



E-ISSN 2332-886X

Available online at

<https://scholasticahq.com/criminology-criminal-justice-law-society/>

Emerging Patterns in Federal Responses to Police Misconduct: A Review of “Pattern or Practice” Agreements over Time

Ellen A. Donnelly & Nicole J. Salvatore

University of Delaware

ABSTRACT AND ARTICLE INFORMATION

Since 1994, the Department of Justice (DOJ) has investigated and brought suit against law enforcement agencies engaging in a “pattern or practice” of police misconduct prohibited in 42 U.S.C.14141. Most federal interventions end in settlement agreements that require agencies to redress constitutional violations. Despite Section 14141’s promise for increasing police accountability and improving the administration of justice, less is understood about what types of reforms appear in agreements and how federal interventions have responded to policing issues over time. This study analyzes the scope and character of pattern or practice agreements in two ways. A content analysis of 40 agreements first provides a typology of preferred reforms, ranging from improving community relations and providing more training to reducing bias. The analysis then shows growth in the number of agreements and reform measures from the Clinton administration to the Obama administration. More recent agreements emphasize engaging communities in reform efforts, enhancing civilian review and complaint systems, and regulating the use of specific forms of force. These results illuminate the changing nature of federal responses to police misconduct due to policy learning and partisan shifts.

Article History:

Received October 31, 2018

Received in revised form June 17, 2019

Accepted June 25, 2019

Keywords:

pattern or practice; Section 14141; policing; consent decree; police reform; DOJ;
Department of Justice; federal intervention

On September 4, 2014, the U.S. Department of Justice (DOJ) announced its civil rights investigation into the Ferguson Police Department. The shooting death of Michael Brown by Officer Darren Wilson sparked a national outcry over aggressive policing practices and a lack of diversity within the Ferguson police force (Prokupecz, Brown, & Botelho, 2014).¹ Attorney General Eric Holder stated that the federal investigation had broad goals of “translating dialogue into concrete action” and “facilitating lasting change” that would bring together police, civil rights leaders, and the community at large (Holder, 2014, para. 12). DOJ based its investigation on 42 U.S.C.14141 (hereafter Section 14141), a provision of the Violent Crime Control and Law Enforcement Act of 1994 that reprimands law enforcement agencies for “patterns or practices” of misconduct that violate the protected rights of citizens. The investigation revealed numerous constitutional and statutory violations (U.S. Department of Justice, 2015). After a year of slow progress in taking corrective action (U.S. Department of Justice Civil Rights Division, 2015), the police department and Ferguson City Council agreed to avoid further litigation by entering into a consent decree that called for procedural reforms, including changing practices to reduce bias, altering law enforcement activities to promote public safety over revenue, and hiring a more diverse group of qualified police officers (Cullinane, 2016). The consent decree presently stands as one of the nation’s largest federal efforts to overhaul law enforcement practices (*U.S. v. Ferguson Police Department*, 2016).

Federal civil rights intervention through settlement agreements holds promise in reproaching constitutional violations, cultivating public trust in law enforcement, and increasing police accountability. Scholars have taken an interest in pattern or practice reform by evaluating the effects of Section 14141 interventions on policing outcomes. Several empirical studies indicate that federal intervention decreases subsequent civil rights complaints (Powell, Meitl, & Worrall, 2017) and may also reduce aggression in police patrols (Pyrooz, Decker, Wolfe, & Shjarback, 2016; Rushin & Edwards, 2017; Shi, 2009). More critical evaluations of Section 14141 assert that agreements do little to change the attitudes (Scogin & Brodsky, 1991) or routine practices of law enforcement officers (Kappeler, 2001; Novak, Smith, & Frank, 2003). Fundamentally, these assessments require scholars to identify DOJ’s preferred reforms as mechanisms for change in policing.

Despite the potential power of federal intervention in policing, the nature of Section 14141 interventions is poorly understood. Reforms are “buried in hundreds of pages of consent decrees,” and

interventions are tailored to specific agencies (Harmon, 2017, p. 649). Most evaluations of pattern or practice reform fail to identify what recommendations or reform measures within agreements inspire shifts in agencies’ or officers’ practices. In an effort to uncover patterns in the contents of Section 14141 agreements, a few studies have identified major types of interventions, such as regulating use of force or reducing bias (Chanin, 2017; Rushin, 2015; Walker, 2018); however, changes in settlements are underestimated as almost all settlements contain at least one instance of these broad classes of reforms. Two recent studies compared the number and type of measures in agreements that primarily affect agencies investigated during the Obama administration in more detail (Douglass, 2017; U.S. Department of Justice, 2017), yet no analysis has quantitatively examined how the terms of settlement change for all agreements over political time.

This study examines the scope and character of pattern or practice agreements since the passage of Section 14141. It considers what and how many reforms DOJ specifies in agreements with investigated law enforcement agencies. Using a content analysis of agreements adopted between 1994 and 2017, this study introduces a typology of pattern or practice reforms. It further considers how reform measures change in response to presidential administration and policy learning. The contributions of this study are two-fold. It first provides a framework for distinguishing and organizing Section 14141 reforms. This framework locates major and minor categories of reforms that drive federal intervention under settlement agreements. More importantly, it underscores how DOJ’s preferred reforms have evolved in nature and frequency. This approach allows practitioners and scholars to find commonalities (and differences) in agreements across a diverse set of affected agencies. By distinguishing preferred measures, this study seeks to illuminate the changing ways that the federal government has approached police misconduct as well as provide a resource for scholars to better identify reform efforts that improve police administration.

Pattern or Practice Interventions Under Section 14141

Almost 25 years ago, Congress gave the federal government unprecedented power to intervene against police misconduct among state and local law enforcement agencies. Section 14141 of the Violent Crime Control and Law Enforcement Act declares it is unlawful for law enforcement agencies to engage in a pattern or practice that deprives persons of rights, privileges, or immunities protected by U.S. law and

the Constitution (Law Enforcement Misconduct Statute, 42. U.S.C. § 14141). The provision enables DOJ to obtain equitable relief to eliminate police misconduct and other forms of civil rights violations. Section 14141's passage in 1994 represented a turning point in civil rights litigation. This policy allows civilians and DOJ to initiate lawsuits explicitly targeting law enforcement agencies. Such legal standing was not previously afforded to concerned parties under other civil rights provisions (Rushin & Edwards, 2017, p. 22).ⁱⁱ Indeed, Congress passed the measure following the release of video footage showing Los Angeles police officers beating Rodney King and public outcry over few mechanisms for police accountability (Rushin, 2015).

Federal intervention under Section 14141 takes several forms that reflect varying needs of civil rights enforcement. In brief, federal efforts to address police misconduct proceed in five stages: case selection, initial inquiry, formal investigation, settlement negotiation, and monitored reform (Rushin & Edwards, 2017). DOJ first identifies possible cases of police misconduct among the nearly 18,000 law enforcement agencies across the country. Initiation of DOJ intervention may come in response to civilian complaints or media attention to problematic policing activities (Ross & Parke, 2009). Sometimes DOJ attorneys extend ongoing litigation efforts against police departments, as civil rights advocacy groups have started the process of gathering evidence of unconstitutional and illegal policing practices. For example, the Tulsa Police Department was put under federal scrutiny following a discrimination lawsuit by 19 of the city's Black officers (Rushin, 2014; Marshall, 2001). DOJ may also target agencies given broader political aims. To illustrate, a settlement with the New Jersey State Police followed civil rights campaigns in New Jersey and Maryland to measure, combat, and cease discriminatory traffic stops, popularly known as the offense of "driving while Black" (Lamberth, 1998; Rushin, 2017). In this respect, DOJ intervention may reflect the current political and legal climate around civil rights issues.

Upon receiving information about troubling practices, DOJ litigators select cases to pursue and begin preliminary inquiries into violations. DOJ does not publicly release the identity of examined law enforcement agencies or subject them to intensive oversight at this initial inquiry stage. Formal investigations are conducted when agencies display signs of serious misconduct. These investigations are publicly announced and typically last a year or more. Despite being under public scrutiny and federal review, agencies again do not have to alter their existing policies or practices during an investigation.

If found to be engaging in patterns or practices of misconduct, police departments must subsequently begin reform processes. DOJ releases a "findings" letter that diagnoses system-wide issues. Agencies can contest findings through litigation or enter into settlement agreements, such as consent decrees or memoranda of understandings (Douglass, 2017). Consent decrees are orders upon which DOJ and an affected agency agree. Federal courts then oversee and enforce consent decrees to ensure agencies make progress on reform. Memoranda of Understanding (MOUs, or sometimes Memoranda of Agreement, MOAs) also bind DOJ and an agency in a contract to make stipulated changes, but these agreements usually lack the judicial oversight found in consent decrees. Under the Obama administration, MOUs were used in cases when measures had to address a "relatively narrow" set of problems or if agencies showed the capacity to implement reforms without judicial enforcement (U.S. Department of Justice, 2017, p. 23). Should the terms of the agreements break down during monitoring, DOJ can file a lawsuit against the agency at any time (Rushin & Edwards, 2017).

It is important to emphasize the funneling of potential police misconduct claims from the initial inquiry to settlement stages. Getting unprecedented access to caseloads from interviews with U.S. attorneys and staff, Rushin (2014) estimated that between 2000 and 2013, just 325 law enforcement agencies received inquiries. Of these preliminary inquiries, only 38 led to formal investigations. Although half of the investigated agencies ultimately entered into a settlement agreement during this period ($n=19$), the scope of DOJ activity was narrow. Put plainly, police misconduct intervention occurred in less than 0.5% of all U.S. law enforcement agencies (Rushin, 2014, pp. 3328–3330). DOJ intervention is then highly targeted and selective.

From a legal perspective, Section 14141 still has remarkable potential to transform police procedure. Agreements strive to introduce "institutional change," creating new organizational norms, policies, and structures in response to systemic problems rather than sporadic issues of misconduct (Ikerd & Walker, 2010). These reforms should have noticeable and enduring impacts (Chanin, 2015). Indeed, the provision should arguably help to forge more "constitutional policing" (Rushin, 2016, p. 136). Walker (2017) likened pattern or practice intervention to legal attempts to develop constitutional standards in response to prisoners' rights concerns in the 1960s.

Federal pattern or practice reform activities have grown over time. Between 1994 and 2017, DOJ had 69 ongoing or completed investigations of state or local law enforcement agencies. The federal

government closed 26 of these investigations without a formal finding of misconduct (U.S. Department of Justice, 2017, p. 15). A total of 41 agreements were made between DOJ and affected agencies. About half of these agreements are consent decrees ($n=21$) while the other half involve memoranda of understanding between DOJ and investigated agencies ($n=20$). Figure 1 displays a map of agencies affected by each type of agreement. The figure illustrates federal consent decrees affect police departments serving major U.S. cities, like Albuquerque, NM, Los Angeles, CA, Portland, OR and Seattle, WA. Law enforcement agencies in smaller cities and towns, such as Warren, OH or Easton, PA, are also represented among departments facing federal scrutiny. Memoranda of understanding are more common for these smaller agencies.

Presidential interest in police accountability reform has also affected pattern or practice reform. Relative to the Clinton administration, DOJ under the George W. Bush administration initiated fewer inquiries, failed to publicize findings of investigations,

and preferred to use less intensive memoranda of understanding or technical assistance letters as interventions (Harmon, 2009). These actions do not come as a surprise (Rushin, 2014), as Bush expressed that the federal government should not be “second-guessing” police actions while on the 2000 presidential campaign trail (Lichtblau, 2000). The Obama administration assumed a different approach. Section 14141 investigatory activities dramatically rose, resulting in higher finding rates of improper conduct and more negotiated settlements (Chanin, 2017). More recently, political tides in policing have changed again with the Donald Trump administration’s rejection of DOJ reform (Walker, 2018). According to a DOJ spokesman, the administration has vowed to “never negotiate or sign a consent decree that could reduce the lawful powers of the police department” (Norwood, 2018). Given these shifts in approaching federal responsibility to monitor local police, a priority is to then understand how the terms and details of settlements have evolved over time.

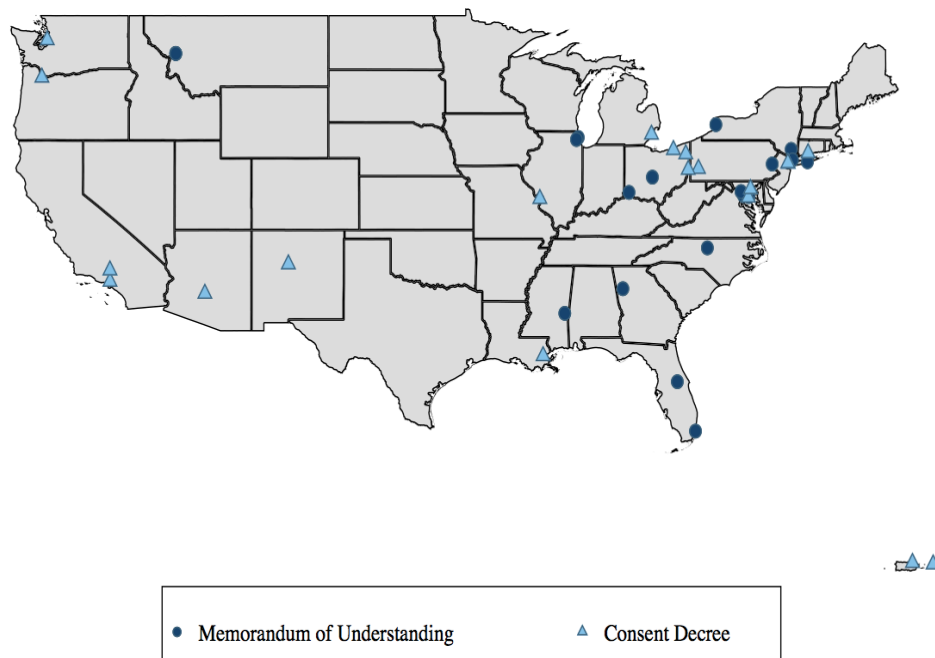


Figure 1: Distribution of Pattern or Practice Agreements by Type (1994-2017)

Empirical Assessments of Pattern or Practice Reforms and Their Limitations

The process of federal intervention under Section 14141 may be straightforward, but the nature

of pattern or practice reform has been less explored. Recently, scholars have begun to empirically determine whether federal investigations and agreements under Section 14141 affect how police departments enforce laws (Harmon, 2009; Powell et al., 2017; Walker, 2017). Most evaluations have

focused on one or a few agencies using surveys, interviews, and summary statistics (Powell et al., 2017). These small-N studies showed significant post-reform impacts, such as decreases in the number of incidents of use of force and civilian complaints (Chanin, 2015; Davis, Ortiz, Henderson, & Miller, 2002; Stone, Foglesong, & Cole, 2009). Officers also reported taking less proactive approaches to their jobs (Davis, Henderson, & Ortiz, 2005, p. 22; Stone et al., 2009, p. 19), which translated to reductions in arrests and increases in criminal incidents in places like Cincinnati and Los Angeles (Shi, 2009). Such institutional changes were not always sustained and the consequences of agreements reportedly varied across departments (Chanin, 2014, 2015).

Several large-N analyses have also affirmed that pattern or practice agreements lead to aggregate shifts in outcomes. Powell and colleagues (2017), for instance, demonstrated that civil rights filings under Section 1983 declined after the formulation of consent decrees in 23 jurisdictions. Reductions in seeking civil remedy appeared gradually, but often do not last over time. In another study, Rushin and Edwards (2017) showed growth in crime rates and concurrent decreases in arrest rates following the introduction of DOJ agreements, in particular for property crimes. Although the magnitude of these effects was not substantial after the introduction of control variables, Rushin and Edwards (2017) concluded that “depolicing is not entirely implausible” due to changes in the direction of crime and arrest patterns (p. 54).

Across these empirical studies, federal intervention has been treated as a black box. For the most part, empirical analyses only considered the presence of federal intervention and did not comment on what changes were required. Chanin (2015) observed that his empirical study “framed pattern or practice reform as a monolithic initiative rather than a series of individual components” (p. 184). Alpert, McLean, & Wolfe (2017) added that examining these agreements is a “missed opportunity” to uncover what DOJ believe are problems in affected agencies and how to amend unconstitutional practices (p. 240).

There are fewer analyses of the content of agreements. A handful of studies have distinguished broad patterns in the contents of agreements (Rushin, 2017; Walker, 2018). Such studies identified major types of reform. Rushin (2015), for example, asserted that “almost every single negotiated settlement” addressed use of force (p. 1378-1379). He located other common elements in agreements, noting “virtually every agreement” introduces stringent reporting guidelines (p. 1380), “nearly every single monitored settlement” establishes procedures for handling civilian complaints (p. 1381), and a “handful of the agreements” seek to redress bias-free policing

(p. 1385). Chanin (2017) similarly analyzed whether individual settlements contained key components of pattern or practice reform. He determined that almost 90% of all settlements required policy change. At least 70% of settlements had provisions for officer training, complaint intake and oversight, and more data collection (see Figure 2, p. 258). Variation across settlements and administration, however, has been minimized due to the binary nature the content analysis (i.e., a measure was present or not present). While successful in showing important reform measures, this broad-pattern approach may underestimate differences in the number and type of reform measure across presidential administrations.

Two other recent studies qualitatively detailed recommendations for a subset of agreements. Douglass (2017) provided a comparison of major reforms in consent decrees affecting police departments in Cleveland, OH, Baltimore, MD, and New Orleans, LA. His analysis identified that these three consent decrees shared similar provisions, such as bias-free policing, in-service training, and use of force regulations, and community interactions. His work showed that consent decrees vary in their coverage of issues and reflect an “evolution” in the level of detail in how agencies should promote community policing (Douglass, 2017, p. 326). This analysis underscored that comparisons of the consent decrees may be useful, but it did not explain where 24 categories of reform came from. All of these consent decrees were also adopted between 2013 and 2017. This study then provides more of snapshot rather than a longitudinal assessment of how agreements change over several years.

In early 2017, DOJ also released an interactive guide to highlight its pattern or practice reforms over time. The guide directs the user to locate how DOJ has a) required certain types of reform, b) handled reform in certain states, and c) adopted reforms over time. In this first area, DOJ distinguished 44 different types of reform, ranging in specificity from addressing LGBTQ bias to regulating the use of canines and chokeholds. Although DOJ listed all agreements it entered into since 1994, DOJ’s exploratory analysis of detailed reforms was only based on 22 reform agreements. The guide did not discuss why these agreements were selected or why some agreements were omitted. In short, DOJ’s guide is an excellent first step in identifying detailed types of pattern or practice reforms, but falls short in analyzing the entire universe of agreements.

The need to analyze the contents of agreements for preferred recommendations is strong. Scholars like Harmon (2009) argued that such review could “increase the informational value of [DOJ’s] Section 14141 enforcement efforts and provide a

useful resource for police departments and researchers” (p. 624). A quantitative analysis of the contents of consent decrees and memoranda of understanding may shed insight into why some agencies may be more successful than others in reducing complaints among citizens. For instance, such an analysis can illuminate what, if any, provisions stipulate roles for community members in shaping the post-reform process and whether these provisions are frequently or infrequently applied across agencies. Close readings of agreements may further highlight shifts in how DOJ approaches major areas of reforms, such as use of force, as time progresses. Neither scholars nor government officials have yet to quantify and categorize federal reform measures to address police misconduct as well as show shifts in their frequency over the past 24 years.

Present Study

This present study examines reform measures to eliminate troubling patterns or practices of policing in Section 14141 agreements. It makes two contributions. First, it distinguishes the main types of recommendations for reform within agreements between DOJ and law enforcement agencies. DOJ (2017) has proclaimed that “there is no ‘cookie cutter’ Department of Justice Police Reform Agreement” (p. 20). Recognizing the uniqueness of each agreement, this study provides a framework of major and minor reforms to characterize recommendations and locate common types of reform provisions. Second, it breaks down federal intervention by presidential administration to better understand the evolution of responses to police misconduct over political time. The goal is to show a “learning curve” in recommended reforms (Walker, 2017) as well as point out different emphases in interventions under Democratic and Republican administrations.

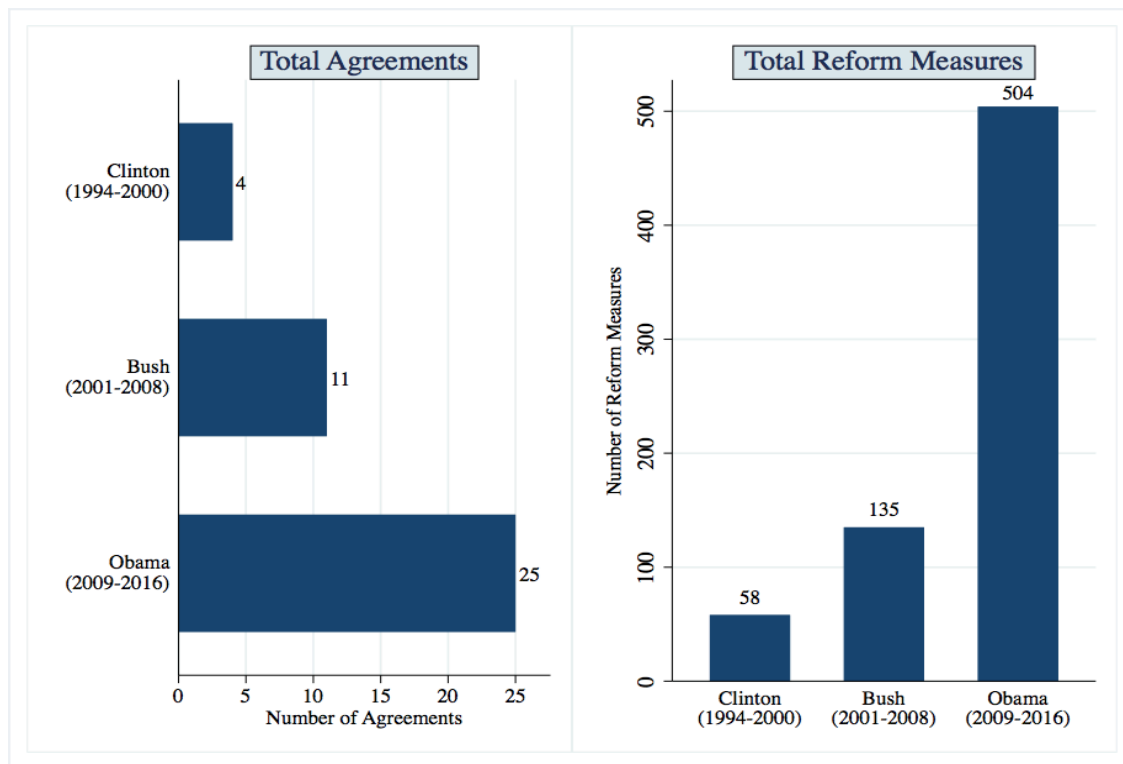


Figure 2: Total Agreements and Reform Measures by Presidential Administration

Method

Data

To identify and classify the federal government’s civil rights interventions in policing, this study completes a content analysis of pattern or practice agreements. To begin, an original database of

agreements was constructed by downloading relevant files from the University of Michigan Law’s Civil Rights Litigation Clearing House’s and the U.S. Department of Justice Civil Rights Division’s websites. Of the 41 agreements created between 1994 and 2017, 40 full-text agreements affecting 39 state and local agencies were located. The most recent agreement in the dataset features a 2017 consent decree between the Baltimore Police Department and

DOJ during the final days of Obama's presidency. Over the past two decades, DOJ also provided technical assistance letters providing recommendations for reform to investigated agencies (U.S. Department of Justice, 2017, p. 50). Technical assistance letters are excluded from the present analysis because provisions within these correspondences may not be mutually agreed upon by DOJ and the agency or result from an official finding of misconduct following an investigation. Appendix 1 provides a full list of examined agencies with pattern or practice agreements.

A content analysis of Section 14141 agreements and reform measures was completed through a three-step process. We define reform measures as policy recommendations or requirements aimed at enacting a change in policing behavior, procedure, or outcomes. We focus on these reform measures as our unit of analysis. To generate a dataset of reform measures within our 40 agreements, we converted all HTML or PDF files of settlements into readable text documents using QDA, a qualitative data analysis software program. The conversion process worked for most agreements, but a few only rendered headings or did not show paragraph text (e.g., an agreement with the New Orleans Police Department). We then used Adobe Acrobat's Optical Character Recognition (OCR) function to digitize printed images into readable text within PDFs. These OCR-converted PDFs were then re-uploaded into QDA. Within the program, we assigned each agreement as a separate text document and saved all 40 documents as a single project. This compilation process allowed us to analyze the text of multiple agreements at once.

Next, we searched within our project's text documents for relevant reforms measures. The QDA software locates keywords or phrases across all text documents. A list of 44 search terms was developed based on reforms highlighted by the Department of Justice (2017)'s interactive Police Reform Guide. Search terms included items like "bias," "hiring," "training," "head-strikes," and "use of force." A full list of search terms is available in Appendix 2. Each word or phrase was searched one at a time. Searches in QDA were plural-sensitive. For instance, searching "protest" would have different results than searching "protests." Due to this discrepancy in results, searches for plural and singular words/phrases included an "*" next to the word or phrase.

Search results for each keyword were then inspected for their relevance to reform activities. All results were checked for a logical connection to the search term, and the surrounding paragraphs were also checked (e.g., when a sentence or paragraph regarding systems to improve officer supervision appeared as a result, the sentences directly above and below were

also checked for relevance). Multiple keyword hits were coded as a single reform if they corresponded to the same recommendations. To illustrate this coding process, suppose a search for the term "bias" yields 10 hits in an agreement with the Alamance County Sheriff's Office. One section of the agreement mentions bias six times in a single measure for a "Bias-Free Policing Policy." The agreement states that

The ACSO will adopt and implement the bias-free policing policy (the "Bias-Free Policing Policy") that is attached to this Agreement as Exhibit A. Allegations of bias-based profiling or discriminatory practices, real or perceived, critically injure the relationship between the ACSO and the community it is entrusted to protect and serve. The ACSO does not endorse, train, teach, support, or condone any type of bias, stereotyping, or racial, cultural/ethnic, and gender profiling by its members. The ACSO has an obligation and is committed to identifying and eliminating any instances of bias-based policing in all areas. ACSO leadership and supervising officers will continue to unequivocally and consistently reinforce to subordinates that such biased policing is unacceptable (Alamance Memorandum of Agreement, 2016, Part II, sec 1).

In this case, we coded these six hits for "bias" as one reform measure. The Alamance agreement also contains a measure to examine deputies' stops, searches, and arrests as an extension of its bias-free policing initiative. As the agreement explains, "this method of internal benchmarking serves as a starting point for inquiry and possible intervention and does not conclusively establish that any noted disparity in deputy behavior is the result of bias" (Alamance Memorandum of Agreement, 2016, Part II, sec 3-c). We would then code this reform as a separate reform measure. When we exhausted our keyword searches, we re-read consent decrees to ensure that we did not miss key reform measures.

We then classified identified measures based on a typology of major and minor reforms. We developed categories with regard to the reform's goal (e.g., reduce use of force or improve officer training) and the affected populations (e.g., the entire department, police officers, civilians). We based minor categories from those previously introduced by Douglass (2017) and the U.S. Department of Justice (2017). Our major categories aggregated minor reforms into similar types of intervention. For instance, measures regulating "use of force" and "de-

escalation” were combined with measures regulating highly specific forms of force (e.g., head strikes). Our major categories also largely followed broad classes of reform introduced by others like Chanin (2017) and Walker (2018). Both authors participated in the coding process. There was little disagreement on making keyword searches or identifying relevant measures, but more disagreement in the classification of reform measures. Intercoder reliability was relatively high (Krippendorff’s $\alpha = 0.87$ and above the recommended threshold of 0.67). We assigned each measure one minor and one major category. Appendix 2 gives a full list of keyword terms used to construct major and minor categories of reform measures.

After compiling reform measures, we took a third step to analyze the types and frequencies of reform measures in agreements over time. Because our study focused on the content of settlements, we assigned reforms to the presidential administration when the agreement was first developed rather than the administration under which reform measures would be implemented. Agreements have been formed under three presidencies: William Clinton (1994-2000), George W. Bush (2001-2008), and Barack Obama (2009-2016). Our study investigates three research questions:

- 1) How many reform measures appear within 40 settlement agreements over time?
- 2) What are the most common types of reform measures?
- 3) Do the number and types of recommendations change across presidential administrations and terms?

To complete this last step, we exported a list of individual reform measures, their major and minor codes, and details of their associated agreements (i.e., year, presidential term, and presidential administration) to an Excel file. We then imported this coded reform measure data file into STATA. We used STATA 15.1 to produce counts, proportions, and average numbers of reform measures through the “summary” and “tabulate” functions. We used cross-tabulations to determine what types and how many reform measures appeared during each presidential administration and term.

Results

Reform Measures and Agreements Over Time

A content analysis distinguished 697 reform measures from 40 agreements adopted between 1994 and 2017. Figure 2 shows the frequency of agreements

and the total number of reform measures by presidential administration. The figure illustrates that the number of agreements has grown over time. The Clinton administration entered into 4 agreements, the Bush administration made 11 agreements, and the Obama administration created 25 agreements. Likewise, the scope of interventions has significantly increased. The Obama administration shows the highest number of total reform measures ($n = 504$) as well as the highest average number of reforms per agreement ($\mu = 504 \text{ measures} / 25 \text{ agreements} = 20.2$) across all three administrations. Agreements adopted before 2009 contained an average of 12.8 reform measures ($\mu = (135 + 58 \text{ measures}) / (11 + 4 \text{ agreements})$). These data show evidence of policy learning, as more and lengthier pattern or practice agreements have emerged since the policy’s beginning. These data further underscore the Obama administration’s commitment to intervening in civil rights issues. Some of the most extensive agreements involve more recently investigated agencies, such as the Baltimore Police Department in 2017 and the Ferguson Police Department in 2016. Appendix 1 details the number of reform measures within the 40 agreements examined in this study.

Reform Types Within All Agreements

Within agreements, several types of recommendations stand out. This study distinguishes seven major categories of reform: community relations, departmental policy, personnel, reducing bias, technology, training, and use of force. These categories are broken down into 18 minor reform subcategories, ranging from more data collection and adding review systems to providing specialized forms of training. Table 1 presents the frequency of reform measures by category. It also reports the percentage of reform measures and the average number of reform measures per agreement that fall into each of these major and minor categories.

Community relations. Community relations recommendations encompass reforms that improve relationships between law enforcement agencies and the communities they serve. Approximately one in five (22%, $n = 152$) recommendations address working with community leaders in ways that forge partnerships and provide avenues for engagement. The average settlement has 3.8 reform measures devoted to community interactions.

About a third of these community relations recommendations ($n = 55$) encourage more interactions with community members to understand their needs and concerns related to safety. For instance, an agreement with the Yonkers Police Department requires the agency to field a

representative survey to measure outreach efforts and the effectiveness of community partnerships (Yonkers Memorandum of Agreement, 2016, sec. 100). The

second subcategory of community relations reforms compels officers to ensure they are engaging in community-based policing

Table 1: Types of Reform Measures in Agreements by Major and Minor Categories

	All Reform Provisions (40 agreements)		
	<i>N</i>	%	<i>M (SD)</i>
Community Relations	152	22	3.9 (0.6)
Civilian review & complaint systems	74	10.6	1.9 (0.2)
Community interactions	55	8.0	1.4 (0.3)
Community-oriented policing	15	2.2	0.4 (0.1)
Citizen recordings	8	1.2	0.2 (0.1)
Personnel	103	14.8	2.6 (0.3)
Officer review & discipline	59	8.6	1.5 (0.1)
Officer selection and support	23	3.3	0.6 (0.1)
Specialized teams, SWAT/tactical units	21	3.0	0.5 (0.1)
Bias	32	4.7	0.8 (0.2)
Non-Discrimination & bias-free policing	17	2.5	0.4 (0.1)
Gender/LGBTQ bias in policing	15	2.2	0.4 (0.1)
Technology Assistance	36	5.2	0.9 (0.2)
Use of cameras (body-worn, in-car/dashboard)	13	1.9	0.3 (0.1)
Early warning/ intervention systems	23	3.3	0.6 (0.1)
Training	33	4.7	0.8 (0.1)
Use of Force	258	37	6.5 (0.8)
De-escalation & proportionality	28	4.0	0.7 (0.1)
General guidelines on use of force	41	5.9	1.0 (0.1)
Investigating and reporting use of force incidents	50	7.2	1.3 (0.1)
Regulating specific forms of force	139	19.9	3.5 (0.5)
Other Departmental Policy	83	11.9	2.1 (0.2)
Data collection and compliance review	38	5.5	1.0 (0.1)
Policies concerning stop, frisk, and searches	45	6.5	1.1 (0.2)
Total	697	100	17.4 (2.0)

Notes: N = total number of measures, % = percent of all measures, M= average number of measures per agreement. SD= standard deviation of number of measures per agreement.

practices. To illustrate, Suffolk Police Department officers have to submit monthly activity reports to their supervisors documenting what organizations they have worked with and the types of community-oriented activities they have completed (Suffolk Memorandum of Agreement, 2014, sec. VII, c-4). A third subcategory relates to how police agencies should respond to recordings by citizens via cameras or mobile devices.

The remaining half of community relations recommendations describe systems for civilian review

and complaints made by civilians. Complaint systems appear as early as the 1997 agreement with the Pittsburgh Bureau of Police. As one of the first agreements with complaint provisions, the Cincinnati Police Department agreement requires the agency to advertise the citizen complaint process and make informational materials available to a civilian review board, city hall, public libraries, the internet, and anyone who makes a request (Cincinnati Memorandum of Agreement, 2002, sec. 35-36). A similar process appears in New Jersey. In addition to creating a Professional Services Bureau, the New Jersey State Police must create a hotline (*U.S. v. State*

of *New Jersey*, 1999, sec. 62) and offer community outreach programs to inform the public about its functions and complaints proceedings (*U.S. v. State of New Jersey*, 1999, sec. 60).

Personnel. Next, personnel recommendations involve the management, review, support, and organization of law enforcement officers as employees ($n = 103$). On average, each agreement contains 2.6 of these provisions. Much of this category is driven by recommendations to monitor the behavior of individual officers and provide sanctions for inappropriate decision-making. The Buffalo Police Department agreement illustrates this reform strategy, as it stipulates that the agency must take all necessary steps to impose appropriate discipline on officers involved in substantiated complaints (Buffalo Memorandum of Agreement, 2002, sec. 36). The settlement goes on to explain that all discipline records must contain details about why sanctions were imposed on identified officials and all complaints must be “easily retrievable” (Buffalo Memorandum of Agreement, 2002, sec. 38).

The category also includes attempts to hire more police officers, create more supportive work environments, and improve officer wellness. For instance, a settlement with the Puerto Rico Police Department requires the recruitment of underrepresented populations in the police force, including women and Dominican populations, through media, public institutions, and communities groups that reach these populations (*U.S. v. Puerto Rico Police Department*, 2013, sec. 42). Meanwhile, the Ferguson Police Department consent decree mandates the introduction of programs that provide access to mental health services, support for assisting officers under severe stress, and workshops on officer safety and physical and mental health (*U.S. v. Ferguson Police Department*, 2016, secs. 272–275). Remaining reforms under this subcategory regulate the organization and operations of specialized department teams, such as SWAT/tactical units and specialized teams for approaching civilians who express mental health issues.

Reducing bias. The third major category of reform seeks to eliminate bias in policing ($n = 32$). These policies are aimed at reducing prejudice, discrimination, or bias in interactions between civilians and law enforcement officials. The average settlement contains less than one measure to correct bias (0.8 measures). About half of the reforms ($n = 17$) in this category provided broad statements to end unlawful discrimination and instill “bias-free policing.” A 2001 agreement with the District of Columbia Metropolitan Police Department reflects this type of intervention by requiring the agency to investigate all “allegations of unlawful discrimination,

including on the basis of race, ethnicity, religion, gender, sexual orientation, or disability” (District of Columbia Memorandum of Agreement, 2001, sec. 72-e). Similar language appears in recent consent decrees, such as one affecting the Seattle Police Department where “SPD should deliver police services that are equitable, respectful, and free of unlawful bias” (*U.S. v. City of Seattle*, 2012, sec. 145). Bias reduction may also be more specific in form. For example, in a memorandum of understanding with the Alamance County Sheriff’s Office, bias should be reduced by prohibiting discriminatory practices, such as using derogatory language or racial/ethnic slurs (Alamance Memorandum of Agreement, 2016, Part II, sec 2).

Reforms involving gender bias constitute their own category ($n = 15$). These recommendations primarily concern officer responses to gender issues in sensitive cases. To illustrate, an agreement with Missoula County, MT requires supervisory review in all sexual assault cases (e.g., closed, declined, and not pursued by the complaining witness) to assure there was no gender bias in investigation or prosecution proceedings (Missoula Memorandum of Agreement, 2014, sec. 12-H).

Technical assistance. Recommendations involving technological assistance consist of efforts to introduce, expand, and regulate the use of new technologies ($n = 36$). The category is broken down into two divisions. A third of these technology-focused reforms regulate body-worn and car/dashboard cameras. While body-worn cameras first appear in the 2013 consent decree with the Albuquerque Police Department (*U.S. v. Albuquerque Police Department*, 2015, secs. 220–231), provisions for the videotaping of motor vehicle stops appear in the 2002 Cincinnati Police Department (Cincinnati Memorandum of Agreement, 2002, sec. 70-72) and 1999 New Jersey State Police (*U.S. v. State of New Jersey*, 1999, sec. 34) agreements. Broadly, these measures detail policies to ensure videos are taken during stops and supervisory review occurs in incidents involving complaints, pursuits, or use of force.

Other technical assistance recommendations create early warning or intervention systems. The Pittsburgh Bureau of Police consent decree is a landmark in requiring the city to develop a database and statistical model to identify “problem officers” (*U.S. v. Pittsburgh Police Department*, 1997, sec. 12). Early warning systems share common traits of documenting officer names, badge numbers, civilian complaints, and descriptions of allegations.ⁱⁱⁱ

Training. Training represents a fifth major category of reform measures. The category ($n = 33$) identifies revisions to training practices in order to address issues raised in investigations. These

recommendations include new types of officer training, changes to in-service or police-academy training, the submission of training plans for compliance review, and the maintenance of lesson plans and training records for individual officers. Affected agencies must address various training needs. For example, a 2004 memorandum of agreement with Prince George's County Police Department stipulates that officers must complete 40 hours of training on crisis intervention and dealing with mentally disordered individuals as part of its police academy recruit curriculum (Prince George's County Memorandum of Agreement, 2004, sec. 33). A 2012 agreement with the Warren Police Department instructs that officers must devote 40 hours towards learning new use of force protocols and receive a minimum passing score of 90% on examined course material (*U.S. v. Warren Police Department*, 2012, sec. VI). Other agreements require numerous training modules. To illustrate, a settlement with the Steubenville Police Department in 1997 stipulates that entry and in-service training programs should address issues of cultural diversity, use of force, integrity and ethics, and domestic violence (*U.S. v. Steubenville Police Department*, 1997, sec. 14 a-d).

Use of force. The largest category of reform measures (37%, $n = 258$) regulates use of force. The ordinary agreement contains an average of 6.5 use of force recommendations. Most provisions ($n = 139$) make targeted recommendations about forms of conduct. This subcategory includes the treatment of handcuffed subjects, the use of canines, chokeholds and neck holds, firearms, pepper spray, tasers, and head strikes, among other particular practices. Other provisions take broader approaches to defining force. For instance, the Seattle Police Department agreement takes care to define three categories of force. The consent decree describes "Type II and Type III use of force" is reasonably expected or has a likelihood of significant injuries (*U.S. v. City of Seattle*, 2012, secs. 65–66, 93).^{iv} The category also includes policies to de-escalate force. Calls for de-escalation may be general. For instance, a 2012 agreement with East Haven Police Department states that "physical force must be de-escalated immediately as resistance decreases" (*U.S. v. East Haven Police Department*, 2012, secs. 80-a).

Other departmental policy. This final set of reform measures concerns the overarching principles and functions of the department ($n = 83$). Some policies require a complete overhaul of stop and search procedures. A consent decree with the Detroit Police Department, for instance, calls on the agency to revise its arrest and investigatory stop policies with new definitions of reasonable suspicion (*U.S. v. Detroit Police Department*, 2003, secs. 42 and 44). More

detailed interventions include data collection and assessments of traffic stops (e.g., Suffolk Memorandum of Agreement, 2014, sec. III-C) or submission of documentation of stops and searches and inventories of evidence seized by the end of an officer's police shift (e.g., Yonkers Memorandum of Agreement, 2016, sec. 58).

The remainder of this category involves what steps agencies must take to demonstrate their compliance by collecting more data or audits to internally redress problems. In early agreements, compliance could be shown by completing audits, collecting more data, and fielding surveys. Since 2012, settlements often require agencies to demonstrate "full and effective compliance" with the agreement and continuing improvement through detailed assessments (e.g., *U.S. v. County of Los Angeles-Antelope Valley*, 2015, sec. 205). Measurable outcomes include quantitative metrics, such as the number of civilian complaints from stops, searches, and seizures, use of force rates, total sustained complaints against the police force, clearance rates of hate crimes and accuracy in recording incidents, and citizen satisfaction surveys (see *U.S. v. Puerto Rico*, 2013, sec. XIV. E243). Agreements also specify "qualitative" outcomes as well (*U.S. v. East Haven Police Department*, 2012, sec. 190), including whether any changes in claims (e.g., increase or decrease) are related to the accessibility of the complaint process (*U.S. v. Seattle*, 2012, sec. 189d-2). Compliance review may then be a key place for locating DOJ's preferred outcome measures in showing progress on misconduct reform.

Reforms by Presidential Administration

This study then considers how recommendations for pattern or practice reform vary by presidential administration. Previously, Figure 2 showed an uptick in the number of police misconduct agreements and reform measures from the Clinton to Obama administrations. Table 2 presents the frequency, proportion, and average number of reform measure types by presidential administration and category. The table shows several noteworthy details in how the contents of agreements have changed over time. Table 2 reveals that agreements have increased in length from 14.5 measures per agreement during the Clinton-era to 20.2 measures during the Obama-era. The table further demonstrates that reforms distinguishing appropriate use of force make up the largest category of reform measures in agreements created during all three administrations. The importance of use of force recommendations has still grown across administrations. Just under a quarter of Clinton-era reform measures address when and how

officers could use physical force against citizens compared to 42% of Bush-era recommendations and 37% of Obama-era recommendations.

Table 2 further indicates an increasing interest in improving police-community relationships. During the Clinton and Bush administrations,

community relations measures are the third most common type of reform measure. Only 15-17% of recommendations sought to enhance interactions between communities and law enforcement agencies.

Table 2: Types of Reform Measures in Agreements by Presidential Administration and Major Category

	Clinton Administration (4 agreements)			Bush Administration (11 agreements)			Obama Administration (25 agreements)		
Category	<i>N</i>	%	<i>M</i> (<i>SD</i>)	<i>N</i>	%	<i>M</i> (<i>SD</i>)	<i>N</i>	%	<i>M</i> (<i>SD</i>)
Community Relations	9	15.5	2.3 (0.5)	23	17.0	2.1 (0.5)	120	23.8	4.8 (0.8)
Personnel	12	20.7	3.0 (0.6)	22	16.3	2.0 (0.5)	69	13.7	2.8 (0.4)
Reducing Bias	4	6.9	1.0 (0.4)	4	3.0	0.4 (0.2)	24	4.8	1.0 (0.2)
Technology Assistance	4	6.9	1.0 (0.4)	7	5.2	0.6 (0.2)	25	5.0	1.0 (0.2)
Training	3	5.2	0.8 (0.3)	8	6.0	0.7 (0.2)	22	4.4	0.9 (0.2)
Use of Force	14	24.1	3.5 (1.2)	56	41.5	5.1 (1.4)	188	37.3	7.5 (1.0)
Other Departmental Policy	12	20.7	3.0 (0.4)	15	11.1	1.4 (0.4)	56	11.1	2.2 (0.3)
Total Measures	58	100	14.5 (2.6)	135	100	12.3 (2.8)	504	100	20.2 (2.8)

Notes: *N* = total number of measures, % = percent of all measures, *M* = average number of measures per agreement. *SD* = standard deviation of number of measures per agreement.

Table 3: Types of Reform Measures in Agreements by Presidential Term and Major Category

	Clinton Administration		Bush Administration				Obama Administration			
	Second Term (4 agreements)		First Term (11 agreements)		Second Term (0 agreements)		First Term (7 agreements)		Second Term (18 agreements)	
Category	<i>N</i>	<i>M</i> (<i>SD</i>)	<i>N</i>	<i>M</i> (<i>SD</i>)	<i>N</i>	<i>M</i> (<i>SD</i>)	<i>N</i>	<i>M</i> (<i>SD</i>)	<i>N</i>	<i>M</i> (<i>SD</i>)
Community Relations	9	2.3 (0.5)	23	2.1 (0.5)	0	0.0 (0.0)	16	2.3 (0.9)	104	5.8 (0.9)
Personnel	12	3.0 (0.6)	22	2.0 (0.5)	0	0.0 (0.0)	15	2.1 (0.6)	54	3.0 (0.5)
Reducing Bias	4	1.0 (0.4)	4	0.4 (0.2)	0	0.0 (0.0)	2	0.3 (0.2)	22	1.2 (0.3)
Technology Assistance	4	1.0 (0.4)	7	0.6 (0.2)	0	0.0 (0.0)	6	0.9 (0.3)	19	1.1 (0.3)
Training	3	0.8 (0.3)	8	0.7 (0.2)	0	0.0 (0.0)	5	0.7 (0.4)	17	0.9 (0.2)
Use of Force	14	3.5 (1.2)	56	5.1 (1.4)	0	0.0 (0.0)	62	8.9 (1.4)	126	7.0 (1.3)
Other Departmental Policy	12	3.0 (0.5)	15	1.4 (0.4)	0	0.0 (0.0)	12	1.7 (0.5)	44	2.4 (0.3)
Total Measures	58	14.5 (2.6)	135	12.3 (2.8)	0	0.0 (0.0)	118	16.9 (4.0)	386	21.4 (3.5)

Notes: *N* = total number of measures, *M* = average number of measures per agreement. *SD* = standard deviation of number of measures per agreement.

Other shifts have occurred in departmental policy and personnel. Since the Clinton-era, agreements are less likely to contain measures that provide broad recommendations to reshape departmental-wide policies (20.7% under Clinton to 11.1% under Bush and Obama). A smaller portion of provisions targets the conduct and discipline of individual police officers. Decreasing use of personnel regulations across administrations may suggest a policy learning effect: Reform interventions should target more systematic issues rather than individuals.

Smaller changes appear in reform measures related to technology, bias, and training. In general, these categories contain the fewest number of reforms,

though more of these measures have appeared over time. To illustrate, a larger number of measures address the use of cameras and early intervention systems in settlements during the Obama administration. This change is not unexpected given a greater availability of computers, portable cameras, and other electronic devices. There may be some evidence of political priorities in these categories too. For instance, the Obama and Clinton administrations seem to prioritize measures to redress racial bias compared to the Bush administration that seems to prefer training interventions. This difference is seen both in the percent of measures and the average number of provisions per agreement correcting bias.

Table 3 breaks down the composition of reform measures further by presidential term, beginning with the second term of Clinton. Here, we see additional political differences over time. For instance, Section 14141 agreements only appear during the first term of the Bush administration and none appear during his second term in the Oval Office. Differences in reform activity also vary within the Obama administration. DOJ entered into 18 settlements featuring 386 reform provisions during Obama's second term (2013-2016) compared to 7 agreements with 118 measures during his first term (2009-2012). The nature of federal intervention also appears to change emphasis across Obama's presidency. A larger proportion of reforms (56% or 62/118 reform measures) within settlements during Obama's first term addressed use of force problems relative to the share of reforms (33% or 126/386 reform measures) in agreements developed during his second term. Agreements during Obama's second term focused more on improving community relations (27% of second term measures vs. 13% of first term measures) and reducing bias (5.7% of second term measures vs. 1.7% of first term measures).

Detailed changes to community relations and use of force. Given the growth in the community relations and use of force categories, Figure 3 breaks down reform measures into minor categories of reform by presidential administration. The figure specifically presents the average number of reform measures per agreement that fall into the community relations or use

of force subcategories over time. The upper-half of the figure shows a marked increase in all types of community relations recommendations from the Clinton to Obama administrations. Notably, the average number of civilian review and complaint systems measures has steadily increased across presidential administrations. Each agreement of the Clinton administration had 1.0 provisions related to complaints compared to 1.4 provisions in Bush-era agreements and 2.2 provisions in Obama-era agreements. Calls to interact with community groups and leaders have also become more popular. Agreements made during the Obama administration are more likely to contain recommendations to increase interactions with community members than those of previous administrations.

The bottom-half of Figure 3 displays changes in use of force measures. Specific regulations on physical force stand out as an area of growth. Since the late 1990s, each settlement contains multiple, detailed provisions to control force in different forms. The Obama administration also invokes more general policies on use of force (1.3 measures per settlement) relative to other administrations (1.0 or 0.5 measures per Bush or Clinton settlement, respectively). De-escalation and proportionality measures, as well as investigation and reporting recommendations, appear in settlements with similar frequency across administrations, suggesting these measures may be parts of original recommendations in pattern or practice agreements.

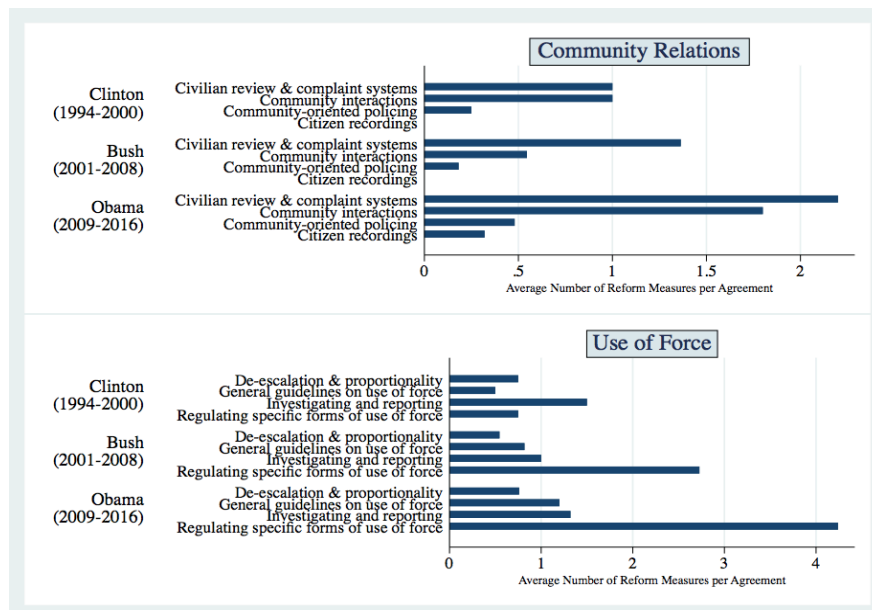


Figure 3: Average Number of Community Relations and Use of Force Reform Measures by Presidential Administration and Minor Categories

Discussion

The federal government has great power to intervene against law enforcement agencies engaging in unconstitutional policing practices. Under 42 U.S.C. 14141, DOJ can investigate and litigate against state and local agencies showing patterns or practices of misconduct. Most research on Section 14141 has considered whether such civil rights intervention changes policing outcomes, such as police officer attitudes (Davis et al., 2005), aggressiveness (Oliver, 2017; Rushin & Edwards, 2017; Shi, 2009), civilian complaints (Powell et al., 2017), or institutional structures (Chanin, 2014). Such studies highlight the significant impacts of pattern or practice interventions, but do not specify what recommendations lead to policy change. Scholars now seek to open the “black box” of federal interventions by considering the contents of Section 14141 agreements (Alpert et al., 2017; Douglass, 2017; Harmon, 2017). Previous studies of settlements have found common elements in agreements, such as use of force or reducing bias, but can mask variation in the number, type, and detail of reform measures as most agreements contain these provisions. This study introduced a content analysis to identify and quantify key reform recommendations in 40 out of 41 settlement agreements between DOJ and affected agencies across three presidencies. It first provided a typology of reform measures that address issues in seven areas: community relations, personnel, reducing bias, technology assistance, training, use of force, and other departmental policy. It then illuminated changes in preferred reforms over time, in particular showing evolutions along 18 minor subcategories of these major reforms.

Results of the content analysis highlight three broad patterns. First, from the Clinton administration to the Obama administration, the scope and frequency of consent decrees and MOUs have greatly increased. DOJ adopted 62% of analyzed agreements between 2009 and 2017. The average settlement developed during this period has over 20 recommendations for policy change compared to 12.8 provisions in agreements adopted between 1994 and 2008. Next, within settlements, DOJ prefers measures that regulate use of force and foster more engagement with communities. Other important, but less commonly invoked reform measures include efforts to introduce new procedures to discipline officers, encourage the use of new technologies like cameras or early warning systems, and decrease bias in policing. Attention to certain reform areas can vary by administration, as the Bush administration focused more on use of force regulations while the Clinton and Obama administrations more frequently challenged bias in

policing. Finally, newer settlements reflect more interest in correcting multiple dimensions of use of force and community relations. More measures offer overarching guidelines on appropriate actions by force level and detailed regulations on specific types of force. Recommended changes also provide more avenues for civilian review of police actions and interaction with the community.

The findings of this study point to two conclusions about police misconduct reform. First, DOJ has evolved in its preferred pattern or practice reforms over the last two decades. In part, these developments respond to policy learning. Greater specification of what constitutes use of force shows a shift away from abstract or untenable recommendations (Ross & Parke, 2009). More provisions to work with community stakeholders distances more recent settlements from early agreements that excluded community groups and did little to improve public trust in law enforcement (Walker, 2017). Section 14141 settlements also take on partisan qualities. Affirming campaign promises, President Bush had more reluctance to correct misconduct while President Obama vigorously pursued federal remedies to redress civil rights violations under Section 14141 (Harmon, 2009; Rushin, 2014, 2017). Stylistically, DOJ recommendations under Clinton and Obama-eras are more similar than those adopted under the Bush-era. Numerically, more reform measures are adopted under Democratic administrations while Republican administrations appear less willing to demand police misconduct reforms. The very absence of settlements under the Trump administration further underscores partisanship influences approaches to policing. As administrations change, scholars must continue to evaluate how settlements change in content and character.

Our study has several limitations to be kept in mind. We examine reform measures within settlements rather than the implementation of such negotiated measures. While our approach can highlight what DOJ believes is important before monitored reform begins, it does not comment on whether agencies followed the recommendations of agreements or varied in their commitment to actualize the goals of their settlements. Next, the study's analyses of presidential administrations only make claims about patterns in agreements developed and negotiated *during* three presidencies. Our study does not discuss differences in inquiries or investigations under different administrations. It also does not comment on how agencies honor settlements when a

new president and administration officials assume office. For instance, we do not discuss whether agencies affected by Obama-era agreements have reduced their reform activities under the Trump administration. Finally, our study does not make empirical claims about changes in police officer attitudes, citizen responses, agency morale, policing decisions, or other key outcomes related to fair and effective policing as a result of the number or type of reform measures within settlements.

Given the limitations of studying the contents of historic content decrees, we recommend additional avenues for future research. Scholars should first consider whether changes to contents of agreements lead to observable, or perhaps stronger, shifts in policing outcomes. For instance, one might hypothesize that agreements with more provisions for civilian complaint systems or oversight may have more impact on the number of civilian complaints than other agreements with fewer or no measures for community review. Scholarship might further determine whether agencies make policy changes based on the metrics specified within the consent decree itself (e.g., a reduced number of use of force incidents or civilian complaints), as a greater articulation of these outcomes may be an attempt by DOJ to enact substantive change in police departments. Such scholarship relies on knowledge of the consent decree's implementation (Douglass, 2017) and recognition that consent decrees may wane in their influence over time (Chanin, 2015). Linking preferred DOJ reforms from content analyses to outcomes may then give policymakers and scholars additional insights into how to effectively adopt constitutional policing practices.

Party control of the U.S. presidency continues to have direct impacts on settlements today and ahead, therefore encouraging more in-depth assessments of the role of politics in police misconduct reform. In a speech before the National Association of Police Organizations, Attorney General Jeff Sessions bluntly proclaimed, "We will not malign entire police departments.... We will not enter into agreements or court decrees that outsource policymaking to political activists" (Attorney General Jeff Sessions, 2018, para. 9). As a result, investigations like one into the police department of Villa Platte, GA, did not yield a consent decree after the inauguration of Trump (MacDougall, 2018). Monitors of existing consent decrees have claimed Session's order has not affected civil rights reform activities, as recently articulated by a court-appointed monitor of the Baltimore Police Department (Tkacik, 2018). As Walker (2018) noted, future research on the terms of police misconduct reforms might resume following presidential elections in 2020 or 2024 (p. 1840). With greater political questioning

of federal civil rights interventions over policing, it is unclear whether agreements will be used by DOJ under subsequent presidents. Scholars might use this period of non-intervention to examine whether any settlement terms are followed and what long-term impacts previous interventions under certain presidential administrations had on policing in hopes of informing police accountability strategies in the future.

References

- Alamance Memorandum of Agreement. (2016). Agreement between the United States Department and Alamance County Sheriff Terry Johnson. Retrieved from <https://www.justice.gov/crt/file/886406/download>
- Alpert, G., McLean, K., & Wolfe, S. (2017). Consent decrees: An approach to police accountability and reform. *Police Quarterly*, 20(3), 239–249. doi:10.1177/1098611117709591
- Attorney General Jeff Sessions. (2018, May 14). Attorney General Jeff Sessions delivers remarks at the National Association of Police Organizations – 25th annual top cops awards. Retrieved from <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-national-association-police-organizations>
- Buffalo Memorandum of Agreement (2002). Memorandum of agreement between the United States Department of Justice and the City of Buffalo, New York, and the Buffalo Police Department, and the Police Benevolent Association, Inc., and the American Federation of State, County, and Municipal Employees Local 264. Retrieved from <https://www.clearinghouse.net/chDocs/public/P-N-NY-0004-0001.pdf>
- Chanin, J. (2014). Implementing pattern or practice police reform: A comparative analysis. *Criminology, Criminal Justice, Law & Society*, 15(3), 38–56. Retrieved from <https://ccjls.scholasticahq.com/article/418-on-the-implementation-of-pattern-or-practice-police-reform>
- Chanin, J. (2015). Examining the sustainability of pattern or practice police misconduct reform. *Police Quarterly*, 18(2), 163–192. doi:10.1177/1098611114561305
- Chanin, J. (2017). Early stages of pattern or practice police misconduct reform: An examination of the

- Department of Justice's investigation and negotiation processes. *Police Quarterly*, 20(3), 250–274. doi:10.1177/1098611117709268
- Cincinnati Memorandum of Agreement. (2002). Memorandum of agreement between the United States Department of Justice and City of Cincinnati, OH and the Cincinnati Police Department. Retrieved from https://www.cincinnati-oh.gov/ccia/assets/File/memorandum_of_agreement.pdf
- City of Los Angeles v. Lyons. 461 U.S. 95 (1983).
- Cullinane, S. (2016, March 18). Ferguson commits to DOJ reforms. Retrieved from <http://www.cnn.com/2016/03/18/us/ferguson-justice-department-agreement-filed/index.html>
- Davis, R., Henderson, N., & Ortiz, C. (2005). *Can federal intervention bring lasting improvement in local policing? The Pittsburgh consent decree*. New York: Vera Institute of Justice.
- Davis, R., Ortiz, C., Henderson, N., & Miller, J. (2002). *Turning Necessity Into Virtue: Pittsburgh's Experience with Federal Consent Decree*. New York: Vera Institute of Justice.
- District of Columbia Memorandum of Agreement. (2001). Memorandum of agreement and the District of Columbia and the District of Columbia Metropolitan Police Department. Retrieved from <https://www.justice.gov/crt/memorandum-agreement-united-states-department-justice-and-district-columbia-and-dc-metropolitan>
- Douglass, D. (2017). Department of Justice consent decrees as the foundation for community-initiated collaborative police reform. *Police Quarterly*, 20(3), 322–336. doi:10.1177/1098611117712237
- Eckholm, E., & Apuzzo, M. (2015, March 4). Darren Wilson is cleared of rights violations in Ferguson shooting. *The New York Times*. Retrieved from <https://www.nytimes.com/2015/03/05/us/darren-wilson-is-cleared-of-rights-violations-in-ferguson-shooting.html>
- Harmon, R. A. (2009). Promoting civil rights through proactive policing reform. *Stanford Law Review*, 62(1), 1–68.
- Harmon, R. A. (2017). Evaluating and improving structural reform in police departments. *Criminology & Public Policy*, 16(2), 617–627. doi:10.1111/1745-9133.12297
- Harvey Technical Assistance Report. (2012). Technical assistance report: Investigation of the Harvey Police Department. Retrieved from https://www.justice.gov/sites/default/files/crt/legacy/2012/01/23/harvey_TA_1-18-12.pdf
- Holder, E. (2014, September 4). Attorney General Holder delivers remarks at press conference announcing pattern or practice investigation into Ferguson Police Department. Retrieved from <https://www.justice.gov/opa/speech/attorney-general-holder-delivers-remarks-press-conference-announcing-pattern-or-practice>
- Ikerd, T., & Walker, S. (2010). *Making police reforms endure: The keys for success*. Washington D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services.
- Kappeler, V. E. (2001). *Critical issues in police civil liability* (3rd ed.). Prospect Heights, IL: Waveland Press.
- Lamberth, J. (1998, August 16). Driving while black: A statistician proves that prejudice still rules the road. *Washington Post*, p. C01.
- Law Enforcement Misconduct Statute, 42. U.S.C. § 1414.1
- Lichtblau, E. (2000, June 1). Bush sees U.S. as meddling in local police affairs. *Los Angeles Times*. Retrieved from <https://www.latimes.com/archives/la-xpm-2000-jun-01-mn-36333-story.html>
- MacDougall, I. (2018, August 27). How the Trump Administration went easy on small-town police abuses. *ProPublica*. Retrieved from <https://www.propublica.org/article/ville-plate-louisiana-police-consent-decree-trump-justice-department>
- Marshall, N. (2001, April 1). Why investigate us? Police ask. *Tulsa World*. Retrieved from https://www.tulsaworld.com/archive/why-investigate-us-police-ask/article_51233ece-d239-5f5c-b64d-6a8312c9e90a.html
- Missoula Memorandum of Agreement. (2014). Memorandum of agreement between the Montana Attorney General, the Missoula County Attorney's Office, Missoula County, and the United States Department of Justice. Retrieved from https://www.justice.gov/sites/default/files/crt/legacy/2014/06/10/missoula_settle_6-10-14.pdf
- Norwood, C. (2018, December 19). Are cops “off the hook”? How police reform has changed under Trump. *Governing*. Retrieved from <https://www.governing.com/topics/public->

- [justice-safety/gov-trump-sessions-consent-decrees-police-reform.html](https://www.justice-safety.gov-trump-sessions-consent-decrees-police-reform.html)
- Novak, K. J., Smith, B. W., & Frank, J. (2003). Strange bedfellows: Civil liability and aggressive policing. *Policing: An International Journal*, 26(2), 352–368. doi:10.1108/13639510310475813
- Oliver, W. M. (2017). Depolicing: Rhetoric or reality? *Criminal Justice Policy Review*, 28(5), 437–461. doi:10.1177/0887403415586790
- Powell, Z. A., Meitl, M. B., & Worrall, J. L. (2017). Police consent decrees and Section 1983 civil rights litigation. *Criminology & Public Policy*, 16(2), 575–605. doi:10.1111/1745-9133.12295
- Prince George's County Memorandum of Agreement. (2004). Memorandum of agreement between the United States Department of Justice and the Prince George's County, Maryland and Prince George's County Police Department. Retrieved from <https://www.clearinghouse.net/chDocs/public/P-N-MD-0001-0002.pdf>
- Prokupecz, S., Brown, P., & Botelho, G. (2014, September 4). Feds launch probe of Ferguson police. Retrieved from <http://www.cnn.com/2014/09/03/justice/ferguson-justice-department-investigation/index.html>
- Pyrooz, D. C., Decker, S. H., Wolfe, S. E., & Shjarback, J. A. (2016). Was there a Ferguson Effect on crime rates in large U.S. cities? *Journal of Criminal Justice*, 46, 1–8. doi:10.1016/j.jcrimjus.2016.01.001
- Ross, D. L., & Parke, P. A. (2009). Policing by consent decree: An analysis of 42 U.S.C. § 14141 and the new model for police accountability. *Police Practice and Research*, 10, 199–208. doi:10.1080/15614260802381109
- Rushin, S. (2014). Federal enforcement of police reform. *Fordham Law Review*, 82, 3189–3247.
- Rushin, S. (2015). Structural reform litigation in American police departments. *Minnesota Law Review*, 99, 1344–1422.
- Rushin, S. (2016). Competing case studies of structural reform litigation in American police departments. *Ohio State Journal of Criminal Law*, 14, 116–136.
- Rushin, S. (2017). *Federal intervention in American police departments*. Cambridge, England: Cambridge University Press.
- Rushin, S., & Edwards, G. (2017). De-policing. *Cornell Law Review*, 102, 721–782.
- Scogin, F., & Brodsky, S. L. (1991). Fear of litigation among law enforcement officers. *American Journal of Police*, 10, 41–46.
- Shi, L. (2009). Does oversight reduce policing? Evidence from the Cincinnati Police Department after the April 2001 riot. *Journal of Public Economics*, 94(1–2), 99–113. doi:10.2139/ssrn.647606
- Stone, C., Foglesong, T., & Cole, C. (2009). *Policing Los Angeles under a consent decree: The dynamics of change at the LAPD*. Cambridge, MA: Harvard Kennedy School.
- Suffolk Memorandum of Agreement. (2014). Agreement between the United States Department of Justice and the Suffolk County Police Department. Retrieved from https://www.justice.gov/sites/default/files/crt/legacy/2014/01/23/suffolk_agreement_1-13-14.pdf
- Tkacik, C. (2018, November 8). Sessions' order curtailing use of consent decrees will not affect Baltimore's police reform efforts, monitor says. *Baltimore Sun*. Retrieved from <https://www.baltimoresun.com/news/maryland/crime/bs-md-sessions-consent-decree-memo-20181108-story.html>
- U.S. Department of Justice. (2015, March 4). Justice Department announces findings of two civil rights investigations in Ferguson, Missouri. Retrieved from <https://www.justice.gov/opa/pr/justice-department-announces-findings-two-civil-rights-investigations-ferguson-missouri>
- U.S. Department of Justice, Civil Rights Division. (2017). *The civil rights division's pattern and practice police reform work: 1994-present*. Retrieved from <https://www.justice.gov/crt/file/922421/download>
- U.S. v. Albuquerque Police Department. (2015). Settlement agreement. United States District Court for the District of New Mexico. Retrieved from <https://www.clearinghouse.net/chDocs/public/P-N-NM-0002-0004.pdf>
- U.S. v. City of Philadelphia. 644 F.2d 187 (3d Cir. 1980)
- U.S. v. City of Seattle. (2012). Settlement agreement and stipulated [proposed] order of resolution. United States District Court Western District of

- Washington at Seattle. Retrieved from <https://www.clearinghouse.net/chDocs/public/P-N-WA-0001-0002.pdf>
- U.S. v. County of Los Angeles-Antelope Valley. (2015). Settlement agreement. United States District Court for the Central District of California. Retrieved from <https://www.justice.gov/file/676336/download>
- U.S. v. Detroit Police Department. (2003). Consent judgment: Use of force and arrest and witness detention. United States District Court for the Eastern District of Michigan Southern Division. Retrieved from <https://www.clearinghouse.net/chDocs/public/P-N-MI-0001-0005.pdf>
- U.S. v. East Haven Police Department. (2012). Settlement agreement and [proposed] order. United States District Court for the District of Connecticut. Retrieved from <https://www.clearinghouse.net/chDocs/public/P-N-CT-0001-0016.pdf>
- U.S. v. Ferguson Police Department. (2016). Consent decree. United States District Court Eastern District of Missouri Eastern Division. Retrieved from <https://www.justice.gov/crt/file/883846/download>
- U.S. v. Pittsburgh Police Department. (1997). Consent decree. United States District Court for the Western District of Pennsylvania. Retrieved from <https://www.clearinghouse.net/chDocs/public/P-N-PA-0003-0002.pdf>
- U.S. v. Puerto Rico Police Department. (2013). Agreement for the sustainable reform of the Puerto Rico Police Department. United States District Court for the District of Puerto Rico. Retrieved from <https://www.clearinghouse.net/chDocs/public/P-N-PR-0001-0003.pdf>
- U.S. v. State of New Jersey. (1999). Joint application for entry of consent decree. United States District Court for the District of New Jersey. Retrieved from <https://www.clearinghouse.net/chDocs/public/P-N-NJ-0002-0001.pdf>
- U.S. v. Steubenville Police Department. (1997). Consent decree. United States District Court for the Southern District of Ohio Eastern Division. Retrieved from <https://www.clearinghouse.net/chDocs/public/P-N-OH-0002-0005.pdf>
- U.S. v. Warren Police Department. (2012). Settlement agreement. United States District Court for the Northern District of Ohio. Retrieved from <https://www.clearinghouse.net/chDocs/public/P-N-OH-0004-0003.pdf>
- Walker, S. (2017). *Twenty years of DOJ 'pattern or practice' investigations of local police: Achievements, limitations, and questions*. Retrieved from <http://samuelwalker.net/wp-content/uploads/2017/02/DOJ-PP-Program-Feb24.pdf>
- Walker, S. (2018). "Not dead yet": The national police crisis, a new conversation about policing, and the prospects for accountability-related police reform. *Illinois Law Review*, 5, 1778–184
- Yonkers Memorandum of Agreement. (2016). Yonkers Police Department Agreement. Retrieved from <https://www.justice.gov/crt/case-document/yonkers-police-department-settlement-agreement>

About the Authors

Ellen A. Donnelly is an assistant professor of Sociology and Criminal Justice at the University of Delaware.

Nicole J. Salvatore was an undergraduate major in Criminal Justice and Psychology at the University of Delaware. She completed this research as a Summer Scholar in UD's Undergraduate Research Program during the 2018-2019 academic year. Nicole is currently a J.D. candidate at William & Mary Law School.

Acknowledgements

This research was made possible by the Undergraduate Summer Scholars program of the University of Delaware.

Footnotes

ⁱ The probe was distinct from an initial investigation of Officer Daren Wilson and his role in the August 9th shooting (Eckholm & Apuzszo, 2015).

ⁱⁱ Rushin (2015) explains in more detail that Section 14141 developed in response to numerous failed attempts by local governments to correct police misconduct. In the courts, cases like *City of Los Angeles v. Lyons* (1983) and *U.S. v. City of Philadelphia* (1980) refuted that civilians and DOJ had legal standing in seeking relief against police departments.

ⁱⁱⁱ From technical assistance letters, DOJ suggests that early warning systems can be computer or paper-based. For instance, see the technical assistance report of the investigation of the Harvey Police Department (Harvey Technical Assistance Report, 2012, sec. B1).

^{iv} This is opposed to “Type I” (low-level) or “De Minimus” physical force (*U.S. v. City of Seattle*, 2012, secs. 65–66, 93).

Appendix A

List of Examined Pattern or Practice Agreements (1994-2017) ($n = 40$)

Agency	Agreement	Year	Administration	Type	Total Reform Measures
Pittsburgh Police Department	U.S. V. Pittsburgh Police Department	1997	Clinton	Consent Decree	20
Steubenville Police Department	U.S. V. Steubenville Police Department	1997	Clinton	Consent Decree	17
New Jersey State Police	U.S. V. State Of New Jersey	1999	Clinton	Consent Decree	13
Montgomery County Police Department	Montgomery County Police Department (Mcnaacp V. Mcpd)	2000	Clinton	MOU	8
Highland Park Police Department	Highland Park Police Department	2001	Bush	MOU	3
Los Angeles Police Department	U.S. V. Los Angeles Police Department	2001	Bush	Consent Decree	22
District of Columbia Metropolitan Police Department	District Of Columbia Metropolitan Police Department	2001	Bush	MOU	28
Buffalo Police Department	Buffalo Police Department	2002	Bush	MOU	8
Cincinnati Police Department	Cincinnati Police Department	2002	Bush	MOU	20
Columbus Police Department	U.S. V. City Of Columbus, Ohio	2002	Bush	MOU / Letter Agreement	3
Detroit Police Department	U.S. V. City Of Detroit	2003	Bush	Consent Decree	19
Mt. Prospect Police Department	Mt. Prospect Police Department	2003	Bush	MOU	3

Villa Rica Police Department	Villa Rica Police Department	2003	Bush	MOU	3
Prince George's County Police Department	U.S. V. Prince George's County, Maryland	2004	Bush	Consent Decree	17
Prince George's County Police Department	Prince George's County Police Department	2004	Bush	MOU	9
Virgin Islands Police Department	U.S. V. The Virgin Islands Police Department	2009	Obama	Consent Decree	14
Beacon Police Department	Beacon Police Department	2010	Obama	MOU	11
Easton Police Department	Easton Police Department	2010	Obama	MOU	6
Orange County Sheriff's Office	Orange County Sheriff's Office	2010	Obama	MOU	7
East Haven Police Department	East Haven Police Department	2012	Obama	Consent Decree	33
Seattle Police Department	Seattle Police Department	2012	Obama	Consent Decree	29
Warren Police Department	Warren Police Department	2012	Obama	Consent Decree	18
Missoula Police Department	Missoula Police Department	2013	Obama	MOU	5
University of Montana Police Department	University Of Montana Office Of Public Safety	2013	Obama	MOU	3
New Orleans Police Department	New Orleans Police Department	2013	Obama	Consent Decree	42
Puerto Rico Police Department	Puerto Rico Police Department	2013	Obama	Consent Decree	34
Missoula County Attorney General's Office	Missoula County Attorney General's Office	2014	Obama	MOU	1
Portland Police Department	Portland Police Bureau	2014	Obama	Consent Decree	26
Suffolk County Police Department	Suffolk County Police Department	2014	Obama	MOU	9

Albuquerque Police Department	Albuquerque Police Department	2015	Obama	Consent Decree	32
Cleveland Police Department	Cleveland Division Of Police	2015	Obama	Consent Decree	35
Los Angeles County Sheriff's Department (Antelope Valley)	La County Sheriff's Department - Antelope Valley	2015	Obama	Consent Decree	28
Meridian Police Department	U.S. V. City Of Meridian; County Of Lauderdale	2015	Obama	MOU	4
Maricopa County Sheriff's Department	Maricopa County Sheriff's Department	2015	Obama	Consent Decree	7
Alamance County Sheriff's Office	Alamance County Sheriff's Office	2016	Obama	MOU	11
Ferguson Police Department	Ferguson Police Department	2016	Obama	Consent Decree	41
Miami Police Department	City Of Miami Police Department	2016	Obama	MOU	14
Newark Police Department	Newark Police Department	2016	Obama	Consent Decree	27
Yonkers Police Department	Yonkers Police Department	2016	Obama	MOU	22
Baltimore Police Department	Baltimore City Police Department	2017	Obama	Consent Decree	45

Appendix B

Keywords Identifying Reform Measures in Pattern or Practice Agreements

	Keywords
Community Relations	
Civilian review & complaint systems	“civilian oversight”, “civilian review”, “independent oversight”, “independent review”, “community committee”, “council”, “complaint system”, “complaint”
Community interactions	"community outreach", "outreach", "community survey", "survey", "transparency", "collaboration", "partnership", "language assistance", "language barrier", "crowd control", "protest", "gathering", "demonstration", "community mediation", "mediation"
Community-oriented policing	"community-oriented policing", "community oriented policing", "community-oriented", "community oriented", "problem oriented policing", "problem-oriented policing", "problem-oriented", "problem oriented"
Citizen recordings	“citizens recording”, “citizens observing”, “citizens commenting”, “citizens comment”, “citizens observe”
Personnel	
Officer review & discipline	“officer disciplinary system”, “officer discipline”, “discipline”, “disciplinary”, “officer supervision”, “supervision”
Officer selection and support	"officer wellness", "officer support", "recruitment", "hiring", "promotion"
Specialized teams, SWAT/tactical units	"team", "SWAT", "tactical", "mental health officers", "crisis intervention team"
Bias	
Non-Discrimination & bias-free policing	"bias free", "bias-free", "prejudice", "bias", "discrimination", "unlawful discrimination"
Gender/LGBTQ bias in policing	"gender", "gender bias", "gender", "LGBT", "transgender"
Technology Assistance	
Use of cameras	"body-worn camera", "body worn camera", "in-car camera", "in car camera", “dashboard camera”, "dashboard-camera", “camera”
Early warning/ intervention systems	"early warning system", "early intervention system", "EIS"
Training	"training", "comprehensive training", "specialized training", "crisis intervention training", "CIT"
Use of Force	
De-escalation & proportionality	"de-escalation", "proportionality"
General guidelines on use of force	"general use of force", "use of force", "medical assistance"
Investigating and reporting use of force incidents	“reporting use of force”, “reporting”, "use of force investigation", "force investigation"
Regulating specific forms of force	handcuff, handcuff, “canine”, “dog”, “head strike”, “chokehold”, “neck hold”, “firearm”, “pepper spray”, “OC”, “oleoresin capsicum”, “retaliatory”, “taser”, “electronic controlled weapon”, “ECW”, “vehicle pursuit”
Other Departmental Policy	
Data collection and compliance review	“data collection”, “compliance”, “compliance review”, “internal audit” “continuous improvement”, “improvement”, “improvement of policy”
Policies concerning stop, frisk, and searches	"stop search and arrest", “stop and search”, "frisk", “stop”, “search”

Note: Keyword searches using QDA software include singular and plural variations of terms using *