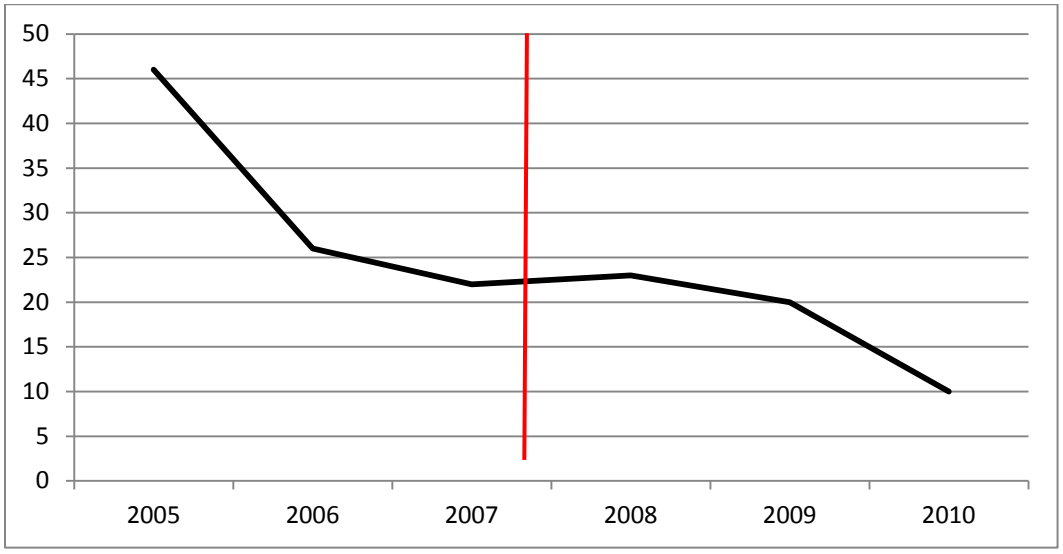

Illustration 28. Allegations of discourtesy investigated by CCA, 2005-2010

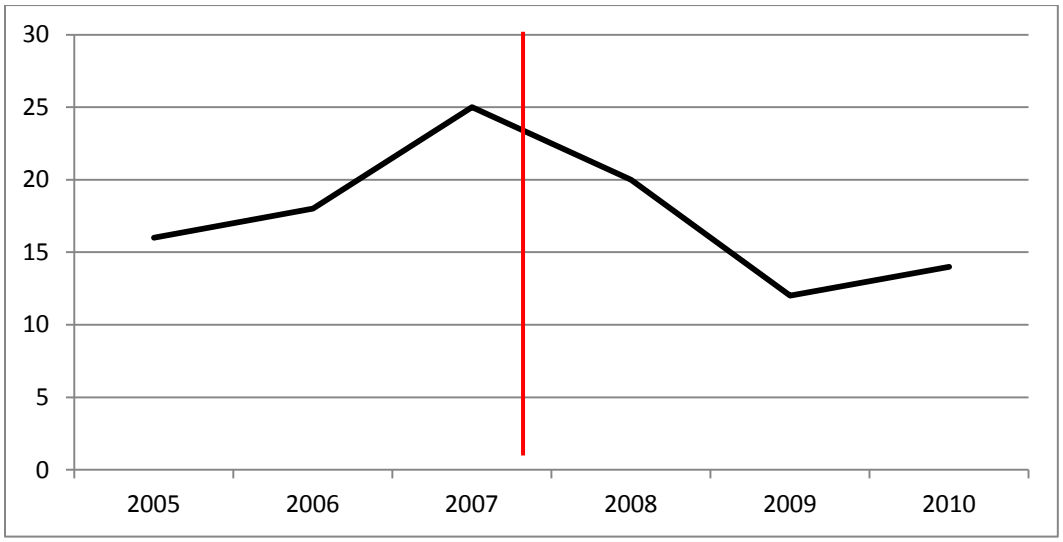

Illustration 29. Percentage of complaints sustained by CCA, 2005-2010

Further, as documented in Illustration 29, the percentage of complaints against CPD officers found by CCA to have some merit (i.e., sustained), continued to fall in the years following MOA termination.

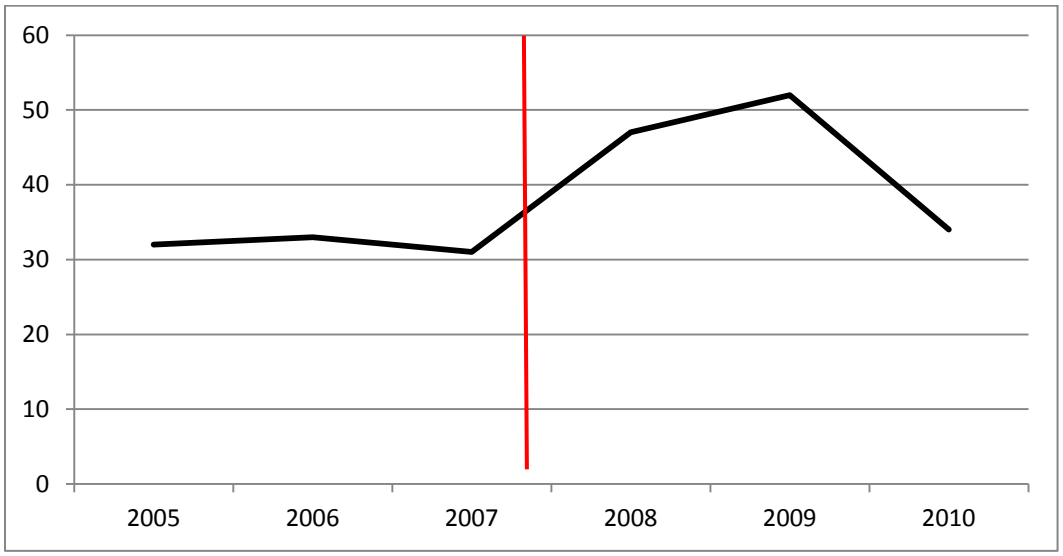

Illustration 30. Allegations of improper search and seizure investigated by CCA, 2005-2010

It is worth noting that allegations of improper search and seizure spiked between 2008 and 2009, but fell substantially in 2010, as shown in Illustration 30. Despite this relatively small outlier, the corpus of the data seems to suggest that Cincinnati residents are filing fewer complaints against CPD officers than there were during the implementation period, and that downward trend has continued, even accelerated, in the years following formal termination. This finding is all the more impressive in light of the changes made to the complaint process as a result of the MOA. Unlike before the MOA, when 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 even do so anonymously. In short, the MOA made it easier for people to complain, and far fewer people have. According to ACLU attorney Scott Greenwood, “overall satisfaction is better.

People – the community – trusts the integrity of the review process now" (Interview with author, Apr. 21, 2010).

Table 19. Allegations investigated by the Cincinnati CCA

Year	Excessive force	Search and seizure	Discourtesy	Total allegations	Percent sustained
2005	172	32	46	366	16
2006	88	33	26	455	18
2007	61	31	22	182	25
2008	81	47	23	216	20
2009	56	52	20	175	12
2010	67	34	10	145	14

CCA Director Glenn has sensed a change not just in the data, but in the views of CPD held by complainants. In his view, even though complainants are upset about the acute incident that they are attempting to address, the overall attitude of and orientation towards the police is more positive. To Glenn, respect for and trust in the CPD has continued to grow in the years following termination: "even as we go out into the community and talk with the young people in the community, I think that overall the tone is a lot better than it was in 2002" (Interview with author, Apr. 15, 2010).

That the CPD has been able to avoid a destabilizing, high profile performance failure since Timothy Thomas's death certainly contributes to the growth of the Department's legitimacy in the eyes of the community. Taken together with the trend data reviewed above, and the anecdotal evidence of sustained changes to CPD accountability systems and officer culture, the absence of a controversial shooting, seems to indicate that the reform initiative continues to succeed. Cincinnati's City Manager, Milt Dohoney's 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's 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. As I said, the number of officers on [the Department's] the watch list, has plummeted….[T]that agreement helped make all that happen" (Interview with author, May 3, 2010).

Cincinnati-area civil liberties attorney Scott Greenwood uses startlingly similar language in echoing Dahoney's praise of the CPD:

> The department is totally different in 2011. The level of trust between the police and the community is high, and transparency is the norm. The department uses force much more thoughtfully, and with much more community support, than in years past, and that is reflected in radically lower numbers of injured officers and citizens and a dramatic decrease of the use of deadly force. The department has also been the subject of far fewer lawsuits than in the past. I have no current cases against CPD, and a close colleague has only one (Email to author, Mar. 9. 2011).

Prince George's County

The Memorandum of Authority (MOA) between Prince George's County and the U.S. DOJ was in place between January 2004 and January 2009. Relative to the other three jurisdictions under review, little is known about PGPD's experience since termination. There have been no independent reports published, and I continue to be unsuccessful in my endeavors to speak with PGPD leadership, County political leaders, and even members of local civil rights organizations. Thus, I am not able to evaluate PGPD's ability to sustain the accountability infrastructure and management systems developed pursuant to the MOA, or measure the state of PGPD officer culture.

A review of what few outcome-based data points do exist leaves the impression that the pattern or practice reform process has not had the same kinds of effects in Prince George's County as it has in other jurisdictions.

Outcomes

Data from Prince George's County's Citizen Complaint Oversight Panel (CCOP) indicate that allegations of PGPD officer misconduct increased steadily over the lifetime of the five-year agreement. Illustration 31 shows an average annual increase of 52 allegations per year between 2004 and 2009, or a nine percent rise from year to year. Total allegations of misconduct increased from 472 in 2004 to 650 in 2008, the last full year of the implementation process, an increase of 33 percent. In 2009, the total jumped to 745.

These numbers alone do not tell us much. Pittsburgh and Washington, D.C. both also saw similar increases in the number of allegations filed during the implementation period. This is no real surprise: changes to the citizen complaint filing procedures in each jurisdiction made it easier to make allegations of misconduct. What is more, the post-termination spike observed in PGPD was less pronounced than it was in either Pittsburgh or Washington.

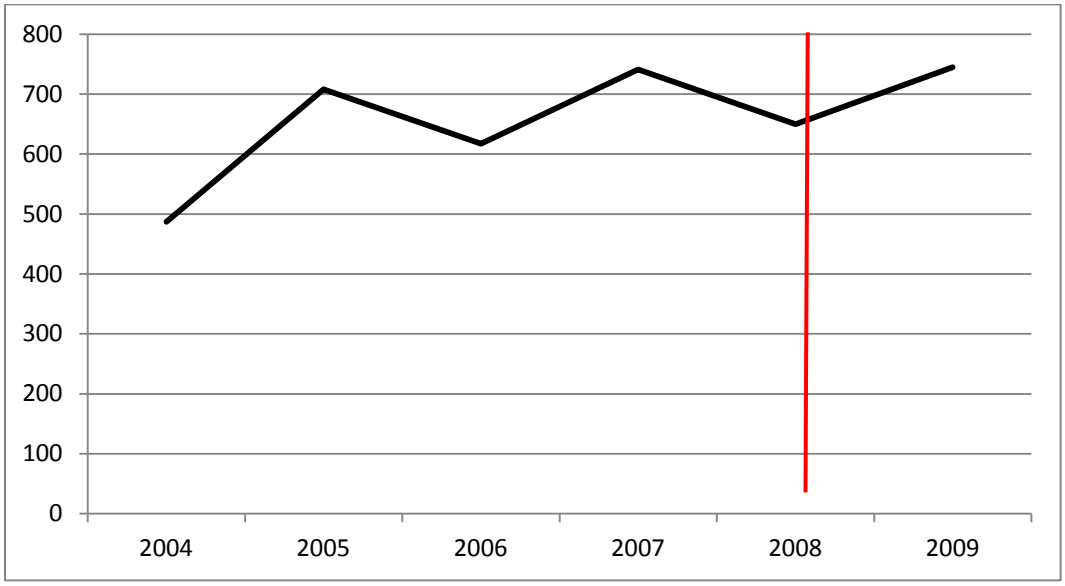

Illustration 31. Total allegations received by Prince George's County Citizen Complaint Oversight Panel, 2004-2009.

What is cause for some concern, however, is how infrequently PGPD leadership agreed with and implemented CCOP investigative findings. In addition to receiving citizen complaints,

CCOP investigates independently allegations of PGPD misconduct and semi-annually presents its findings to the PGPD chief (CCOP 2011). Between 2003 and 2007,[73] PGPD's Chief agreed with CCOP recommendations in only 23 percent of cases. This is a worryingly high rate of disagreement between a police chief and a citizen complaint agency. According to Phil Eure, head of the National Association of Civilian Oversight for Law Enforcement, healthy jurisdictions – which maintain well-functioning citizen oversight bodies, independent of but well-respected by the police department and the jurisdictional government – report very high rates of agreement. To Eure, a rate of agreement approaches 50 percent is to be considered a red flag (Deitch 2010).

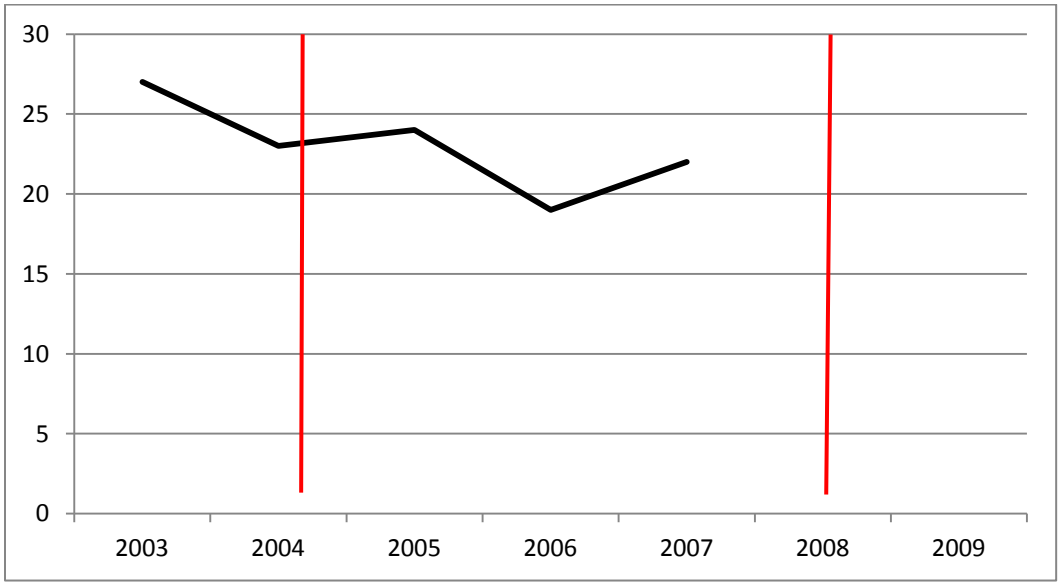

Illustration 32. Percent of CCOP recommendations implemented by PGPD, 2003-2007

The results depicted in Illustration 32 could signal one of several things. The high rate of disagreement could be a function of a weak investigative agency. If, for example, CCOP does not have the resources to gather all relevant information or makes no independent effort to include the views of the officers suspected of misconduct, the Chief might have good reason to doubt

[73] CCOP stopped reporting this information in 2007.

the legitimacy of their findings. There is also the possibility that the Chief's frequent disagreements are reflective of an unwillingness to accept or internalize information – no matter how robust or legitimate – that is critical of his agency. These data may be a manifestation of a defensive police department, one that remains skeptical of any external criticism and is less than fully accountable to the public.

Without a closer examination of the department's accountability systems, it's officer culture, and a much broader set of systematic trend indicators, one cannot begin to determine where the truth lies, though some combination of these two extremes may be the most likely explanation. Ultimately, when these findings are considered together with the steady increases in misconduct complaints filed against PGPD officers they begin to suggest that police accountability in Prince George's County remains a challenge unmet, even in the wake of the five-year pattern or practice implementation.

Further, the lack of available information on the PGPD reform effort seems to support the notion that the Prince George's County government is either unwilling or unable to make police accountability and department transparency a priority. The widespread unwillingness among stakeholders to speak with me (either on or off the record) about the process adds weight to this conclusion. These impressions become stronger still after even the most cursory examination of incidents involving the County and its police department in 2010, the first full year after the MOA was terminated.

In the last year, PGPD officers were the subject of a number of high-profile use of force allegations. In March 2010, several Prince George's County police officers were videotaped beating a University of Maryland student during a wild celebration of a victory by the school's basketball team. Federal authorities continue to investigate the incident itself, which left one student in the hospital, and the possibility that the officers involved attempted to cover up their

conduct. According to the Washington Post, PGPD officers falsely accused the victims of aggressive behavior in an attempt to justify the use of force: "Police charging documents initially alleged that [two students] jointly assaulted police officers and their horses. The video contradicted that, and the charges against the students were dropped. The officer who filed those charges… was suspended" (Zapotosky and Castaneda, Dec 4, 2010).

Another controversial use of force incident occurred in October 2010, when five PGPD officers moonlighting as security guards were involved in the alleged beating of a student attending a local fraternity party. There are also allegations of lying and cover-up attached to this incident as well. According to a PGPD spokesperson, the officers involved were suspended "pending an internal investigation to determine whether they saw and failed to report misconduct by another officer" (Castaneda and Zapotosky, Nov 9, 2010). No findings have been released as of this writing.

In addition to these allegations of unlawful use of force and cover-up, the PGPD is embroiled in a wide-ranging federal investigation into illegal and corrupt practices within the department. Recent press coverage of the investigation suggests that such problems may go way beyond a small handful of "rotten apples." According to the Washington Post, "at least 46 Prince George's officers are either suspended or assigned to administrative duties for misconduct or violations. In at least 19 of those cases, investigators have reason to think the officers committed a crime" (Zapotosky, Nov 29, 2010).

In late 2010, a separate federal investigation into allegations of corruption among Prince George's County government officials led to the arrest of then-Prince George's County Executive Jack Johnson and his wife, Leslie,[74] under suspicion of bribery and corruption (Schwartzman et al. 2010). In February 2011 Jack Johnson was indicted in federal court "on eight charges,

[74] Leslie Johnson was elected in November 2010 to a seat on the Prince George's County Council.

including bribery, witness and evidence tampering and aiding and abetting" (Glod and Wiggins 2011). Johnson is accused of "playing a key role in a conspiracy that reaches deep into the ranks of power players in the tight-knit government and business communities" (Glod and Wiggins 2011). The conspiracy, alleged to have started in 2003, is thought to have involved a "pay-for-play" scheme wherein Johnson is accused of accepting among other things cash, trips, and tickets in exchange for official favors (Glod and Wiggins 2011).

At least four PGPD officers were swept up in the investigation that led to Johnson's arrest. Two county officers were indicted in federal court on charges related to their alleged participation in an illegal cigarette and alcohol distribution ring, while a third was accused of dealing drugs (Zapotosky, Nov. 18, 2010). The fourth officer, a narcotics detective, "accused of taking guns he had seized from criminals and reselling them on the streets, was indicted Tuesday on 13 counts of misconduct in office and theft, according to law enforcement officials and online court records" (Zapotosky, Oct. 27, 2010).

In 2010, PGPD was also marred by allegations of cheating on police academy exams. The cheating scandal, which implicated both cadets and at least one instructor, has not only been highly embarrassing for the department, but poses a risk to several ongoing criminal investigations. If found true, such allegations could force PGPD to strip the involved officers of their law enforcement authority, in the process threatening the sanctity of existing criminal cases. Prince George's County's State's Attorney Glenn Ivey said that his office is now reviewing all cases involving the alleged cheaters: "We assembled a team of prosecutors in the office to start finding out which cases they were on and make a case by case determination whether these cases should stand or not" (Zapotosky, Oct. 7, 2010).

Despite what appears to be clear pattern of unlawful and corrupt behavior among PGPD officers and a continued absence of respect for the rule of law among certain county officials,

few if any definitive conclusions can be drawn about the success of the reform process. There is simply not enough known about the department to make a legitimate assessment of efforts to change the department's approach to the use of force and external accountability. What data does exist, however, seems to suggest a wide gulf between where Prince George's County appears to be and where the Justice Department would have wanted them to be seven years after the MOA was signed.

Summary

The preceding section offered a preliminary test of the proposed framework for analyzing the sustainability of pattern or practice reform. Using data from both primary and secondary sources, I was able to provide an initial assessment of sustainability as measured by accountability and management systems, officer culture, and department outcomes. The findings vary greatly across the four jurisdictions. The Cincinnati Police Department shows progress on several important analytical metrics and appears to have embraced the changes brought on by the Collaborative Agreement and the MOA. Based on these findings, Cincinnati is an example of what comprehensive police reform should look like. Prince George's County, on the other hand, represents a process that seemingly led to nominal and largely ineffectual change. The County continues to be dogged by scandal and controversy, and remains closed off from the community and resistant of transparency or meaningful external oversight.

Results from Washington D.C. and Pittsburgh are less straightforward. Data indicates that Pittsburgh's consent decree produced significant change in the Bureau of Police, and that many such changes remained in place during the first two years after the settlement terminated. More recent information suggests that there may have been some backsliding over the last several years. There are some signs that Washington, D.C. remains committed to the MOA some three years after termination. Much of the accountability infrastructure remains in

place, and MPD leadership has expressed a clear commitment to a culture of lawful, accountable policing. In 2009, the first full year after termination, however, citizen complaints against Department officers spiked. Though not a definitive indication of a problem, this development surely bears further attention.

Analysis

Though I am not able to draw definitive conclusions about each department's progress, the foregoing results, together with stakeholder interviews, do allow me to make a preliminary analytical assessment of those factors that shape institutionalization efforts in each jurisdiction. I will rely on the framework described above, which incorporates factors related to the process and substance of the reform effort, as well as organizational and environmental contexts.

Process and Substance

The literature on organizational reform identifies several components of a reform process that have the ability to affect the sustainability of change. The pace of reform and a reliance on a systematic, repeatable approach to implementation rather than an episodic process are thought to help anchor change. So too are efforts that emphasize employee training and link evaluation and promotional standards to the goals of the reform. Where the impetus for reform originates – internal to the organization or through some external force – is also thought to influence sustainability.

Theory suggests further that the substantive elements of a reform effort can themselves promote institutionalized change. Research shows that the clearer the goals driving reform, the more likely the resultant changes are to be sustained over time. Similarly, institutionalization is more likely in cases where there is a high degree of congruence between an organization's core

values and those values driving the reform. Scholars also point to the importance of data collection and performance evaluation in promoting sustainability.

Together the process and substance of pattern or practice reform – the template developed by the Department of Justice to implement change – reflects several of these theoretical postulates, and thus in and of itself has the ability to promote sustainable change.

Content

In an effort to bring offending departments within the bounds of constitutional and statutory law, the content of Section 14141 settlement agreements mandate the pursuit of an "accountability infrastructure." This infrastructure includes a series of comprehensive organizational and programmatic changes designed not only to correct existing patterns of unlawful behavior, but to prevent such problems from reoccurring in the future. In theory, departments will be remade in the image of these agreements, and come to be defined by several primary components – including the use of early warning systems; misconduct investigation and oversight capacity; and intensified officer training programs. The goal of this template is to promote lasting change by emphasizing physical accountability structures, data-driven technology, and self-repeating operational procedures.

Settlement agreements in each of the four jurisdictions under review model reform around this framework, which, as was discussed in depth in Chapters 3 and 4, includes use of force policy change, hierarchical accountability infrastructure, officer training, and an early warning personnel management system. The goals of each of these four agreements are articulated very clearly, as are the expected means of reaching those ends. Compliance standards are lucid, as are performance milestones and termination deadlines. Given the nature of the reform effort itself – transforming some of the worst police departments in the country in

terms of unlawful use of force into model "constitutional policing" agencies – the congruence between reform goal and agency DNA is missing in each of the four cases under review.

The management of misconduct in post-settlement departments is built around the use of an early warning system database. Department early warning systems house data generated by street-level officer use of force reports, as well as citizen complaints against individual officers and several other accountability-driven data points. These systems are designed to ensure that patrol officers are reporting use of force incidents in compliance with department policy and federal law. They also have the potential to provide management with a powerful tool for monitoring officer behavior.

The empirical research on early warning systems suggests that such systems hold great potential for increasing department accountability (e.g., Walker 2001A; Walker et al. 2000; Walker et al. 2001; Walker 2003; Walker 2005). Of course, early warning systems, like all personnel management tools, are valuable only to the extent that they are implemented fully and used properly. In the context of the police, this means that street-level officers must generate accurate incident reports, mid-level supervisors must read monthly reports and enforce their findings with consistent objectivity, and police leadership must make proper system a high priority. According to a survey of 135 police managers, early warning systems present considerable implementation problems. Samuel Walker (2003, 75) summarizes the issues thusly:

> The most important problems fall into two general categories: a failure to communicate the nature and purpose of these systems during the planning stage and a failure of some command officers to follow through on their responsibilities once the system begins operating. In short, these are management problems and not problems inherent in [early warning] systems.

Layers of hierarchical accountability are designed to both support and reinforce these physical systems. Street-level officer compliance with use of force policy changes, for example,

is managed by through hierarchical oversight and accountability structures that run to the highest levels of each department. In Pittsburgh, for example, Compstat-style monthly meetings were constructed around the collection of early warning system data so as to promote performance-based accountability between department leadership, middle-management, and patrol officers. Settlement agreement terms in each of the four jurisdictions require mid-level supervisors to conduct periodic analyses of patrol officer performance reports. System data is made available to department leadership, giving chiefs the ability to oversee both patrol officer behavior and supervisorial oversight. In short, early warning systems enable both top-down and bottom-up agency-wide performance management.

Pattern or practice settlement agreements also require agencies to build capacity for officer accountability through organizational change. This is most commonly done through the creation of specialized units or teams within affected departments, most commonly geared toward strengthening department misconduct investigation and oversight. In Washington D.C., for example, MPD's Force Investigation Team was created pursuant to the terms of the MOA. Prince George's County Police Department's creation of a special board to conduct an independent review of all officer-involved shootings is another.

The pattern or practice system relies heavily on the use of training to anchor changes to department policy and the use of new systems and procedures. In addition to new content, post-settlement department training programs are more rigorous and more demanding of officers at all levels. In this sense, the effect of training has the potential to stretch beyond the ability to bring officer behavior in line with new policies and systems. Training can be a powerful means of re-establishing agency priorities and promoting a culture of lawfulness and accountability (e.g., Fyfe 1996; Alpert and Dunham 2004).

Yet, like many of the other components of the reform template, the effectiveness of training is often taken on faith (Scott and Meyer 1994). Training is also a highly visible policy response, and thus may be used as a means of responding symbolically to a high profile performance failure or the public demand for change (Mastrofski and Ritti 1996). Several empirical studies suggest that the installation of increased officer training does not necessarily translate into desirable police behavior. Research by Chappell and Lanza-Kaduce (2010), for example, demonstrates that the content of police academy training may be overcome by conflicting organizational and cultural norms. Further, Mastrofski and Ritti (1996) find that an effective training program depends the workers' organizational environment. After examining the effects on DUI-related training in six departments, the authors conclude that despite similar training, departments with more supportive organizational environments saw increased DUI arrest productivity and "in departments with unsupportive, even hostile administrative environments, training showed no appreciable impact on DUI arrest rates" (308).

Implicit in a reform built around the creation of management systems, employee training, and data-driven performance analysis is the extension of these changes to performance standards and promotional decisions. Perhaps owing to the belief that such a requirement would step too far into personnel management, no pattern or practice agreement speaks to department hiring or retention standards. There is some anecdotal evidence to suggest that affected departments have done so on their own volition,[75] but as far as I can tell these relatively minor movements have not yet resulted in any concrete policy changes. All four settlement agreements link officer punishment to non-compliance with the terms of the

[75] The comments of former Washington D.C. monitor Ron Davis are illustrative: "Throughout the five years that [pattern or practice reforms are] incorporated in the attesting process, the people that you promote have already demonstrated the ability to embrace and support and actually implement. It's been a part of your training process, both informal and formal. It's been part of your award and discipline process (Interview with author, Jan. 20, 2010).

settlement agreement (i.e., all four have disciplinary measures in place to sanction officers who are flagged by their respective EW systems), but none have created rewards, either in the form of promotional or commendation criteria, for those officers that embody the spirit of the reform effort or show consistent commitment to upholding the principles of accountability and lawfulness. Future agreements would be stronger for including such provisions.

In sum, the content of pattern or practice reform agreements is designed specifically to promote sustainable change. The Department of Justice (and many of the jurisdictions affected by enforcement of Section 14141) believes that by implementing the prescribed development of data-driven systems, hierarchical accountability structures, and associated policies, procedures, and training, affected departments will create an accountability infrastructure designed to last. This notion ignores altogether the research documenting the importance of implementation, and minimizes the value of the several factors shown to promote institutionalized organizational change. Though much more research is needed, what data does exist suggests that the despite very clear goals and a template designed to promote self-sustaining change, the Section 14141 accountability framework is not in and of itself sufficient to generate lasting reform.

Table 20. Substantive factors affecting reform sustainability

Substance of reform	Pittsburgh	Wash., D.C.	Cincinnati	PG County
Goal clarity	X	X	X	X
Goal congruence				
Designed to promote sustainability	X	X	X	X
Link between reform and performance criteria				
Post-reform evaluation			X	

Process

The process of reform, which is nearly identical across the four jurisdictions, is very closely related to the content of the agreements; together they are central components of the pattern or practice initiative. The length of the process itself; the use of independent monitors to oversee the reform; and the Department of Justice's involvement in initiating and overseeing the reform are central to the collective effort to bringing affected departments into legal compliance. As with the content of these agreements, the process is designed specifically to promote sustainable change.

When negotiating the terms of their settlement agreement, jurisdictions understand clearly that the process will seldom last fewer than five years.[76] For several reasons, such a lengthy implementation process can have a direct effect on the sustainability of change, as reflected by the department's accountability systems, its culture, and performance outcomes.

The length of the process allows departments to work for an extended period of time to develop new policies and utilize new systems under the eye of an independent monitor. The monitor's quarterly reports can serve as a real time assessment of progress and as way to help departments identify and overcome problems. Further, monitors and DOJ lawyers provide technical assistance during the implementation period, which also can serve to aid implementation.

This ongoing monitoring also has the effect of holding departments accountable to the terms of the settlement by creating the possibility of sanctions as a result of noncompliance or recalcitrance. What is more, the process itself – defined by monthly meetings, public release of quarterly reports, and the ongoing participation by the DOJ in agency management decisions –

[76] Prince George's County's MOA initially called for a three-year term, but that was extended for an additional two years. The implementation process lasted five years. In some cases, the process can last significantly longer, as was the case in both Pittsburgh and Washington.

all but ensures that the reform remains a high priority for agency leadership. Such a process may also have the effect of demonstrating to the rank-and-file the importance the reform effort. An extended implementation process also mitigates the possibility that departments will either cut corners or make cosmetic changes offering little more than the appearance of reform. After all, it is much easier to "run out the clock" on a one or two year process than it is on one guaranteed to last at least five.

Changes to the composition of a department's personnel that occur over the five to seven year period also facilitate lasting change. Police departments experience a significant amount of turnover in a five to seven year period. Some of this turnover is natural: older officers may retire, newer officers may choose another career path, and so on. The changes brought on by the settlement process, including reduced autonomy and discretion, intensified training, increased hierarchical accountability, and the emphasis on lawfulness, may speed up this natural turnover. Stakeholders in Pittsburgh, Washington, and Cincinnati noted that older officers were being replaced by new recruits at a greater rate than normal, a fact widely considered important to the reform process. One former monitor estimated that such turnover may reach as high as one third of a department's staff during implementation (Ron Davis, interview with author, Jan. 20, 2010).[77]

In addition to helping to clear out some of the older-guard officers, many of whom may embody the pre-settlement approach, the extended implementation period allows for the infusion of new staff. In theory, new recruits are introduced directly to those systems mandated by the settlement agreement, and know no other approach to use of force, incident accountability, and supervisorial oversight. The hope is that these officers are immediately acculturated to the values of the settlement effort. They are never exposed to the attitudes,

[77] This is of course a supposition on Davis's part, and one that bears further empirical attention in the future.

prejudices, and faulty systems that may have led to the pattern or practice of misconduct. They know nothing of the environment that contributed to the department's old problems. Former Cincinnati monitor Richard Jerome's views are representative of the many conversations I had on this issue:

> No doubt, in Cincinnati or Washington, D.C. or Prince George's County, officers who came to the department after the decree now know…writing up a use of force report, that's just the way we do business….And their used to it. And the fact that there's an investigation of a use of force, that's policy. That's the way it is (Interview with author, Mar. 24, 2010).

This acculturation process, which begins when new recruits enter the academy and are taught the formal policies and procedures that define pattern or practice reform, as well as (one would hope) an informal department culture that supports the new approach, is largely predicated on Section 14141's comprehensive reform effort.

Where a more incremental approach to agency reform would move more methodically toward the goal of replacing a department's accountability infrastructure, pattern or practice reform attempts to do so almost entirely within the first year or so of the settlement date. Comprehensive and rapidly occurring change allows each department the maximum amount to incorporate the new framework, personnel, and (ideally) cultural orientation while the monitor and the DOJ are in place to oversee the process and offer advice in the case delays or other setbacks. Relatedy, the protracted oversight by independent monitor teams and DOJ attorneys is in itself a strength of the pattern or practice reform process. Results presented above suggest that together these procedural characteristics have helped to establish and anchor accountability infrastructures in Pittsburgh, Washington, D.C., and Cincinnati.

There are some signs that the process itself may also contribute to destabilizing or undermining institutionalized change. Cummings and Worley (2005), among others, argue that organic reform – that originating with the agency itself – is less likely to be the subject of staff

resistance, and thus more likely to become part of a long-term expression of organizational procedure, than reforms initiated by forces outside the affected agency. Of course, pattern or practice reform initiatives are each the product of a DOJ investigation and subsequent threat of legal action. Though in each case departments settle before reaching court, they have done so under the threat of protracted and expensive litigation, and with the belief that such legal challenges would most likely be futile.[78]

There is some evidence that this forced, externally-mandated process is seen by some opponents as the "original sin,"[79] an unwanted action, perceived to unnecessarily subvert city sovereignty and department autonomy, from which the reform process cannot overcome. The-DOJ initiated investigation and subsequent negotiation, which in most cases includes no rank-and-file or union representatives, is not something that many patrol officers want, not something they think they need, and thus not something they are going to work to perpetuate when they are not legally required to do so. Though some of these kinds of feelings may subside over the course of time (and many of those whose feelings do not change may leave the agency either through natural and forced turnover), some may not. The vehement opposition to the consent decree voiced by many of the officers included in the 2005 Vera Institute report may be

[78] The experience in Pittsburgh is insightful on this point. According to former Pittsburgh Chief Robert McNeily:

> Well, as I said, we -- the solicitor of the City of Pittsburgh at that time said, we can fight it, but it's going to cost millions of dollars. He said, Keep this in mind. He says, the DOJ is a big organization with a lot of prestige in the courts. They have a lot of money, the federal government has a lot of money. And it's going to cost us millions of dollars. And when we looked at what we could get out of it and what I saw I could do, implement the performance evaluations, the performance, the training, supervision, supervisory training -- it wasn't worth fighting to me. I thought, Okay, I'm [playing] the game. It was more than what the officers viewed as a slap in the face (Remarks given at the 2008 PERF Annual Meeting, Miami, FL, 2008).

[79] There is some evidence that department leadership resented DOJ investigation. In Cincinnati, for example, Chief Streicher openly questioned the DOJ's involvement in the beginning of the implementation period (e.g., Prendergast 2011). On the other hand, Pittsburgh's former Chief Robert McNeilly welcomed the DOJ from the start. And the DOJ's investigation of MPD occurred at the behest of former chief Charles Ramsey.

evidence of this kind of resentment. So too may be the steady opposition from union groups in places like Pittsburgh and Washington, D.C.

Table 21. Procedural factors affecting reform sustainability

Process of reform	Pittsburgh	Wash., D.C.	Cincinnati	PG County
Comprehensive reform initiative	X	X	X	X
Organic reform effort			X	
Lengthy implementation period	X	X	X	X
Independent monitor oversight	X	X	X	X

The pattern or practice reform template – the substance and process of reform – incorporates several theoretical principles thought to promote institutionalized change. This template has proved successful in driving organizations to legal compliance with settlement terms, in the process generating new department policy, training, and oversight. Evidence suggests that in Pittsburgh, Washington, D.C., and Cincinnati, many of the systems established under the process remain in place today. With that said, neither the substance nor the process of reform helps to explain what variability exists between the departments in terms of sustainability. There is no meaningful difference between the four settlement agreements under review. For the most part, the same is true of the implementation process. After all, reform in each jurisdiction was overseen by a team of similarly-qualified independent monitors and managed by the Department of Justice for a period of at least five years. It is possible that marginal differences in process – e.g., five versus seven year implementation or the nature of one monitor's approach versus another – may help to explain variability in the sustainability of change.

Together the substance and process of pattern or practice reform initiatives are crafted specifically to generate sustainable change. Though in many ways these decisions were based

on policing best practices, full implementation and continued attention to the reforms seems to have been assumed. Much more research is needed to evaluate fully the sustainability of the pattern or practice accountability infrastructure. Very little is known about day-to-day operation of these systems (almost nothing is known about the state of such systems in Prince George's County), and even less is understood about the effects of either substance or process on department culture and their relationship to key outcomes. Further research is also needed to flesh out the extent to which DOJ intervention shapes – both positively and negatively – the sustainability of change.

Organizational Context

Scholars believe that three aspects of an agency's organizational context are especially important in promoting lasting change: (1) the existence of capable, supportive leadership; (2) consistency and continuity among agency leadership; and (3) support for the reform among organizational middle management.

Leadership

Police leadership is as important to the sustainability of pattern or practice reform as it is to the successful implementation of settlement terms, if not more so. During the implementation period, even the most recalcitrant, inactive chief must adhere to the oversight schedule set by the monitor and the standards enforced by the Department of Justice. After the settlement is terminated, a department is no longer beholden to its terms or the legal requirements that correspond. Should a leader either choose to de-prioritize aspects of the settlement or allow him or herself to be sidetracked by other events or issues, there is little internally that can be done to stop it.

The archetypal police department is supremely hierarchical, with information, power, and organizational priorities flowing directly from the Chief through the captains and lieutenants, first line supervisors and down through the rank and file (Wilson 1968; Bittner 1970; 1990; Manning 1977; Maguire 2003).[80] Little of *formal* importance happens without the Chief's direction or support. Thus, the sustainability of changes made as a result of the reform initiative, be they operational, programmatic, or cultural, are at a critical level a function of the chief's commitment to them. Former MPD Chief Charles Ramsey argues forcefully that without a strong commitment to the principles underlying the initiative and a willingness to continue to promote those values, lasting change cannot occur:

> You'll have temporary change; you'll have superficial change. But you really won't get at the real heart and soul of the issue. You won't change the culture, you won't change the attitude, you won't change any of that (Interview with author, May 20, 2010).

Several leadership-related themes were apparent from my conversations with police executives and policing scholars. First, leadership must see the reform initiative and the changes it produces as "core" to the department's operation. The chief must see systems designed to promote lawful, accountable policing – the early warning system, enhanced training, and so on – as consistent with and necessary for effective crime control strategies. According to former MPD monitor Ron Davis, the goal of post-reform chiefs must be to "create an environment where you can have reform and be effective [in other areas of the job]. Otherwise…the organization…becomes an either/or organization. 'Either I comply with the consent decree, or I fight crime.'" (Interview with author, Jan. 20, 2010). When seen as a threat to the department's

[80] There are other conceptions and other models of police department organization and operation, including those that grant place more authority in lower-level discretionary positions (see, e.g., Wilson 1968). Additionally, there are many normative theories of police organization, offering recommendations on the "'best' way to organize in order to achieve greater efficiency, effectiveness, equity, and/or accountability" (Maguire 2003, 40). The content of pattern or practice settlement reform is in itself the embodiment of such a theory, arguing implicitly for the best way to achieve lawful, accountable use of force. The merits of such a theory are largely beyond the scope of this work, though the efficacy of the reform template is briefly discussed in this Chapter. Future work will certainly examine more carefully the content of these agreements.

ability to fight crime, accountability and respect for the rule of law will no doubt be subjugated, in the eyes of most police officers. This reaction would surely undermine the pursuit of sustainable change and may contribute to destabilizing existing systems.

Second, the need for chief to link reform-driven accountability with the department's anti-crime efforts, which is very much in line with theoretical research on the importance of goal congruence, must be communicated clearly and repeatedly to agency staff. Reform is more likely to take hold in those departments that have members of the police leadership who become "fixers" (Bardach 1977), actively working to perpetuate change. As Peters and Savoie (1998, 6) suggest, "Change can never take flight on its own merits, it has to be energized."

Regardless of whether this is done through weekly visits to roll call meetings, via email, through the chain of command, or however, the chief must convey unambiguously the message that pattern or practice reform is of lasting importance to the department's mission. This is also done by action. Department leadership must insist on strict compliance with the protocols established under the reform, and must demonstrate a willingness to sanction officers who do not. This willingness to enforce noncompliance is especially critical with respect to mid-level management, as department commanders not only serve as lynchpins for many of the reforms, but are responsible for supervising street-level officers and for translating agency priorities and cultural emphases down the chain of command. Failure on the part of agency leaders to demand full commitment to the reform's accountability infrastructure can weaken the systems themselves and erode the cultural value of the principles that underlie them.

Even under ideal conditions, however, both theoretical and empirical research suggest that the effects of even the strongest leadership may be limited. First, there is a natural cultural divide between management and street-level officers (Reuss-Ianni 1983). This divide manifests in not only in different views of "good" policing, but in unique and often conflicting

organizational, procedural, and operational priorities. In their archetypal forms, management culture emphasizes formal structures and written rules, while the rank and file's culture is predicated on informal norms, on-the-job experience, and intuition. And at least according to one researcher, "street cop culture presently determines the day-to-day practices of policing" (Reuss-Ianni 1983, 7). This reality has the potential to dilute leadership's efforts to convey organizational priorities as well as the establishment of new formal rules, training, and operational procedures.

This cultural divide may be further complicated by the considerable discretionary authority enjoyed by most patrol officers. As has been discussed throughout, police officers are a classic example of street-level bureaucrats. Their jobs are defined by the ability to make discretionary decisions in high-stress environments, free from the oversight of supervisors and unencumbered by the strictures of a more formal organizational setting. This reality both defines the job of the patrol officer and complicates considerably the pattern or practice initiative, particularly after independent monitor oversight has ended. There is no surefire way, for example, for police leaders to ensure that street cops are using the appropriate level of force, filing the necessary incident reports, receiving citizen complaints properly, and so on.

This stratification between street-level officers and management complicates all efforts to re-create police departments in the vision of pattern or practice reforms. In fact, two of the more critical policy (rather than legal) goals of the reform process must be to imbue street-level officers with a cultural respect for citizen rights and accountability (i.e., to bring management and patrol culture closer together) and to shape officers' use of discretion in the vision of constitutional law. Of course, these are challenges that define the management of all street-level bureaucracies, including the police. Just as leadership is central to this effort, so too is organizational mid-level management.

It is hard to gauge each of the four chiefs' commitment to perpetuating the reform, capacity to manage such a process, and credibility with both the line officers on the force and members of the political establishment and general public need to achieve his or her desired results. Because I was only able to speak with one of the four current chiefs, much of my information here is based on interviews with other stakeholders, as well as my interpretation of secondary sources like newspapers and scholarly writings.

Much of the Cincinnati Police Department's success can be attributed to the prolonged tenure of Chief Tom Streicher. Streicher and his top staff, who have drawn strong praise from police watchers (e.g., Gerhardstein 2010) and members of Cincinnati's media (e.g., Prendergast 2011), are rightly credited for their sustained commitment to the MOA and the Collaborative Agreement. Given the Department's early opposition to the reform process, this is somewhat of an irony. It was Streicher, after all, who criticized fiercely the DOJ's involvement, describing initial negotiations as "screaming, contentious" (Tom Streicher, Remarks given at the 2008 PERF Annual Meeting, Miami, FL, 2008). It was Streicher who infamously kicked independent monitors out of a weekly status meeting, landing in court for his trouble. Chief Streicher's CPD remains the only department to face the threat of being held in contempt as a result of noncompliance with the terms of a settlement. Today, almost exactly ten years from the fatal shooting of Timothy Thomas, it is Streicher's recent retirement, rather than his rocky start, that is relevant (McKee 2011). One hopes that Streicher's replacement continues to promote police accountability and emphasize community relations.[81] Though other factors certainly contribute

[81] For the first time in recent history, City officials will get to select the Chief they want, without any restrictions. In 2001, shortly after the Timothy Thomas Riot, Cincinnatians amended their City Charter to "give[] the city manager the authority to hire and fire the chiefs and assistant chiefs in the Police and Fire departments rather than using a civil service process" (Osborne 2009). The positions can now be "filled from outside current ranks rather than being limited to in-house candidates from a promotion list based on exam scores" (Osborne 2009).

to the ongoing success in Cincinnati, Streicher's leadership both during and after the implementation process must be recognized.

Just as sustained leadership cannot by itself explain success in Cincinnati, failed leadership does not explain entirely Prince George's County's troubled experience with implementation and institutionalization. Yet the story of PGPD's failed reform is incomplete without discussing the tenures of the three chiefs to lead PGPD since 2004, each of which have been marred by scandal.

Hired in 2003 after a highly successful career as police chief in Norfolk, VA, Melvin High was brought in to turn around a struggling department. As part of that mission, High entered into two formal agreements with the Department of Justice, and oversaw most of the MOA implementation. Despite reductions in violent crime during his five-year tenure, High resigned with rumors swirling about the mysterious death of a man being held in the County jail on charges related to the death of a PGPD officer (Davis 2008).

Roberto Hylton, a career PGPD officer and high-ranking deputy, replaced his former boss. Hylton managed the last four months of the implementation process and guided the department's transition from DOJ oversight. PGPD achieved "substantial compliance" with the terms of the MOA during his tenure, and to his credit Hyton said many of the right things in the wake of settlement termination. But the results above raise serious questions about whether the MOA process generated meaningful changes to PGPD's approach to use of force and officer accountability. Hylton was swept out of office in the wake of the Jack Johnson corruption scandal and the ongoing troubles at the PGPD.

It is too early to evaluate Hylton's replacement, current interim Chief Mark Magaw. It is also not yet clear whether Magaw, a 27-year veteran of the PGPD and first-time chief, has the skills and experience necessary to lead the department. It is also not clear how long he will

remain chief or how much true authority he has been given to mold the PGPD in his image. Perhaps Magaw is the precisely the man to bring the department in line with the principles of the settlement reform. Time will tell if that is possible and if Magaw is the one to do it. It is impossible to know the extent to which the high rate of turnover among PGPD's chiefs since 2004. One way or another, it appears that PGPD was not able to sustain strong, continuous support for the settlement agreement either during or after the implementation. And regardless of why it occurred, this turnover contributed to PGPD's trouble achieving sustainable reform.

Leadership transition also continues to help define the sustainability of change in both Pittsburgh and Washington, D.C. The first few years after Pittsburgh's consent decree was terminated were relatively quiet, characterized largely by the status quo ante. As the 2005 Vera study shows, much in terms of department operations, culture, and public perception remained unchanged from levels reached during the implementation. My review of Pittsburgh's citizen complaint data indicates that things began to shift shortly after termination, with rates of complaints accelerating greatly in the mid-2000s. Ongoing disputes with the CPRB, and controversies tied to the G-20 meeting and the alleged beating of Jordan Miles seems to support the notion that the complexion of the Pittsburgh Bureau of Police has changed significantly in recent years.

Though certainly only one factor, 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, when incoming mayor Bob O'Connor replaced him. McNeilly remains an outspoken proponent of DOJ-led reform and believes that the consent decree process helped the transform the PBP (Interview with author, Mar. 1, 2010). 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).

The same is not said of the PBP today, and a concerted effort to move away from McNeilly's leadership may in part be 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 consent decree, 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," said O'Connor (Greenwood 2006).

The City's current Mayor, Luke Ravenstahl took over as acting Mayor in September 2006, replacing O'Connor, who died within nine months of taking office. In October 2006, Nathan Harper, a career PBP officer and Ravenstahl nominee took control of the department. Harper, like McNeilly before him, is seen as an extension of the Mayor's Office and the City's Director of Public Safety. In McNeilly's day, however, as the consent decree was being developed and implemented, the City's executive branch largely supported reform, whereas today there appear to be other priorities driving the Ravenstahl administration. Whether or not changes in PBP's leadership can be causally connected to recent backsliding, it is hard to ignore the fact that many of PBP's biggest problems have occurred since McNeilly's firing.

Washington, D.C. has also experienced a change in leadership in recent years. In January 2007 Mayor-elect Adrian Fendy appointed Cathy Lanier to replace outgoing chief Charles Ramsey. Ramsey had served since 1998, and saw the Metropolitan Police Department through the scandalous 1998 Washington Post series, DOJ investigation into the department's use of

force practices, and much of the MOA implementation. Ramsey, an experienced leader and strong personality, became Commissioner of the Philadelphia Police Department in 2008. Though not without reproach,[82] many believe that Ramsey's eight-year tenure witnessed significant progress in the overall quality and accountability of the police department.

Results seem to indicate that the transition from Ramsey to Lanier has been quite successful in terms of the MOA. What data does exist suggests that many of the reform systems remain in place, including the FIT team and PPMS, the department's early warning system. Lanier is personally involved in day-to-day operations and claims to monitor regularly reports tracking personnel data and internal affairs investigative findings. Though the uptick in citizen complaints against MPD officers bears watching, the absence of a major "performance failure" since 2007 and the downward trend in use of force-related civil suits, unfavorable dispositions, and total payouts by the City for unlawful MPD behavior suggest that the department continues to perpetuate the core principles of pattern or practice reform. In light of this continued progress, many, like D.C. Councilwoman Mary Cheh, remain cautiously optimistic about Chief Lanier's ability to aid in MPD's efforts to sustain change:

> We haven't had a real test for Chief Lanier. I have every confidence in her. I like her very much. I think she's…a leader and I think she goes by the book, and I think she's kind of surrounded herself in her immediate circle with people who are reliable and not going to cut corners and stuff. But you don't know [how you're going to react] until you face a fire (Interview with author, March 12, 2010).

Cheh's comments suggest a deeper insight about the relationship between leadership and sustainable reform. Police leaders are necessary components of institutionalized change. Institutionalized change doesn't appear possible over the long term in the absence of a credible leader who sees value in the settlement's principles and actively works to ensure that they remain closely enforced and high on the department's list of priorities. Just as the accountability

[82] The Pershing Park episode is the most controversial moment of Ramsey's tenure. For coverage of the issue, see Klopott 2009; Wilber 2009; Cherkis 2010.

tools created by pattern or practice reform are only valuable to the extent that they are utilized properly by the department (as led by its chief), strong, continuous leadership is only as valuable as the external political and social context allows it to be. As Cheh suggests, leadership is only as good so far as it goes, and even the strongest leadership, the most carefully managed transition, can be undone by a scandal or overcome by external forces. Or, as Charles Ramsey put it recently, in the absence of a good working relationship with the jurisdiction's political leadership (Gambacorta and Lucey 2011). In short, leadership is a necessary but not sufficient component of sustained change.

Leadership Transition

A second and very much related component of the organizational context thought to affect sustainability is the continuity of support for change among agency leaders and high-level staff. Leadership turnover brings with it the possibility of a shift in department commitment to the settlement, and has the potential to move agency priorities away from accountability, in the process rendering long-term sustainability less likely. In fact, some see the management of leadership transition as defining a department's ability to sustain change. According to police accountability expert Sam Walker, "it's the continuity of leadership…that is going to key the sustainability of settlement reforms" (Interview with author, Mar. 17, 2010). As the foregoing discussion indicates, preliminary results from efforts in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County lend some support to Walker's position, highlighting the importance of strong, committed, and continuous leadership to sustaining pattern or practice reform.

Mid-level Management

Department middle management is also central to the sustainability of pattern or practice reform. If department leadership initiates organizational priorities and the tone and

cultural emphasis of the department, middle management tend to be the conduits through which such messages are communicated to the rank-and-file. Mid-level supervisors interact with patrol officers much more frequently than do top-level staff, and have more of a direct ability to shape the behavior and attitudes of street-level cops. Beyond their role in fostering agency culture, mid-level supervisors perform vital accountability functions for every level of the pattern or practice reform infrastructure. It is this instrumental function – the review use of force incident reports, analysis of early warning data, monitoring of attendance at training sessions, and so on – that allows the reform's infrastructure to operate.

As is evidenced in my own interviews, as well as the focus groups conducted by the Vera Institute, mid-level supervisors must be capable of and willing to take this role seriously, identifying and correcting problems as they occur. Failure to do so, either by word or by action, directly or indirectly, can contribute to erosion or backsliding.

Table 22. Organizational factors affecting reform sustainability

Organizational context	Pittsburgh	Wash., D.C.	Cincinnati	PG County
Committed leadership		X	X	
Capable leadership		X	X	
Leadership continuity		X	X	
Mid-Management support	TBD	TBD	TBD	TBD
Street-Level support	TBD	TBD	TBD	TBD

Environmental Context

The environmental context within which a reform occurs also has the ability to affect the sustainability of organizational change. Theory suggests that various political, economic, and social factors can promote institutionalized change. Understanding fully the composition and dynamic of a jurisdiction's environmental context is a complex task, and one that is largely beyond the scope of this research. What is clear, however, is that police departments, like most

other public agencies, are affected directly and indirectly by their jurisdiction's political branches; the structure of the government to which they belong; specific governmental policy choices; existing relationships with third party organizations, including labor unions and civil rights groups; the media; as well as the broader public.[83] In general, research shows that stable and continuous attention to and support of the issue among these outside forces – both in terms of affixing high priorities to the reform and detailed oversight of agency performance – tends to enhance the likelihood of achieving lasting change.

External contexts in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County vary widely. Several of these jurisdictional differences help to explain department efforts to sustain pattern or practice reform.

Politics

The results demonstrate the importance of local politics to sustainable police reform. Elections determine not only political actors, but agency budgets, agendas, and priorities. A new mayor or county executive, for example, may mean a new police chief. With changes to the composition of a city or county council, there may be changes to a legislature's emphasis on police accountability or a new approach to oversight.

Of these effects, the influx of new personnel is often felt most acutely. In Pittsburgh, for example, the ascension of Luke Ravenstahl to the Mayor's office meant a new police chief and a new city public safety director. As discussed above, personnel changes among police leadership have the potential to affect greatly an agency's approach to sustaining reform. The new administration appears to have set a different tone, and placed a different set of priorities on

[83] Other, more macro-trends are also worth considering. Though I have described each in some detail, I have not been able to examine the possible comparative effects of shifts in federal, state, and local economic conditions, historical "tides" of police reform, or long-standing patterns of police-community relations, among others, on pattern or practice sustainability. As will be discussed in Chapter 7, these subjects present various possibilities for future research.

policing-related issues. There are signs, including Ravenstahl's feuds with the city's citizen complaint board (McNulty 2010B), that seem to suggest that the Ravenstahl administration sees police accountability and the pattern or practice reforms as a relatively low priority, and that the department's commitment to the consent decree has suffered as a result.

The Ravenstahl administration has also been involved in several minor scandals and has been accused of fostering a culture of corruption (e.g., Conte 2008; Boren 2009). These allegations have certainly not risen to the level of former Prince George's County Executive Jack Johnson, nor have they implicated directly the Pittsburgh Bureau of Police. But, as results from PGPD indicate, a sustained commitment to lawful, accountable policing is much more difficult in a jurisdiction affected by even the hint of official corruption.

In Cincinnati, Mayor Charles Luken, who presided over the development of the Collaborative Agreement and the negotiation of the City's MOA with the Department of Justice, was replaced in December 2005 by Mark Mallory. Mallory, a former Ohio state representative, was re-elected in 2009. By many accounts, the transition was seamless in terms of the police reform efforts. Mallory continues his vocal commitment to lawful and effective policing, and to upholding the changes brought on by the CA/MOA initiative, as evidenced by this passage from his official biography:[84]

> Mayor Mallory's tops (sic) priority is public safety, and his core initiative is the international award winning, Cincinnati Initiative to Reduce Crime or CIRV, which has become a model to other departments around the country. CIRV uses statistical analysis to identify and map criminal networks for increased law enforcement, community, and social service attention. The collaborative approach has become the driving philosophy of the entire police department and has led [to] an 18% reduction in homicides since his first year and 30% decline in use of force incidents since before he was (sic) became Mayor.

[84] For Mallory's full bio, see "Mayor's Biography" here: http://www.cincinnati-oh.gov/mayor/pages/-3052-/.

Electoral changes have occurred in other jurisdictions as well. In Prince George's County, recently elected County Executive Rushern Baker replaced Roberto Hylton with interim chief Marc Magaw. Little is known about what either of these transitions will mean for Prince George's County's police accountability efforts, particularly in the wake of the Jack Johnson scandal. In Washington, D.C., Mayor-elect Vincent Gray has opted to leave Chief Cathy Lanier in charge of MPD. It remains too early to evaluate the less tangible effects of these two elections, though there are worrying allegations of corruption in Mr. Gray's administration that are already starting to change the political climate in Washington, D.C. (e.g., King 2011; Craig, Mar. 30, 2011).[85] What is clear is that political transitions are inherently destabilizing. New political actors bring a new tone, a fresh agenda, a new set of political favors owed, and so on, and these changes can affect the pursuit of sustained police reform.

If the executive branch of a local government has the ability to affect sustainability through personnel and tonal emphasis, a jurisdiction's legislature can greatly affect police reform through the department's budget. In short, a police department must have the necessary means to perpetuate the changes brought about during the reform process. At one level, pattern or practice reform is driven by officer training and the use of technology to promote accountability. Without the funds to pay for the maintenance of either, or for the several other components of settlement, reforms may begin to erode, even in departments led by the strongest leaders and operating under the best political conditions. Rick Fuentes, head of the New Jersey State Police Department, learned during that agency's 10-year implementation of pattern or practice reforms, that sustainability is "all about the budget. This is about

[85] Newly-elected District Council Chair Kwame Brown is off to a scandalous start as well. Brown has come under fire recently for allegedly ordering a very expensive Lincoln Navigator ("fully loaded") for his personal use, in clear violation of District law (Craig, Feb. 28, 2011).

sustained funding...If that money dries up, so will your ability to sustain reform (Remarks given at NIJ Conference, Arlington, VA, July 2008,).

The global financial crises has resulted in this country's worst economic climate in decades. Governments at all levels are struggling to balance budgets and find money to pay salaries, pensions, and critical government programs. None of the four jurisdictions under review have escaped this budgetary crisis. In Cincinnati, for example, legislators seriously considered merging the Cincinnati Police Department with that of Hamilton County Sherriff's Office in order to save money (Prendergast and Coolidge 2011). In spite of these historic conditions, there is no evidence that police departments in Pittsburgh, Washington, D.C., Cincinnati, or Prince George's County were affected directly. Despite threats to the contrary, as of July 2011, none have been forced to cut staff or programs, or alter significantly their priorities to accommodate the emergent fiscal realities.

MPD Chief Lanier, who admitted to having absorbed budget cuts of her own over the last few years, made clear to me that sustainability of change is on some level less about budgets and more about the political will (both on the part of the Chief and the jurisdiction's political principals) to continue to prioritize reform:

> [I]f it gets to a point where [budget cuts were threatening reform-related changes], I would go immediately to the bosses and say, 'Here's my argument. This is why it's important.' And I think that that would always be supported here. Nobody in this city – nobody in Washington, D.C., local or federal, wants to see the Metropolitan Police Department back where we were. And I believe in my heart if I ever raised a flag and said, 'Hey, we're in jeopardy here, and I need something that I don't have, or somebody's interfering with that,' I could get it ceased immediately (Interview with author, Jan. 13, 2010).

A jurisdiction's governmental structure also has the potential to affect the sustainability of reform. Pittsburgh and Washington, D.C. are each very strong mayoral jurisdictions, vesting in the mayor's office immediate control over executive branch operations. Agency personnel,

priorities, and so on, are determined by political office holders. The same is true in Prince George's County, where the County Executive oversees the police department.

Cincinnati, on the other hand, operates under a City Manager model. This governmental model vests in the city manager administrative oversight of the City's executive branch of government, rather than the mayor. The city manager is appointed rather than directly elected, and is thus largely insulating that position from the vicissitudes of electoral politics. The police chief reports directly to the city manager, as does the head of Cincinnati's Citizen Complaint Authority. This oversight responsibility grants the City Manager authority to "make[] the final call on all discipline for the entire City workforce" (Kenneth Glenn, interview with author, Apr. 15, 2010). Through the combination of independence, a unique accountability structure, and significant authority over issues related to the police reform effort, the city manager has contributed significantly to sustainable change in Cincinnati. Despite the many advantages this model may provide, however, it does invest considerable power in one office and does not in and of itself establish surefire protections against shifting priorities or corruption, and certainly cannot guarantee that the reform will remain a top priority.

As with other jurisdictions, it is personalities rather than systems that matter most. Cincinnati's current city manager, Milt Dohoney, has been lauded for his role in moving the CPD toward full implementation,[86] as well as for continuing to promote the principles undergirding reform. Since taking office in August 2006, Dohoney has consistently made police accountability

[86] Many insiders believe, for example, that it was Dohoney, who helped to bring about a change in Chief Streicher's attitude toward the reform, a shift that ultimately led to successful implementation. Consider the view of Al Gerhardstein, a civil rights attorney involved with the Collaborative Agreement:

> Milt Dohoney is totally critical….[O]ne of the reasons we had such a slow start in implementing the collaborative was that [the previous City Manager] had no control over the chief. And the chief, at that point … was just not on board….And so it wasn't until Milt Dohoney came in, and at least raised the profile of the city manager as a person actually in charge of the police department that we started to get some meaningful results. And he has been a godsend" (Interview with author, Apr. 19, 2010).

and CPD performance a clear priority, in the process successfully defending the reform initiative from other external changes. According to former Cincinnati monitor Richard Jerome, Dohoney "really recognized the need for change and recognized the advantages to bringing change to the police department in terms of a different approach to policing, a different approach to police/community relations" (Interview with author, May 3, 2010).

Perhaps the definitive exemplar of Dohoney's influence in Cincinnati and his contribution to sustained change is his Manager's Advisory Group (MAG).[87] Six times a year, Dohoney convenes somewhere between 20 and 25 stakeholders to share information about policing, public safety, and the reform effort. According to Dohoney, members of the police leadership, representatives from the Collaborative Agreement's plaintiff class, including members of the police union, civil rights groups, community activists, as well as the city's religious community "talk about [policing] issues and how we're approaching them. We exchange information with each other on activities that are going on in the community that are positive and everybody needs to know about them" (Milt Dohoney, interview with author, May 3, 2010).

These meetings not only have the effect of placing continued focus on the issue of police accountability and police-community relations, but go a long way toward building trust and establishing lines of communication between critical components in the city's public safety infrastructure.

Dohoney has recently expanded the purpose of the Manager's Advisory Group meetings to include an incident response function. The protocol calls upon Dohoney to notify MAG

[87] It is important to note here that Dohoney's MAG is much more than an environmental condition; it is a policy strategy designed specifically to promote the institutionalization of changes made within the CPD as a result of the CA and the MOA. As will be discussed in Chapter 7, pursuit of similar efforts is advisable in all other post-14141 jurisdictions, including Pittsburgh, Washington, D.C., and Prince George's County.

participants immediately following a police shooting or other event, and disseminate to them basic information on the incident. MAG participants are then briefed by the police department and kept up to speed on the CPD's internal investigation of the incident. This kind of outreach and transparency in the face of what may a difficult or controversial event sends a strong message that City's government values diverse constituencies, trusts in the established accountability system, and an unwillingness to obfuscate or to hide behind the veil of asymmetrical information. Dohoney's description of a recent event is worth quoting at length:

> [T]he incident that I'm talking about, where the police ended up taking a man's life, we actually put together a video within 24 hours of that incident, taking film from the police cameras. And we brought the community in and the media, and we showed them the entire thing. And the fact that we did that within 24 hours has helped to drive home that it's a new day in Cincinnati. The police did not take a sort of hunker-down attitude. They did not say, 'Well, we're not going to tell you until we know what's down the road or when toxicology comes back, or this or that. Here's what happened, here's what we're looking at. We still have to reach a final conclusion, but we want to share with you what we know.' And because of that, in the few officer-involved shootings that have occurred since, the community has been -- you know, nobody likes it, but they have been okay with it, because the communication has been so much better" (Interview with author, May 3, 2010).

To summarize, there is a clear relationship between a jurisdiction's political environment and efforts to sustain pattern or practice reform. Just as a chief must prioritize the settlement and advocate for the values that underpin it, so too must a jurisdiction's executive leadership. Whether led by the executive branch – in the form of a mayor, a county executive, a city manager, or otherwise – or the legislative branch – it seems clear that a jurisdiction's proactive emphasis on the reform effort and the value of accountable, transparent policing contributes to lasting change. Peters and Savoie (1998, 6) state the argument clearly: "There is no substitute for political will when tough decisions are needed to challenge long-established ways of doing things and to maintain the momentum of change….'[P]olitical will' works in trying to make government reform measures stick." In addition to political support, police departments must continue to have the resources necessary to perpetuate the systems

mandated by the settlement. Though de-funding has not yet occurred, such a reality would clearly affect sustainability efforts.

Unions

Police labor unions are a second component of the environmental context capable of affecting sustainability. In short, support from police union groups can facilitate lasting change; opposition can have deleterious political, instrumental, and cultural effects. The default position of many police unions is opposed to the pattern or practice reform initiative. Some see pattern or practice reform as the "latest step in a Justice Department campaign to impose federal (law enforcement) standards on police departments nationwide" (Hutchinson n.d.). Stripped of their conspiratorial overtones, at the heart of such criticism is the allegation that the content of reform complicates a patrol officer's job, subjecting her to more paperwork, increased oversight from above, the loss of both discretion and autonomy, and stricter accountability and punishment for allegations of unlawful or inappropriate behavior.

Opposition to pattern or practice reform derives not simply from the content of settlement agreements. The reform process itself represents a threat to the union's place in existing power structures. The federal government's participation in the management of local policing issues is seen as having the potential to weaken a union's position vis-a-vis management and other outside forces perceived to be "anti union". What is more, the pattern or practice reform process gives those "anti union" groups, including management, the imprimatur of the federal government, which carries significant authority.

This opposition has the potential to manifest in ways that threaten the viability and legitimacy of reform-based accountability systems. Union opposition complicates the development of a pro-reform culture, making desirable outcomes less likely. In short, protracted

union opposition to pattern or practice reform is a central threat to long-term institutionalized change.

Pittsburgh illustrates this fact clearly. Animosity and mistrust between PBP labor and management is longstanding. As a result of this ongoing – and highly personal – dispute, the Pittsburgh FOP did not participate in negotiations over the terms of Pittsburgh's consent decree. At the time, PBP Chief Robert McNeilly and FOP president Marshall "Smokey" Hynes were sniping at one another through the media (Fuocco 1997A; Fuocco 1997B). McNeilly questioned Hynes's ability to be a productive part of the process, and rather than risk the negotiation, excluded altogether Hynes and the FOP (Robert McNeilly, Interview with author, Mar. 1, 2010). In retrospect, this appears to have been a mistake. The Vera report highlights wide opposition to the reform effort, both during and after implementation, among PBP middle-management and rank-and-file, both of whom are represented by the police union (Davis et al. 2005, 25-26). Today, Pittsburgh's FOP continues to fight the terms of settlement agreement, with some of their biggest gains made in the political arena:

> [S]ince the end of the consent decree, the FOP fought long and hard just to try to negate some things that the consent decree brought about. It worked with elected officials in the city and the council, criticizing the command staff as being too large. It's no larger than any other major city police department. In fact, it's probably even smaller. But they were trying to neuter management, and they thought if they can reduce the number of people in management, there's less people that can look over their shoulder. So the council, and even the mayor, Mayor Ravenstahl, insisted they reduce the number of commanders. So there's less oversight, for one. The union was successful (Robert McNeilly, Interview with author, Mar. 1, 2010).

Washington, D.C. is experiencing a similar set of problems with its union. Though perhaps less powerful politically, MPD's union is led by a bright, aggressive former lawyer who is actively working to undermine the MOA. FOP President Kristopher Baumann believes that by excluding FOP representatives from the initial settlement negotiations and by limiting union participation in the implementation of the MOA, MPD violated District law. To wit, Baumann has

made "enforcing" those statutes that codify the union's role in the District's police-related decisions, regardless of the effect on the MOA. Baumann is plain about the union's ongoing efforts to use litigation and labor-based administrative challenges to chip away at provisions of the settlement, in the process threatening the long term viability of reform:

> [W]hat has to be understood is, at least in D.C., unions are a function of the law. They're statutory creatures. Our existence and our authority derives from the statute. And therefore, we have to be respected. So because for all the authority the chief of police has, or the attorney general for the District has, they derive that authority from the same statutes that gives us our authority. And if you don't respect that authority and you don't respect the process and the input and the ability of the union to have input, whatever you do is going to be undone….And eventually, even the good things that may have been done by [the pattern or practice reform] process could be undone because it wasn't done the right way. And if you don't respect the process from the beginning, you're building a house of cards" (Kristopher Baumann, interview with author, Mar. 1, 2010).

There is no tangible evidence that union representatives in Prince George's County are implementing either political or legal challenges to that jurisdiction's MOA. As was the case in Pittsburgh and Washington, however, union representatives were not at the negotiating table when County leadership signed the settlement agreement. Given the power vested in organized labor in Maryland through statutes like the Law Enforcement Officer Bill of Rights (LEOBR), labor relations will no doubt (if they haven't already) affect efforts in Prince George's County.

The story in Cincinnati is rather different. Cincinnati's FOP was involved from the earliest stages in negotiating both the Collaborative Agreement and the MOA. Rather than excluding union representatives from the process, the CA lawyers and CPD leadership agreed to work to incorporate labor's perspective into the content of each agreement. Doing so may have exacted some early costs, particularly in terms of the length and tone of the negotiation. But by most accounts, the benefits of inclusion far outweigh delays to the process. Al Gerhardstein, an area civil rights attorney who brought one of the original suits that led to the Collaborative Agreement, argues that providing union representatives a seat at the bargaining table paid

dividends in terms of implementation, and set a tone of collaboration and cooperation that continues today: "That turned out to be a very, very helpful move," he said. "I think it was a major aid in getting us off to a good start" (McKee 2011).

In Cincinnati, the effects of union participation go beyond the symbolic. In addition to promoting a more civil working relationship between labor and management, FOP involvement in the reform effort helped to generate support for police accountability among the rank and file. According to Kenneth Glenn, head of Cincinnati's Citizen Complaint Authority (CCA), broad support for the values driving reform has contributed to a trust between the police union and the CCA. This trust has resulted in high levels of compliance with CCA investigations, and a general level of respect for the CCA process among CPD officers: "[I]t's something that developed over the years. So there's not that much resistance from the FOP…. They don't like anyone looking over their shoulders, but they have accepted it over time" (Kenneth Glenn, interview with author, Apr. 15, 2010).

Inclusion also precludes the kinds of direct challenges that are occurring in Pittsburgh and Washington, D.C. Having participated in the negotiation, union leadership in Cincinnati has a much less legitimate case to make for criticizing the settlement in the press or actively working to dismantle the reform effort, either in court or through legislation. In effect, bringing the unions in gives the FOP ownership over both the content of the settlement *and* the process of reform, and has the potential to reduce the level of opposition from members of the rank and file.

As is true with other contextual factors thought to affect institutionalization, it is impossible to trace a causal connection between union participation in and support for reform and the Cincinnati Police Department's success institutionalizing organizational change. Similarly, one cannot know whether the troubles in Pittsburgh are fairly attributed to union

opposition, or how such opposition may manifest itself. Given the relatively strong observational correlation between sustainability and union support, however, future research should attempt to define further union views of pattern or practice reform and work to examine the effects of both opposition and support on department accountability systems, organizational culture, and performance outcomes.

The Community

The community is a third component of a jurisdiction's environmental context that may affect the institutionalization of pattern or practice reform. In short, sustainable reform is more likely in those communities characterized by civil society organizations, members of the media, local academics, and others, who are remain actively engaged with issues of police accountability in the years following implementation. The continued push for lawfulness, accountability, and transparency is, according to policing expert Sam Walker, critical to perpetuating the gains achieved during the reform process:

> [Activists] achieve some success, whether it's the consent decree or getting a civilian review board…and then they think they've won, and sort of, you know, go away. They don't stay on top of it….[T]hat's when the battle begins. That's not the end of things. That's just, you know, an early chapter (Sam Walker, Interview with author, Mar. 17, 2010).

Even without the ability to say definitively that one jurisdiction is more "active" or "engaged" than another, circumstantial evidence suggests that the involvement of a community may help explain some of the variation observed in the four jurisdictions under review. It is clear that through the process of negotiating and implementing the Collaborative Agreement and the MOA, residents of Cincinnati have chosen to make policing and police-community relations a priority. The bottom-up approach to developing the Collaborative Agreement was a critical early step to this end:

> The collaborative terms grew out of extensive community meetings with all those stakeholders and with all the questionnaires we did, and with the 10,000 ideas that were catalogued….[W]e combined the collaborative effort with an effort [by the Cincinnati Enquirer] called Neighbor to Neighbor,[88] where we had community meetings in houses where police officers and citizens met and talked over contemporary issues, and we combined it also with something called Study Circle, which had various focus curriculum that groups met and talked through in churches and in social committees. And those of us developing the core enforceable class action settlement gleaned and mined all the good ideas from all these different community-based efforts and then made sure we reported back to all those groups (Al Gerhardstein, interview with author, Apr. 19, 2010).

Not only did this grass-roots process have the effect of engaging the community, but the substance of the CA reflected clearly a desire to strengthen the relationship between the CPD and city residents. Consider the CA's five stated goals:

(1) Police officers and community members will become proactive partners in community problem solving
(2) Build relationships of respect, cooperation, and trust within and between police and communities
(3) Improve education, oversight, monitoring, hiring practices, and accountability of the Cincinnati Police Department
(4) Ensure fair, equitable, and courteous treatment for all
(5) Create methods to establish the public's understanding of police policies and procedures and recognition of exceptional service in an effort to foster support for the police

Though the CA is unique to Cincinnati, the benefits of this effort to engage the community contribute to sustaining the changes to CPD use of force and officer accountability mandated by the Memorandum of Agreement. After all, despite their unique origins and divergent developmental processes, the CA and the MOA were fused in the eyes of the CPD, the monitor team, and the community. Both were inextricably related, complementary pieces of the same comprehensive reform effort. The result is that in Cincinnati, the community, just like the police union, maintains ownership over both the substance and the process of the reform effort.

[88] For access to the Cincinnati Enquirer's individual summaries of the scores of "Neighbor to Neighbor Conversations" about race held throughout the City from late-2001 through early-2002, see: http://www.cincinnati.com/race/.

Today, signs of this ownership, and the investment it requires, abound. Wide and diverse participation in Milt Dohoney's Manager's Advisory Group evidence a commitment among the city's civil society organizations to sustained police accountability. Cincinnati's Citizen Complaint Authority (CCA) is a strong, independent mechanism for enhancing citizen-based police oversight. The CCA's emphasis on thorough investigation and dispute resolution provides citizens a legitimate means for voicing concerns and a constructive device for settling them. There is a mutual respect and trust between police and community that continues today, over four years after the MOA was terminated. According to Community Council member Lisa Auciello,

> [Members of the CPD] listen to us. It's an adult, grown-up relationship where we give each other feedback, provide information and ask questions. Everyone's comfortable with each other and there are no egos or hidden agendas or anything. We're all here for the same reason" (McKee 2010).

The benefits of such improvements to the relationship between the CPD and Cincinnatians not only contribute to sustaining gains made during the reform effort, but provide a foundation upon which the CPD has continued to grow. Today, for example, the City boasts of an award-winning community-based anti-crime initiative (Engel et al. 2008) and is one of seven jurisdictions testing a federally-funded effort to evaluate the effects of officer-mounted cameras (Mitchell 2010).

The role of the community is more complex and harder to discern in the other jurisdictions under review. In Pittsburgh, there is a long history of community attention to police behavior. The local ACLU office, for example, is credited with bringing the DOJ to Pittsburgh in 1996, and is widely recognized as a central player in efforts to bring about the consent decree (Davis et al. 2002). During much of the implementation period, Pittsburgh civil society leaders were engaged fully with the process. According to the Vera Institute, however, that momentum was lost shortly after the end of the settlement. Just over a year after the consent decree's

termination, leaders from several key civil society groups, including the NAACP and the ACLU, "had moved on from focusing on the consent decree and police reform to other local issues. One leader commented, 'The community is apathetic'" (Davis et al. 2005, 36).

As discussed, Pittsburgh's civilian police oversight authority, the Civilian Police Review Board (CPRB), which was established in 1997 by referendum, is today incapable of serving as a formidable means of external accountability. Though the CPRB's enabling statute ensures their continued investigation of police complaints, a recent dispute with the Ravenstahl administration has left that agency to serve in what is at best a nominal capacity. According to Beth Pittinger, the Board's President, the city's executive leadership does not respect the Board's findings: "I don't think they've ever agreed with our findings of misconduct. In a lot of instances, [the police chief] already made his decision before he ever gets our information," a fact that Pittinger believes adds to the community cynicism (Deitch 2010). Mayor Ravenstahl's decision to replace five of the seven Board members in the midst of a dispute over the CPBR's investigative authority no doubt succeeded in further delegitimizing the CPRB.

Though the community appears to have let police behavior slide from its attention in the years immediately following the consent decree, and in so doing may have relinquished the moral authority necessary to perpetuate accountability-driven reforms. In the last several years, however, public interest and attention has been revitalized. In 2008, community activists pushed for legislation that would codify the police accountability procedures mandated by the settlement. Speaking at a Pittsburgh City Council hearing, Tim Stevens of the Black Political Empowerment Project said, "What we're looking to do is [make] the work of 1997 not be in vain. We don't want to depend on who the mayor is or who the police chief is or what their prejudices may be" (Levine 2008). Though the effort ultimately failed, it seems to have signaled a willingness – and an ability – among advocates to work with members of the City Council to

fight for causes in the spirit of the consent decree, including a much closer legislative oversight of the PBP.

The Jordan Miles incident has provided further impetus for Pittsburghers to re-engage with the issue of police accountability. In fact, not only have policing issues returned to local op-ed pages since the alleged beating (e.g., Op-ed 2010; Op-ed 2011), but civil rights groups have continued to press the issue (e.g., The Justice for Jordan Miles Campaign). The City Council has moved police regulation on to its agenda, as well; legislation mandating further transparency and accountability at the Pittsburgh Bureau of Police is currently being debated. If passed, these bills would require the PBP to publish annual reports containing data on the race, gender, and age of all arrestees, as well as the number and disposition of citizen complaints filed against PBP officers, and would require that PBP leadership "specify when police are 'authorized to invoke their official powers and use of force...when not on duty.'" (Young 2011; Smydo 2011).

There are no signs of strong civil society groups in Prince George's County, nor is there evidence of a community-based emphasis on police behavior or officer accountability. County residents do not have the tools available to those in other jurisdictions; the County's citizen oversight infrastructure, for example, is notoriously weak. As a result, one is drawn to the conclusion that at the very least, Prince George's County's community has played an imperceptible role in helping to establish or perpetuate pattern or practice reform.

This lack of community-based infrastructure and galvanized citizen engagement with the issue may be a function of Prince George's County geography. Unlike the other jurisdictions, Prince George's County covers an expansive physical area that includes at least 27 incorporated cities and towns, as well as dozens of other unincorporated areas. There are rural and urban distinctions, divisions between those living 'inside the Beltway' and those outside, and dozens of municipal governments and police departments operating concomitantly with the PGPD. There

is no Prince George's County newspaper (thought the Washington Post maintains a solid PGPD beat), and no central downtown business or recreational area. Most area civil liberties groups, including the NAACP and the ACLU are state-based organizations, with their attention split between issues in Baltimore, Annapolis, and Prince George's County, among many others. In short, there does not appear to be a prevailing "Prince George's County' community ethos. As a result of the County's disaggregation, it may be harder to galvanize the kind of broad, persistent attention to policing necessary to keep the settlement agreement on the public agenda.

In addition to hindering the development of widespread community engagement, this fact of geography may also have affected PGPD's ability to develop and sustain meaningful reform. As a result of the County's broad geographical coverage, PGPD has several physical stations spread throughout the county. In the organizational theory parlance, this geographical diffusion of police stations gives PGPD a wide spacial differentiation (Maguire 1997; Langworthy 1986), a characteristic that has been shown to make complex, agency-wide tasks like officer training less efficient and less effective (Swanson and Jennings 1979; Mastrofski and Ritti 1996).

It is difficult to define the relationship between Washington, D.C.'s community and efforts to sustain MOA-based reform. The city is endowed with a strong citizen complaint agency, which, like the Cincinnati CCA, does well to provide residents a forum for raising issues with the MPD and working constructively toward their settlement. Washington, D.C. is home to a vibrant civil society, with organizations like the ACLU and the Partnership for Civil Justice providing a clear voice on policing and civil rights. Yet, police reform seems to have gotten lost among all of the other more pressing political and economic issues facing District residents and area policymakers.

Whereas geographical dispersion, among other things, may work against community-based efforts to sustain change in Prince George's County, the acute concentration of federal

and city governments, and the sheer number of competing issues may work against local efforts to keep police accountability as part of the broader civil conversation. D.C.'s own 'dispersion' may contribute to the problem as well. That so many people who work in the District commute from places like Maryland and Virginia may work against the development of a robust, community-based effort to monitor the police. So too may the District's pronounced racial and socioeconomic segregation. What is more, the absence of major performance failures, the consistent decline of crime rates, and MPD's relatively competent management, may have combined to generate a sense of complacency, of satisfaction with the post-MOA status quo. Unlike in Prince George's County and to a lesser degree in Pittsburgh, however, District residents appear to have a strong set of tools at their disposal should MPD backslide significantly.

Though it is rather hard to define, and its effects – like many other aspects of a jurisdiction's environmental context – are impossible to quantify, there appears to be a link between community involvement and the ability to sustain pattern or practice reform. These findings echo the work of scholars like Duffee (1990) and others, whose research emphasizes the importance of community contexts in shaping criminal justice organizations. Further, the results highlight the relevance of police accountability networks (see, e.g., Snipes and Worden 1993; Maguire 2003), characterized by a robust civil society and strong, independent citizen complaint agencies.

As in other areas, the effects of 'community' on police reform in Cincinnati is unique. The Collaborative Agreement gave a formal role to civil society organizations and city residents. The CA was negotiated by members of the ACLU, the Black United Front, and the police union, and reflects directly the product of thousands of citizen interviews and community meetings.

The substance of that agreement mandated specific changes to CPD policy designed to change the way department officers and city residents work with and conceive of one another. This bottom-up effort appears to have contributed to the development of a strong sense of ownership among Cincinnatians, and helped foster viable accountability networks. This ownership over the reform effort – which includes both the CA and the MOA – has fostered within the city a formal and informal community-based infrastructure to oversee police behavior, which combine to help keep police-community relations and police accountability as public priorities. The high-level of community involvement and attention to the issue of police reform help to promote the sustainability of change.

Table 23. Environmental factors affecting reform sustainability

Environmental context	Pittsburgh	Wash., D.C.	Cincinnati	PG County
Supportive political leadership		X	X	
Resources	X	X	X	X
Union support			X	
Oversight by civil society	X	X	X	X
Strong external accountability Infrastructure		X	X	
Broad community support			X	

MOAs in Pittsburgh, Washington, D.C., and Prince George's County, were top-down instruments that focused almost exclusively on internal police department accountability. With the exception of a few provisions designed to promote community outreach, these settlement documents largely ignored city and county residents. As a result, communities in each of these jurisdictions appear to be less engaged with efforts to sustain reform. In some places, like Washington, D.C., there are strong tools to do so; in others, those tools are either under-developed or have been neutered. In any case, there appears to be a connection between the

high level of engagement with and pursuit of police reform in Cincinnati and the success that jurisdiction has seen in sustaining change.

This focus on community involvement should not be read to minimize the potential influence of the kinds of historical, cultural, demographic, geographic, and economic factors described in Chapter 2's case studies. These factors help to define each jurisdiction and despite some similarities – particularly in their shared histories of conflict between minority communities and the police – help to distinguish one from the other. These elements also surely interact with jurisdictional political cultures and help to shape important institutional relationships (e.g., between police and ACLU; citizen complaint agency and police union, et cetera). Further, these elements no doubt play a part in defining which communities become active participants in a reform effort and which place their focus elsewhere. The field would surely benefit from further attention here.

Conclusion

The goal of this evaluation has been severalfold. First, in the absence of strong theoretical guidance, I developed in Chapter 5 a framework for analyzing the sustainability of pattern or practice reform. I argued that sustainability should be evaluated by considering (1) a department's ability to sustain systems and structures associated with the reform; (2) the extent to which department culture reflects core reform values; and (3) the degree to which change is reflected in key outcomes. I then used data from reform efforts in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County to evaluate the extent to which each jurisdiction has institutionalized changes to their systems of police accountability and oversight, officer culture, and relevant performance outcomes.

Preliminary results show wide variance across the four jurisdictions. Cincinnati has made great efforts to perpetuate changes made pursuant to both the Collaborative Agreement and

the use of force-related MOA. In the years since the agreements were terminated, complaints against the Cincinnati Police Department have continued to decline, as have statistics on the CPD's use of force. Internal accountability systems remain intact and central to CPD operation, and the department's culture appears to have been transformed.

Prince George's County lies at the other end of the spectrum. Though the evidence is fairly thin, what does exist describes a jurisdiction that was unable to use the pattern or practice reform process to bring about significant change. Today, as was the case in 2004 when the MOA was signed, the department remains mired in corruption scandals and allegations of excessive force. Though much more work is needed to confirm these initial impressions, it would seem that meaningful reform has failed to take root.

Pittsburgh's story is not as quite as bleak as the one unfolding in Prince George's County, but the PBP appears to have taken a considerable step backward in the years following the implementation of the consent decree. Citizen-based allegations of unlawful behavior are up across the board, the Bureau is embroiled in at least two major force-related scandals, and the accountability infrastructure developed during the reform effort appears to be in decay.

Evidence of Washington, D.C.'s efforts tells a mostly positive story. MPD appears committed to sustaining reform-based organizational and programmatic changes. Chief Lanier is a strong leader who continues to say all the right things about her agency's continued desire to reach the level of accountability and lawfulness established under the MOA. Outcome-based evidence, on the other hand, is decidedly mixed. In the two years since the MOA was lifted, citizen complaint data suggest that MPD has regressed substantially. This finding is belied by dramatic declines in force-based civil litigation and related payouts in the last two years of the District's implementation process.

Next, I attempted to explain these results using a framework consisting of four groups of elements. Specifically, I analyzed the extent to which an agency's ability to sustain pattern or practice reform is a function of (1) the reform process; (2) the terms of the settlement agreement; (3) the 'internal' context within which the reform effort took place; and (4) the reform's environmental context.

This analysis suggests that the presence of several factors have contributed to Cincinnati's lasting success, including an unambiguous commitment to the reform effort from police department leadership and the city's political class. Specific post-reform policy choices, including the Manager's Advisory Group, reflect this broad commitment to sustainability. Efforts in Cincinnati have also been buoyed by a healthy relationship between CPD management and department organized labor. The decision to include the FOP in reform negotiations gave the rank and file some ownership over the issue and forced these officers to be a constructive partner in the process. The same can be said for the city's civil rights leaders and the community writ large. The bottom-up process used to develop the CA fostered a broad commitment to the reform effort, a fact that continues to pay dividends in terms of police accountability, transparency, and community relations.

Where Cincinnati is strong, Prince George's County appears to be weak. Reform has suffered in part due to inconsistent political support and the absence of motivated outside pressure for change. High turnover among PGPD police chiefs has resulted in the relative absence of strong, consistent department leadership. County executives, who in speeches have proclaimed the importance of police accountability and external oversight, appear to have forgotten the reform effort in favor of other corrupt and illegal activities. And the community itself seems to have been unable to maintain focus on police behavior and related reforms.

Table 24.: Explaining the sustainability of pattern or practice reform

	Pittsburgh	Wash., D.C.	Cincinnati	PG County
Substance of reform				
Goal clarity	X	X	X	X
Goal congruence				
Designed to promote sustainability	X	X	X	X
Link bet. reform and performance criteria				
Post-reform evaluation			X	
Process of reform				
Comprehensive reform initiative	X	X	X	X
Organic reform effort				
Lengthy implementation period	X	X	X	X
Independent monitor oversight	X	X	X	X
Organizational context				
Committed leadership		X	X	
Capable leadership		X	X	
Leadership continuity		X	X	
Mid-management support	TBD	TBD	TBD	TBD
Street-level officer support	TBD	TBD	TBD	TBD
Environmental context				
Supportive political leadership		X	X	
Resources	X	X	X	X
Union support			X	
Oversight by civil society	X	X	X	X
Strong external accountability Infrastructure		X	X	
Broad community support			X	

Similar themes resonate in an analysis of post-settlement problems in Pittsburgh. Most acutely, a dearth of political will seems to have subjugated police reform. The current Mayor has amassed a great deal of power and appears intent on strangling voices critical of his administration or of actions taken by the Bureau of Police. The current chief does not appear to

be in control of his department, and lacks the institutional backing and/or gravitas to take on the Mayor. The police union, whose strong political backing contributes to the Mayor's power, continues to oppose anything that may reduce its autonomy and authority, including several organizational and programmatic changes made during the reform period. The city's civil rights network is relatively strong, but for a time allowed police reform to fall from its agenda. Only in the wake of the Jordan Miles incident has police abuse once again become a prominent public issue.

Sustained change in Washington, D.C. has, and will continue to be, shaped by MPD's strong leadership. Chief Lanier, and her commitment to the values underlying the MOA, appear to have the support of the city's political class, though any changes brought about by the election of Vincent Gray have yet to be made apparent. D.C. has a very strong citizen complaint agency and a community seemingly desirous of an accountable and lawful police department. Understandably, given its location, the community does seem to lack the kind of focus on the issue that has so clearly contributed to success in Cincinnati. Though the District's unwillingness to include the police union in either settlement negotiations or the implementation process has yet to create tangible problems for MPD's institutionalization efforts, that may change as the FOP advances efforts to assert its authority – and its opposition to the MOA – through the courts.

These findings should be read with several caveats in mind. First, I have come to this view based on something less than full or ideal data. I was not granted access to any of the four departments, and therefore have no objective means to evaluate the viability of policies and systems established during the reform process. I did not attempt to take an independent measure of department culture and I did not speak with any mid-level managers or patrol officers. Nor did I survey city/county residents or conduct focus groups with community leaders.

Thus, I have no ability to address those aspects of the sustainability framework. And though I have presented several different outcome-based metrics to evaluate each department, there remain shortcomings with both the data and the analysis used here as well. The quality and breadth of outcome data available for each jurisdiction varies considerably. Much more is known, for example, about Cincinnati, than is known about Prince George's County. What is more, I have not presented a deep quantitative analysis of the data presented. Until that is done, there remains the possibility that some of my outcome-driven conclusions are spurious.

Second, the analytical frameworks used here are in their earliest developmental stages. As a result, many of the concepts discussed and variables used remain imprecise. My operationalization of 'community-related' factors, for example, uses rough approximations to define the concept. More work here, and with other components of each framework, including 'leadership' and 'leadership transition,' will help to solidify my findings.

Third, and perhaps most importantly, it is still very early to analyze the sustainability of reform in Cincinnati, Washington, D.C., and Prince George's County. As the experience in Pittsburgh demonstrates, the passage of time can threaten what appears to be a well-sustained reform effort. After all, in 2005, some three years after the consent decree terminated, Chief McNeilly remained in charge of a department committed to perpetuating the reform effort. Over the next several years, the political winds shifted, department leadership changed, and the community moved on. Today, the city and its police department are struggling to reacquire the accountability and community support generated by the consent decree.

Even with all of that said, this analysis has demonstrated that reform is a much broader, more complex concept than simple 'legal' compliance. Pattern or practice reform is indeed a powerful tool. After implementation, affected departments will possess a stronger, more capable accountability infrastructure, largely based on the substance of the agreements and the

implementation process. But as the results indicate, implementation does not in and of itself guarantee meaningful, lasting change.

True change is much broader than legal compliance with the terms of a DOJ settlement agreement. The creation of an early warning system and the development of a rigorous training program may in fact help a department develop new cultural values, and may facilitate an attitudinal shift to toward civil liberties, the rule of law, and accountability. But neither the implementation process nor the substance of the pattern or practice settlement agreement can bring about such fundamental reorientation. Nor can the pattern or practice template ensure that police leadership will continue to place high priority on sustaining change long after implementation has occurred. Further, the template does not insulate jurisdictions from the effects of election results, shifts in public opinion, or the preferences of union groups and other members of civil society. This research shows that these factors are critical to the sustainability of pattern or practice reform. The more of them there are, the more likely a reform will last beyond the implementation period.

CHAPTER 7

CONCLUSIONS, IMPLICATIONS, AND WIDER THEMES

I think this process restores legality and legitimacy.
---Ron Davis, Former Independent Monitor

Introduction

Harvard Law Professor William Stuntz (2006, 798) has called Section 14141 of the Violent Crime Control and Law Enforcement Act "the most important legal initiative of the past twenty years in the sphere of police regulation." The passage of Section 14141 is said to have created a "new paradigm of police accountability" (Walker 2003; 2005) and given the Department of Justice a "critical tool for the federal regulation of police misconduct" (Harmon 2009). To be sure, most scholars who study police behavior see great potential in the pattern or practice initiative (see also, e.g., Davis et al. 2002; 2005; Stone et al. 2009; Armacost 2003).

This is of little surprise, given that the substance of pattern or practice settlement agreements represent the state of the art in rights-based police reform. Representative of the conventional wisdom in policing circles, each decree establishes a framework consisting of rule-based policy changes, increased officer training, early warning system development, and a series of hierarchical oversight and accountability mechanisms (Principles for Promoting Police Integrity 2001; Walker 2005).

It is also unsurprising that legal academics and police accountability experts would champion a process predicated on the enforcement of constitutional rights and the rule of law. Pattern or practice reform represents the combined hopes of police reformers, civil rights activists, defense attorneys, and legal scholars: A credible, law-driven process that capitalizes on

federal authority to identify and remedy unlawful police behavior prospectively, structuring comprehensive, agency-wide reform around a set of widely-accepted precepts. Yet much of this excitement has developed in the absence of empirical testing or considered theoretical examination.

In what is to date the most comprehensive scholarly examination of the pattern or practice initiative, this dissertation is a first step toward filling that research void. Specifically, I examine comparatively the reform process in four jurisdictions found by the DOJ to have engaged in a pattern or practice of unlawful use of force: Pittsburgh, PA; Washington, D.C.; Cincinnati, OH; and Prince George's County, MD. I rely on data gathered from independent monitor reports, stakeholder interviews, publically available statistics, and other secondary sources, to document and analyze each effort from two distinct and interrelated vantages: police department compliance with the terms of the settlement agreement, which I refer to as implementation; and institutionalization, or the extent to which the process has led to meaningful and sustainable policy change.

I begin this final Chapter with a summary of the study's parameters and a brief review of my findings. I start by describing the research included in Chapters 3 and 4, which together address questions related to implementation. From there I discuss the reform sustainability, and provide a short synopsis of the work presented in Chapters 5 and 6. Next, I offer six specific policy recommendations, with the hope not only of enhancing the effectiveness and durability of the process, but of making it more inclusive, transparent, and publically accountable. In closing, I discuss pattern or practice reform in the context of four broad, thematic issues that appear throughout the dissertation. I use this final section to raise several theoretical and empirical questions, in the process developing an ambitious agenda for future research.

Summary of Findings

Chapters 3 and 4: Settlement Implementation

In Chapters 3 and 4, I examine the implementation of pattern or practice settlement agreements in Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County. In Chapter 3 I begin by reviewing policy implementation literature dating to the mid-1970s, and discuss in some detail the first two "generations" of such research. Building on conceptual principles from the likes of Pressman and Wildavsky (1973) and the practical work of Mazmanian and Sabatier (1989), in addition to theoretical and empirical research from various fields, including education, remedial law, and most influentially, policing, I develop a unique, top-down framework to explain the pattern or practice implementation process.

In Chapter 4, I test this framework using data from the four jurisdictions. First, I examine each department's effort to implement three distinct settlement agreement components: (1) use of force policy change; (2) early warning system development; and (3) the establishment of a citizen complaint review protocol, and attempt to explain variation between jurisdictions and across component parts. Second, in addition to this 'constituent' analysis, I consider those factors that shaped department efforts to achieve 'substantial compliance' with the terms of the settlement. In examining implementation from a 'holistic' perspective, I move from the very narrow to the very broad. What follows is a brief review of my findings.

Constituent and Holistic Implementation

The results of my 'constituent' analysis showed considerable variation between the four jurisdictions and across the three settlement components under review. Compared to other jurisdictions, Pittsburgh had less trouble making changes to their use of force protocol and in developing their early warning system, but struggled mightily to establish a legitimate citizen complaint mechanism. Washington, D.C., Cincinnati, and Prince George's County faced

considerable challenges implementing each of the three constituent parts reviewed, though the nature of these problems were largely unique from jurisdiction to jurisdiction. For example, early warning system implementation was much more difficult in Washington, D.C. than it was in Cincinnati; but Cincinnati had trouble developing a lawful use of force policy while Prince George's County, Pittsburgh, and Washington did not.

In an attempt to explain these kinds of variations, I test my explanatory framework, which includes four broad categories of elements thought to affect implementation: those related to (1) the tractability of the problem itself; (2) the policy solution; (3) the environmental context; and (4) the organizational context.

When viewed in isolation, there appear to be few if any patterns – either in terms of the problems I observed or those elements that promote success – that help to explain the results of this 'constituent' analysis. For example, Washington, D.C.'s resource shortages complicated MPD's pursuit of an early warning system; agency leadership's early skepticism of the process slowed implementation in Cincinnati; and delays in Prince George's County appears to have occurred in part because of some hesitancy on the part of agency staff to commit to the reform effort.

Yet, when seen from a wider angle, several patterns emerge to explain variation in the implementation of settlement constituent parts. *First*, the implementation of a pattern or practice settlement agreement, like that of most other legal/policy instruments, is not a simple task. As Pressman and Wildavsky made clear almost forty years ago, the process is as fragile as it is complex, particularly as the number of actors and decision points increases. Even under ideal conditions, implementation can be derailed by the most banal of problems. Basic elements, including sufficient resources, clear goals, and a well-organized operational strategy, are imperative.

Second, implementation is largely a function of the people involved. In addition to department organizational structures, managerial strategies, and policy choices, the nature of the reform effort is much more likely to be a function of key actors' commitment to the process, and willingness to cooperate, compromise, and persevere in the face of setbacks or delays. In this sense, an actively involved, supportive police department leadership team is pivotal. *Third*, the independent monitor is a powerful force throughout the term of the settlement agreement. By establishing compliance standards, setting the pace and focus of the implementation process, and serving as the chief accountability mechanism, among many other things, the monitor has the ability to affect the implementation process profoundly.

In clear contradiction to the variation and drama that defined each department's constituent implementation experience, results of my holistic evaluation showed relative uniformity and predictability. Despite experiencing what appeared to be considerable difficulties implementing specific components of their respective agreements, each jurisdiction was found to be in 'substantial compliance' with the terms of their decree within five to seven years of the settlement date. In some cases, this determination was made with little to no adjustment to the agreements' original termination date. In other words, each department's legal violation – a pattern or practice of unlawful use of force – was eliminated, and complex and comprehensive remedial order was implemented to bring the affected department in line with relevant constitutional law, all within five to seven years. Thus, in terms of what I have called 'holistic' implementation, the process was timely, relatively devoid of significant problems, and ultimately quite successful.

The Implementation System

I argue in Chapter 4 that these holistic results are at least in part explained by the operation of what I termed the pattern or practice implementation 'system.' This system is a

constellation of loosely coupled elements that operate independently and unchoreographed, yet work together systematically to promote compliance and to move police departments through the reform process. The system consists of several component parts, all drawn from the analytical framework tested in Chapter 4. Successful implementation of pattern or practice settlement agreements cannot occur without a police department that is committed to the process. Agency leadership appears to be of particular importance here. The chief is central to promoting a culture of compliance and for ensuring that mid- and street-level staff understand the importance of the reform effort. The absence of committed agency leadership is likely to prove very difficult to overcome, particularly in light of the top-down, centralized nature of the process. In addition to the commitment of department personnel, adequate resources are also imperative, as is the clarity of the settlement agreements themselves, in terms of short and long-term goals and the means in place to achieve them.

The system also relies heavily on several external environmental elements, including the independent monitor, Department of Justice staff, the presiding judge, and jurisdictional political leaders. In many ways, these actors come to serve as an accountability and enforcement mechanism, tracking day-to-day developments, facilitating collaborative solutions to delays, and instituting sanctions for non-compliance or inadequate improvement. This oversight function is necessary to ensure consistent progress and a relentless commitment to the process among agency leaders.

Beyond the oversight and enforcement provided, the willingness and ability of these external actors to engage with police staff in order to work through problems is crucial. In short, actors external to the department must conceive of the settlement agreement as a means to an end, a vehicle for moving the police toward the long-term goal of accountability and legal compliance, rather than a set of tasks to be completed in order to get out from under DOJ

oversight. These actors must also consider oversight and enforcement a necessary part of the process, but not let those duties crowd out the need for a flexible, collaborative approach.

Politics is another key component of the pattern or practice implementation system, driving the behavior and interaction of nearly every actor at every level of the process. Electoral politics, for example, tends to shape how members of local level political actors view the reform effort. Indirectly, the quest for re-election characterizes both executive and legislative branch officials' approach to the budgetary, personnel, and oversight decisions shaping the implementation process. Further, political considerations influence the DOJ's orientation toward the process. The complexion of the Special Litigation Section, the arm of the DOJ charged with enforcing Section 14141, changed considerably after the elections of George W. Bush and Barack Obama. With these shifts in personnel came subtle yet important changes in the way pattern or practice initiatives were developed and implemented, all of which impacted directly the experiences of the four departments under review.

Politics also defines the inner-workings of the departments themselves, with clear effects for implementation. Relationships between police leadership and lower-level staff are inherently political. So too are organizational decisions regarding the allocation of personnel (e.g., whom to put in charge of the committee responsible for managing implementation or where to assign specific mission critical tasks) and resources, as well as the development of agency priorities. The politics between the police union and department management also have the ability to affect the implementation of pattern or practice reform.

Finally, the importance of the independent monitor to holistic implementation cannot be overstated. As has been well-established, the work of the monitor, from holding departments accountable to facilitating cooperative problem solving, is perhaps the defining characteristic of the pattern or practice reform process.

A Few Caveats

With all of that said, there are at least a few caveats to the analysis presented in Chapters 3 and 4. First, my review of the implementation process is limited by the very nature of the inquiry: in focusing exclusively on legal compliance, or the strict implementation of settlement agreement terms, it does not indicate one way or another whether these changes were 'meaningful' in terms of policy change. There is no indication from these findings whether settlement-driven reforms will translate into a lasting respect for the rule of law or a belief in the need for transparency and accountability among officers. The considerable – and widely variable – problems observed in the monitors' descriptions of department efforts to implement each constituent part seems disconnected from their relatively predictable and near uniform determination that each department had reached 'substantial compliance' either just as the settlement was originally scheduled to terminate or shortly thereafter.

In light of this finding, it is difficult not to consider settlement termination somewhat of a fait accompli, an event pre-determined to occur at a mutually agreed-upon date, almost regardless of what the facts dictate. Notwithstanding the delays and inefficiencies experienced while implementing key components of the settlement agreement, two of four agencies (Pittsburgh and Cincinnati) were released from DOJ oversight on time. Two other agencies (Washington, D.C. and Prince George's County) were released after the settlement terms were extended by two years, though notable deficiencies remained in each department. In Prince George's County, for example, the monitor reports discuss severe problems with PGPD's early warning system and citizen complaint infrastructure, yet after five years, the MOA was terminated. I am aware of counter-examples, including the State of New Jersey, whose CD remained in place for ten years, and Pittsburgh's Office of Municipal Investigation (OMI), which operated under federal oversight for over nine years, but my analysis suggests that the DOJ

prefers to limit the implementation process to a maximum of the original contract length plus two years (i.e., if the original agreement set the termination date at five years, then the process is unlikely to extend beyond a total of seven).

Just based on this circumstantial evidence, it is difficult to scuttle the perception that issues of politics and concerns over federalism seem to have as much, if not more influence over how and when affected departments will be released from DOJ oversight, than do matters of technical reform in police operations.

Other theories seem plausible as well. One could certainly argue that matters of symbolism drive termination. It is possible, for example, to be convinced that the message sent by terminating the agreement increases the police department's confidence in itself and the public's confidence in it, in the process helping to re-establish the department's legitimacy in the eyes of the community. If a symbolic 'victory' is the goal of termination, rather than instrumental advancements, perhaps a hard cutoff date is desirable.

It is also possible that perpetuating the settlement agreement indefinitely would have the opposite effect, undermining the authority of department leadership and the political leaders who support the chief, in the process potentially subjecting the DOJ to unwanted criticism. Or perhaps termination can be explained by the concept of diminishing returns. If a department has not affected change or developed the capacity to manage the accountability framework without the oversight of the monitor, then the department likely never will. To throw limited federal resources after bad rather than invest in other departments with a greater capacity for improvement. In any case, future research should examine these types of questions carefully, paying close attention to those factors shaping DOJ and monitor termination decisions.

Relatedly, the specific mandate codified in Section 14141 and the cramped nature of a pattern or practice settlement agreement limits the DOJ's interest in the matter to substantial compliance with the legal terms of settlement. The DOJ's specific, narrow interpretation of its authority grants deference to federalism and separation of powers principles and self-consciously constrains the Special Litigation Section's and by extension, the independent monitor's, ability to advance beyond the specific terms of the settlement agreement.[89] In short, the DOJ is concerned with moving police departments into compliance with constitutional law as articulated by the settlement agreement, not necessarily with affecting cultural change, improving police-community relations, or even minimizing the use of excessive force.

Of course, an exclusive focus on adherence to the terms of the settlement does not necessarily translate into a more effective police department. Residents, minority rights advocates, and civil libertarians, not to mention police officers themselves as well as jurisdictional political actors, care about much more than legal compliance. They want to know whether the affected department will use force more judiciously, and will treat them more fairly, more courteously, and so on. In other words, implementation defined along these narrow terms seems related to policy effectiveness only tangentially. It is primarily for that reason that my analysis in Chapters 5 and 6 moves from legal implementation to the sustainability of meaningful policy change.

Implications

The findings presented in Chapter 4 are of considerable value to those actors involved in current and/or future settlement initiatives, perhaps none more so than, in the immortal words of Pressman and Wildavsky (1973, xxi), "the understanding that implementation, under the best

[89] Many observers, including former monitor Ron Davis, see this as a clear strength of the 14141 initiative. Davis heavily criticized independent monitors who use their authority to step beyond "the four corners" of the settlement agreement, regardless of their motivation for doing so.

circumstances, is exceedingly difficult." That the process's inherent, exceeding difficulty, is mitigated by the presence of strong leadership, adequate resources, clear goals, supportive political principles, and a skilled and dedicated independent monitor, should also not be overlooked.

In addition to several other lessons, it is important to note that the implementation of pattern or practice reform has not come at the expense of the police department's ability to fight crime. Data from the FBI indicates that property crime dropped in all four jurisdictions during the implementation period, with an average annual decrease of just over three percent.[90] Violent crime declined in three of the four jurisdictions at an average annual rate of 3.2 percent.[91] The exception was Pittsburgh, where violent crime increased by an annual average rate of 6.83 percent between 1997, when that jurisdiction's settlement was instituted, and 2002, when the agreement was dissolved. Without an in-depth analysis, it is very difficult to explain the reduced incidence of crime or distinguish the downward trend in these jurisdictions from lower rates of crime in cities across the country. But even in such raw form, these data suggest strongly that the process of rights-based reform does not in and of itself necessarily coincide with or lead directly to increases in crime. This finding is critical for several reasons, the most salient of which may be in demonstrating that public safety and respect for individual rights can co-exist, and that increased accountability and transparency do not necessarily result in reduced public safety or higher rates of criminal behavior.

Along those same lines, results presented in Chapter 4 suggest that "de-policing" does not present as significant of a problem as some believe. Limited anecdotal evidence shows that

[90] Property and violent crime data for all four jurisdictions between 1992 and 2009 is provided in Appendix 3.

[91] Between 1997 and 2009, property crime in the United States declined by an average of 2.28 percent annually. Over that same period, violent crime in the United States dropped by 2.29 percent.

operational changes related to pattern or practice reform – whether in the form of new settlement-related policies; increased paperwork requirements; more intense supervisorial oversight; a loss of autonomy and discretion; or the potential threat of discipline/liability – has had some negative effect on officer morale. In some cases, these feelings of discontent have manifested in a hesitance to engage fully with citizens, preferring instead to 'drive and wave.' But documented cases of de-policing are rare, and by most accounts not part of a larger pattern of police behavior. Officers seem to adjust to the settlement terms fairly quickly, rendering de-policing less likely as the implementation process unfolds.

Together Chapters 3 and 4 also make a series of theoretical contributions. Policy implementation scholars may find value in my application of "first" and "second generation" literatures to a unique and understudied policy type, as well as my considerable expansion of Mazmanian and Sabatier's top-down explanatory framework. This framework helps to brings clarity to a complex set of tasks, illuminating both the constituent and holistic analysis of the implementation process. Further, the implementation 'system' I develop illustrates the interaction between internal and external actors, each motivated by competing technical, political, and symbolic goals, and accounts for issues of politics, resources, and other contextual factors that drive the process of change. This 'systemic' approach to implementation is unique conceptually and may be transferable to other substantive issues and policy domains.

Chapters 5 and 6: Sustainability of Change

In Chapters 5 and 6 I argue that pattern or practice reform can and should be evaluated from a much broader perspective than purely legal compliance. Specifically, I frame the reform process in policy terms, and make the case that the goal of sustainable organizational change involves much more than compliance with the legal mandates of a negotiated settlement. To that end, I suggest that the reform process should be viewed from at least three complimentary

perspectives: (1) a department's ability to sustain the components of the reform effort after the DOJ's oversight has ended, focusing exclusively on those systems of oversight and accountability that drove legal compliance; (2) the extent to which department culture reflects core reform values, including accountability, appreciation for citizen rights, and transparency; and (3) the degree to which change is reflected in key outcomes, including use of force data, citizen complaints, and performance failures. I draw on organizational change, institutional reform, and policing literatures to develop this perspective and then use the framework to evaluate the extent to which Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County have achieved meaningful, self-sustaining change.

The results of my analysis suggest that Cincinnati has done very well to institutionalize the changes made pursuant to the pattern or practice reform effort. Washington, D.C. and Pittsburgh each present a mixed picture, showing some positive signs but not to the same level of achievement as seen in Cincinnati. Prince George's County, MD continues to experience considerable difficulty molding its police force in the image of Section 14141. Though these results are preliminary, and reflect incomplete data and in some cases a very limited timeframe, the variability observed does suggest that the implementation process itself is not alone capable of generating meaningful, lasting organizational change.

That said, the implementation process can be a powerful mechanism for changing department policies and generating valuable management systems. The defining characteristics of the implementation system – the independent monitor, DOJ oversight, the threat of judicial sanction, and the tight, linear nature of the policy instrument – can and should be replicated in other policy areas. Yet even in light of these clear strengths, the process itself does not guarantee transformative reform. The implementation process itself is necessary but not

sufficient to creating lasting policy change: pattern or practice initiatives give jurisdictions a state-of-the-art instrument for achieving lawful policing, but little else.

In an effort to explain the divergent post-implementation experiences of Pittsburgh, Cincinnati, Washington, D.C., and Prince George's County, I develop and evaluate an explanatory framework that relies on four groups of elements, including those related to (1) the implementation reform process; (2) the settlement agreement terms; (3) internal agency context; and (4) environmental context. The explanatory variables discussed, including capable agency leadership, sufficient financial resources, and consistent support for the initiative among political leaders, civil rights groups, and members of the public, in addition to several others, have an additive effect: The more elements that are present and the higher their intensity, the more likely a jurisdiction will be to sustain change.

Consistent, strong leadership is critical to achieving lasting reform. As is true during the implementation period, without a capable and credible reform advocate at the top of the police department, any changes made during the implementation period are likely either to fail to take hold or will be diminished over time. The development of agency priorities, department norms, and officer cultural tend to move from the top down, flowing from the chief through mid-level managers and down to the patrol officer. Of course, officers at all levels enjoy considerable discretion and may, for better or worse, act on their own volition in contravention of leadership mandates. But adherence to the letter and spirit of the reform effort is more likely if department upper management has made doing so a clear priority.

Political will is also an important component of successful reform. Support among elected officials for police accountability and the protection of civil liberties helps to maintain pressure on the police department and can serve to keep issues of police behavior on the public agenda. In Cincinnati, for example, the mayor and the city manager both continue to extol the

virtues of the Collaborative Agreement and the MOA, and have each taken public steps to ensure that the reforms remain not only core to the operation of the police department but a part of the public conversation. Pittsburgh Mayor Luke Ravenstahl's highly political and rather heavy-handed approach to issues of police accountability provides a counter-example. Yet not all valuable political support is vocal: personnel decisions have a significant effect as well. The choice to hire Cathy Lanier to lead the Metropolitan Police Department and Milton Dohoney as the City Manager in Cincinnati have yielded clear benefits. The effect of replacing outgoing Prince George's County Chief Melvin High with Roberto Hylton (and Hilton with Magaw) is much more ambiguous; it is hard to determine to what extent the ongoing challenges faced by that department are a function of leadership or in spite of it.

Hand in hand with political attention to the issue is the willingness and ability of civil liberties organizations and other citizen groups – in addition to the public at large – to remain focused on police oversight. Consistent attention to policing can serve as an additional check on unlawful or undesirable department behavior and can help to ensure that an affected department will remain faithful to the terms of the settlement. Beyond serving as a means of holding the department accountable, citizen engagement with the reform effort helps to promote a much broader set of goals.

The experience in Cincinnati illustrates this principle very clearly. As has been described at some length, the reform process in that city was unique to the other three. In addition to the DOJ's pattern or practice settlement (MOA), the Cincinnati Police Department (CPD) was charged with implementing the Collaborative Agreement (CA), a settlement signed with several civil rights groups, including the ACLU, and the CPD's primary police union in order to avoid private litigation over the CPD's alleged use of race-based profiling. The terms of the CA, which were developed through a concerted bottom-up effort that relied on community participation

and extensive negotiation with all of the signatory parties, mandated the use of problem-oriented policing and emphasized improving police-community relations. Together, the CA and the MOA galvanized the city and focused residents, particularly members of minority communities, on issues of police reform, police behavior, and race.

Despite its relatively narrow focus, the Department of Justice's pattern of practice reform initiative is indeed a powerful mechanism for achieving accountable, lawful policing. The enforcement of Section 14141 provides both federal and local actors a means of bringing some of the country's worst departments into compliance with constitutional and statutory law. During this five to seven year reform process, affected departments are charged with implementing changes to policy, personnel management systems, oversight regimes, and misconduct investigation infrastructures.

This 'police accountability' template is designed to function as a turnkey solution to the problem of systematic unlawful police behavior. To varying degrees, each of the four departments under review have become more accountable, more lawful, and more transparent. These departments have used the technical components of the accountability template to adjust both organizationally and operationally – and in most cases have done so without a spike in crime. In short, the pattern or practice reform process can be a very effective mechanism for giving departments the tools to comply with the law and protect citizen liberties.

Yet this research shows that these tools must be used properly if they are to translate into meaningful organizational change. Without effective leadership, sufficient labor and capital resources, wide political support, and consistent public attention to the issue, among several other things, these tools will not generate the kind of organizational change needed to affect policy capable of lasting beyond the five or seven year implementation period. Examples abound: Over two years after settlement termination, the Prince George's County Police

Department (PGPD) continues to struggle with very basic notions of lawful policing. Despite early progress in the years after termination, today the Pittsburgh Bureau appears to have taken several steps backward. Though early in the post-settlement period, reforms in both Washington, D.C. and Cincinnati appear to be relatively strong despite challenging political and economic conditions. Very clearly, for pattern or practice reform to begin to live up to its potential, an ongoing effort must be made by the police, political leadership, civil liberties organizations, and the public to make constitutional policing a priority.

Policy Recommendations

In light of the foregoing detailed examination of the pattern or practice reform process, I move next to a series of policy recommendations designed to improve implementation and to enhance the likelihood that such reform efforts will lead to meaningful, sustainable policy change. Before making any specific suggestions, however, it is worth addressing perhaps the most salient take-away from this research: the importance of political will.

The reform template offers police departments and municipal governments an excellent set of tools for achieving constitutional compliance and promoting police accountability. The process has been shown to affect the very essence of our democratic process and can be a valuable mechanism for reducing police misconduct, strengthening individual rights, mediating racial tension, and promoting police-community reconciliation.

But the effectiveness of Section 14141 reforms, like any tool, are limited by the skills and motivations of the people who possess them. In short, for a pattern or practice initiative to achieve its legal and policy goals, there must be a strong commitment to the process on the part of all involved. Ideally, each of a jurisdiction's key stakeholders will embody such a commitment, but two sets of actors are critically important: (1) members of a jurisdiction's political branches; and (2) police department staff, from the chief and other top brass down through the chain of

command and into the rank-and-file. Unless these actors are able to maintain an unwavering support for the process and a when necessary demonstrate a willingness to sacrifice other priorities for the sake of full implementation, the value of the reform effort will be severely limited.

The recommendations that follow are presented on the assumption that the requisite institutional commitment and political will exist to carry them out.

External Oversight and Additional Reporting

Along those same lines, the second set of policy recommendations revolves around an effort to promote sustainable change through continued external oversight of reform-related police behavior. The findings from this research and theoretical literature on organizational change suggest that external accountability mechanisms are as important to post-reform sustainability efforts as they are to implementation, if not more so. To that end, I recommend the following:

(1) Develop a mechanism for continued external oversight of reform-related police department systems, procedures, and outcomes

(2) Mandate the publication of regular reports by police departments, citizen complaint agencies, and misconduct investigation units that at minimum include data on:
- Police use of force
- Citizen complaints against the police
- Citizen complaint resolution procedures and individual complaint investigation outcomes
- Incidents of alleged police misconduct
- Internal misconduct resolution procedures and investigation outcomes

(3) Develop a regular stakeholders meeting where political officeholders, police management, union representatives, community leaders, and other relevant government agency leaders, discuss reform-related issues

One of the clear strengths of the pattern or practice implementation 'system' I describe at the end of Chapter 4 is the role played by the independent monitor teams to manage and

evaluate department reform. To this end, the monitor serves as an accountability mechanism, a means of ensuring focused attention to the reform effort, a 'fixer,' a conduit between police department personnel and DOJ attorneys, a source of information about the implementation process, and a guarantor of transparency. Recommendations 4, 5, and 6, are presented with the goal of replicating as closely as possible the job performed by independent monitors during the implementation process.

The potential benefits of these recommendations for police accountability and the rule of law are clear. Subjecting the police to a periodic 'constitutional audit' would in theory force departments to remain cognizant of the goals of the reform effort and has the potential to reduce slippage or the loss of focus that naturally coincides with the absence of a legal mandate and/or the passage of time. For his part, former Washington, D.C. MPD chief, Charles Ramsey believes such continued oversight is an imperative:

> [M]y sense is, and I feel very strongly about this….I don't care if it's once a year, once every other year…[you have to] go back and make sure that the reforms and changes that were put in place are still in place and people are still in compliance. I don't think you can -- you can do it for a four-year, five-year period, what have you, you know, wipe your hands, and walk away and think that it's going to last forever. It's not going to last forever (Interview with author, May 20, 2010).

For many of these reasons, in 2009 the New Jersey State Legislature codified a plan to continue oversight over the New Jersey State police following that agency's release from a federal consent decree in place from 1999 to 2009 to remedy a pattern or practice of racial profiling. A newly created agency within the State Comptroller's Office is guaranteed full access to the department and is charged with replicating the oversight provided by the independent monitor, including the review of department data, evaluation of internal processes, and so on. The New Jersey State Office of Law Enforcement Professional Standards (OLEPS) would serve as a useful model for similar efforts elsewhere. Their first report was published on April 29, 2010 ("First Monitoring Report Prepared by OLEPS" 2010) to wide acclaim.

Several interviewees suggested that the Department of Justice itself should perform periodic post-termination audits of affected police departments. Though such a solution would certainly have the effect of promoting sustainability, perpetuating DOJ involvement would likely raise federalism concerns and stretch beyond capacity limited Special Litigation Section resources. As such, a local solution seems preferable.

The second recommendation, to require local police-related agencies to publish regular reports that incorporate reform-related information, would accomplish several transparency- and accountability-related goals. First, such reports would ensure that police departments, citizen complaint agencies, and independent misconduct investigation agencies, like Pittsburgh's Office of Municipal Investigations, collect data on key metrics. Second, requiring these agencies to release the information publically subjects their performance to outside analysis, in the process increasing significantly transparency, accountability, and oversight. Third, the production and release of official data would give to interested researchers the means of analyzing agency performance. Beyond the obvious research-related benefits, such expert analysis may lead to collaboration between the jurisdiction's law enforcement agencies and neighboring universities, think tanks, and independent outside experts, which may result in policy benefits for the affected agency. The partnership that has developed between the Cincinnati Police Department and researchers at the University of Cincinnati's School of Criminal Justice is a great example here.

As of today, several jurisdictions already generate useful reports. In Washington, D.C., both the MPD and the Office of Police Complaints include data germane to the pattern or practice initiative in their annual reports, as does the Cincinnati Police Department and that city's Citizen Complaint & Internal Audit agency. On the other hand, though the Pittsburgh Bureau of Police generates an annual report, these documents are released to the public on an

ad hoc basis and do not include useful statistics on either use of force or police misconduct. The Citizen Complaint Review Board (CPRB), Pittsburgh's independent complaint investigation agency has published annual reports, but ongoing efforts to delegitimize CPRB undermine that agency's ability to serve as a serious accountability mechanism. Pittsburgh's OMI releases no regular report.

Though the Prince George's County Police Department publishes an annual report, the document does not include any useful information on either the use of force or police misconduct, and certainly does not address the status of reform-related systemic or policy changes. Similarly, the annual report published by Prince George's County's Citizen Complaint Oversight Panel is at best perfunctory, and does not include any meaningful data or useful analysis.

The value of the production of such reports has not been lost on civil liberties organizations and members of other adversely affected communities. In Pittsburgh, for example, there has been a recent push to pass local legislation that would require the PBP to expand greatly the focus on use of force and officer misconduct in their annual reports. Similar efforts by other affected jurisdictions would be a useful step toward perpetuating the changes made during the reform process and maintaining a focus on accountability and the protection of constitutional rights.

Next, I recommend that each pattern or practice jurisdiction create a regular stakeholders meeting where leaders from relevant government agencies, political offices, and citizen groups, meet to discuss reform-related issues. Such a effort has the potential to produce considerable benefits in terms of reform sustainability. Such meetings would create a forum for open dialog about public safety, police accountability, and police-community relations, in the process keeping these issues high on the public agenda. Further, by fostering relationships

between actors representing different institutional values and often conflicting perspectives, such meetings may have the effect of facilitating constructive dialog and problem-solving instead of the acrimonious disputes that are too often fought through the press. The Manager's Advisory Group, which was included in the final order terminating the Collaborative Agreement, and is overseen by Cincinnati City Manager Milton Dohoney, is an inspiring example of such an idea.

A More Inclusive, Bottom-Up Approach

Nearly every step of the current reform process relies on a very concentrated, top-down approach, beginning with the settlement negotiation. The Department of Justice typically negotiates the terms of the agreement with a very small group of jurisdictional leaders, including representatives from the chief executive's office, the police department, and top government lawyers. In most cases, views of the police union, community and civil society groups, and the legislative branch are not represented. These voices are most often kept out of the implementation process as well; they are not invited to attend regular status meetings, not consulted on how to overcome delays or how to work through disagreements.

There are several valid reasons for keeping the process closed. Making space for union representatives at the negotiating table, for example, runs the risk of delaying the process considerably. Labor and management rarely see eye to eye, particularly on issues that involve the potential for increased officer discipline, the loss of autonomy and discretion, and the assignment of public blame for an ongoing pattern of police misconduct. These disputes may be serious enough to derail the negotiation process. So too may those raised by including leaders from civil liberties organizations and other community groups. What is more, giving union leaders and community representatives a role to play in the implementation process would likely generate an ongoing threat of disagreement and delay.

As the results from this study demonstrate, however, such risks offer the potential for great benefits, both in the short and long term, and may be worth the costs. The experience in Cincinnati makes clear that efforts to incorporate the views of the police union, relevant civil rights organizations, and members of the public more broadly, created minimal delays and only led to a small number of setbacks during either negotiation or implementation. Further, the inclusive approach continues to pay dividends in terms of the depth of reform and the sustainability of change. Cincinnati City Manager Milton Dohoney summarizes the costs and benefits of a more inclusive approach thusly:

> [Y]ou've got to have all the stakeholders represented. So if you had the Department of Justice sort of all over the police department and the community's not there, you're creating a set of standards or expectations that the community has no reason to buy into, because they weren't a part of making it. What we did, as painful as it was, was to have the community present…[to lay out], either directly or through their counsel in the ACLU, here's what we're asking you to consider. And so when we got to the end, they were a part of the process, part of the solution, and they saw ideas that they had reflected in the agreement that was in writing (Interview with author, Mar. 24, 2010).

With these potential benefits in mind, I recommend three specific changes to the negotiation and implementation process:

(4) Include union representatives and key civil rights organizations in the settlement negotiation process

(5) Use focus groups and outreach with city residents to develop settlement content

(6) Include union and community group representatives in the implementation process by inviting group leaders to regular status meetings

By including union and civil rights groups in the negotiation process, police management and jurisdictional political leaders will be forced to acknowledge and address opposition to the process before an agreement is in place, rather than during or after implementation. This makes much less likely the occurrence of two problems that have undermined efforts to reach sustainable change in places like Washington D.C., where union groups continue to litigate in an

effort to repeal parts of the settlement, and Pittsburgh, where members of the civil rights community lost sight of the reform effort to the detriment of lasting reform. What is more, an invitation to participate in regular implementation status meetings would provide these groups continued access to the reform effort, giving them a voice and the ability to affect the outcome of the process of change.

Simply the process of participating in negotiations can increase the legitimacy of the settlement in the eyes of potential opponents and would-be critics (Tyler 2003; Tyler and De Cremer 2005). Participation can also give key stakeholders a sense of ownership over both the process and the content of the agreement. To that end, I also recommend that parties to the settlement process adopt a broad, grassroots effort to incorporate the views of the community. Whether through the use of focus groups, interviews, surveys, or other techniques, providing unorganized community members a chance to participate in the development of the settlement agreement – and thus ownership over the process and the content – has the potential to galvanize support for the reform effort and begin to develop the kind of broad commitment needed to sustain the initiative long after the DOJ and the monitor teams have left town.

Before proceeding, it is important to acknowledge the fact that these reforms are predicated on a recognition by DOJ attorneys, political leadership, and police management, that the pattern or practice reform effort is both a legal and a policy process. Framing the initiative purely along legal lines creates an argument for excluding outside actors,[92] and could conceivably obviate any motivation for doing so. If the exclusive goal of the process is only to bring affected departments into "substantial compliance" with the terms of the agreement as

[92] For example, if the DOJ determines that settlement negotiation must be limited to only those parties that are liable under Section 14141 and thus the subject of potential litigation, such a process would necessarily exclude union representatives and civil rights organizations.

quickly as possible without any commitment to sustaining policy change over time, then there are far fewer reasons to incorporate the views of outside actors.

The results presented in Chapter 4 make clear that the achievement of purely legal goals is quite efficient when the negotiation and implementation are driven from the top down. On the other hand, if the reform process is framed in terms of both law and policy, the goals of the initiative necessarily become much broader and more difficult to achieve in the absence of widespread community interest in sustaining success. As I illustrate in Chapter 6, part of what is useful about comparing the experiences in Cincinnati to those in other jurisdictions is to highlight the value of community support and participation in efforts to sustain changes to organizational culture and in outcome metrics, not just department systems and structures.

The specifics of implementing these recommendations are beyond the scope of this work. Future research must grapple with the implications of how such changes are best instituted, proper enforcement mechanisms in the face of noncompliance or substandard performance, how to structure community forums and focus groups, how long after settlement termination external auditing would be required, the kinds of data to be included in published reports, and so on.

Each recommendation could in theory be accomplished by including provisions in the original settlement agreement or could be developed individually by each jurisdiction, either through executive or legislative action. There are costs and benefits to each approach. The former raises the specter of an encroaching Department of Justice, and the prospect of a perpetual federal mandate may cause local jurisdictions to opt for litigation rather than settle the initial pattern or practice claim. The latter subjects the reforms to local politics, which may result in either inaction or a diluted policy outcome. Regardless of how they are attempted, such intense external oversight and mandated transparency will likely be opposed by police leaders

and union representatives. Working through how to overcome such resistance is imperative, as is the recognition by all parties involved, including the Department of Justice and the affected police department, that sustainable change is not only critically important, but is unlikely going to happen simply by virtue of implementing the legal requirements of a pattern or practice settlement agreement.

Together, these six recommendations offer a way to bring together the legal and policy goals of the pattern or practice reform effort, in the process helping to create the conditions for successful implementation of a reform initiative capable of perpetuating meaningful, lasting change.

Broader Implications and Future Research

In this final section, I address four thematic issues implicated by the pattern or practice reform process and my analysis of both implementation and institutionalization, including (1) the quest to control bureaucratic discretion; (2) rights-based reform and remedial law; (3) race and police-community relations; and (4) policy-making in a constitutional democracy. Though none has been the central focus of my dissertation, each theme has been present throughout and raises several exciting areas of future research. As such, in my attempt to frame Section 14141 in terms of these broad themes, I propose a series of possible empirical and theoretical research questions.

Discretion, Accountability, and Organizational Change

The first of several critical thematic issues that define this research is the tension between the inherent value of police discretion and the DOJ's drive to remedy systematic, unlawful use of discretionary authority (excessive force, in the cases analyzed herein). The

framework developed for this purpose is driven by several very traditional regulatory tools, including written rules, chain of command oversight, and officer training.

The use of the administrative rules to "confine," "structure," and "check" officer discretion is perhaps the most important of these tools. Originally described in Kenneth Culp Davis's (1975) seminal discussion of police discretion, the use of written rules to manage street-level discretion has become a core strategy for controlling unlawful police behavior, from racial profiling and officer use of force to search and seizure and suspect arrest (see, e.g., Walker 1993; Mastrofski 2004; Walker 2005). Very clearly, those rules installed by the DOJ as part of the reform process (including limits on use of force, mandated street-level reporting requirements, supervisorial oversight requirements, et cetera) are designed to limit the discretion of patrol officers. Other elements of the framework serve the same ends. Increased officer training is designed to reinforce the policies and procedures established by settlement-driven rules. Hierarchical, chain of command, oversight systems, are designed to manage compliance with the new rules and training protocols, in the process working to centralize decision-making authority. Early warning systems were developed to support this oversight and enhance street-level accountability.

As I have discussed elsewhere, this framework has become a template of sorts for DOJ settlement agreements. In addition to Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County, these policies have formed the basis for reform efforts in Los Angeles, Detroit, the State of New Jersey, Steubenville, OH, and several others. Further, the template is at the core of "technical advice" provided by the DOJ to police departments that have come under investigation but who have avoided formal pattern or practice intervention.[93] Despite its

[93] In many cases, the DOJ will investigate a department alleged to have engaged in a pattern or practice of misconduct. In some instances, the DOJ has found no pattern or practice. In others, despite such a finding, the DOJ has chosen to provide "technical assistance" rather than engage in a formal reform

centrality, this framework is not unique to the enforcement of Section 14141. In his recent chronicle of the evolution of use of deadly force policy, Charles Epp (2010) discusses the import of the 'rules-oversight-training' approach to historical efforts to control police discretion. In 2001, the Department of Justice argued that such policies comprised the "best practices" for promoting police accountability and continues to urge departments across the country to implement such a framework (U.S. DOJ 2001). Sam Walker (e.g., 2003; 2005) has lauded the framework, as have several other scholars (e.g., Livingston 1999).

Further Empirical Testing

As I have argued throughout, much of this praise has been given without sufficient empirical justification. We know relatively little about how each of these components operate individually to control unwanted uses of discretion, and almost nothing about how they operate when used in concert. I have made an effort to examine this issue, but have barely scratched the surface. Does the template accomplish what it is designed to? Is the framework capable of controlling discretion and holding officers accountable? Does it succeed in limiting unlawful use of force (or racial profiling, search and seizure abuse, undesirable use of K-9s, Tasers, and so forth)? Are there interaction effects or unforeseen outcomes, either positive or negative? Is an agency-wide approach to managing misconduct truly more effective than individualized efforts that focus on deterrence through officer liability and administrative sanctions? Much, much

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process. There are several possible explanations for the choice to allow departments to implement changes on their own (the DOJ does not publicize reasons for these decisions; in interviews with me, former Special Litigation staff chose not to comment on the matter). There are several possible reasons for the provision of technical assistance over former intervention. The former is much cheaper and less involved for both the DOJ and the affected department. If the DOJ believes that department leadership is capable of implementing reforms on its own, it may be likely to give the department that opportunity, in the process saving the federal government time and money while providing a boost of public confidence for the police.

This is an area ripe for future research. Little is known about the DOJ's decision to provide technical assistance. Even less is understood about the implications of such a decision. The field would benefit greatly from an analysis of those jurisdictions that have come under investigation but not faced formal pattern or practice intervention.

more must be done to examine the accountability framework empirically, both in the pattern or practice context and elsewhere.

Questions about the empirical fortitude of the pattern or practice template are of clear importance. Relevant decision-makers, including DOJ attorneys, police chiefs, civil rights organization leaders, and politicians at all levels of government must have a better understanding of how the framework operates in practice before continuing to choose this model over others as the primary mechanism for achieving compliance with the law.

Organizational Implications

The organizational implications of this framework should also be the focus of future research. The framework's rules and corresponding oversight and accountability mechanisms result in highly centralized, tightly structured, hierarchical accountability systems.[94] Throughout the process, organizational power is shifted from street-level officers to management and decision-making authority is further concentrated at the higher ranks. At least in theory, the patrol officer has much less control over decisions about how to interact with citizens, including when and how to use force, when to report on incidents, and so on. The same is true of mid-level managers, who must operate under pre-established policies regarding supervision, incident reporting, discipline, and training. A necessary byproduct of these changes is to make the day-to-day work of both street- and mid-level officers much more bureaucratic, rule bound, and legalistic.

This hierarchical model of bureaucratic accountability is of course not unique to pattern or practice departments. Such a system has existed for decades in one form or another. The

[94] As a somewhat tangential aside, Max Weber cited "bourgeois demands for equal protection under the law" (DiMaggio and Powell, 1991, 63) as one of three central causes of organizational bureaucratization. The DOJ's enforcement of Section 14141, a statute crafted as a means of asserting citizen rights against the police, seems to support Weber's notion.

"orthodox" administrative management techniques of the post-New Deal era were perpetuated by the police professionalization movement of the 1950s. In this model, power flows from the top of the organization downward, and discretion is aggressively controlled through chain of command hierarchies and administrative rules. Though much has changed in the last 60 years, in many ways this approach continues to be the organizational point of reference for many departments. Despite its strengths and resultant pervasiveness, the centralized, hierarchical model has drawn considerable criticism from both academics and police practitioners – in part for its failure to recognize that street-level discretion cannot be controlled effectively from the top down. Does the implementation of pattern or practice reforms bring with it many of the problems that have plagued command and control hierarchies throughout history, both in policing and elsewhere?

The Community Policing (COP) movement of the early-1990s was designed as the antidote to the traditional organizational approach. Most broadly, COP is defined as "a philosophy of full service policing, where the same officer patrols and works in the same area on a permanent basis from a decentralized place, working in a proactive partnership with citizens to identify and solve problems" (Trojanowicz and Bucqueroux 1994). Adams et al. (2002) suggest that COP is defined by three essential characteristics: (1) a shared responsibility for order maintenance between the police and members of the community; (2) an operational emphasis on crime prevention, which "shifts the focus of police activities from 'people processing' (e.g., arrests, serving warrants) to 'people changing' (e.g., facilitating neighborhood watch groups)" (401); and (3) increased officer discretion, which, the authors note, "often requires [a] decentralized organization and a flattened command structure" (402).

As is clear, the traditional, centralized approach at the heart of the pattern or practice reform template seems to have little in common with the COP model. In terms of organizational

priorities and operational focus, as well as their driving goals and underlying ethos, the two models seem to conflict directly. As one scholar notes,

> The quasi-military bureaucratic management structure imposes a punitive style of supervision that is a disincentive to risk-taking and creativity necessary for the problem-solving orientation of community policing. In addition to being strategically incompatible with community policing, it is incompatible with the internal goals of decentralization and empowerment (Williams, 2003, 125).

Thinking about pattern or practice reform in terms of its compatibility with a community policing approach raises a series of interesting potential research questions, with broad implications for future reform efforts and the process of police administration. Most broadly, what is the relationship between the pattern or practice reform template (which is "strategy neutral" in the sense that neither the reform process nor the substance of mandated changes requires anything of the affected department in terms of crime control or order maintenance efforts) and wider department policy priorities?

Is the pattern or practice accountability framework compatible with other strategic policing initiatives, particularly those like COP, that rely on decentralized, highly discretionary organizational models? There is some evidence from Cincinnati that suggests it may be. The CPD implemented COP in 1991, developed a "problem-oriented" strategic approach pursuant to the terms of the Collaborative Agreement,[95] and continues to employ cutting edge anti-gang and anti-gun initiatives (Engel et al. 2008). Washington, D.C.'s MPD has also shown the ability to balance strategic advancement with pattern or practice reform. How has the implementation of pattern or practice reforms affected the development and maintenance of similar strategic

[95] ¶16 of the Cincinnati Collaborative Agreement (2002) reads:

> Initiatives to address crime and disorder will be preceded by careful problem definition, analysis and an examination of a broad range of solutions. The City of Cincinnati will routinely evaluate implemented solutions to crime and disorder problems, regardless of the agency leading the problem-solving effort.

initiatives in other Section 14141 jurisdictions? Does the installation of hierarchical accountability systems have any effect on efforts to control crime and promote stable police-community relations? Is the pursuit of "mission-based" goals less efficient or less effective in agencies that have implemented pattern or practice accountability mechanisms?

As these questions suggest, in addition to its clear relevance to policing, the pattern or practice initiative touches on several longstanding issues of bureaucratic control, organizational design, and personnel management. The process can serve as a vehicle for deeper analysis of regulatory efforts to shape street-level discretion and may provide insight into the drive to mold individual behavior in the vision of constitutional law. It raises important issues about the interaction between organizational design and agency policy, and has implications for wider debates about the relationship between legal values (accountability, equality, transparency) and managerial priorities.

Rights-based Reform and Remedial Law

In its most essential construction, Section 14141 grants to the Department of Justice the authority to enforce constitutional law against police departments that have systematically violated the rights of U.S. citizens. The pattern or practice reform process is the chosen means of obtaining "appropriate equitable and declaratory relief to eliminate the pattern or practice" of misconduct (42 U.S.C. Section 14141). Though the process itself is entirely unique, the challenge of defending individual rights and liberties against a powerful and often over-zealous government has been a core conflict since the founding era. Articulating and implementing these rights continues to be a particularly thorny problem, and precisely the one addressed by judge-led remedial law efforts that came to prominence in the 1970s and pattern or practice reform.

Remedial Law

In an article many credit with catalyzing the study of public administration in the United States, Woodrow Wilson (1887) wrote, "it is getting to be harder to *run* a constitution than to frame one." Today, scholars and practitioners continue to wrestle with the challenge of designing the business of public organizations so as to deliver services efficiently and effectively while protecting individual constitutional rights – the very business of running a constitution. These issues span several academic disciplines, including law, public administration, and criminal justice, while bringing in to stark relief the inherent tension between legal, political, and administrative values in the operation of American democracy.

Beginning in the 1950s, the Supreme Court's redefinition of many of the most important Bill of Rights safeguards – including the Fourth Amendment's unreasonable search and seizure clause, the Eighth Amendment's cruel and unusual punishment prohibition, and the equal protection and due process clauses of the Fourteenth Amendment – strengthened the protection of private citizens against the arbitrary, disparate, or unjust application of government authority (Rosenbloom, et al., 2010). Many of these rights were enforceable in court, which had the effect of cementing litigation as a viable policy instrument and guaranteed the judiciary a prominent role in the definition of certain key social policy issues.

The most complex of these issues involved systematic violation of individual rights by government agencies, including school districts and prison systems, many of which were either disinterested or incapable of changing to comply with constitutional law. Rather than sit idle while their decisions were ignored, many courts chose to manage the reform of unlawful

government agencies themselves. Born out of the struggle to implement *Brown v. Board of Education*, this process has come to be known as remedial law.[96]

Based on the principles of injunctive and equitable relief, judicial orders at the heart of remedial law declare past agency action illegal (e.g., holding prisoners in overly crowded facilities) and set in place conditions that "attempt, by directing changes in structure or practice, to undo damage done to the plaintiffs and others similarly situated" (Cooper 1988, 14). The judicially managed remedial process is a complex and time-consuming undertaking. Remedial orders are legally binding documents that typically involve issues of agency organization, strategic orientation, personnel management, and budgeting, and as such, operate at the intersection of law, politics, and administration. Over the last 50 years or so, plaintiffs have called upon judges to issue constitutionally-driven remedial orders against segregated school districts (e.g., *Milliken v. Bradley* 1977), abusive prison systems (e.g., *Ruiz v. Estelle* 1980), and mental hospitals shown to house patients in unconstitutional conditions (*Youngberg v. Romeo* 1982), among others.

A very well-developed strain of scholarly research examines the legitimacy of the process, from the perspectives of law, policy, and management, with a particular eye toward the institutional and managerial competency of the judge. Those critical of remedial law believe that the use of the federal judiciary to manage the reform of local institutions at the very least raises difficult separation of powers and federalism questions (e.g., Mishkin, 1978; Diver, 1979; Yoo, 1996; Sandler and Schoenbrod, 2003). It is state and local administrative agencies that should be worried about managing public prisons and schools, they argue, not federal judges. More acutely, many of these scholars assert that the remedial process places judges in a position for which they are neither qualified nor accustomed (e.g., Horowitz 1977; 1983). The argument

[96] This phrase is often used interchangeably with "institutional reform litigation," "structural reform litigation," and "public law litigation," among others (Schlanger 1999).

follows that judicial management of institutional reform has the potential to threaten the judiciary's institutional prestige (Chayes 1975) and inevitably results in illegitimate and undesirable outcomes (Horowitz 1977; Diver 1979; Yoo 1996).

Several others laud the remedial law process for its ability to reform public institutions shown to have violated systematically established legal principles. To these scholars, results, in the form of the articulation of individual rights against powerful and abusive bureaucracies, outweigh any costs associated with the process (e.g., DiIulio 1990; Cavanaugh and Sarat 1980; Wasby 1981; Feeley and Rubin 1998; Schlanger 2006). Speaking about remedial law in the context of public school desegregation, constitutional law scholar Erwin Chemerinsky (2003, 31) summarizes this perspective succinctly:

> Desegregation will not occur without judicial action: desegregation lacks sufficient national and local political support for elected officials alone to remedy the problem. Specifically, African Americans and Latinos lack adequate political power to achieve desegregation through the political process. This relative political powerlessness was true when *Brown* was decided and remains true today. The courts are indispensible to effective desegregation.

A version of the remedial law model has also been used to articulate and implement statutorily derived rights on a range of issues,[97] including special education, prison management, access to reproductive health clinics, and of course, through Section 14141, police practices. In fact, there appear to be several parallels between traditional judicially-managed remedial law and the pattern or practice reform process examined herein.

Comparative Analysis – Reform in Practice

[97] Some believe that remedial law, is a term properly affixed only to those cases involving constitutional claims and the day-to-day judicial management of reform decrees (see e.g., Justice Breyer's dissent in *Horne v. Flores* 2009). Others, like Sandler and Schoenbrod (2003), tend to use this phrase to describe all reform driven by remedial outcomes of litigated legal claims, whether derived from constitutional or statutory rights. Jeffries and Rutherglen (2007, 1413-14) argue that a pervasive feature of remedial law is "the preeminence of constitutional claims" before noting that "the term is not subject to hard-and-fast definition."

The field would benefit greatly from a closer comparison between the traditional remedial law model and the DOJ's enforcement of Section 14141. To what extent are criticisms of remedial law applicable to pattern or practice reform? On one hand, it would seem that the minimal role played by the judge in managing pattern or practice implementation would obviate many of the separation of powers arguments levied against the judge-led model. On the other, as Judge Dlott's role in Cincinnati suggests,[98] judicial enforcement is very much a part of the pattern or practice process, if more as a potential mechanism for addressing noncompliance rather than as an instrument of day-to-day management. Does that fact satisfy critics who claim that judicial management inherently threatens our separation of powers model? Are DOJ attorneys and monitors better equipped than judges to manage such a process, or are all such (non-police) actors equally unqualified to oversee police department reform? On the contrary, would a judicially managed process result in a more effective, stronger set of legal protections in place to limit the use of unlawful and unaccountable police practices? In other words, is the traditional remedial process capable of generating a more effective, more durable set of police department reforms?

Beyond their separation of powers arguments, critics of traditional remedial law argue that the process is an ineffective means of balancing the defense of constitutional rights with other policy-related concerns. Specifically, opponents suggest that the rights at the core of remedial law efforts tend to be ambiguous, with resultantly quixotic and seemingly interminable implementation processes (e.g., Cooper 1988; DiIulio 1990; Dunn 2008). Further, because the parameters of this process are subject to the whims of federal judges and influenced heavily by lawyers and interest groups involved in the litigation (see Sandler and Schoenbrod 2003), the process often becomes a single-minded drive toward a "constitutional" solution. In many cases,

[98] Not to mention Judge Feess's heavy involvement in the LAPD reform process.

the argument goes, such a unfocused solution strays from the original legal issue, instead becoming a platform for well-intentioned judges and litigants to address all of society's ills (e.g., Horowitz 1977; Yoo 1996). Ultimately, critics suggest that this exclusive focus on remedying constitutional violations too often ignores the complexity of the task, minimizing the importance of other important factors, including the jurisdiction's limited resources, electoral preferences, and so on.

On the surface, pattern or practice agreements appear to be immune to many of these criticisms. Section 14141 settlements are defined by very specific and narrow tasks rather than ambiguous rights. Pattern or practice agreements are the antithesis of the meandering remedial decree, instead characterized by precise deadlines and pre-determined end dates. And of course, a team of executive branch technocrats, including DOJ attorneys and independent monitors, manages the 14141 implementation process, rather than a federal judge. The absence of private litigants minimizes the influence of constituent groups and advocacy lawyers in the negotiation process. As a result, the goals of the settlement are able to remain fairly narrow, and the means used to achieve them well-defined.

Chapter 4 highlights the positive effects of clear means and ends, both of which help to make the implementation of pattern or practice reform a fairly efficient process. Findings from Chapter 6, however, suggest that the process may not be as effective at generating meaningful, sustainable changes to the way affected departments approach the task of constitutional policing. Does wider empirical analysis confirm that the pattern or practice reform process too heavily favors implementation efficiency over lasting policy change? Would a more traditional remedial approach, with private citizens driving the litigation and a judge overseeing implementation of reform, result in a stronger protection of citizen rights? Would a private cause of action (instead of the current construction, which gives the DOJ exclusive enforcement

authority) yield other benefits, as some suggest (e.g., Gillies 2000)? Is the pattern or practice implementation "system" more or less susceptible to the kinds of external influences and personal agendas that have derailed traditional remedial efforts in the past?

Relatedly, there is a great need for research examining the choice to frame pattern or practice reform initiatives as a consent decree (CD) or as a memorandum of agreement (MOA).[99] The two instruments are legally distinct, but operate almost exactly the same in practice. A CD forms a legally binding document (filed with and enforceable in court), while a MOA is a voluntary expression of intent by agreeing parties that functions like a private contract. As such, a MOA is enforceable in court only upon a demonstration of breach.

In theory at least, judges play a more active role when overseeing a CD than they do a MOA. Is that indeed the case? Beyond the role of the judge, are there practical differences between the two instruments, in terms of implementation and institutionalization? Most of my interviewees seemed to believe that the distinction was without meaningful difference. Does their supposition hold up under closer empirical examination? In either case, why are some 14141 settlements memorialized in the form of CDs while others are MOAs, and what factors affect the decision to opt for one over the other? Is the decision political? Technical? Symbolic? Instrumental? Under what conditions is one mechanism preferable over the other? A closer comparison of CD and MOA reforms would not only help to answer such questions, but would provide a useful analysis for future policy makers.

[99] Of the four reform initiatives examined here, one (Pittsburgh) was in form of a consent decree, while three others were formalized as memoranda of agreements (Washington, D.C.; Cincinnati; and Prince George's County).

Comparative Analysis – Reform in Theory

The field would also benefit from a richer theoretical comparison of remedial law and pattern or practice reform. Philip Cooper's (1988) volume, *Hard Judicial Choices*, offers the most articulate and comprehensive explanatory analysis of the implementation of remedial decrees, and thus the most useful vehicle for such an analysis. Using a broad cross-section of case study data,[100] Cooper emphasizes the role of the judge while describing a five-stage model charting the development and implementation of remedial law cases. According to Cooper, the process begins with a "Triggering Event," moves through "Liability," "Remedy Crafting," and "Termination" phases, and concludes with a "Post-Decree" phase. Cooper presents this five-step process as a means for understanding the relationship between the several actors important to the remedial process, as well as for documenting the political, social, and organizational elements that shape each case.

Several conceptual similarities suggest that Cooper's model may help to establish a more systematic understanding of Section 14141 reform. First, both traditional remedial law and Section 14141 reform rely on litigation (or the threat thereof) as a mechanism for remedying systemic unlawful government action. Second, each requires significant federal involvement in the operation and management of non-federal institutions. Third, each process revolves around controversial substantive issues, brings into conflict several potentially adversarial groups, and occurs in a fluid, contentious political environment.

[100] Cooper examines remedial orders in five substantive areas: school desegregation; prison deinstitutionalization; mental health facility reform; public housing discrimination; and police department malfeasance. The police case, *Rizzo v. Goode*, 423 U.S. 362 (1976) stemmed from allegations of police misconduct in violation of the Fourth Amendment, ultimately reached the Supreme Court. Though the case did lead to important procedural outcomes, which, until passage of the 1994 Violent Crime Control Act, limited the federal role in police reform, Cooper's analysis of the case is of little value to this analysis. The suit did not result in a workable reform agenda and produced no substantive changes to the Philadelphia Police Department.

Key differences – including the absence of litigation (thus far) in favor of negotiated settlement; the ambiguous definition of a "pattern or practice of unlawful behavior,"[101] in contrast to the very well thoroughly established legal rights driving desegregation, prison overcrowding, and so on; the managerial role of DOJ attorneys and the considerable authority of the independent monitor; Section 14141's relatively fixed termination dates (as opposed to remedial decrees, which have been known to extend for upwards of 25 years [e.g., *Missouri v. Jenkins* 1995]), to name a few – raise several interesting empirical and analytical questions. Ultimately, to what extent is Cooper's model applicable to the Section 14141 police department reform process, in light of these and other differences? How could it be improved?

Pattern or practice reform is the latest – and arguably most sophisticated – effort to to define and enforce individual rights against unlawful government behavior. Drawing on past remedial law initiatives and related scholarship to consider pattern or practice reform would no doubt deepen the field's theoretical understanding of both traditional remedial efforts and the DOJ's ongoing enforcement of Section 14141. More importantly, such a comparative analysis would enhance the implementation of pattern or practice decrees and more than likely help to increase the effectiveness of the process.

[101] This ambiguity has generated some controversy over the DOJ's "selective" enforcement of the statute – both in terms of those jurisdictions it chooses to investigate and decisions about when to take formal action. One could certainly argue that these arguments parallel those made about "whimsical" judicial decisions vis-a-vis the implementation of remedial orders, et cetera. As of this writing, neither of the selective enforcement claims has been litigated, though there is some indication that it may happen in the near future. Until very recently it appeared that the Maricopa County Sherriff's Office, led by "America's Toughest Sherriff," Joe Arpaio, had planned to challenge in court the DOJ's 14141-related investigation into alleged discriminatory police and corrections practices. On June 2, 2011, the parties reached a settlement pursuant to which DOJ attorneys have taken "tours of Maricopa County Jail facilities, as well as interviews of MCSO staff, detention officers, posse members, and command staff, including two interviews of Sheriff Joseph Arpaio. DOJ has also conducted interviews of inmates in the Maricopa County Jails" as a part of their initial investigation. See Reilly 2011.

Section 14141 and Race

In a recent interview with Playboy magazine, former NYPD and LAPD chief William Bratton argued that police behavior is critically important to race relations in the United States. "If we don't solve the race issue, we'll never solve the other issues," said Bratton. "The police have traditionally been the flash point for so many of America's racial problems" (Domanick 2008, 71-2). There is much historical evidence to support Bratton's view. The Kerner Commission identified racial tension between the police and minority communities as a primary explanation for the urban upheaval of the 1960s. Riots in the 1960s were certainly not the last example of the costly interaction between police behavior and race. Several other blue ribbon commission reports, including the Christopher Commission and the Mollen Commission, highlight the intertwinement of race and police abuse, as do recent incidents involving Rodney King, Amadou Diallo, Henry Louis Gates, and Jordan Miles.

I will not endeavor to provide a thorough discussion of the scholarly research examining the relationship between race and policing. Even a cursory review of work by Kennedy (1998), Cole (2000); Walker et al. (2009); and Weizer and Tuch (2006), to name a few, makes plain the importance of evaluating police behavior, particularly misconduct, with an eye towards race. At minimum, in light of both historical and scholarly evidence, it is difficult to argue with the notion that the historically vexed and deeply rooted relationship between the police and minority communities affects greatly issues of law and order, crime and justice, misconduct and accountability across the United States.

There are reasons to believe that the analytical convergence of race and police conduct is of particular relevance in the context of Section 14141. As is highlighted in Chapter 2's case studies, all four jurisdictions have a long history of tension between the police and members of

minority communities, some of which are decades old. Relatedly, in each instance, race played a central role in the events that eventually led to DOJ involvement. To review:

- In Pittsburgh, the death of two black men at the hands of the police combined with the dossier to complaints lodged with the ACLU by African American Pittsburghers alleging disproportionate use of force and a wider pattern of discrimination by PBP officers. These complaints formed part of the DOJ's case against the city.

- In Washington, D.C., a series of stories in the Washington Post chronicled MPD's high – and racially skewed – rate of police involved shootings, many of which targeted blacks, and ultimately led to DOJ oversight.

- In Cincinnati, the shooting of Timothy Thomas by a white police officer sparked the 2001 riot that forced the city's mayor to request a DOJ investigation.

- In Prince George's County, the well-documented string of police violence and corruption incidents, together with a litany of complaints collected by the NAACP in the early-2000s, helped to substantiate the DOJ's claims of systematic misconduct.

Despite their obvious intertwining, the Department of Justice has thus far chosen not to draw the connection between police misconduct and racial tension. Instead, the DOJ's diagnosis – and thus necessarily, its prescriptions – are purely technical in nature, geared toward addressing unlawful behavior in isolation, as if it existed in an environmental-contextual vacuum. Taken on its own merits, the substance of pattern or practice settlement agreements seems to suggest that the DOJ believes that the most effective remedy for long-standing, systematic police misconduct, from which is many cases racial tension cannot be severed, is to strengthen the department's policies, oversight systems, training protocols, and managerial capacity, without any acknowledgment of race.[102]

[102] Feasibility is also certainly part of the DOJ's calculus. Attempting to address longstanding racial tension between police and minority groups through the enforcement of Section 14141 presents several obvious logistical challenges, many of which may result in threatening either the legality of the initiative and/or the technical capacity of the reforms implemented pursuant to such a wide-ranging settlement.

This seeming disconnect begs a series of important questions. Assuming that the DOJ's initial investigation demonstrates a racial component to the pattern or practice of abuse (e.g., racial profiling, use of force disproportionately against minorities, et cetera), should the settlement agreement's prescriptions attempt to address issues of racial tension directly? How would this be done? Is the pattern or practice initiative the most appropriate mechanism for achieving these kinds of nebulous sociological goals? Would such a formal acknowledgment result in more effective remedial reforms?

At least one powerful argument seems to justify doing so. If the problems of police misconduct are in fact inextricably related to racial tension, purely administrative reforms are insufficient. Scant more evidence is needed that the long list impotent policy reports, study groups, and blue ribbon commissions that dot the histories of Pittsburgh, Washington, D.C., Cincinnati, and Prince George's County. If race indeed underlies police-community tension and contributes to the kinds of patterns of police abuse that motivate DOJ intervention, then an appropriate solution must address the root causes rather than focusing exclusively on developing the most sophisticated treatment of symptoms. No matter how effective the technical solutions, racial tension left unaddressed will inevitably render police department administrative reforms unsustainable.

The case of Cincinnati demonstrates both the feasibility and the potential of this idea. As has been described in some detail at points throughout this dissertation, the Cincinnati Collaborative Agreement (CA), a private settlement agreement negotiated by the police and representatives for the ACLU, the United Black Front, and the city's police union, among others, defines addressing racial tension in the community as a top goal. Simply the involvement of civil society groups like the United Black Front provides a voice, albeit indirect, for minority residents, and is thus a means to that end. Much more powerful, however, was the year-long

process of dialog between plaintiffs' attorneys and members of the community in an effort to incorporate citizen views into the content of the CA. As the name of the settlement suggests, the CA makes police-community relations a clear priority by taking specific steps to address bias in policing and to promote cooperation through the use of collaborative problem-solving strategies. The CA's inclusive, bottom-up process gave minority residents ownership over the terms of the settlement, which, as I discuss in Chapter 6, has contributed to sustaining changes made pursuant to the CA as well as the federal MOA.

Proponents would certainly argue that there are few if any practical reasons that the DOJ could not develop a similar process. Holding community meetings to incorporate the views of minorities would not add considerable cost or delay to an already very expensive and time-consuming investigative/negotiation/monitoring process. In fact, DOJ staff have in the past interviewed community leaders and individual citizens as part of their fact-finding investigations. Expanding that process and taking steps to solicit ideas from community residents does not seem beyond the capacity of DOJ attorneys. What is more, the legal authority granted to the DOJ pursuant to Section 14141 is open-ended with respect to means of enforcement.[103]

Supporters also likely interpret the example of Cincinnati to mean that a pattern or practice agreement that targets underlying racial tension through the use of a more inclusive process and by incorporating specific settlement provisions designed to improve police-community relations is not only feasible but offers the prospect of several positive outcomes.

[103] The language of the statute (42 U.S.C. Section 14141) establishes that the Attorney General "may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice." Clearly, challenges to the DOJ's incorporation of a race-based solution to patterns of misconduct would be based on the argument that such strategies are not "appropriate." Though this is little more than pure conjecture, it seems to me that these kinds of arguments would be defeated by a clear demonstration by the DOJ of a plausible connection between jurisdictional racial tension and the established pattern or practice of unlawful police behavior. In other words, if the DOJ convinces a reviewing court that the police department's problems are at least in part about race, then most courts would likely sanction the DOJ's chosen remedial approach.

Further, the potential benefits of using the resources of the federal government and the strength of the pattern or practice statute to address issues as profound as race and policing in American far outweigh whatever costs incurred by doing.

On the other hand, the Cincinnati Collaborative Agreement did not formally involve the DOJ and in many ways is a unique agreement with limited applicability to the more typical pattern or practice settlement. Aside from the legal arguments against it, which would likely center on jurisdictional limitations, there are several questions about the desirability of having the federal government drive such a policy. Opponents would surely argue that federalism concerns outweigh any benefits along these lines. If a local jurisdiction wants to develop policies to address racial tension, then it is the local government that should craft and implement such an effort, not the federal DOJ. After all, the effort in Cincinnati was led by local civil rights attorneys and civil society groups without any involvement from Washington.

Relatedly, there is a strong argument to be made that expanding the scope of the DOJ's task vis-a-vis Section 14141 would have undesirable side-effects. Most acutely, incorporating a focus on race may run the risk of overwhelming the process, hindering the DOJ's ability to develop and implement the kinds of technical changes at the heart of the current approach. Martha Derthick's (1972) analysis of the New Towns program seems to support this notion. In the final analysis, Derthick concludes that "the program's failure…was that federal officials had stated objectives so ambitious that some degree of failure was certain."

In addition to the several theoretical arguments against the use of Section 14141 to address racial tension, at least two practical arguments resonate. First is the assumption that the federal DOJ would be able to identify and develop workable remedies for a problem as nebulous as racial tension or police-community animosity. One of the perceived strengths of the current approach is the specificity with which settlement language is able to describe both

means and ends. The goals of settlement implementation are clear and the steps to achieving them are carefully articulated in the form of several very precise steps to reform. A critic would no doubt suggest that the goal of racial harmony seems to belie such precision, and would run the risk of setting the process up for failure.

There are solid arguments to be made on both sides of this issue, and though it seems highly unlikely that such changes will soon become part of the DOJ's modus operandi, there is no doubt much to the issue that bears further scholarly attention.

Policy Making, Federalism, and Constitutional Democracy

The enforcement of Section 14141 raises a host of important issues about the policy making process within our federalist constitutional system. Disagreements over the proper role of the federal government defined the founding era (most famously in a theoretical dispute between Hamilton and Jefferson) and continues to influence the operation of our democracy today. The use of federal authority to shape preferences in policy areas, like policing, traditionally controlled by local governments is inherently controversial, and several competing arguments exist on both sides of the issue. Framing pattern or practice reform along these lines presents a series of interesting empirical and theoretical research questions.

Antithetical to Federalism?

The federalism argument against pattern or practice reform is quite simple: Control over public safety is reserved by the Tenth Amendment to state and local governments. Federal interference with the organizational and operational choices made by local leaders conflicts directly with this principle, in the process infringing on one of our federalist constitutional model's most fundamental principles – that of divided government. At its core, this argument is about power and control over the shape and operation of government. The 14141 process

represents a considerable transfer of decision-making authority from one set of government officials to another, namely from local officials like police chiefs and mayors to the federal Attorney General and DOJ career attorneys. Such a process prevents local jurisdictions from becoming "laboratories of democracy" and limits the ability of grassroots communities to make specific choices about public safety and law enforcement. In the eyes of one national police union organization, for example, the prospect of pattern or practice reform represents an existential threat to local autonomy:

> A…battle is now being waged…pitting the legal weight and limitless financial resources of the U.S. Justice Department against [a municipal government's] right to control its own police department. At stake is no less than the fate of local agencies everywhere to control their own destinies versus an emerging pattern by the Clinton Justice Department aimed at federalizing municipal police departments…(Hutchinson n.d.).

Proponents of pattern or practice reform, on the other hand, argue to the contrary that enforcing Section 14141 is exactly the type of function the federal government is meant to perform. Local governments, after all, have no capacity to choose to violate constitutional law. Regardless of which crime control strategies a jurisdiction prefers or what percentage of the budget a city council allots to public safety, local police behavior must comport with the rights and liberties established under the constitution. Section 14141 grants to the federal DOJ authority to enforce those legal principles, and the performance of those duties is not only consistent with federalism principles, but represents a clear example of divided government in action.

Though this dispute, like others discussed throughout this dissertation, hinge on whether Section 14141 reform is framed along legal or policy lines, there are several interesting empirical questions to be examined. For example, does Section 14141 have a homogenizing effect on local policing? If so, is it true only of those agencies against which the DOJ took formal action, or has isomorphic pressure affected agencies that received only DOJ "technical

assistance" as well? To what extent have federal officials actually usurped the authority of local leaders? Does the reform process diminish the ability of police leadership to make strategic decisions and influence the formal and informal priorities of the agency, both during and after implementation? Would it be preferable to structure police accountability reforms around a state-based version of Section 14141, as Walker and Macdonald (2008) suggest?

Anti-Democratic?

Opponents of Section 14141 reform have also criticized Section 14141 enforcement as being anti-democratic. Very closely tied to the federalism arguments, this opposition is driven by the notion that unelected, unaccountable bureaucrats (in the form of DOJ attorneys and independent monitors) are making the kinds of decisions that democratically elected officials should be making. It is mayors and city council members that should be free to shape local public policy in their image, determining how to allocate local budgets, the nature of desirable police practices, preferred mechanisms for holding officers accountable, and so on.

The core principle of representative democracy – electoral accountability – is rendered moot by pattern or practice reform. So too, opponents would argue, are notions of pluralism and grassroots community involvement. Tough decisions are made during closed door negotiations between federal officials and a small handful of high-level local officials. Special interest representation is absent from this process, as is any transparent public debate. In short, transferring authority over the kinds of hard questions that define democratic governance – setting community values, ranking of public priorities, allocating tax revenue – from elected, local officials to unelected, federal officials, raises significant problem for the administration of policy in a democratic-constitutional system.

Beyond this theoretical opposition, it is also plausible to argue that external, federally driven reform brings with it a set of practical costs. There is reason to believe that if reform

spurred by outside forces (i.e., the federal DOJ) is seen by local officials (including politicians, police leadership, and the rank-and-file) and individual citizens as either undesirable or illegitimate, then such reforms will fail to materialize (e.g., Armenakis et al. 1999; Skogan 2006). Results of my own research seem to support this notion. Despite a relatively efficient implementation process, there are signs that reform in at least two jurisdictions (Pittsburgh and Prince George's County) has either failed to take hold or has backslid considerably.[104] Conversely, in Cincinnati, where reforms were driven by a bottom-up, participatory process, changes made pursuant to both the CA and the federal MOA appear to be not only meaningful, but durable enough to withstanding the passage of time.

In light of this preliminary evidence, future scholarship should examine further the effects of top-down, externally driven reform, both on implementation and the sustainability of change. In the spirit of recent work by Archon Fung (e.g., 2003), Dan Kahan (e.g., 2002), Tracey Meares (e.g., 2009), and Jeffrey Fagan (e.g., 2008), are widely participatory, bottom-up efforts more effective, more desirable, than alternative approaches? What is more, to what extent are those systems and structures implemented as a result of pattern or practice reform inconsistent with actual jurisdictional preferences? Do a majority of residents see federal intervention as legitimate? What about police leadership and members of the rank and file? Do officers' opinions regarding the legitimacy of the settlement reform process affect their willingness to comply with the terms of the settlement, as research by Tom Tyler (e.g., 2006) suggests it might?

To what extent does support for the process in jurisdictions, like Washington, D.C. and Cincinnati, where local officials requested DOJ investigation differ from those jurisdictions where the DOJ acted solely on its own volition? A closer look at the settlement negotiation

[104] Signals are mixed in Washington, D.C., and it is still too early to characterize the situation there in one way or another.

process would also help to shed light on what, if any, role local politicians (in addition to special interest groups) play in shaping the content of the settlement agreements. Do these findings help to explain variation between jurisdictions? What steps might the DOJ take to make the process more democratic, including, for example, subjecting the federal intervention to a referendum or making the content of the settlement dependent on legislative approval? Would these kinds of changes achieve desirable ends?

There are also several related arguments used to justify the external nature of pattern or practice reform, many of which have important implications for both law enforcement and public administration generally. Perhaps most important is the argument that federal authority is the only plausible means to achieve a desirable level of police accountability, particularly in jurisdictions where departments were shown to have evinced a pattern or practice of unlawful behavior, many of which extended over long periods of time. Suspected criminals, minority community members, and others on the margins of society, are less likely to achieve their preferences through the normal political process. Traditionally, these groups maintain fewer political connections than others, have less ability to organize and raise money, and represent positions and issues that tend to be less popular in the eyes of the mainstream. If this argument holds, and the rights of suspected criminals and police lawfulness are undervalued by the traditional political process, then federal intervention is perhaps the only viable alternative.

What is more, proponents of pattern or practice reform suggest that the imprimatur of the federal government and the DOJ make possible certain desirable and otherwise unattainable outcomes. Pressure from the federal government to reform police practices is often credited with helping police chiefs and other public safety proponents force the hand of public officials in control of jurisdictional budgets. In several instances, interviewees made clear that the settlement agreement helped police officials acquire funding to make long-desired

upgrades to department infrastructure (e.g., an early warning system), hire additional staff, and/or provide additional services, both to officers (e.g., training) and citizens (e.g., community outreach meetings).

Beyond funding, federal intervention has the ability to restore legitimacy to the affected department, which in many instances had lost the support and the confidence of the community. On this point, former federal monitor and current chief in East Palo Alto, CA, Ron Davis is worth quoting at length:

> [I]f you have an organization that has lost public trust and confidence…it's going to view even your successes with suspicion and doubt….And so now to have a court or monitor validate that you've been implementing best practices, that you're in compliance, that your investigations are thorough -- well, the community is more likely to believe that from a monitor than they are from the department that led them to call in DOJ to begin with. And over time, as you start doing that, then you start getting more and more trust and confidence back….[Pattern or practice reform] may be their one unique opportunity to not just change their culture, but the views and perceptions of the community itself….I think this process restores legality and legitimacy.

Davis's argument and others along the same lines demand further attention from scholars. To what extent are issues of police behavior and suspect rights politically unpopular? Are local jurisdictions capable of making the kinds of changes brought on by Section 14141 in the absence of federal involvement? Is it possible for jurisdictions to maintain consistent and effective attention to these issues, so that they remain a public priority even in the absence of a high-profile police misconduct incident? Does pattern or practice reform actually restore a police department's legitimacy? How, if at all, does leadership transition affect these findings? Is it possible, as Chief Streicher's tenure in Cincinnati suggests, for the same chief in place during the DOJ investigation to lead the department's renaissance?

At the heart of disputes over issues of federalism and the policy-making process, and one of the central themes of this dissertation, is the framing of section 14141 as exclusively a legal instrument versus acknowledging its policy impact. Such a distinction not only has clear

implications for the goals of the reform effort, the standards used for determining success and evaluating progress, but affects the positioning of pattern or practice reform in broader debates about the operation of our democracy.

APPENDIX A

LIST OF ACRONYMS

ACLU	American Civil Liberties Union
BPA	Bureau of Professional Affairs [Washington, D.C.]
BPR	Bureau of Professional Responsibility [Prince George's County, MD]
CD	Consent decree
CPD	Cincinnati Police Department
CCIA	Citizen Complaint & Internal Audit [Cincinnati, OH]
CCRB	Citizen Complaint Review Board [Washington, D.C.]
CPRB	Citizen Police Review Board [Pittsburgh, PA]
CA	Collaborative Agreement [Cincinnati, OH]
CCOP	Citizen Complaint Oversight Panel [Prince George's County, MD]
COMPSTAT	COMPuter STATistics or COMParative STATistics
COP	Community Policing
DOJ	Department of Justice
EW	Early Warning
FIT	Force Investigation Team [Washington, D.C.]
FOP	Fraternal Order of Police
LAPD	Los Angeles Police Department
LEOBR	Law Enforcement Officer's Bill of Rights [Prince George's County, MD]
MOA	Memorandum of Agreement
MPD	Metropolitan Police Department [Washington, D.C.]

NAACP	National Association for the Advancement of Colored People
NYPD	New York Police Department
OCCR	Office of Citizen Complaint Review [Washington, D.C.]
OMI	Office of Municipal Investigation [Pittsburgh, PA]
OPC	Office of Police Complaints [Washington, D.C.]
PARS	Performance Assessment Review System [Pittsburgh, PA]
PBP	Pittsburgh Bureau of Police
PGPD	Prince George's County Police Department
PPMS	Police Personnel Management System [Washington, D.C.]
SPL	Special Litigation Section
UFIR	Use of Force Incident Report [Washington, D.C.]

APPENDIX B

LIST OF INTERVIEWEES

Interviewee	Date Interviewed
Washington, D.C.	
Cathy Lanier – Chief, MPD	Jan. 18, 2010
Maureen O'Connell – Managed MPD MOA Implementation	Feb. 5, 2010
Philip Eure – Exec. Director, MPD Office of Police Complaints	Feb. 22, 2010
Michael Bromwich – MPD Independent Monitor	Feb. 23, 2010
Kristopher Baumann – Chairman, MPD Union	Mar. 1, 2010
Mary Cheh – D.C. Councilmember, Ward 3	Mar. 12, 2010
Charles Ramsey – Former Chief, MPD	May 19, 2010
Fritz Mulhauser – ACLU National Capital Area	Sept. 17, 2010
Kathy Patterson – Former D.C. Councilmember, Ward 3	Sept. 29, 2010
Pittsburgh	
Robert McNeilly – Former Chief, Pittsburgh PD	Mar. 1, 2010
Elizabeth Pittinger – Director, Citizen Complain Oversight	Mar. 24, 2010
Vic Walczak – Director, ACLU Pittsburgh	Mar. 31, 2010
Susan Malie – Former City Solicitor	Apr. 4, 2010
Cincinnati	
Greg Baker – Managed Implementation of CPD MOA	Mar. 22, 2010
Richard Jerome – Cincinnati Independent Monitor	Mar. 24, 2010
Kenneth E. Glenn – Director, Citizen Complaint Authority	Apr. 15, 2010
Al Gerhardstein – Private Civil Liberties Attorney	Apr. 19, 2010
Scott Greenwood – Former Director, ACLU of Cincinnati	Apr. 21, 2010
Milton Dohoney – Cincinnati City Manager	May 3, 2010
Subject Matter Experts	
Colonel Rick Fuentes – Chief, State Police of New Jersey	Nov. 21, 2009
William Bratton – Former Chief, NYPD; LAPD	Nov. 21, 2009
Ron Davis – Chief, East Palo Alto, CA; Former DOJ Subject Matter Expert	Dec. 15, 2009
Gerald Chaleff – Managed LAPD Implementation	Jan. 15, 2010
Ella Bully-Cummings – Former Chief, Detroit, MI	Feb. 3, 2010
Kelli Evans – Former Staff Atty, DOJ Special Litigation Section	Feb. 18, 2010
Samuel Walker – Police Accountability Expert	Mar. 17, 2010
Merick Bobb – Police Accountability Expert	Apr. 5, 2010

APPENDIX C

SAMPLE INTERVIEW GUIDE

Pre-Agreement (Early phases)

1. Please describe the negotiation process that led to your hiring?
2. Please describe the team you had in place, focusing specifically on which members focused where, etc. How were they selected and assigned?
3. What were your apprehensions, if any, prior to the start of the monitoring?
4. What was your opinion of MPD prior to starting the monitoring? Why?
5. What were your feelings about the proposed reforms at the outset of the MOA implementation? Did you believe that the reforms were necessary? Did you believe the department needed external oversight to accomplish them?
6. Were there areas of the agreement that you thought would be especially problematic? Especially helpful?
7. How did you prepare for the monitoring job? What did you read? Who did you talk to in order to get up to speed on MPD, the relationship between MPD and the Civil Litigation group at DOJ?
8. Were you worried that the MOA was too complex? That it required too many changes at once? What about the timeframe? How did that affect implementation?
9. At the outset, what did you believe was going to be the most difficult aspect of the job? Were you proved correct?

10. What were the terms of your contract with the DOJ/MPD? How much were you paid for your services?

Implementation

11. Please describe the process put in place to perform the monitoring job. Were there regularly scheduled meetings? Did you address issues on a need-only basis?
12. Describe the implementation framework at MPD. Which offices and which individuals did you work with most closely? Which/who had the biggest impact on the MOA implementation?
13. Describe your interactions with Chief Ramsey? How did his leadership style facilitate implementation and reform? Did it hinder it? How?
14. From the outside, the MOA reform process looks almost entirely centralized, and driven from the top down. Is that correct?
15. What steps, if any, did the MPD leadership take to affect behavioral change in the street-level officers, mid-level managers, etc. – those officers who were most directly impacted by the MOA?
16. Which other factors do you believe contributed to the successful implementation of the MOA reforms? Which factors complicated or hindered progress?
17. Many of the changes to department policy – typically in the form of General Orders – took several years to finalize. What explains the long process? What do you think MPD could have done differently to speed up the process?
18. The process of getting officers to fill out UFIRs both reliably and with high quality was a difficult one. To what do you attribute this difficulty? If you had to

change the process of implementing this clause of the MOA, how would you do it?

19. How do you think this process could be changed in the future to improve the reform process?

Institutionalization (Post-Termination)

20. Describe the process of terminating the MOA? How did the three key groups (MPD, DOJ, and OIM) reach an agreement here?
21. Describe what you believe are the pros and cons of Sec. 14141 reform? What costs are there for the police department? What benefits? What about costs and benefits for residents and taxpayers of Washington DC?
22. Describe your role as the end-date approached. Did MPD/DOJ/OIM think about institutionalization? Were you consulted on institutionalization?
23. What, if anything, was done to promote institutionalization?
24. What contributes to success in perpetuating the changes mandated by the MOA? What, if anything, causes problems in institutionalizing MOA reforms?
25. In your view, how, if at all, has the MOA changed MPD's organizational and operational culture?
26. What advice would you give to a chief just beginning the implementation of a settlement agreement with the DOJ?
27. The Office of Risk Management (formerly the Quality Assurance Unit) was created mid-way through the MOA's implementation in order to serve as an independent auditor (of sorts), much along the lines of the OIM. What functions does the ORM perform today, more than a year after termination?

28. You said recently that MPD is "a much more sophisticated police agency" as a result of the MOA? What did you mean by those comments? How has the MOA improved the MPD? How has it weakened MPD?

APPENDIX D

PROPERTY CRIME AND VIOLENT CRIME IN PITTSBURGH, PA; WASHINGTON, D.C.; CINCINNATI, OH; AND PRINCE GEORGE'S COUNTY, MD, 1992-2009

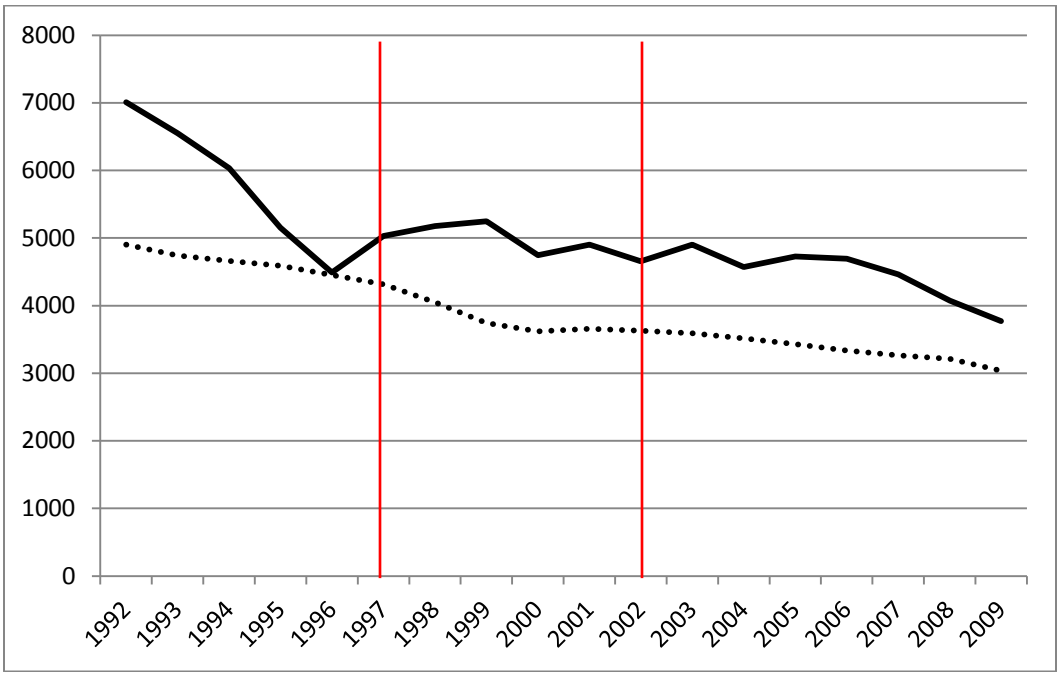

Illustration 33. Property crime in Pittsburgh, 1992-2009

Note 1: Data presented in Illustrations 34-41 are per 100,000 residents.

Note 2: Solid lines in Illustrations 34-41 denote crime in the affected jurisdiction.

Note 3: Dotted lines in Illustrations 34-41 denote crime in the United States.

Note 4: In Illustrations 34-41, the leftmost parallel line reflects the settlement date; the rightmost parallel line reflects the settlement termination date.

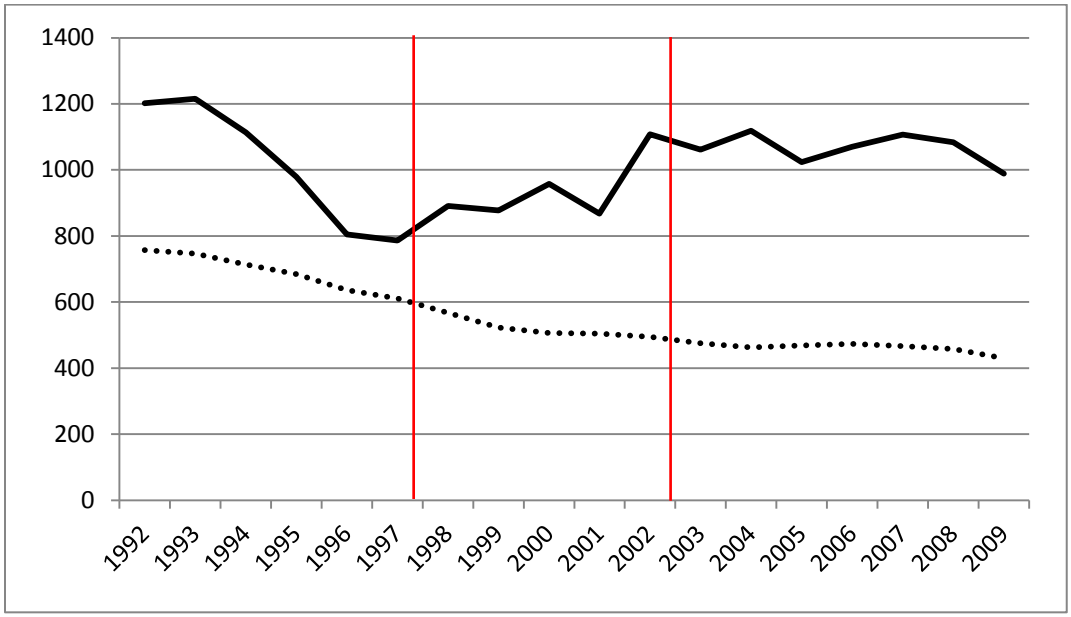

Illustration 34. Violent crime in Pittsburgh, 1992-2009

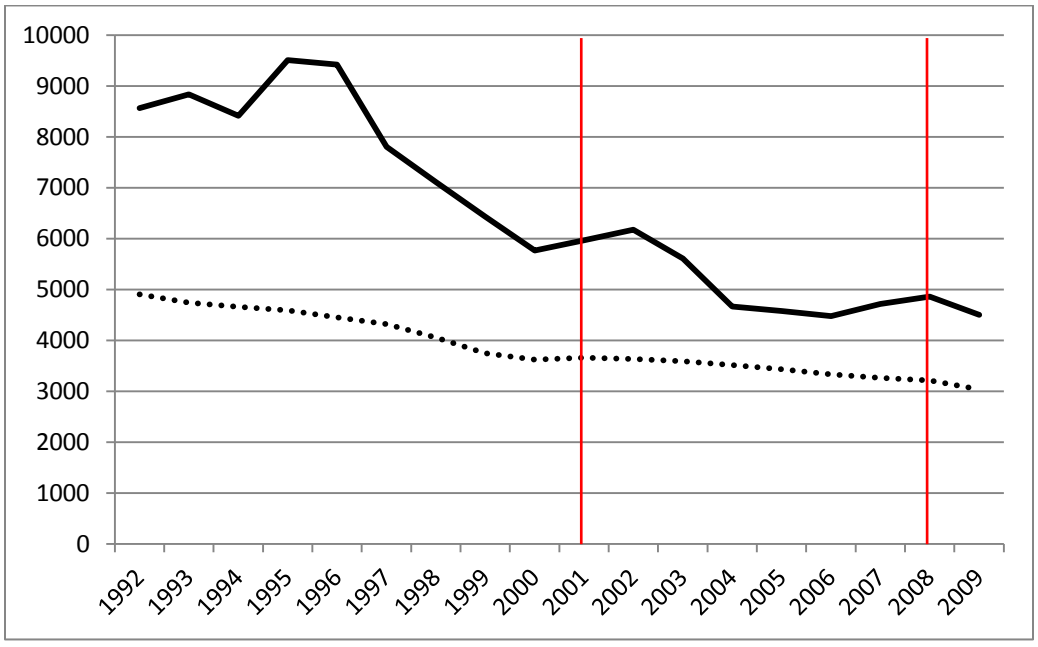

Illustration 35. Property crime in Washington, D.C., 1992-2009

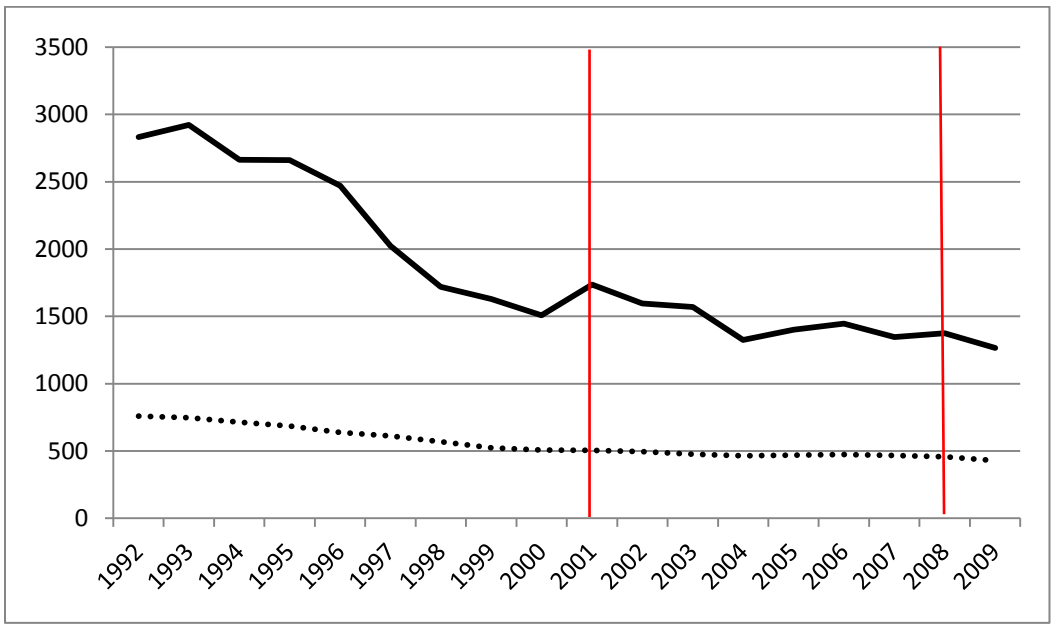

Illustration 36. Violent crime in Washington, D.C., 1992-2009

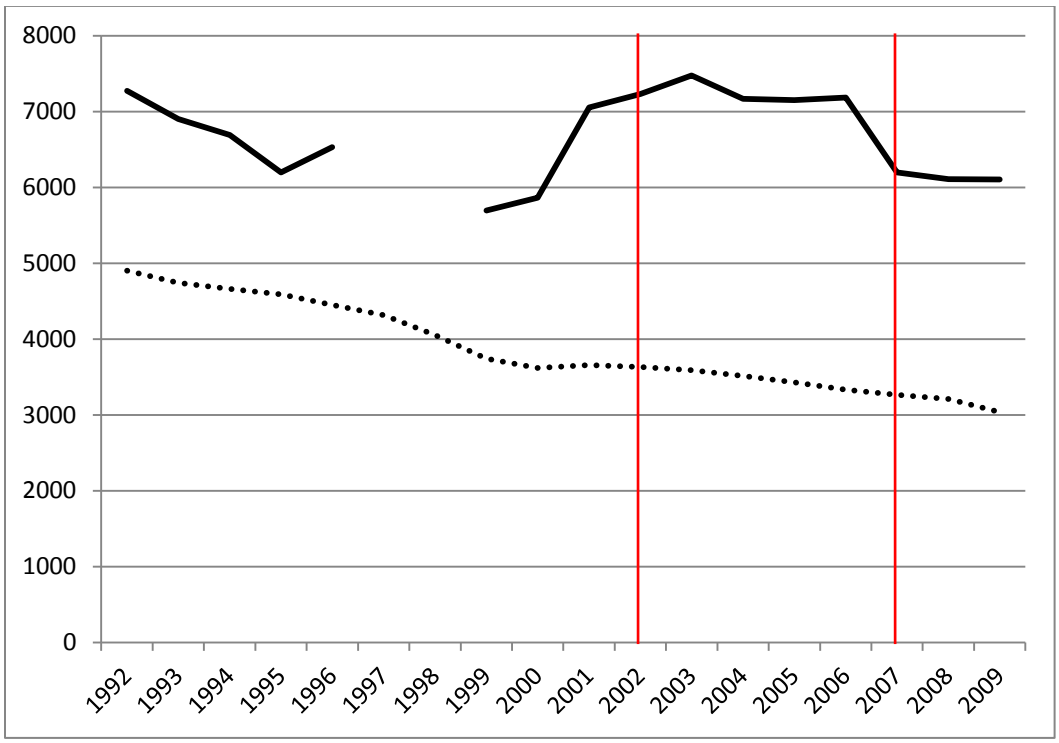

Illustration 37. Property crime in Cincinnati, 1992-2009

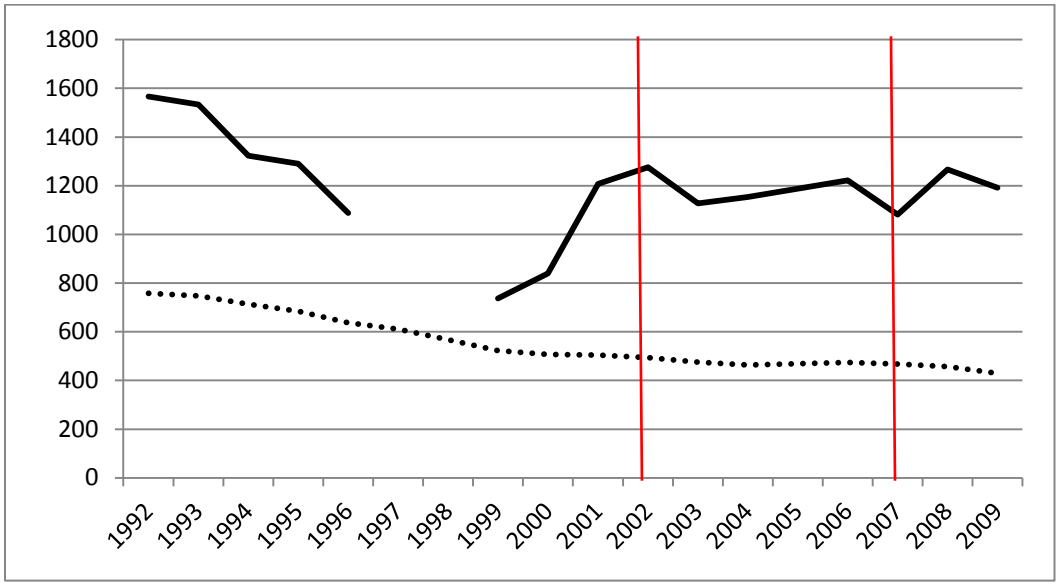

Illustration 38. Violent crime in Cincinnati, 1992-2009

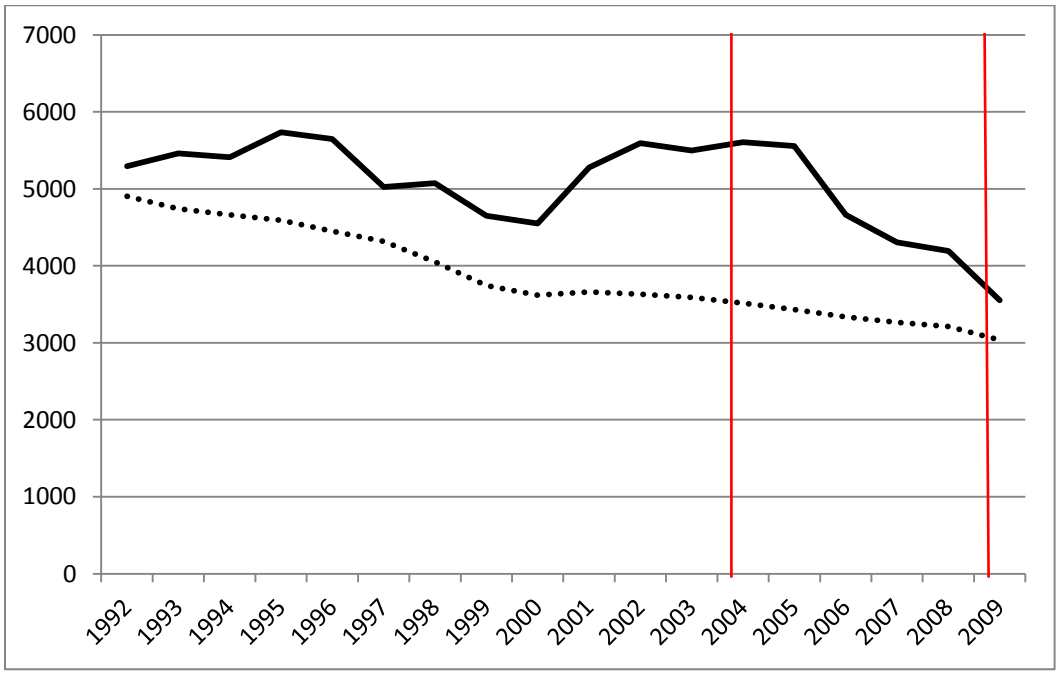

Illustration 39. Property crime in Prince George's County, MD, 1992-2009

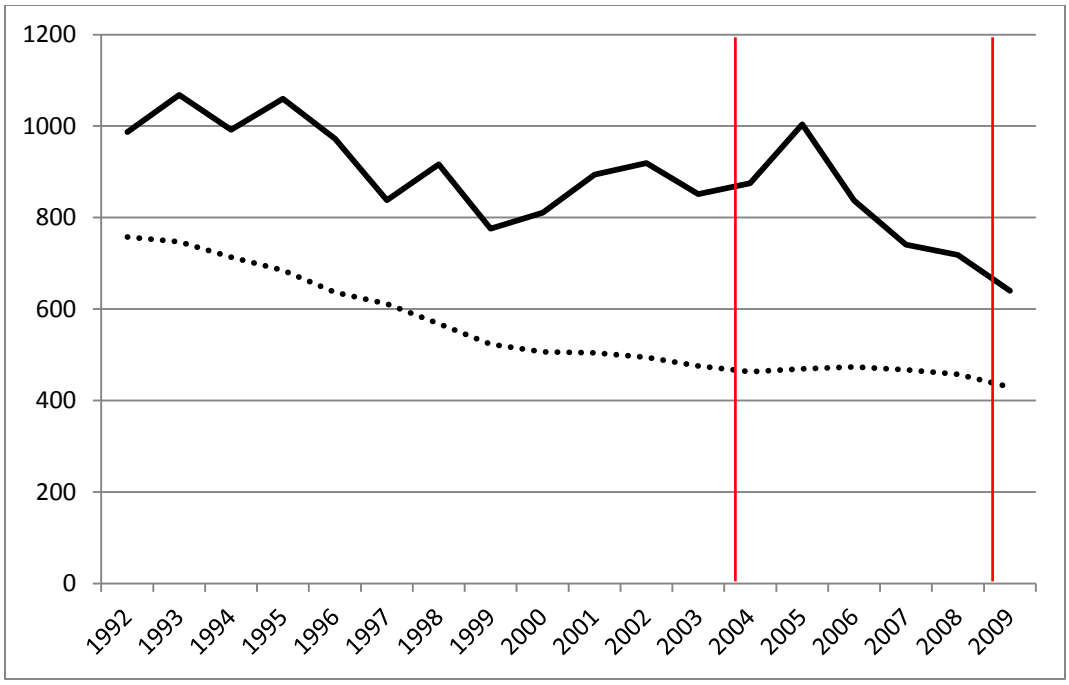

Illustration 40. Violent crime in Prince George's County, MD, 1992-2009

Table 25. Property crime per 100,000 residents, 1992-2009

Year	Pittsburgh	Washington	Cincinnati	PG County	USA
1992	7008	8566	7273	5292	4904
1993	6550	8834	6902	5460	4740
1994	6035	8415	6690	5409	4660
1995	5151	9505	6196	5735	4591
1996	4492	9419	6529	5645	4451
1997	5031	7803	NA	5025	4316
1998	5176	7110	NA	5075	4053
1999	5246	6434	5694	4648	3744
2000	4744	5766	5865	4550	3618
2001	4904	5966	7054	5278	3658
2002	4655	6172	7232	5591	3631
2003	4902	5606	7475	5498	3591
2004	4571	4667	7168	5604	3514
2005	4725	4578	7150	5556	3432
2006	4694	4474	7182	4661	3335
2007	4463	4712	6196	4305	3264
2008	4076	4859	6110	4193	3212
2009	3771	4504	6103	3552	3036

Note: Reform years highlighted.

Table 26. Violent crime per 100,000 residents, 1992-2009

Year	Pittsburgh	Washington	Cincinnati	PG County	USA
1992	1202	2832	1567	987	758
1993	1216	2922	1533	1068	747
1994	1114	2663	1323	992	714
1995	979	2662	1290	1060	685
1996	804	2470	1088	972	637
1997	786	2024	NA	838	611
1998	891	1719	NA	916	568
1999	878	1628	737	776	523
2000	957	1507	840	811	507
2001	868	1736	1207	894	505
2002	1108	1596	1275	919	494
2003	1061	1569	1127	851	476
2004	1119	1325	1153	875	463
2005	1023	1402	1187	1004	469
2006	1070	1446	1222	837	474
2007	1107	1347	1082	741	467
2008	1084	1375	1267	718	458
2009	989	1265	1192	640	429

Note: Reform years highlighted.

REFERENCES

ACLU Press Release, "ACLU Approves Settlement in Landmark Police Practices Lawsuit," Apr. 9, 2002. Available here: http://www.acluohio.org/pressreleases/2002pr/2002.04.09.asp.

Adams, Richard E., William M. Rohe, and Thomas A. Arcury, "Implementing Community-Oriented Policing: Organizational Change and Street Officer Attitudes," *Crime Delinquency*, Vol. 48, No. 3 (2002), pp. 399-430.

"Addressing Police Misconduct Laws Enforced by the Department of Justice," United States Department of Justice, Civil Rights Division (2003). Available here: http://www.justice.gov/crt/about/spl/documents/polmis.php.

Aldridge, Kevin, "Black Fraternity to Skip City," *The Cincinnati Enquirer*, Aug. 7, 2002.

Aldridge, Kevin, "CAN to Assist in Clearing Records; Minor Offenses from 2001 Riots May Be Expunged," *Cincinnati Enquirer*, Jun. 6, 2002.

Aldridge, Kevin, "Spike Lee Backs Out of Feb. Appearance at UC: Film Director Joins Boycott of City," *The Cincinnati Enquirer*, Jan. 25, 2003.

Allen, Rhonda Y.W., "Assessing the Impediments to Organizational Change: A View of Community Policing," *Journal of Criminal Justice*, Vol. 30 (2002), pp. 511-517.

Alltucker, Ken, "Boycott Not Felt as Force in City; Other Factors Cited for Slow Business," *The Cincinnati Enquirer*, Oct. 14, 2001.

Alpert, Geoffrey P., and Roger G. Dunham, *Understanding Police Use of Force: Officers, Suspects, and Reciprocity*, New York: Cambridge University Press, 2004.

Anderson, James E., *Public Policy Making: An Introduction*, 3rd Ed., New York: Houghton Mifflin College Division (1996).

Anglen, Robert, "New Monitor Demanded: Officials Want Reform Overseer Replaced, *The Cincinnati Enquirer*, Nov. 6, 2002. Available here: http://www.enquirer.com/editions/2002/11/06/loc_kalmanoff06list0.html.

Anglen, Robert, Ken Alltucker, Tim Bonfield, and Dan Horn, "Riot Costs Add Up," *The Cincinnati Enquirer*, Oct. 7, 2001.

Archbold, Carol A. "Managing the Bottom Line: Risk Management in Policing." *Policing: An International Journal of Police Strategies & Management* 28 (2005): 30 – 48.

Armacost, Barbara E., "Organizational Culture and Police Misconduct," George Washington University Law Review, Vol. 72, No. 3 (2003-2004).

Armenakis, Achilles A., Stanley G. Harris, and Hubert S. Feild, "Making Change Permanent: A Model for Institutionalizing Change Interventions," *Research in Organizational Change and Development*, Vol. 12 (1999), pp. 97-128.

Associated Press, "83 Arrested at G-20 in Pittsburgh, $50,000 in Damage," *Pennlive.com*, Sept. 25, 2009. Available here: http://www.policemonitor.org/reports.html.

"Attorney General News Conference with DC Mayor Anthony Williams and DC Police Chief Charles Ramsey," Office of Public Affairs, U.S. Department of Justice, June 13, 2001.

Ayers, Ian, and Jonathan Borowsky, "A Study of Racially Disparate Outcomes in the Los Angeles Police Department," Prepared for ACLU of Southern California (Oct. 2008). Available here: http://www.aclu-sc.org/downloads/2/681086.pdf.

Bardach, Eugene, *The Implementation Game*, Cambridge, MA: MIT Press (1978).

Baum, Lawrence, "Implementation of Judicial Decisions: An Organizational Analysis," *American Politics Quarterly*, Vol. 4, No. 1 (1976), pp. 86-114.

Baumgartner, Frank R., and Bryan D. Jones, *Agendas and Instability in American Politics*, Chicago: University of Chicago Press (1993).

Behn, Robert D., "Why Measure Performance? Different Purposes Require Different Measures," *Public Administration Review*, Vol. 63, No. 5 (Sept./Oct. 2003) pp. 586-606.

Berman, Paul and Milbrey McLaughlin, "Implementation of Educational Innovation," *Educational Forum*, Vol. 40, No. 3 (1976), pp. 347-370.

Berman, Paul, "The Study of Macro- and Micro-Implementation," *Public Policy*, Vol. 26, No. 2 (1978), 157-84.

Bernstein, Marver H., *Regulating Business by Independent Commission*, Princeton, NJ: Princeton University Press (1955).

Bertelli, Anthony M. and Laurence E. Lynn, Jr., Laurence E., "Managerial Responsibility," *Public Administration Review*, Vol. 63, No. 3 (2003), 259-269.

Bertelli, Anthony M., "Strategy and Accountability: Structural Reform Litigation and Public Management," *Public Administration Review*, Vol. 64 (2004), pp. 28-42.

Berube, Alan, "Educational Attainment," in *The State of Metro America*, The Brookings Institution Metropolitan Policy Program, 2010.

Bingham, Lisa B., and Charles R. Wise, "The Administrative Dispute Resolution Act of 1990: How Do We Evaluate Success?, *Journal of Public Administration Research and Theory*, Vol. 6, No. 3 (1996), pp. 383-411.

Bittner, Egon, "The Police on Skid Row: A Study on Peace Keeping," *American Sociological Review*, Vol. 32, No. 5 (Oct., 1967), pp. 699-715.

Bittner, Egon, *Aspects of Police Work*, Boston, MA: Northeastern University Press (1990).

Bittner, Egon, *Functions of the Police in Modern Society*, Washington, D.C.: National Institute of Mental Health (1970).

"Blue Wall of Silence With Jack B. Johnson, Prince George's County State's Attorney, A" Live Online Chat Transcript (Johnson Transcript), *The Washington Post*, July 3, 2001.

Boger, John Charles, and Gary Orfield, eds., *School Resegregation: Must the South Turn Back*, Chapel Hill, NC: The University of North Carolina Press (2005).

Bolling v. Sharpe, 347 U.S. 497 (1954)

Boren, Jeremy, "Dowd Accuses Pittsburgh Mayor of Paying 'Hush Money,'" *Pittsburgh Tribune-Review*, May 12, 2009.

Bowen, Elinor, "The Pressman-Wildavsky Paradon: Four Addenda on Why Models Based on Probability Theory Can Predict Implementation Success and Suggest Useful Tactical Advice for Implementers," *Journal of Public Policy*, Vol. 2, No. 1 (1982), pp. 1-21.

Bratton, William J., and Peter Knobler, *Turnaround: How America's Top Cop Reversed the Crime Epidemic*, New York: Random House (1998).

Bratton, William J., and Sean W. Malinowski, "Police Performance Management in Practice: Taking COMPSTAT to the Next Level," *Policing: A Journal of Policy and Practice*, Vol. 2, No. 3 (2008), pp. 259-265.

Briem, Christopher, "Recessions and Pittsburgh," *Pittsburgh Economic Quarterly*, University of Pittsburgh, University Center for Social and Urban Research, Dec. 2008. Available here: http://www.ucsur.pitt.edu/files/peq/peq_2008-12.pdf

Brodbeck, Peter W., "Implications for Organization Design: Teams as Pockets of Excellence," *Team Performance Management: An International Journal*, Vol. 8, No. 1/2, (2002), pp. 21–38.

Brown, Michael K., *Working the Street: Police Discretion and the Dilemmas of Reform*, New York: Russell Sage Foundation (1988).

Buchanan, David, Louise Fitzgerald, Diane Ketley, Rose Gollop, Jane Louise Jones, Sharon Saint Lamont, Annette Neath, and Elaine Whitby, "No Going Back: A Review of the Literature

on Sustaining Organizational Change," *International Journal of Management Reviews*, Vol. 7, No. 3 (2005), pp. 189-205.

Bucsko, Mike, "Gammage family distances itself from protests," *Pittsburgh Post-Gazette*, Nov. 12, 1995, A1.

Byczkowski, John and Kevin Aldridge, "Races See Two Cincinnatis," *The Cincinnati Enquirer*, Sept. 2, 2001.

Canon, Bradley and Charles Johnson, *Judicial Policies: Implementation and Impact*, 2nd ed., Washington, DC: CQ Press (1999).

Castaneda, Ruben, "Beating of University of Maryland Student by Police Probed by County Prosecutors, *The Washington Post*, Apr. 13, 2010.

Castaneda, Ruben, and Jamie Stockwell, "County Signs On to Curb Alleged Police Abuses; Justice Department Will Monitor Reforms for Three Years," *The Washington Post*, Jan. 29, 2004.

Castaneda, Ruben, and Matt Zapotosky, "Four More Officers are Suspended, *The Washington Post*, Nov. 9, 2010.

Castaneda, Ruben, Rosalind S. Helderman, and Paul Duggan, "9 More Arrested in Prince George's Corruption Probe," *The Washington Post*, Nov. 16, 2010.

Castaneda, Ruben, and Miranda Spivack, "Jack Johnson Pleads Guilty," *The Washington Post*, May 17, 2011.

Cavanaugh, Ralph, and Austin Sarat, "Thinking About Courts: Toward and Beyond a Jurisprudence of Judicial Competence," *Law and Society Review*, Vol. 14 (1980).

Cincinnati Police Department Findings Letter, "Preliminary Technical Assistance Recommendations," United States Department of Justice, Special Litigation Section (2001).

Citizen Complaint Oversight Panel (CCOP), Prince George's County Citizen Complaint Oversight Panel, Mar. 26, 2010. Available here: http://www.princegeorgescountymd.gov/Government/BoardsCommissions/CCOP/index.asp

"City of Cincinnati Independent Monitor Quarterly Reports," April 1, 2003 – December 30, 2008. Available here: http://gabsnet.com/cincinnatimonitor/.

"City of Pittsburgh's Investigative Findings Letter," United States Department of Justice, Jan. 17, 1997. Available here: http://www.justice.gov/crt/about/spl/documents/pittspdfind.php.

Chainey, Spencer, and Jerry Radcliffe, *GIS and Crime Mapping*, New York: John Wiley and Sons (2005).

Chayes, Abram, "The Role of the Judge in Public Law Litigation," *Harvard Law Review*, Vol. 89 (1975).

Cheh, Mary M., "Are Lawsuits an Answer to Police Brutality?," in *Police Violence*, William A. Geller and Hans Toch, eds., (New Haven: Yale University Press, 1996).

Chemerinsky, Erwin, "The Segregation and Resegregation of American Public Education: The Court's Role," in *School Resegregation: Must the South Turn Back*, John Charles Boger and Gary Orfield, eds., Chapel Hill, NC: The University of North Carolina (2003), pp. 29-47.

Cherkis, Jason, "Pershing Park Case: Another Police Official Heard Ramsey Order Arrests, *Washington City Paper*, Jan. 8, 2010.

"Chief Ramsey Writes Letter Requesting Review of Use of Force Policies and Practices," Letter from Charles H. Ramsey, Chief, Metropolitan Police Department, to Eric Holder, Deputy Attorney General, Department of Justice, Jan. 6, 1999 (Ramsey Letter).

Chilton, Bradley S., *Prisons Under the Gavel: The Federal Court Takeover of Georgia Prisons*, Columbus, OH: Ohio State University Press (1991).

Chun Young Han and Hal G. Rainey, "Goal Ambiguity in U.S. Federal Agencies," *Journal of Public Administration Research and Theory*, Vol. 15, No. 1 (2005), pp. 1-30.

"Cincinnati Collaborative Agreement," *In re Cincinnati Policing*, United States District Court, Southern District of Ohio, Case No. C-1-00-317 (2002). Available here: http://www.cincinnati-oh.gov/police/downloads/police_pdf6369.pdf.

Citizen Police Review Board (CPRB), Pittsburgh, PA. Available here: http://www.city.pittsburgh.pa.us/cprb/.

Clines, Frances X., "Appeals for Peace in Ohio After Two Days of Protests," *The New York Times*, April 12, 2001A.

Clines, Frances X., "Blacks in Cincinnati Hear Echoes Amid the Violence," *The New York Times*, Apr. 14, 2001C.

Clines, Frances X., "Cincinnati Mayor Imposes Curfew to Quell Violence," *The New York Times*, Apr. 13, 2001B.

Clines, Frances X., "Deal Reached On Policing In Cincinnati," *The New York Times*, Apr. 4, 2002.

Clines, Frances X., "Officer Charged in Killing That Roiled Cincinnati," *The New York Times*, May 1, 2001D.

Clines, Frances X., "Police in Cincinnati Pull Back in Wake of Riots," *The New York Times*, July 19, 2001D.

Cole, David, *No Equal Justice: Race and Class in the American Criminal Justice System*, New York: The New Press (2000).

Consent Decree Between the United States Department of Justice and Prince George's County, Maryland and The Prince George's County Police Department, Jan. 22, 2004 (Canine Section Consent Decree). Available here:

Conte, Andrew, "Ravenstahl Denies Corruption Allegation," Pittsburgh Tribune-Review, Aug. 29, 2008.

Cooper, Philip J., *Hard Judicial Choices*, New York: Oxford University Press (1988).

Cordner, Gary W. and Gerald L. Williams, "Community Policing and Accreditation: A Content Analysis of CALEA Standards," in Larry T. Hoover, ed., *Quantifying Quality in Policing*, Washington, D.C.: Police Executive Research Forum (1996), pp. 243-261.

"Council of the District of Columbia," D.C. Board of Elections and Ethics, n.d.

Craig, Tim, "Kwame Brown's SUV was illegal, Wells Says," *The Washington Post*, Feb. 28, 2011.

Craig, Tim, "Mayor Gray's Hiring Practices Under Microscope," *The Washington Post*, Mar. 30, 2011.

Crank, John P., *Understanding Police Culture*, 2nd Ed., New York: Anderson (2004).

Crouch, Ben M., and James W. Marquart, "*Ruiz*: Intervention and Emergent Orger in Texas Prisons," in John J. DiIulio, ed., *Courts, Corrections, and the Constitution: The Impact of Judicial Intervention on Prisons and Jails*, New York: Oxford University Press (1990), pp. 94-112.

Cullen, Julie Berry and Steven D. Levitt. "Crime, Urban Flight, and the Consequences for Cities." *Review of Economics and Statistics*, Vol. 81, No. 2, 1999, pp. 159-169.

Cummings, Thomas G., and Christopher G. Worley, *Organizational Development and Change*, 8th Ed., Mason, OH: Thompson South-Western Publishing (2005).

D.C. Code Section 5-1102.

Daley, Lauren, "Cops in Beating Case to Go Back on the Beat, Pittsburgh City Paper, May 5th, 2011.

Davis, Aaron C., "Decline in Violent Crime Reported: Rapes, Carjackings Increase; Search Begins for New Police Chief," *The Washington Post*, Aug. 1, 2008.

Davis, Aaron C., "Justice Closes Pr. George's Police Review," *The Washington Post*, Feb. 11, 2009.

Davis, Kenneth C., *Discretionary Justice: A Preliminary Inquiry*, Baton Rouge, LA: Louisiana State University Press (1969).

Davis, Kenneth C., *Police Discretion*, St. Paul, MN: West Publishing (1975).

Davis, Robert C., Christopher W. Ortiz, Nicole J. Henderson, Joel Miller, and Michelle K. Massie, "Turning Necessity into Virtue: Pittsburgh's Experience with a Federal Consent Decree," Vera Institute of Justice (2002).

Davis, Robert C., Christopher W. Ortiz, Nicole J. Henderson, Joel Miller, and Michelle K. Massie, "Turning Necessity into Virtue: Pittsburgh's Experience with a Federal Consent Decree," Vera Institute of Justice (2002).

Davis, Robert C., Nicole J. Henderson, and Christopher W. Ortiz, "Can Federal Intervention Bring Lasting Improvement in Local Policing? The Pittsburgh Consent Decree," Vera Institute of Justice (2005).

DeBose, Brian, "Police Union Votes for Removal of Chief," *The Washington Times*, Aug. 2, 2001

Decker, Scott, and Richard Rosenfeld, *From Problem-Solving to Crime Suppression to Community Mobilization: An Evaluation of the St. Louis Consent to Search Program*, Washington, D.C.: U.S. Department of Justice, NCJ No. 188291 (2004).

Deitch, Charlie, "Upon Further Review," *Pittsburgh City Paper*, Mar. 25, 2010.

Deleware v. Prouse, 440 U.S. 648 (1979).

Dent, David, "The New Black Suburbs," *The New York Times Magazine*, June 14, 1992.

DiIulio, John J., ed., *Courts, Corrections, and the Constitution: The Impact of Judicial Intervention on Prisons and Jails*, New York: Oxford University Press (1990).

DiMaggio, Paul J., and Walter Powell, "The Iron Cage Revisited," *American Sociological Review*, Vol. 48 (1983), pp. 147-163.

District of Columbia Home Rule Act, Public Law 93-198; 87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*, Approved December 24, 1973 (Amended through July 15, 2008).

Diver, Colin S., "The Judge as Powerbroker: Superintending Change in Political Institutions," *University of Virginia Law Review*, Vol. 65 (1979).

Domanick, Joe, "Saving Los Angeles," *Playboy Magazine* (Feb. 2008), pp. 71-2; 133-8.

Downs, Anthony, *Inside Bureaucracy*, Boston: Little, Brown (1967).

Drake, John, "Cops to Cut Use of Force; Agreement with Justice Avoids Court Mandate," *The Washington Times*, June 14, 2001.

Dunn, Joshua M., *Complex Justice: The Case of Missouri v. Jenkins*, Chapel Hill, NC: The University of North Carolina Press (2008).

Durant, Robert F., "EPA, TVA and Pollution Control: Implications for a Theory of Regulatory Policy Implementation," *Public Administration Review*, Vol. 44, No. 4 (1984), pp. 305-315.

Eccles, Robert G., and Nohria, Nitnin, *Beyond the Hype*, Boston, MA: Harvard Business School Press (1992).

Eck, John E., and Jay Rothman, "Police-Community Conflict and Crime Prevention in Cincinnati, Ohio," in John Bailey and Lucia Dammert, eds., *Public Security and Police Reform in the Americas*, Pittsburgh, PA: University of Pittsburgh Press (2006), pp. 225-244.

Edelman, Murray, *Politics as Symbolic Action: Mass Arousal and Quiescence*, Chicago: Markham Publishing Company (1971).

Elmore, Richard F., "Backward Mapping: Implementation Research and Policy Decisions," *Political Science Quarterly*, Vol. 94, No. 4 (1979-80), pp. 601-616.

Elmore, Richard F., "Forward and Backward Mapping: Reversible Logic in the Analysis of Public Policy," in Kenneth Hanf and Theo A.J. Toonen, eds., *Policy Implementation in Federal and Unitary Systems: Questions of Analysis and Design*, Dordrecht: Martinus Niijhoff (1985), pp. 33-70.

Elmore, Richard F., "Organizational Models of Social Program Implementation," *Public Policy*, Vol. 26, No. 2 (1978), pp. 185-228.

Elrick, M.L., Joe Swichard, Ben Schmitt, and Naomi R. Patton, "FBI uncovered texts from Kilpatrick, monitor: They show meetings in various cities with cops' watchdog," *The Detroit Free Press*, July 28, 2009. Available here: http://www.freep.com/article/20090728/NEWS01/907280318.

Emery, Richard and Ilann M. Maazel, "Why Civil Rights Lawsuits do not Deter Police Misconduct: The Conundrum of Indemnification and a Proposed Solution," *Fordham Urban Law Journal*, Vol. 28 (2000-2001), pp. 587-600.

Engel, Robin S., S. Gregory Baker, Marie Skubak Tillyer, John Eck, and Jessica Dunham, "Implementation of the Cincinnati Initiative to Reduce Violence (CIRV): Year 1 Report," University of Cincinnati Policing Institute, April 14, 2008. Available here: http://www.uc.edu/ccjr/Reports/CIRV_Interim_Report_2-08-08.pdf.

Epp, Charles R., *Making Rights Real: Activists, Bureaucrats, and the Creation of the Legalistic State*, Chicago: The University of Chicago Press (2010).

"Expert Report of Cecil L. Thomas," *In Re: Race Discrimination in Cincinnati Policing*, United States District Court for the Southern District of Ohio, Western District, Case No. C-1-99-317, 1999.

Fagan, Jeffrey and Tracey L. Meares, "Punishment, Deterrence and Social Control: The Paradox of Punishment in Minority Communities," *Ohio State Journal of Criminal Law*, Vol. 6 (2008), pp. 173-229.

Feeley, Malcolm M. and Edward L. Rubin, *Judicial Policy Making and the Modern State: How Courts Reformed America's Prisons*, New York: Cambridge University Press (1998).

Fernandez, Sergio and Hal G. Rainey, "Managing Successful Organizational Change in the Public Sector," *Public Administration Review*, Vol. 66, No. 2, (March-April 2006), pp. 168-176.

"Findings Letter re Use of Force by the Washington Metropolitan Police Department," U.S. Department of Justice, 2001. Available here: http://www.justice.gov/crt/about/spl/documents/dcfindings.php.

Finn, Peter, *Citizen Review of Police: Approaches and Implementation*, U.S. Department of Justice, National Institute of Justice (2001). Available here: http://www.ncjrs.gov/pdffiles1/nij/184430.pdf.

First Monitoring Report Prepared by OLEPS 2010.

Fiscal Year 2001 Annual Report, Citizen Complaint Review Board and the Office of Citizen Complaint Review, Government of the District of Columbia, Dec. 10, 2001.

Fiss, Owen M., *The Civil Rights Injunction*, Bloomington, IN: Indiana University Press (1978).

Flaherty, Mary Pat, and Keith A. Harriston, "Police Efforts to Clean House Hit Snags" (fourth of four articles, *The Washington Post*, Aug. 31, 1994

Ford, J. Kevin, "Organizational Change and Development: Fundamental Principles, Core Dilemmas, and Leadership Challenges in the Move Toward a Community-Policing Strategy," in Merry Morash and J. Kevin Ford, eds., *The Move to Community Policing: Making Change Happen*, Thousand Oaks, CA: Sage Publications (2002), pp. 126-151.

Forst, Brian, *Errors of Justice: Nature, Sources and Remedies*, Cambridge: Cambridge University Press (2003).

Frank, James, Kenneth J. Novak, and Brad W. Smith, *Street-Level Policing in Cincinnati: The Content of Community and Traditional Policing and the Perceptions of Policing Audiences*, United States Department of Justice, National Institute of Justice (2001).

Frean, Alexandra, and David Byers, Police Embroiled in Violent Battles with G20 Protesters," *The Times Online (UK)*, Sept. 24, 2009.

Fritsch, Jane, "The Diallo Verdict: The Overview; 4 Officers in Diallo Shooting are Acquitted of All Charges," *The New York Times*, February 26, 2000.

Fuller, Lon L., "The Forms and Limits of Adjudication," *Harvard Law Review*, Vol. 92 (1978).

Fung, Archon, and Erik Olin Wright, *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance (The Real Utopias Project) (v. 4)*, New York: Verso (2003).

Fuocco, Michael A., "A Light to Show Police Support; Effort for Holidays Seeks to Raise Morale of Law Enforcement," *Pittsburgh Post-Gazette*, Nov. 28, 1997c, C1.

Fuocco, Michael A., "Police Recoil; Union Chief Says No 'Extra Step' if Court Approves City-Justice Pact," *Pittsburgh Post-Gazette*, Mar. 5, 1997b, A1.

Fuocco, Michael A., "Police Respond to Decree," *Pittsburgh Post-Gazette*, Feb. 28, 1997a, A1.

Fuocco, Michael A., "Special Pittsburgh Police Squad Having an Impact on Illegal Drugs," *Pittsburgh Post-Gazette*, May 6, 2001.

Fuocco, Michael A., "Hail of Police Bullets Kills Stolen Car Driver; Preliminary Probe Finds Man was Unarmed, But Using his Vehicle as a Weapon," *Pittsburgh Post-Gazette*, April 7, 1995.

Fuocco, Michael A., "Police Chief McNeilly's Tenure Saw Wrenching Changes," *Pittsburgh Post-Gazette*, Jan. 9, 2006.

Fuocco, Michael A., "Police Recoil; Union Chief Says No 'Extra Step' if Court Approves City-Justice Pact," *Pittsburgh Post-Gazette*, Mar. 5, 1997B.

Fuocco, Michael A., "Police Respond to Decree," *Pittsburgh Post-Gazette*, Feb. 28, 1997A.

Fyfe, James J., "The Split-Second Syndrome and Other Determinants of Police Violence," in *Violent Transactions*, Anne Campbell and John Gibbs, eds., New York: Basil Blackwell (1986).

Fyfe, James J., "Training to Reduce Police-Civilian Violence," in *Police Violence*, William A. Geller and Hans Toch, eds., New Haven: Yale University Press (1996).

Fyfe, James J., and Jeffrey T. Walker, "*Garner* Plus Five Years: An Examination of Supreme Court Intervention into Police Discretion and Legislative Prerogatives," *American Journal of Criminal Justice*, Vol. 14, No. 2 (1990), pp. 167-188.

Gaines, Larry K., and Victor E. Kappeler, *Policing in America*, 6th Ed., Cincinnati, OH: Anderson (2008)

Gambacorta, David, and Catherine Lucey, "Ramsey to the Cubs?," *Philadelphia Daily News*, Mar. 17, 2011.

Garrison, Arthur H., "Law Enforcement Civil Liability under Federal Law and Attitudes on Civil Liability: A Survey of University, Municipal and State Police Officers," *Police Studies*, Vol. 18, No. 3/4 (1995), pp. 19-37.

Geller, William A. and Hans Toch, *Police Violence*, New Haven, CT: Yale University Press (1996).

Gerhardstein, Al, "Police Cuts Need Not Jeopardize Principles," *Cincinnati.com*, Dec. 4, 2010.

Gideon v. Wainwright, 372 U.S. 335 (1963).

Gillies, Myriam E., "Reinventing Structural Reform Litigation: Deputizing Private Citizens in the Enforcement of Civil Rights," *Columbia Law Review*, Vol. 100 (Oct. 2000), pp. 1384-1453.

Glod, Maria, and Ovetta Wiggins "Pr. George's Jack Johnson Indicted on Corruption Charges, *The Washington Post*, Feb. 14, 2011.

Godard, John, "Do Implementation Processes and Rationales Matter? The Case of Workplace Reforms," *The Journal of Management Studies*, Vol. 36, No. 5 (1999), pp. 681-704.

Goggin, Malcolm L.; Ann O'M. Bowman, James P. Lester, and Lawrence J. O'Toole, Jr. *Implementation Theory and Practice: Toward a Third Generation.* Glenview, IL: Scott, Foresman/Little, Brown (1990).

Goldstein, Herman, *Policing in a Free Society*, New York: Ballinger Pub Co. (1977)

Goldstein, Herman, "Confronting the Complexity of the Policing Function," in Ohlin, Lloyd E. and Frank J. Remington, *Discretion in Criminal Justice: The Tension Between Individualization and Uniformity*, New York: State University of New York Press (1993).

Golembiewski, Robert T., *Humanizing Public Organizations*, New York: Lomond (1985)

Graham v. Connor, 490 U.S. 386 (1989).

Grant, J. Douglas, and Joan Grant, "Officer Selection and the Prevention of Abuse of Force," in *Police Violence*, William A. Geller and Hans Toch, eds., New Haven: Yale University Press (1996).

Greene, Jack R., William T. Bergman, and Edward J. McLaughlin, "Implementing Community Policing: Culture and Structural Change in Police Organizations," in Dennis P. Rosenbaum, ed., *The Challenge of Community Policing: Testing the Promises*, Thousand Oaks, CA: Sage Publications (1994), pp. 92-109.

Greenwood, Jill King, "Ex-Police Chief Says Mayor Snubbed Him," *Pittsburgh Tribune-Review*, Mar. 6, 2006.

Greenwood, Royston, and C.R. Hinings, "Understanding Radical Organizational Change: Bringing Together the Old and the New Institutionalism," *Academy of Management Review*, Vol. 21, No. 4 (1996), pp. 1022-1054.

Halperin, Morton and Patricia Clapp, *Bureaucratic Politics and Foreign Policy*, 2nd Ed., Washington, D.C.: Brookings Institution Press (2007).

Hargreaves, Andy, and Ivor Goodson, "School Change and Continuity Educational Change Over Time? The Sustainability and Nonsustainability of Three Decades of Secondary School Change and Continuity," *Educational Administration Quarterly*, Vol. 42, No. 1 (2006), pp. 3-41.

Harmon, Rachel A., "Promoting Civil Rights Through Proactive Policing Reform," *Stanford Law Review*, Vol. 62 (Dec. 2009), pp. 1-68.

Harris, David A., *Good Cops: The Case for Preventive Policing*, New York: The New Press (2005).

Harris, M. Kay, and Dudley P. Spiller, Jr., *After Decision: Implementation of Judicial Decrees in Correctional Settings*, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Dept. of Justice, Washington, D.C: U.S. Govt. Print. Off. (1977).

Harriston, Keith A., "Standards Eased in Rush to Expand Force" (second of four articles), *The Washington Post*, Aug.29, 1994B.

Harriston, Keith A., and Mary Pat Flaherty, "D.C. Police Paying for Hiring Binge" (first of four articles), *The Washington Post*, Aug. 28, 1994A.

Haynes, Monica, "MLK Riots: When Patience Ran Out, The Hill Went Up in Flames," *Pittsburgh Post-Gazette*, Apr. 2, 2008.

Heckscher, Charles and Applegate, Lynda M., "Introduction," in C. Heckscher and Anne Donnellson (Eds.), *The Post Bureaucratic Organization,* Thousand Oaks, CA: Sage. (1994), pp. 1-11.

Hinings, C.R., and Royston Greenwood, *The Dynamics of Strategic Change*, Oxford, UK: Basil Blackwell (1988).

Hogwood, Brian W., and Lewis A. Gunn, *Policy Analysis for the Real World*, Oxford: Oxford University Press (1984).

Hood, Christopher, "A Public Management for All Seasons," *Public Administration*, Vol. 69, No. 1 (1991), pp. 3-19.

Horn, Dan, "Respect at Core of Police Debate," *The Cincinnati Enquirer*, Sept. 3, 2001.

Horowitz, Donald L., "Decreeing Organizational Change: Judicial Supervision of Public Institutions," *Duke Law Journal*, Vol. 32 (1983) pp. 1265-1307.

Horowitz, Donald L., *The Courts and Social Policy*, Washington D.C.: The Brookings Institution (1977).

Hughes, Tom, "Police Officers and Civil Liability: The Ties that Bind," *Policing: An International Journal of Police Strategies & Management*, Vol. 24, No. 2, 2003, pp. 240-262.

Human Rights Watch, *Shielded From Justice: Police Brutality and Accountability in the United States*, 103-05 (1998).

Hutchinson, Darlene, "Feds Threaten To Take Over Ohio Police Department; Could Your Town Be Next?," *Law Enforcement Alliance of America (LEAA)*, n.d. Available here: http://www.leaa.org/Shield%202000/fedohiopd.html.

Ikert, Trent E., "Examining the Institutionalization of Problem-Oriented Policing: The Charlotte-Mecklenburg Police Department as a Case Study," PhD Dissertation, The University of Nebraska-Omaha (2007).

Ikert, Trent E., and Samuel Walker, "Making Police Reforms Endure: The Keys for Success," U.S. Department of Justice, Office of Community Oriented Policing Services (2010).

"Individuals and Families Below Poverty Level—Number and Rate by State: 2000 and 2005," Table 687, United States Census Bureau (2009). Available here: http://www.census.gov/compendia/statab/2008/tables/08s0687.pdf.

Ingram, Helen and Anne Schneider, "Improving Implementation Through Framing Smarter Statutes," *Journal of Public Policy*, Vol. 10, No. 1 (1990), pp. 67-88.

Ingram, Helen, Anne L. Schneider, and Peter DeLeon, "Social Construction and Policy Design," in Paul A. Sabatier, ed., *Theories of the Policy Process*, 2nd Ed., Cambridge, MA: Westview Press (2007).

Jackson, David, "Holes in the Files: Investigations of Police Shootings Often Leave Questions Unanswered" (third of five articles), *The Washington Post*, Nov. 17, 1998.

Jeffries, Jr., John C. and George A. Rutherglen, "Structural Reform Revisited," *University of California Law Review*, Vol. 95 (2007).

Johnson, Marlene, "Justice Deal Hits Home Rule," *The Washington Times*, June 15, 2001.

Johnson, Valerie C., *Black Power in the Suburbs: The Myth or Reality of African-American Suburban Political Incorporation*, Albany, NY: State University of New York Press (2002).

Jones, Charles O., *An Introduction to the Study of Public Policy*, 3rd Ed., New York: Harcourt (1984).

Julnes, Patria de Lancer, and Marc Holzer, "Promoting the Utilization of Performance Measures in Public Organizations: An Empirical Study of Factors Affecting Adoption and Implementation," *Public Administration Review*, Vol. 61, No. 6 (Nov/Dec 2001), pp. 693–708.

Kahan, Dan M., "Reciprocity, Collective Action, and Community Policing," *California Law Review*, Vol. 90, No. 5 (2002).

Kahan, Dan M. and Tracey L. Meares, "Foreward: The Coming Crisis of Criminal Procedure," *George Washington University Law Review*, Vol. 86 (1997-1998).

Kappeler, Victor E., *Critical Issues in Police Civil Liability*, 4th Ed., Long Grove, IL: Waveland Press (2006).

Kappeler, Victor E., Kappeler, Stephen F., & del Carmen, Rolando V. (1993). "A Content Analysis of Police Civil Liability Cases: Decisions of the Federal District Courts, 1978-1990," *Journal of Criminal Justice*, 21, 325-337.

Kaufman, Herbert, *Administrative Feedback: Monitoring Subordinates' Behavior*, Washington, D.C.: The Brookings Institution (1973).

Kelling, George L., and William J. Bratton, "Implementing Community Policing: The Administrative Problem," Perspectives on Policing, No. 17, U.S. Department of Justice, National Institute of Justice (July, 1993).

Kennedy, Randall, *Race, Crime, and the Law*, New York: Vintage (1998).

Kerlik, Bobby, Jill King Greenwood, Michael Hasch, "Pittsburgh Tribune Review: No Fed Charges in Jordan Miles' Beating," Pittsburgh Tribune-Review, Thursday, May 5th, 2011.

Kim, Eugene, "Note: Vindicating Civil Rights Under 42 U.S.C. § 14141: Guidance from Procedures in Complex Litigation," *Hastings Constitutional Law Quarterly*, Vol. 29 (Summer 2002), pp. 767-805.

King, Colbert, "Can Mayor Gray Make a Case for Trusting D.C. Government?," op-ed, *The Washington Post*, Mar. 26, 2011.

Kingdon, John W., *Agendas, Alternatives, and Public Policies*, 2nd Ed. (Update Edition, with an Epilogue on Health Care), New York: Longman (2010).

Klepal, Dan and Cindi Andrews, "Stories of 15 Black Men Killed by Police Since 1995," *Cincinnati Enquirer*, Apr. 15, 2001.

Klopott, Freeman, "D.C. Pays $8.25M in Pershing Park Arrests Settlement," Washington Examiner, Dec. 16, 2009.

Kohlmeier, Louis M., *The Regulators*, New York: Harper & Row (1969).

Kohn, Howard, *We Had a Dream: A Tale of the Struggle for Integration in America*, New York: Simon & Schuster (1998).

Korte, Gregory, "Demands Make Boycott Complex: Lengthy, Evolving List Brings Confusion to Debate," *The Cincinnati Enquirer*, Feb. 24, 2002.

Kotter, John P., "Leading Change: Why Transformation Efforts Fail," *Harvard Business Review*, Vol. 73 (March-April, 1995), pp. 59-67.

Kupferberg, Noah, "Transparency: A New Role for Police Consent Decree," *Columbia Journal of Law and Social Problems*, Vol. 42 (Fall 2008), pp. 129-176.

Langworthy, Robert H., *The Structure of Police Organizations*, New York: Praeger Publishers (1986).

Langworthy, Robert H., ed., *Measuring What Matters: Proceedings From the Policing Research Institute Meetings*, Research Report, Cosponsored by the National Institute of Justice and the Office of Community Oriented Policing Services, U.S. Department of Justice Office of Justice Programs (Jul. 1999).

Lawrence, Thomas B., Monika I. Winn, P. Devereaux Jennings, "The Temporal Dynamics of Institutionalization," *The Academy of Management Review*, Vol. 26, No. 4 (Oct., 2001), pp. 624-644.

Leen, Jeff, Jo Craven, David Jackson, and Sari Horwitz, "D.C. Police Lead Nation in Shootings," *The Washington Post*, November 15, 1998; Page A1. Series available here: http://www.washingtonpost.com/wp-srv/local/longterm/dcpolice/deadlyforce/police1page1.htm.

Leen, Jeff, Jo Craven, David Jackson, and Sari Horwitz, "District Police Lead Nation in Shootings – Lack of Training, Supervision Implicated as Key Factors" (first of five articles), *The Washington Post*, Nov. 15, 1998.

Letter from William R. Yeomans, Acting Assistant Attorney General, Civil Rights Division, Department of Justice, to Charles H. Ramsey, Chief of Police, and Anthony Williams, Mayor of the District of Columbia, June 13, 2001 (DOJ Findings).

Levin, Ben, "Sustainable, Large-Scale Education Renewal," *Journal of Education Change*, Vol. 8 (2007), 323-336.

Levin, Ben, and Michael Fullan, "Learning About System Renewal: Educational Management, Administration and Leadership, Vol. 36, No. 2 (2008), pp. 289-303.

Levine, Marty, "Police: Residents Want Consent-Decree Procedures Made Law, *Pittsburgh City Paper*, Oct. 30, 2008.

Lewis, Nancy, and James Rupert, "D.C. Neighborhood Erupts After Officer Shoots Suspect; Crown of Hundreds Confronts Police, Sets Cruisers Ablaze in Mt. Pleasant," *The Washington Post*, May 6, 1991.

Light, Paul C., *The Tides of Reform: Making Government Work, 1945-1995*, New Haven, CT: Yale University Press (1998).

Lipsky, Michael, *Street-Level Bureaucracy*, New York: Russell Sage Foundation (1980).

Lord, Rich, "City Denies Wrongdoing by Police During G-20," *Pittsburgh Post-Gazette*, Dec.23, 2010.

Los Angeles v. *Lyons*, 461 U.S. 95 (1983).

Maag, Christopher, "In Cincinnati, Life Breathes Anew in Riot-Scarred Area," *The New York Times*, Nov. 25, 2006.

MacDonald, Heather, "What *Really* Happened in Cincinnati," *Cincinnati City Journal*, Summer 2001.

Maguire, Edward R., "Structural Change in Large Municipal Police Organizations During the Community Policing Era, *Justice Quarterly*, Vol. 14, No. 3 (1997), pp. 547-576.

Maguire, Edward R., *Organizational Structures in American Police Agencies: Context, Complexity, and Control*, Albany, NY: State University of New York Press (2003).

Manning, Peter K., *Democratic Policing in a Changing World*, Boulder, CO: Paradigm Publishers (2010).

Manning, Peter K., *Police Work: The Social Organization of Policing*, Cambridge, MA: M.I.T. Press (1977).

Manning, Peter K., *The Technology of Policing: Crime Mapping, Information Technology, and the Rationality of Crime Control*, New York: New York University Press (2008).

Mapp v. *Ohio*, 367 U.S. 643 (1961).

March, James G., and Johan P. Olson, "Organizing Political Life: What Reorganization Tells Us About Government," *The American Political Science Review*, Vol. 77, No. 2 (1983), pp. 281-296.

Markovic, John, *Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement*, Washington, D.C.: International Association of Chiefs of Police (2006).

Martinez, Edecio, "Snowball Fight Gun Video: DC Police Chief Slams Veteran Cop Who Gives Up Gun and Badge," CBSNews.com, Dec. 23, 2009.

Maryland Law Enforcement Officers' Bill of Rights (LEOBR), Md. Code Ann., Public Safety §§ 3-101 to 3-113 (2003).

Mastrofski, Steven D., "Varieties of Police Governance in Metropolitan America," *Politics and Policy*, Vol. 8 (1988), pp. 12-31.

Mastrofski Stephen D., "Controlling Street-Level Police Discretion," *The Annals of the American Academy*, May 2004, pp. 100-118.

Mastrofski, Stephen D., and R. Richard Ritti, "Police Training and the Effects of Organization on Drunk Driving Enforcement, Justice Quarterly, Vol. 13, No. 2 (1996), pp. 291-320.

Matland, Richard E., "Synthesizing the Implementation Literature: The Ambiguity-Conflict Model of Policy Implementation," *Journal of Public Administration Research and Theory: J-PART*, Vol. 5, No. 2 (Apr., 1995), pp. 145-174.

May, Judith V., and Aaron B. Wildavsky, eds., *The Policy Cycle*, Beverly Hills, CA: Sage Publications (1978).

Maynard-Moody, Steven and Michael Musheno, *Cops, Teachers, Counselors: Stories from the Front Lines of Public Service*, Ann Arbor, MI: University of Michigan Press (2003).

Mazmanian, Daniel A. and Paul A. Sabatier, eds., *Effective Policy Implementation*, Lexington, MA: Lexington Books (1981).

Mazmanian, Daniel A. and Paul A. Sabatier, eds., *Implementation and Public Policy*, Lanham, MD: University Press of America (1989).

McCain, Marie, "Grant Jury Indicts 63 in Looting, Violence; Prosecutor Allen Expects More Arrests," *The Cincinnati Enquirer*, Apr. 21, 2001.

McCain, Marie, and Jane Prendergast, "Officer Found Not Guilty on Both Charges," *The Cincinnati Enquirer*, Sept. 26, 2001.

McKee, Tom, "Ten Years Later: Cincinnati Police/Community Relations Much Improved," *WCPO.com*, Mar. 6, 2011. Available here: http://www.wcpo.com/dpp/news/news_archives/Ten-years-later%3A--cincinnati-police_community-relations-much-improved.

McKinnon, Jim and Johnna A. Pro, "Man Dies after Scuffle with Police Officers," *Pittsburgh Post-Gazette*, Oct. 13, 1995, A1.

McLanahan, Sara, "Organizational Issues in U.S. Health Policy Implementation: Participation, Discretion, and Accountability," *Journal of Applied Behavioral Science*, Vol. 16, No. 3 (1980), pp. 354-369.

McLaughlin, Milbrey Wallin, "Learning From Experience: Lessons From Policy Implementation," *Educational Evaluation and Policy Analysis*, Vol. 9, No. 2 (1987), 171-178.

McLaughlin, Milbrey, and Dana Mitra, "Theory-Based Change and Change-Based Theory: Going Deeper, Going Broader," *Journal of Educational Change*, Vol. 2 (2001), pp. 301-323.

McMickle, Holly James, "Note: Letting DOJ Lead the Way: Why DOJ's Pattern or Practice Authority Is the Most Effective Tool to Control Racial Profiling," George Mason University Civil Rights Law Journal, Vol. 13 (2003).

McNulty, Timothy, "CAPA Student Claims City Police Beat Him; Senior Faces Assault Charges in Incident," *Pittsburgh Post-Gazette*, Jan. 22, 2010.

McNulty, Timothy, "City Sued Over G-20 Arrests," *Pittsburgh Post-Gazette*, Sept. 21, 2010C.

McNulty, Timothy, "Ravenstahl Wipes Out Review Board," *Pittsburgh Post-Gazette*, Jun. 18, 2010B.

Meares, Tracy, "The Legitimacy of Police Among Young African-American Men," Barrock Lecture on Criminal Law, Marquette University Law School, Feb. 19, 2009, *Marquette Law Review*, Vol. 92, No. 4 (Summer 2009), pp. 651-66.

Memorandum of Agreement between the United States Department of Justice and the City of Cincinnati, Ohio and the Cincinnati Police Department (Cincinnati MOA), United States Department of Justice, Civil Rights Division, April 12, 2002.

Memorandum of Agreement between the United States Department of Justice and the District of Columbia and the D.C. Metropolitan Police Department (MPD MOA), United States Department of Justice, Civil Rights Division, June 13, 2001.

Memorandum of Agreement Between the United States Department of Justice and Prince George's County, Maryland and The Prince George's County Police Department (PGPD MOA), United States Department of Justice, Civil Rights Division, Jan. 22, 2004.

Merton, Robert K., "Social Theory and Social Structure," in *Bureaucratic Structure and Personality*, Glencoe, IL: Free Press (1957), pp. 195-206.

Metropolitan Police Department 1998 Annual Report.

Metropolitan Police Department Press Release, "Force Investigation Team Receives International Award," Sept. 12, 2000. Available here: http://newsroom.dc.gov/show.aspx/agency/mpdc/section/2/release/988/year/2000/month/9.

Milliken v. Bradley, 433 U.S. 267 (1977).

Miranda v. Arizona, 384 U.S. 436 (1966).

Mishkin, Paul J., "Federal Courts as State Reformers," *Washington and Lee University Law Review*, Vol. 35, No. 4 (Fall 1978), pp. 949-976.

Missouri v. Jenkins, 515 U.S. 70 (1995).

Mitchell, Russ, "Police Head Cameras Capture Action, Evidence," CBS.com, Apr. 4, 2010. Available here: http://www.cbsnews.com/stories/2010/04/04/eveningnews/main6363152.shtml.

Moore, Mark H., and Darrell W. Stephens, *Beyond Command and Control: The Strategic Management of Police Departments*, Washington, D.C.: The Police Executive Research Forum (1991).

Moore, Mark H., "Measuring and Improving Police Performance: The Lessons of Compstat and its Progeny," *Policing: An International Journal of Police Strategies & Management*, Vol. 26, No. 3 (2003).

Morabito, Melissa S., "The Adoption of Police Innovation: The Role of the Political Environment," *Policing: An International Journal of Police Strategies & Management*, Vol. 31, No. 3 (2006), pp. 466-484.

Morash, Merry and J. Kevin Ford, eds., *The Move to Community Policing: Making Change Happen*, Thousand Oaks, CA: Sage Publications (2002),

Morin, Richard, and Nell Henderson, "Miles Apart in Mt. Pleasant; Residents Polled Differ on Roots of Violence," *The Washington Post*, May 19, 1991.

Mueller, Keith, "Local Implementation of National Policy," *Policy Studies Review*, Vol. 4, No. 1 (1984), 86-98.

Muir, William Ker, *Police: Streetcorner Politicians*, Chicago: The University of Chicago Press (1977).

Murdaugh, James T., "Succession and the Police Chief: An Examination of the Nature of Turnover Among Florida Police Chiefs," PhD Dissertation, Florida State University (2005).

Mydans, Seth, "The Police Verdict: Los Angeles Policemen Acquitted in Taped Verdict," *New York Times*, April 30, 1992.

Nagy, Andrea R, and Joel Podolny, "William Bratton and the NYPD: Crime Control through Middle Management Reform," Yale School of Management Case 07-015, Feb. 12, 2008. Available here: http://pse.som.yale.edu/sites/pse.som.yale.edu/files/Case_Bratton%202nd%20ed%20Final%20and%20Complete.pdf.

Nakamura, Robert T., and Frank Smallwood, *The Politics of Policy Implementation*, New York: St. Martin's Press (1980).

National Advisory Commission on Criminal Justice Standards and Goals, Report on Police, Washington, D.C., Government Printing Office, 1973.

National Research Council, *Fairness and Effectiveness in Policing: The Evidence*, Washington, D.C.: The National Academies Press (2004).

Newcomer, Kathryn E., "Using Performance Measurement to Improve Programs," *New Directions for Evaluation*, Special Issue: Using Performance Measurement to Improve Public and Nonprofit Programs, Vol. 1997, No. 75, (1997), 5-14.

Newman, Michael, "Jonny Gammage's Life Praised at Rally in Market Square," *Pittsburgh Post-Gazette*, Nov. 1, 1995, A12.

NHS Modernization Agency, *Improvement Leaders' Guide to Sustainability and Spread*, Ipswich, UK: Ancient House Printing Group (2002).

Novak, Kenneth J., Brad W. Smith, and James Frank, "Strange Bedfellows: Civil liability and Aggressive Policing," *Policing: An International Journal of Police Strategies & Management*, Vol. 26, No. 2, (2003), pp.352 – 368.

Novak, Kenneth J., James Frank, Brad W. Smith, Robin Shepard Engel, "Revisiting the Decision to Arrest: Comparing Beat and Community Officers," *Crime & Delinquency*, Vol. 48 No. 1, (2002), pp. 70-98.

O'Neill, Brian, *The Paris of Appalachia: Pittsburgh in the Twenty-first Century*, Pittsburgh: Carnegie Melon University Press, 2009.

O'Toole, James, "Civilian Police Review Board Has Broad Support," *Pittsburgh Post-Gazette*, Apr. 27, 1997A.

O'Toole, James, "Murphy, O'Connor Toe Similar Line in Debate," *Pittsburgh Post-Gazette*, Apr. 28, 1997B.

O'Toole, Jr., Lawrence J., "Recommendations for Multi-Actor Implementation: An Assessment of the Field," *Journal of Public Policy*, Vol. 6, No. 2 (Apr. - Jun., 1986), pp. 181-210.

O'Toole, Jr., Lawrence J., "Research on Policy Implementation: Assessment and Prospects," *Journal of Public Administration Research and Theory*, Vol. 10, No. 2 (2000), pp. 263-288.

O'Toole, Jr., Lawrence J., and Robert Montjoy, "Interorganizational Policy Implementation: A Theoretical Perspective," *Public Administrative Review*, Vol. 44, No. 6 (1984), pp. 491-503.

"Office of Citizen Complaint Review Annual Report Fiscal Year 2002," Government of the District of Columbia, Jan. 3, 2003.

"Office of Municipal Investigation," Audit Summary, Pittsburgh Comptroller's Office, 2008. Available here: http://www.city.pittsburgh.pa.us/co/html/audit_summaries.html.

Ohio Advisory Committee to the United States Commission on Civil Rights, *Policing in Cincinnati, Ohio: Official Policy Vs. Civilian Reality*, January 1981.

Ohlin, Lloyd E. and Frank J. Remington (eds), *Discretion in Criminal Justice: The Tension Between Individualization and Uniformity*, Albany: State University of New York Press (1993).

Oliver, Christine, "The Antecedents of Deinstitutionalization," *Organization Studies*, Vol. 13, No. 4 (1992), pp. 563-88.

Oliver, Willard M., "The Third Generation of Community Policing: Moving Through Innovation, Diffusion, and Institutionalization," *Police Quarterly*, Vol. 3, No. 4 (2000), pp. 367-388.

"Omnibus Crime Control Act of 1991, The," H.R. 102-242 Part 1A; 102 H. Rpt. 242; Part 1A.

Op-ed, "Matter of Trust: The Public Deserves More Data on City Police Work, *Pittsburgh Post-Gazette*, Feb. 14, 2011.

Op-ed, "The Miles Case: Eight Months Later, Answers Go Begging," *Pittsburgh Post-Gazette*, Sept. 2, 2010.

Orfield, Gary, "Introduction: The Southern Dilemma: Losing *Brown*, Fearing *Plessy*," in *School Resegregation: Must the South Turn Back*, John Charles Boger and Gary Orfield, eds., Chapel Hill, NC: The University of North Carolina (2003), 1-25.

Osborne, Kevin, "Finally, the Voters Prevail on Issue 5," *Cincinnati City Beat*, Feb. 4, 2009.

Osher, Christopher N., "Amid concern over discipline, Denver police did fewer investigations on own this August," *The Denver Post*, September 19, 2010.

Ostrom, Elenor, Roger B. Parks, and Gordon P. Whitaker, *Patterns of Metropolitan Policing*, Cambridge, MA: Ballinger (1978).

"Out-Migration Steady in Region," *Pittsburgh Economic Quarterly*, University of Pittsburgh, University Center for Social and Urban Research, Vol. 1, No. 1, 2000. Available here: http://www.ucsur.pitt.edu/files/peq/peq_2000-06.pdf

Ove, Torsten, "Federal Control of Pittsburgh Police Lifted: City Force Becomes Model for Nation," *Pittsburgh Post-Gazette*, Apr. 6, 2005.

Ove, Torsten, "Judge Lifts U.S. Oversight of City Police," *Pittsburgh Post-Gazette*, Sept. 14, 2002, A1.

Packer, Herbert. "Two Models of the Criminal Process," *University of Pennsylvania Law Review*, Vol. 113, No. 1 (1964).

Paoline, III, Eugene A., "Taking Stock: Toward a Richer Understanding of Police Culture," *Journal of Criminal Justice*, Vol. 31, No. 3 (2003), pp. 199-214

Perry, James L., and Hal G. Rainey. "The Public-Private Distinction in Organization Theory: A Critique and Research Strategy." *The Academy of Management Review* 13 (1986): 182-201.

"Personal Income Per Capita in Current and Constant (2000) Dollars by State: 1979 to 2006," Table 659, United States Census Bureau (2007). Available here: www.census.gov/compendia/statab/2008/tables/08s0659.xls.

Peters, B. Guy, and Donald J. Savoie, eds., *Taking Stock: Assessing Public Sector Reforms*, Montreal, Canada: McGill-Queen's University Press (1998).

Pettigrew, Andrew M., Ewan Ferlie, and Lorna McKee, *Shaping Strategic Change: Making Change in Large Organizations – The Case of the National Health Service*, London: Sage (1992).

Pettigrew, Andrew M. *The Awakening Giant: Continuity and Change in ICI*. Oxford, UK: Basil Blackwell 1985.

Piotrowski, Suzanne J. and David H. Rosenbloom, "Nonmission-Based Values in Results-Oriented Public Management: The Case of Freedom of Information, *Public Administration Review*, Vol. 62, No. 6 (Nov. - Dec., 2002), pp. 643-657.

Pittsburgh Independent Monitor Reports, "Auditor's Quarterly Reports, Public Management Resources," San Antonio, Texas, December 15, 1997 – May 16, 2002. Available here: http://www.parc.info/consent_decrees_-_memoranda_of_agreement_-_monitor_reports.chtml.

"Pittsburgh's Racial Demographics: Differences and Disparities," Center on Race and Social Problems, School of Social Work, University of Pittsburgh, Jun. 2007.

Pitz, Marylynne, "10 Joint Lawsuit against Police; Pattern of Brutality Continues, ACLU and NAACP Lawyers Say," *Pittsburgh Post-Gazette*, Feb. 25, 1997, A1.

Pitz, Marylynne, and John M.R. Bull, "Courts OKs City Police Reform; Agreement Settles U.S. Suit Charging Patterns of Abuse," *Pittsburgh Post-Gazette*, April 17, 1997, C1.

"Police-Community Relations in Washington, D.C.," District of Columbia Advisory Committee to the United States Commission on Civil Rights, June, 1981.

Police Complaints Board Office of Police Complaints, Annual Reports, 2006-2009, Government of the District of Columbia.

"Policing in Cincinnati, Ohio: Official Policy vs. Civilian Reality," A Report of the Ohio Advisory Committee to the United States Commission on Civil Rights, Jan., 1981.

"Policing the Police; A Summer of Fatal Missteps Highlights the Need for Independent Oversight of Prince George's Law Enforcement," Op-ed, *The Washington Post*, Aug. 31, 2008.

Polzin, Michael J., and Julie L. Brockman, "Focus on Internal Partnerships: A Framework for Implementing Community Policing in a Unionized Department," in Merry Morash and J. Kevin Ford, eds., *The Move to Community Policing: Making Change Happen*, Thousand Oaks, CA: Sage Publications (2002), pp. 155-179.

Powell, Walter, and Paul J. DiMaggio, eds., *The New Institutionalism in Organizational Analysis*, Chicago: University of Chicago Press (1991).

"Preliminary Technical Assistance Recommendations to Improve the Cincinnati Division of Police," United States Department of Justice, Oct. 23, 2001.

"Principles for Promoting Police Integrity: Examples of Promising Police Practices and Policies," U.S. Department of Justice, January 2001. Available here: http://www.ncjrs.gov/pdffiles1/ojp/186189.pdf.

Prendergast, Jane and Sharon Coolidge, "Police Merger: Can Cincinnati Get More for Less, *Cinncinnati.com*, Feb. 20, 2011.

Prendergast, Jane, "Streicher Leaves Legacy of Change," *Cincinnati.com*, Mar. 20, 2011.

Prenzler, Tim, "Civilian Oversight of Police: A Test of Capture Theory," *British Journal of Criminology*, Vol. 40 (2000), pp. 659-674.

Pressman, Jeffrey and Aaron Wildavsky, *Implementation*, 3rd ed., Berkeley: University of California Press (1984; originally published in 1973).

Prince George's County Independent Monitor Reports, "Report of the Independent Monitor, Prince George's County, MD, Alexandria Group of MPRI, Sept. 10, 2004 – Jan. 15, 2009. Available here: http://www.princegeorgescountymd.gov/Government/PublicSafety/Police/progress.asp

Prince George's County Council Agenda Item Summary, "To Establish Citizen Complaint Oversight Panel to Function when a Police Brutality Complaint is Filed Against a Prince George's County Police Officer," SB-25-1990, July 3, 1990.

Prince George's County Government Overview (2010), available here: *http://www.co.pg.md.us/government/index.asp*.

Prince George's County Council Agenda Item Summary, July 3, 1990.

Pro, Johnna, "City Short $4.5 Million; Cuts Will Have to Be Made to Balance 1997 Budget," *Pittsburgh Post-Gazette*, June 19, 1997, B6.

"Quarterly Reports of the Independent Monitor for the Metropolitan Police Department," Michael Bromwich, Independent Monitor, Office of the Independent Monitor, Fried, Frank, Harris, Shriver & Jacobson, Washington, DC, August 1, 2002 – June 13, 2008. Available here: http://www.policemonitor.org/reports.html.

Radin, Beryl A., *Implementation, Change, and the Federal Bureaucracy: School Desegregation Policy in H.E.W., 1964-1968*, New York: Teachers College Press (1977).

Rainguet, Fred, and Mary Dodge, "The Problems of Police Chiefs: An Examination of the Issues in Tenure and Turnover, *Police Quarterly*, Vol. 4, No. 3 (2001), pp. 268-88.

Reaves, Brian A., and Matthew J. Hickman, "Police Departments in Large Cities, 1990-2000," U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, May, 2002. Available here: http://bjs.ojp.usdoj.gov/content/pub/pdf/pdlc00.pdf.

Reilly, Ryan J., "DOJ Settles With Sheriff Joe Arpaio After He Gives Up Docs For Discrimination Probe," TPMMuckraker.com, June 11, 2011. Available here: http://tpmmuckraker.talkingpointsmemo.com/2011/06/doj_settles_with_sheriff_joe_arpaio_after_he_gives.php.

Rein, Martin and Francine Rabinowitz, "Implementation: A Theoretical Perspective," in Walter Dean Burnham and Martha W. Weinberg, eds., *American Politics and Public Policy*, Cambridge: MIT Press (1978), pp. 307-335.

Reisner, Robert A.F., "When a Turnaround Stalls," *Harvard Business Review*, Vol. 80 (2002), pp. 45-52.

Reiss, Jr., Albert J., and David J. Bordua, "Environment and Organization: A Perspective on the Police," in David J. Bordua, ed., *The Police: Six Sociological Essays*, New York: John Wiley and Sons (1967).

Reynolds, Charles D., "Unjust Civil Litigation – A Constant Threat," *Police Chief*, Vol. 7 (1988).

Report of the National Advisory Commissions on Civil Disorders (The Kerner Commission), Washington, D.C.: U.S. Government Printing Office, Mar. 1, 1968.

"Report of the National Advisory Commission on Civil Disorders (Kerner Commission)," Washington: Government Printing Office, (1968).

"Reports of the Independent Monitor, Memorandum of Agreement between the United

"Reports of the Independent Monitor, Memorandum of Agreement between the United States Department of Justice and Prince George's County, Maryland and The Prince George's County Police Department," Alexandria Group of MPRI, September 10, 2004 – January 15, 2009. Available here: http://www.co.pg.md.us/Government/PublicSafety/Police/progress.asp.

Resnik, Judith, "Managerial Judges," *Harvard Law Review*, Vol. 96 (1982).

Reuss-Ianni, Elizabeth, *Two Cultures of Policing: Street Cops and Management Cops*, New York: Transaction Publishers (1982).

Rice, Stephen K., and Michael D. White, *Race, Ethnicity, and Policing: New and Essential Readings*, New York: New York University Press (2010).

Ridegway, Greg, *Cincinnati Police Department Traffic Stops: Applying RAND's Framework to Analyze Racial Disparities*, Santa Monica, CA: RAND Corporation (2010).

Ridgeway, Greg, Terry L. Schell, Brian Gifford, Jessica Saunders, Susan Turner, K. Jack Riley, Travis L. Dixon, *Police-Community Relations in Cincinnati*, Santa Monica, CA: RAND Corporation (2009).

Ridgeway, Greg, Terry Schell, K. Jack Riley, Susan Turner, and Travis L. Dixon, *Police-Community Relations in Cincinnati: Year Two Evaluation Report*, Santa Monica, CA: RAND Corporation (2006).

Riley, K. Jack, Susan Turner, John MacDonald, Greg Ridgeway, Terry Schell, Jeremy Wilson, Travis L. Dixon, Terry Fain, and Dionne Barnes-Proby, *Police-Community Relations in Cincinnati*, Santa Monica, CA: RAND Corporation (2005).

Rizzo v. Goode, 424 U.S. 362 (1976).

Roddy, Dennis B., "Perceptions Still Segregate Police, Black Community," *Pittsburgh Press*, Aug. 3, 1999.

Rohr, John, *To Run a Constitution: The Legitimacy of the Administrative State*, Lawrence, KS: University Press of Kansas (1988).

Rosenbaum, Dennis, *The Challenge of Community Policing: Testing the Promises*, Thousand Oaks, CA: Sage Publications (1994).

Rosenbaum, Mark, and Peter Bibring, "Extend the LAPD Consent Decree," Op-ed, *Los Angeles Times*, Jun. 4, 2009.

Rosenberg, Gerald, *The Hollow Hope: Can Courts Bring About Social Change?*, Chicago: The University of Chicago Press (1991).

Rosenbloom, David H., "Public Administration Theory and the Separation of Powers," *Public Administration Review*, Vol. 45, No. 5 (1983), pp. 555–562.

Rosenbloom, David H., Rosemary O'Leary, and Joshua Chanin, *Public Administration and Law*, Third Ed., New York: CRC Press (2010).

Ross, Darrell, and Patricia Parke, "Policing by Consent Decree: An Analysis of 42 U.S.C. § 14141 and the New Model for Police Accountability," *Police Practice and Research*, Vol. 10, No. 3 (Jun. 2009), pp. 199-208.

Rubin, Joel, "U.S. Judge Ends Federal Oversight of the LAPD," *Los Angeles Times*, Jul. 18, 2009.

Ruiz v. Estelle, 503 F. Supp. 1265 (S.D. Tex. 1980).

Sabatier, Paul A., "Social Movements and Regulatory Agencies," *Policy Sciences*, Vol. 6 (1975), pp. 301- 42.

Sabatier, Paul A. and Daniel A. Mazmanian, "The Conditions of Effective Implementation: A Guide to Accomplishing Policy Objectives," *Policy Analysis*, Vol. 5, No. 4 (1979), pp. 481-504.

Sabel, Charles F. and William H. Simon, Destabilization Rights: How Public Law Litigation Succeeds, *Harvard Law Review*, Vol. 117 (2004).

Sack, Kevin, "Despite Report After Report, Unrest Endures in Cincinnati, *The New York Times*, Apr. 16, 2001.

Sandler, Ross and David Schoenbrod, *Democracy by Decree: What Happens When Courts Run Government*, New Haven: Yale University Press (2003).

Schafer, Joseph, "The Challenge of Effective Organizational Change: Lessons Learned in Community Policing Implementation," in Merry Morash and Kevin J. Ford, eds., *The Move to Community Policing: Making Change Happen*, Thousand Oaks, CA: Sage Publications (2002), pp. 243-263.

Schafer, Joseph, *Community Policing: The Challenges of Successful Organizational Change*, New York: LFB Scholarly Publishing LLC (2001).

Schell, Terry, Greg Ridgeway, Travis L. Dixon, Susan Turner, K. Jack Riley, "Police-Community Relations in Cincinnati: Year Three Evaluation Report," Santa Monica, CA: RAND Corporation (2007).

Schlanger, Margo, "Beyond the Hero Judge: Institutional Reform Litigation as Litigation, *University of Michigan Law Review*, Vol. 97 (1999).

Schlanger, Margo, "Civil Rights Injunctions Over Time: A Case Study of Jail and Prison Court Orders," *New York University Law Review*, Vol. 81 (2006), pp. 550-630.

Schmitz, Jon, "Masloff Halves Office that Investigates Complaints Against Police," *Pittsburgh Post-Gazette*, Nov. 23, 1990.

Schneider, Andrea, *Community Policing in Action!: A Practitioner's Eye View of Organizational Change*, Washington, D.C.: U.S. Department of Justice Office of Community Oriented Policing Services (2003).

Schuck, Peter H., *Suing Government*, New Haven: Yale University Press (1984).

Schulhofer, Stephen J., Tom R. Tyler, and Aziz Huq, "American Policing at a Crossroads," New York University Public Law and Legal Theory Working Papers, New York University School of Law (2010).

Schwartz, Joanna C., "Myths and Mechanics of Deterrence: Litigation, Information, and Decision-making," *UCLA Law Review*, Vol. 57 (2010), pp. 1023.

Schwartzman, Paul, "Brutality Claims Fall in Pr. Georges; Police Report Shows 25% Drop to Lowest Level Since Curry Took Office," *The Washington Post*, Jan. 26, 2002.

Schwartzman, Paul, and Robert E. Pierre, "From Ruins To Rebirth," *The Washington Post*, Apr. 6, 2008.

Schwartzman, Paul, Ruben Castaneda, and Cheryl W. Thompson, "Jack Johnson, Prince George's County Executive, and His Wife, Leslie, Arrested," *The Washington Post*, Nov. 13, 2010.

Schofield, D. L., "Personal Liability: The Qualified Immunity Defense," *FBI Law Enforcement Bulletin*, Vol. 59, No. 3 (1990), pp. 26-32.

Scogin, Forrest, and Stanley L. Brodsky, "Fear of Litigation among Law Enforcement Officers," *American Journal of Police*, Vol. 10, No. 1 (1991).

Seabrook, John, "Annals of Crime: Don't Shoot: A Radical Approach to the Problem of Gang Violence," *The New Yorker*, Jun. 22, 2009.

Seidman, Harold, *Politics, Position, and Power: The Dynamics of Federal Organization*, 5th Ed., New York: Oxford University Press (1997).

Senge, Peter M., Art Kleiner, Charlotte Roberts, Rick Ross, George Roth, and Bryan Smith, *The Dance of Change: The Challenges of Sustaining Momentum in Learning Organizations*, London: Nicholas Brealey (1999).

Sherman, Lawrence W., and David Weisburd, "General Detterent Effects of Police Patrol in Crime Hot Spots: A Randomized, Controlled Trial," *Justice Quarterly*, Vol. 12, No. 4 (Dec. 1995).

Sherman, Lawrence W., *Scandal and Reform: Controlling Police Corruption*, Berkeley, California: University of California Press (1978).

Shewfelt, Scott, "Baltimore, Prince George's Reign as State's Murder Capitals," *Southern Maryland Online*, Posted Apr. 24, 2007. Available here: http://somd.com/news/headlines/2007/5809.shtml.

Silveira, Matthew J., "Comment: An Unexpected Application of 42 U.S.C. § 14141: Using Investigative Findings for § 1983 Litigation," *UCLA Law Review*, Vol. 52 (Dec. 2004), pp. 601-637.

Simmons, Kami Chavis, "New Governance and the 'New Paradigm' of Police Accountability: A Democratic Approach to Police Reform," *Journal of Criminal Law and Criminology*, Vol. 98 (2008).

Simmons, Kami Chavis, "The Politics of Policing: Ensuring Stakeholder Collaboration in the Federal Reform of Local Law Enforcement Agencies," *Journal of Criminal Law and Criminology*, Vol. 98 (2008).

Skogan, Wesley G. and Susan M. Hartnett, *Community Policing, Chicago Style*, New York: Oxford University Press (1997).

Skogan, Wesley G., "Community Policing: Common Impediments to Success," in Lorie Fridell and Mary AnnWycoff, eds., *Community Policing: The Past, Present, and Future*, Washington, D.C.: Annie E. Casey Foundation, Police Executive Research Forum (1994).

Skogan, Wesley, "Why Reforms Fail," *Policing & Society*, Vol. 18, No. 1 (Mar. 2008), pp. 23-34.

Skogan, Wesley, and Susan Hartnett, *Community Policing Chicago Style*, New York: Oxford University Press (1997).

Skolnick, Jerome H. and James J. Fyfe, *Above the Law*, New York: The Free Press (1993).

Skolnick, Jerome H., and David Bayley, *The New Blue Line: Police Innovations in Six American Cities*, New York: The Free Press (1986).

Skolnick, Jerome H., *Justice Without Trial: Law Enforcement in Democratic Society*, New York: Wiley (1966).

Smydo, Joe, "City Council Told to Tighten Police Accountability," *Pittsburgh Post-Gazette*, Feb. 7, 2011.

Smydo, Joe, and Moriah Balingit, "Controversy Addressed Over Police Review Board Changes in City," *Pittsburgh Post-Gazette*, Jun. 23, 2010.

Song, Charlee, "Can Jordan Miles Incident Lead to Improved Relationships and Policing?, WDUQ News Radio, Feb. 23, 2011B. Podcast available here: http://justiceforjordanmiles.com/?p=1053

Song, Charlee, "Jordan Miles Controversy Affects Police/Community Relations," WDUQ News Radio, Feb. 22, 2011A. Available here: http://justiceforjordanmiles.com/?p=1050.

"Special Litigation Section Frequently Asked Questions: Law Enforcement Misconduct," United States Department of Justice, Civil Rights Division (2003). Available here: http://www.justice.gov/crt/about/spl/faq.php#pppmp.php.

Staw, Barry M., "Knee Deep in the Big Muddy: A Study of Escalating Commitment to a Chosen Course of Action," *Organizational Behavior and Human Performance*, Vol. 16 (1976), pp. 27-44.

Stevens, Dennis J., "Civil Liability and Arrest Decisions," *The Police Journal*, Vol. 73 (2000), pp. 119-42.

Stockwell, Jamie, "Task Force Hopes Recommendations Will Stick," *The Washington Post*, Feb. 1, 2001.

Stockwell, Jamie, and Ruben Castaneda, "Pr. George's Agrees to Curb Excessive Force by the Police," *The Washington Post*, Jan. 23, 2004.

Stone, Christopher E., and Heather H. Ward, "Democratic Policing: A Framework for Action," *Policing and Society*, Vol. 10 (2000), pp. 11-45.

Stone, Christopher, Todd Foglesong, and Christine M. Cole, "Policing Los Angeles Under a Consent Decree: The Dynamics of Change at the LAPD," Harvard Kennedy School Program in Criminal Justice Policy and Management, May 18, 2009. Available here: http://www.hks.harvard.edu/criminaljustice/publications/Harvard_LAPD_Report.pdf.

Stucky, Thomas D., "Local Politics and Violent Crime in US Cities," *Criminology*, Vol. 41 (2003), pp. 1101-35.

"Study of Homicides in the District of Columbia, Metropolitan Police Department, Washington, D.C., A." Oct. 2001. Available here: http://mpdc.dc.gov/mpdc/frames.asp?doc=/mpdc/lib/mpdc/publications/allreports/homicidereport.pdf.

"Study Finds One-Third in D.C. Illiterate," Associated Press, Mar. 19, 2007.

Stuntz, William J., "The Political Constitution of Criminal Justice," *Harvard Law Review*, Vol. 119 (2006), pp. 780-851.

Sturm, Susan P., "The Legacy and Future of Corrections Litigation," *The University of Pennsylvania Law Review*, Vol. 142 (1993).

Styhre, Alexander, "Non-linear Change in Organizations: Organization Change Management Informed by Complexity Theory," *Leadership and Organization Development Journal*, Vol. 23, No. 6 (2002), pp. 343–351.

Sugarman, Barry, "Organizational Learning and Reform at the New York City Police Department," *The Journal of Applied Behavioral Science*, Vol. 46, No. 2 (2010), pp. 157-185.

"Taking Back Prince George's; A Stunning Three-Year Drop in Crime," Op-ed, *The Washington Post*, Feb. 4, 2009.

Tennessee v. Garner, 471 U.S. 1 (1985).

Terrill, William, Eugene A. Paoline, III, and Peter K. Manning, "Police Culture and Coercion," *Criminology*, Vol. 41, No. 4 (2003), pp. 1003 – 1034.

Terry v. Ohio, 392 U.S. 1 (1968).

Thomas, G. Scott, "Census: Cincinnati 57th-largest U.S. City," *Business Courier*, June 22, 2010.

Thompson, Cheryl W., and Henri E. Cauvin, "After Arrests of Prince George's County Executive Jack Johnson and Wife, More are Expected," *The Washington Post*, Nov. 13, 2010.

Thompson, Joel A., "Implementing Workmen's Compensation Programs in the States," *Administration and Society*, Vol. 14, No. 2 (August 1982), 237-60.

Toch, Hans, "Police Officers as Change Agents in Police Reform," *Policing & Society*, Vol. 18, No. 1 (Mar. 2008), pp. 60-71.

Toldson, Ivory. "Profiling Police: Evaluating the Predictive and Structural Validity of an Actuarial Method for Screening Civil Liabilities Among Police Officer Candidates." *U.S. Department of Justice*, NCJRS 2003-IJ-CX-1006 (May 2006).

Tyler, Tom R., *Why People Obey the Law*, 2nd ed., Princeton, NJ: Princeton University Press (2006).

Tyler, Tom R., and David De Cremer, "Process-based Leadership: Fair Procedures and Reactions to Organizational Change," *The Leadership Quarterly*, Vol. 16, No. 4 (Aug. 2005), pp. 529-545.

U.S. Census Bureau, State & County QuickFacts, Prince George's County, Maryland, Aug. 16, 2010. Available here: http://quickfacts.census.gov/qfd/states/24/24033.html.

U.S. v. Prince George's County, Maryland, Complaint, U.S. District Court for the District of Maryland, Jan. 22, 2004.

"Unemployment in the Pittsburgh Area By County – September 2010," Bureau of Labor Statistics, United States Department of Labor, Nov. 22, 2010. Available here: http://www.bls.gov/ro3/urpitt.htm.

United States of America v. City of Los Angeles, California, Board of Police Commissioners of the City of Los Angeles, and the Los Angeles Police Department, Civil No. 00-11769 GAF Consent Decree (2001).

United States of American v. City of Pittsburgh, Pittsburgh Bureau of Police, and Department of Public Safety, Consent Decree, April 5, 1997.

United States v. Pittsburgh, Stipulated Order Civil No. 97-0354, Sept. 30, 2002. Available here: http://www.justice.gov/crt/split/documents/pitts_stipulated_order.php.

Urbina, Ian, "Washington Officials Try to Ease Crime Fear," *The New York Times*, July 13, 2006.

Vaccariello, Linda, "Riot and Remembrance," *Cincinnati Magazine*, Apr. 2006.

Van Meter, Donald S., and Carl E. Van Horn, "The Policy Implementation Process: A Conceptual Framework," *Administration and Society*, Vol. 6, No. 4 (1975), pp. 445-488.

Vela, Susan, "Officer Shoots, Kills Suspect; Man was Unarmed, Wanted on Misdemeanor Charges," *The Cincinnati Enquirer*, Apr. 8, 2001.

Violent Crime Control and Law Enforcement Act of 1994, H.R. 102-242 Part 1A.

Wagner, Allen E., and Scott H. Decker, "Evaluating Citizen Complaints Against the Police," in *Critical Issues in Policing: Contemporary Readings*, 3rd Ed., Roger G. Dunham and Geoffrey P. Alpert, Prospect Heights, IL: Waveland Press (1997).

Walker, Jack H., Achilles A. Armenakis, and Jeremy B. Bernerth, "Factors Influencing Organizational Change Efforts," *Journal of Organizational Change Management*, Vol. 20, No. 6 (2007), pp. 761-773.

Walker, Samuel, *A Critical History of Policy Reform*, Lexington, MA: Lexington Books (1977).

Walker, Samuel, *Taming the System: Control of Discretion in Criminal Justice, 1950-1990*, New York: Oxford University Press (1993).

Walker, Samuel, "Does Anyone Remember Team Policing? Lessons of the Team Policing Experience for Community Policing," *American Journal of Police*, Vol. 12, No. 1 (1993), pp. 33–55.

Walker, Samuel, *Police Accountability: The Role of Citizen Oversight*, Belmont: Wadsworth, (2001).

Walker, Samuel, "Searching for the Denominator: Problems with Police Traffic Stop Data and an Early Warning System Solution," *Justice Research and Policy*, Vol. 3, No. 1 (2001A), pp. 63-96.

Walker, Samuel, "Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide," U.S. Department of Justice, Office of Community Oriented Policing Services (2003). Available here: http://permanent.access.gpo.gov/gpo6632/e07032003.pdf.

Walker, Samuel, "The New Paradigm of Police Accountability: The U.S. Justice Department 'Pattern or Practice' Suits in Context," *St. Louis University Public Law Review*, Vol. 22 (2003A), pp. 3-52.

Walker, Samuel, *The New World of Police Accountability*, Thousand Oaks, CA: Sage Publications (2005).

Walker, Samuel, Geoffrey P. Alpert, and Dennis J. Kennedy, "Responding to the Problem Police Officer: A National Study of Early Warning Systems, Final Report," National Institute of Justice, U.S. Department of Justice, 98-IJ-CX-0002 (2000).

Walker, Samuel, Geoffrey P. Alpert, and Dennis J. Kenney, "Early Warning Systems: Responding to the Problem Police Officer," *National Institute of Justice Research in Brief*, NCJ 188565, U.S. Department of Justice Office of Justice Programs (2001).

Walker, Samuel, Cassia Spohn, and Miriam DeLone, (eds.), The Color of Justice: Race, Ethnicity, and Crime in America, 4th Ed., New York: Wadsworth Publishing (2006).

Walker, Samuel, and Morgan Macdonald, "An Alternative Remedy for Police Misconduct: A Model State 'Pattern or Practice' Statute," *George Mason University Civil Rights Law Journal*, Vol. 19 (Summer 2009), pp. 479-552.

Ward, Paula Reed, Judge Dismisses Charges Against CAPA Student, *Pittsburgh Post-Gazette*, Mar. 5th, 2010.

Wasby, Stephen L., "Arrogation of Power or Accountability: 'Judicial Imperialism' Revisited," *Judicature*, Vol. 65 (1981).

Washington, D.C. Metropolitan Police Department Independent Monitor Reports, June 12, 2002 – June 13, 2008, Michael R. Bromwich, Independent Monitor, Office of the Independent Monitor, Fried, Frank, Harris, Shriver & Jacobson LLP, Available here: http://www.policemonitor.org/MPD/MPDindex.html.

Washington Metro Police Department General Order (GO-RAR-901.09), Use of Force Review Board, May 15, 2009. Available here: https://go.mpdconline.com/GO/GO_901_09.pdf.

Weisburd, David, Stephen D. Mastrofski, Ann Marie McNally, Rosann Greenspan, and James J. Willis, "Reforming to Preserve: Compstat and Problem Solving in American Policing," *Criminology & Public Policy*, Vol. 2, No. 3 (2003), pp. 421-456.

Weisburd, David, Stephen D. Mastrofski, Ann Marie McNally, Rosann Greenspan, and James J. Willis, "The Growth of Compstat in American Policing," The Police Foundation, Apr. 2004. Available here: http://www.lapdonline.org/inside_the_lapd/pdf_view/6247.

Weisburd, David, Stephen D. Mastrofski, Rosann Greenspan, and James J. Willis, "The Growth of Compstat in American Policing," Police Foundation Reports, Apr., 2004.

Wells, William and Joseph A. Schafer, "Police Skepticism of Citizen Oversight: Officers Attitudes Towards Specific Functions, Processes, and Outcomes," *Journal of Crime & Justice*, Vol. 30, No. 2 (2007), pp. 1-24.

Wheeler, Linda, "3 Testify in Behalf of Man Police Shot; Defense Opens in Mt. Pleasant Case," *The Washington Post*, Nov. 11, 1992.

White, Michael D., "Controlling Police Decisions to Use Deadly Force: Reexamining the Importance of Administrative Policy," *Crime & Delinquency*, Vol. 41, No. 1 (2001), pp. 131-151.

Whitlock, Craig, "County Won't Release Records on Many Cases," *The Washington Post*, July 4, 2001F.

Whitlock, Craig, "Efforts at Reform Repeatedly Stalled," *The Washington Post*, July 1, 2001B.

Whitlock, Craig, "Official Secrecy Shrouds Fatal Arrests: Prince George's Police Hamper Prosecutors" (last of four articles), *The Washington Post*, July 4, 2001E.

Whitlock, Craig, "Police Routinely Clear Their Own: Prince George's Tolerates Officers Accused of Repeated Abuses" (second of four articles), *The Washington Post*, July 2, 2001C.

Whitlock, Craig, "Pr. George's Police Face Wider Inquiry; Federal Civil Rights Violations Alleged," *The Washington Post*, Apr. 11, 2000.

Whitlock, Craig, "State Law Hampers Investigators," *The Washington Post*, July 2, 2001D.

Whitlock, Craig, "Study Reveals Bias by Police in Pr. George's; White Officers More Brutal to Blacks," *The Washington Post*, Nov. 4, 2001G.

Whitlock, Craig, and David S. Fallis, "Officers Killed With Impunity: Officials Ruled Shootings Justified in Every Case – Even of Unarmed Citizens" (first of four articles) *The Washington Post*, July 1, 2001A.

Whitlock, Craig, and Jamie Stockwell, "U.S. to Probe Pr. George's Police Force; Justice Department Plans Civil Rights Investigation," *The Washington Post*, Nov. 2, 2000.

Wilber, Del Quentin, "Judge Orders Probe of Records in Pershing Park Mass Arrests, The *Washington Post*, Dec. 18, 2009.

Willis, James J., Stephen D. Mastrofski, and David Weisburd, "Making Sense of COMPSTAT: A Theory-Based Analysis of Organizational Change in Three Police Departments," *Law & Society Review*, Vol. Vol. 41, No. 1 (2007), pp. 147–188.

Wilkinson, Howard, "Over-the-Rhine Waits for Reality," *Cincinnati Enquirer*, Apr. 4, 2002.

Williams, E. J., "Structuring in Community Policing: Institutionalizing Innovative Change," *Police Practice and Research*, Vol. 4, No. 2 (2003), pp. 119-129.

Wilson, James Q., *Varieties of Police Behavior: The Management of Law and Order in Eight Communities*, Cambridge, MA: Harvard University Press (1968).

Wise, Charles R. and Robert K. Christensen, "A Full and Fair Capacity: Federal Courts Managing State Programs," *Administration & Society*, Vol. 37, No. 5 (2005), 576-610.

Wise, Charles R. and Rosemary O'Leary, "Breaking Up is Hard to Do: The Dissolution of Judicial Supervision of Public Services," *Public Administration Review*, Vol. 63, No. 2 (2003), 177-92.

Witt, April, "False Confessions: Inside the Prince George's Homicide Unit; Allegations of Abuses Mar Murder Cases (first of four articles)," *The Washington Post*, June 3, 2001.

Wood, Robert C., ed., *Remedial Law*, Amherst, MA: The University of Massachusetts Press (1990).

Yoo, John Choon, "Who Measures the Chancellor's Foot? The Inherent Remedial Authority of the Federal Courts," *University of California Law Review*, Vol. 84, (1996).

Young, Chris, "Christmas Bonus," *Pittsburgh City Paper*, Dec. 16, 2010.

Young, Chris, "Proposed City Legislation Would Require Police to Report Misconduct Complaints," *Pittsburgh City Paper*, Feb. 3, 2011.

Youngberg v. Romeo, 457 U.S. 307 (1982).

Zapotosky, Matt, "D.C. Snowball Fight 'Fun and Games' Until Gun Appears," *The Washington Post*, Dec. 21, 2009.

Zapotosky, Matt, "Pr. George's Exec.-Elect Urged to Keep Hylton," *The Washington Post*, Nov. 18, 2010.

Zapotosky, Matt, "Pr. George's Police Woes Wider than U.S. Probe," *The Washington Post*, Nov. 29, 2010.

Zapotosky, Matt, "Prince George's Police Officer Indicted," *The Washington Post*, Oct. 27, 2010.

Zapotosky, Matt, "Prince George's Probes Officers' Criminal Cases," *The Washington Post*, Oct. 7, 2010.

Zapotosky, Matt, "Probe Widens Into Alleged Cheating by Pr. George's Officers-in-Training," *The Washington Post*, Oct. 5, 2010.

Zapotosky, Matt, and Ruben Castaneda, "Feds Now Lead Probe of Police Beating, *The Washington Post*, Dec. 4, 2010.

Zaring, David, "National Rulemaking Through Trial Courts: The Big Case and Institutional Reform," *UCLA Law Review*, Vol. 51 (2004).

Zhao, Jihong, Quint C. Thurman, and Nicholas P. Lovrich, "Community-Oriented Policing Across the U.S.: Facilitators and Impediment to Implementation," *American Journal of Police*, Vol. 14, No. 1 (1995), pp. 11-28.

Zucker, Lynne G., "Where Do Institutional Patterns Come From? Organizations as Actors in Social Systems," in Lynne G. Zucker, ed., *Institutional Patterns and Organizations: Culture and Environment*, Cambridge, MA: Ballanger (1988), pp. 23-49.