

Competing Case Studies of Structural Reform Litigation in American Police Departments

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In 1994, Congress passed 42 U.S.C. § 14141, which gives the U.S. Attorney General the authority to initiate structural reform litigation against police departments engaged in a pattern or practice of unconstitutional misconduct. Since then, the U.S. Department of Justice (DOJ) has investigated and reformed dozens of police departments across the country. This essay tells the story of two agencies: the Los Angeles Police Department (LAPD) and the Alamance County Sheriff's Department (ACSD). The LAPD story shows how the Department of Justice can use structural reform litigation to facilitate meaningful change in a large American police department. By contrast, the ACSD demonstrates the limitations of federal intervention via § 14141. This essay uses these LAPD and ACSD examples to theorize on the benefits and limitations of structural reform litigation as a regulatory tool.

I. INTRODUCTION

In 1994, Congress passed 42 U.S.C. § 14141, which gives the U.S. Attorney General standing to seek equitable relief against police departments engaged in a “pattern or practice” of unconstitutional misconduct.¹ Scholars have praised the measure—in part, a response to the beating of Rodney King on the side of a Southern California highway²—as one of the most transformative tools for police reform.³

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¹ 42 U.S.C. § 14141 (1994) (“Whenever the Attorney General has reasonable cause to believe that [a police department is engaged in a pattern or practice of unconstitutional conduct], the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.”).

² In the wake of the Rodney King beating, congressional hearings focused in part on the fact that both private litigants and the DOJ appeared to lack the necessary standing to initiate structural reform litigation against problematic police departments. In *City of Los Angeles v. Lyons*, the U.S. Supreme Court held that private citizens lacked standing to seek equitable relief against a police department unless they could prove that the police department posed a real, immediate, and continuing threat to their constitutional rights. *City of Los Angeles v. Lyons*, 461 U.S. 95 (1983). In *Lyons*, the Los Angeles Police Department (LAPD) had used a controversial chokehold on the

Over twenty years later, though, the scholarly opinion on § 14141 is mixed. Some have worried that the DOJ lacks the necessary resources to enforce § 14141 effectively.⁴ Others have expressed concern that politics unduly influence the enforcement of the statute.⁵ Still, others have expressed concerns that the DOJ's current case selection process is procedurally unfair.⁶ One topic has received somewhat less attention from the legal academy—the on-the-ground effects of § 14141 intervention. Can § 14141 effectively overhaul a police department? How do we measure the effectiveness of § 14141 reforms? And what do these on-the-ground experiences tell us about the usefulness of § 14141 as a regulatory mechanism?

plaintiff without any apparent provocation. The plaintiff then sought to enjoin the LAPD from using that chokehold in the future. Because the plaintiff could not prove a significant likelihood that he would be victimized by the chokehold again in the future, the Court ruled that he lacked the standing to force the LAPD to make this change. *Id.* at 97–111. Similarly, in *United States v. City of Philadelphia*, the Third Circuit held that, absent congressional authorization, the DOJ also lacked the necessary standing to initiate Structural Reform Litigation (SRL) against a police department that appeared to be involved in a pattern of unconstitutional misconduct. *United States v. City of Philadelphia*, 482 F. Supp. 1248 (E.D. Pa. 1979), *aff'd*, 644 F.2d 187 (3d Cir. 1980). There, the DOJ had previously prosecuted six homicide detectives in Philadelphia for coercing confessions out of potentially innocent suspects. U.S. COMM'N ON CIVIL RIGHTS, THE FEDERAL ROLE IN THE ADMINISTRATION OF JUSTICE, HEARING HELD IN WASHINGTON D.C., SEPT. 16–17, 1980 47–48 (statement of Drew S. Days III, Assistant Att'y Gen., C.R. Div., U.S. Dep't of Justice) (“The mayor at the time, of Philadelphia kept the officers on the force, promoted one of the men who had been convicted, and asserted they were innocent until proven guilty at the Supreme Court level.”). Rather than punishing these officers, the City actually supported them. *Id.* The City even promoted one of the officers. A subsequent DOJ investigation found that the Philadelphia Police Department (PPD) was engaged in “a pattern of police abuse that systemically violated residents’ constitutional rights.” Stephen Rushin, *Federal Enforcement of Police Reform*, 82 *FORDHAM L. REV.* 3189, 3205 (2014). But when the DOJ sought an injunction against the PPD, the federal district court dismissed and claimed that the U.S. Attorney had no standing to bring such a claim without congressional authorization. *Id.* The Third Circuit would eventually uphold the district court. *Id.* After these two decisions, it seemed as if litigants had few avenues to initiate court-ordered reform against police departments.

³ See, e.g., William J. Stuntz, *The Political Constitution of Criminal Justice*, 119 *HARV. L. REV.* 780, 798–801 (2006) (comparing its importance to the *Mapp v. Ohio* decision that mandated the exclusion of evidence obtained by police officers in violation of the Constitution).

⁴ See, e.g., Brandon Garrett, *Remedying Racial Profiling*, 33 *COLUM. HUM. RTS. L. REV.* 41, 100–01 (2001) (arguing that the DOJ lacks the resources to address certain policing problems like racial profiling, and using the small number of consent decrees under § 14141 as evidence for this proposition); Kami Chavis Simmons, *The Politics of Policing: Ensuring Stakeholder Collaboration in the Federal Reform of Local Law Enforcement Agencies*, 98 *J. CRIM. L. & CRIMINOLOGY* 489, 493 (2008) (referencing previous DOJ concerns about cost-effectiveness as a reason for avoiding litigation in § 14141 cases); Rushin, *supra* note 2, at 3192, 3226 (discussing reasons for the relatively small number of § 14141 cases).

⁵ Rushin, *supra* note 2, at 3228–35 (making the case that politics played some role in the aggressiveness of DOJ enforcement under § 14141 and the Agency’s approach to using this statute to bring about mandatory reforms).

⁶ *Id.* at 3240–41 (outlining problems of case selection).

This essay examines the experiences of two police agencies the DOJ targeted for § 14141 reform: the Los Angeles Police Department (LAPD) and the Alamance County Sheriff's Department (ACSD). The DOJ found that the LAPD was engaged in a pattern of unconstitutional misconduct in May of 2000—shortly after details began to emerge about the so-called Rampart Scandal.⁷ Thereafter, the LAPD underwent a nearly twelve-year reform process.⁸ This essay uses a range of quantitative measures to judge the effect of the federal oversight of the LAPD. It finds that the LAPD made significant progress in reducing officer misconduct in the years after federal intervention.

In contrast, the DOJ has been unable to stimulate change in Alamance County. After a lengthy federal investigation found that the ACSD was engaged in systemic misconduct, Alamance County Sheriff, Terry Johnson, resisted DOJ reform efforts.⁹ The DOJ eventually brought the ACSD to trial—the first § 14141 trial in history—and lost.¹⁰ These two examples vividly demonstrate the potential and the limitations of § 14141 as a regulatory mechanism. While the DOJ effectively used § 14141 to stimulate reform in one of the nation's largest police departments in Los Angeles, it ultimately failed to bring about more change in a smaller county sheriff's department. These competing case studies suggest that organizational buy-in may be critical to effective § 14141 reform. This is a potentially problematic realization. It remains unclear whether such an approach will bring about lasting reform in communities that vehemently oppose federal intervention.¹¹

⁷ The investigation started on July 31, 1996. *Id.* at 3244 (showing in app. A the dates that the DOJ opened all investigations into local police affairs under § 14141 from the beginning of the statute's passage through 2013). The Justice Department found there to be an official pattern or practice of misconduct on May 8, 2000. OFFICE OF THE INDEP. MONITOR OF THE L.A. POLICE DEP'T, FINAL REPORT, app. F, at 3 (June 11, 2009) [hereinafter FINAL REPORT FOR LAPD].

⁸ Rushin, *supra* note 2, at 3247 (showing that the DOJ's intervention in L.A. lasted from June 15, 2001 until May 16, 2013—or just shy of twelve calendar years).

⁹ *See infra* Part II.

¹⁰ *Id.*

¹¹ This is particularly problematic since President Barack Obama's administration has pledged to engage in hostile takeovers of police departments engaged in patterns of unconstitutional misconduct. Further, it is possible that the next president—particularly if it is a Democrat—may continue this enforcement approach. Heather Mac Donald, *Targeting the Police*, WKLY. STAND. (Jan. 31, 2011), <http://www.weeklystandard.com/targeting-the-police/article/536863> (citing a statement made by then-Assistant Att'y Gen. Thomas Perez, who “told a conference of police chiefs . . . that the Justice Department would be pursuing ‘pattern or practice’ takeovers of police departments much more aggressively than [it did under] the Bush Administration, eschewing negotiation in favor of hardball tactics seeking immediate federal control”).

II. LOS ANGELES POLICE DEPARTMENT

Less than a decade after the Rodney King incident spurred the passage of § 14141, the LAPD found itself embroiled in yet another, perhaps even more egregious scandal—the Rampart Scandal. Professor Erwin Chemerinsky described the Rampart Scandal as the “worst . . . in the history of Los Angeles.”¹² The scandal involved police physically abusing suspects, committing violent and serious crimes, planting evidence, and ultimately framing innocent people.¹³ Because of officer misconduct, a number of innocent men and women pled guilty to crimes they did not commit and were successfully convicted based on “fabricated cases against them.”¹⁴ The scandal eventually implicated dozens of LAPD officers for various types of misconduct, resulting in the overturning of approximately 100 cases, and the review of around 3,000 more.¹⁵ Soon after the Rampart Scandal made news, the DOJ concluded that the LAPD was engaged in a “pattern or practice” of unconstitutional misconduct, in violation of § 14141.¹⁶

As part of its settlement with the DOJ, the LAPD agreed to adopt new procedures for investigating use of force incidents,¹⁷ new search and arrest procedures,¹⁸ improved citizen complaint procedures,¹⁹ policies on investigation conduct,²⁰ and protocols for disciplining officers.²¹ For example, the consent decree mandated the creation of a unit dedicated to the investigation of use of force

¹² Erwin Chemerinsky, *An Independent Analysis of the Los Angeles Police Department's Board of Inquiry Report on the Rampart Scandal*, 34 LOY. L.A. L. REV. 545, 549 (2001).

¹³ The scandal came to light in part because of confessions made by former LAPD officer Rafael Perez, who worked in the Rampart Division. After the LAPD tied Perez to missing drugs from a property storage area, Perez confessed to a range of serious misconduct. He also implicated a number of other officers in egregious wrongdoing. *See generally* Bernard C. Parks, L.A. POLICE DEP'T, BD. OF INQUIRY INTO THE RAMPART AREA CORRUPTION INCIDENT: PUBLIC REPORT (Mar. 1, 2000).

¹⁴ Erwin Chemerinsky, *The Rampart Scandal and the Criminal Justice System in Los Angeles County*, 57 GUILD PRACT. 121, 121 (2000).

¹⁵ Beth Shuster & Vincent J. Schodolski, *Poor Morale Rife in LAPD, Survey Finds*, L.A. TIMES (Sept. 8, 2000), <http://articles.latimes.com/2000/sep/08/news/mn-17580>.

¹⁶ Letter from Bill Lann Lee, Acting Assistant Att'y Gen., C.R. Div. of the U.S. Dep't of Justice, to James K. Hahn, City Attorney, City of L.A. (May 8, 2000) [hereinafter Letter from DOJ to LA], <https://www.justice.gov/crt/lapd-notice-investigation-letter>.

¹⁷ Consent Decree, *United States v. City of Los Angeles*, 2:00-cv-11769-GAF-RC, at 23–27 (C.D. Cal. June 15, 2001) [hereinafter Los Angeles Consent Decree], <http://www.clearinghouse.net/chDocs/public/PN-CA-0002-0006.pdf> (laying out the terms of the use of force stipulations).

¹⁸ *Id.* at 27–29.

¹⁹ *Id.* at 29–32.

²⁰ *Id.* at 32–34.

²¹ *Id.* at 35–37.

incidents housed in the Operations Headquarters Bureau.²² It mandated a specific investigative procedure for use of force incidents.²³ And it required the LAPD to adopt specific mechanisms for the intake, investigation, and adjudication of citizen complaints.²⁴

Like many consent decrees, the Los Angeles agreement also required the agency to implement an early intervention system (EIS) designed to minimize the risk of problematic police behavior.²⁵ It also established important changes to the way that the LAPD trained officers,²⁶ added components to the existing training program that notified officers of their ability to report misconduct,²⁷ and mandated additional training in cultural diversity, Fourth Amendment law, ethics, and more.²⁸ The decree also created another oversight mechanism in the Audit Unit.²⁹ The purpose of this new Audit Unit was to regularly examine LAPD records to ensure that officers were substantively complying with written mandates.³⁰

²² *Id.* at 23, ¶ 55.

²³ *Id.* at 23–24, ¶¶ 56–58.

²⁴ *Id.* at 32–38 (detailing rules on the initiation, investigation, and adjudication of complaints).

²⁵ *Id.* at 9–21 (describing the development of the TEAMS II system, the management and coordination of risk assessment responsibilities, and the performance evaluation system). This new system, described as TEAMS II in the consent decree, was designed as an improvement of the existing TEAMS system that the LAPD already used. *Id.* at 9 (“The City has taken steps to develop, and shall establish a database containing relevant information about its officers, supervisors, and managers to promote professionalism and best policing practices and to identify and modify at-risk behavior This system shall be a successor to, and not simply a modification of, the existing computerized information processing system known as the Training Evaluation and Management System (‘TEAMS’).”). Another important requirement of the consent decree was that the Police Commission, the Inspector General, and the Chief of Police were all required to have equal and complete access to the new TEAMS II system. *Id.* This was designed to ensure that all oversight bodies in the LAPD would have the chance to engage in meaningful oversight. *Id.* The consent decree clearly labeled all of the types of information that were to be included in the TEAMS II system, including documentation on every time an officer uses force, engages in vehicle pursuits, receives a commendation, conducts an arrest, receives mandated training, is the subject of a civil lawsuit, is the subject of disciplinary action, or is the subject of a complaint. It is worth noting that this is not an exhaustive list of all information required to be included in the new TEAMS II system. For a complete list, see *id.* at 9–11. The decree also laid out specifics on how the department ought to review and audit data from the TEAMS II system on a regular basis. *Id.* at 14–17.

²⁶ *Id.* at 54–58.

²⁷ *Id.* at 57.

²⁸ *Id.* at 56–58. These mandated additional trainings included training in the protections available to officers that fear retaliation for reporting misconduct. *Id.* at 57.

²⁹ *Id.* at 59 (“The Department shall create and continue to have an audit unit within the office of the Chief of Police (the ‘Audit Unit’) with centralized responsibility for developing the Annual Audit Plan, coordinating and scheduling audits contemplated by the Annual Audit Plan and ensuring timely completion of audits, and conducting audits as directed by the Chief of Police.”).

³⁰ The consent decree specifically required the use of stratified random samples of departmental records to ensure compliance with policy requirements, as well as sting audits, where undercover agents investigate agency compliance covertly. *Id.* at 61 (describing the need for these

Further, the consent decree included portions regulating the management of gang units,³¹ the development of programs to respond to persons with disabilities,³² and community outreach.³³ Similar to all federal intervention, the consent decree made it clear that the City of Los Angeles was responsible for the cost of this monitor and the cost of all necessary reform measures.³⁴

In the early years of federal intervention in Los Angeles, the external monitoring team assigned to oversee the LAPD expressed concern over some failures by the LAPD to meet the standards of the consent decree. For example, only months after Federal District Judge Gary Feess officially named Michael Cherkasky as the monitor, his monitoring team found that the LAPD had an unacceptable backlog of misconduct cases and citizen complaints in violation of the consent decree.³⁵

To address the public concerns surrounding the consent decree, early on in the federal intervention process, the LAPD made a change in leadership by appointing William Bratton as police chief.³⁶ According to the monitor reports, the appointment of Chief Bratton marked the true beginning of institutional reform in the LAPD, in part because “Chief Bratton raised the level of visibility and dedication to the [consent] [d]ecree. . .”³⁷ One of Bratton’s most visible moves that demonstrated his dedication to the consent decree was his appointment of Gerald Chaleff as head of the Consent Decree Bureau. Bratton gave Chaleff, a

two types of audits, each under somewhat different conditions). Specifically, the consent decree required the LAPD to audit arrests records, motor vehicle stop records, use of force investigations, community complaint investigation records, warrant applications, confidential informant files, and other LAPD work product. *Id.* at 60–62 (listing these and other audit requirements). To address the problems that emerged in the Rampart scandal, the consent decree also required audits of financial disclosures made by all LAPD officers who routinely handle valuable contraband or cash. *Id.* at 63. While the Audit Unit was tasked with the responsibility of conducting these audits, the consent decree also required the Audit Unit to turn over their results to the Office of the Inspector General (OIG) for evaluation. The results of these OIG investigations of the Audit Division results must be forwarded to the Police Commission for further review. This decentralization of responsibility ensures that no one group has complete control over LAPD accountability; responsibility is diffused throughout the organization. *Id.* at 65.

³¹ *Id.* at 47–50.

³² *Id.* at 54–55.

³³ *Id.* at 72–73. Further, the consent decree required the DOJ and the LAPD to negotiate in good faith on the selection of an external monitoring team to oversee the implementation of settlement terms. *Id.* at 74 (further explaining that the monitor was to be selected by March 1, 2001 and ought to meet certain specified requirements). The monitor was supposed to cost no more than \$10 million over the first 5 years in total fees, not counting the cost of “out-of-pocket costs for travel and incidentals.” *Id.*

³⁴ *Id.* at 75 (“The City shall bear all reasonable fees and costs of the Monitor.”).

³⁵ Rick Orlov, *LAPD Reforms Stymied by Backlog Jam*, DAILY NEWS OF L.A., Nov. 20, 2001, at N4.

³⁶ FINAL REPORT FOR LAPD, *supra* note 7, at 5 (Before becoming chief, Bratton was serving as a policing expert on the Kroll monitoring team overseeing the LAPD.)

³⁷ *Id.*

criminal defense attorney and former member of the Board of Police Commissioners, a position within the LAPD roughly equivalent to a Deputy Chief.³⁸ Elevating such a figure like Chaleff—someone from outside the LAPD who had spent much of his professional career critical of police behavior—sent a signal that the LAPD under Bratton was prepared to undergo significant changes if necessary to meet the terms of the decree.³⁹ When Chief Bratton faced opposition from his own officers over the terms of the consent decree—and there was plenty—he adamantly stood his ground and defended the consent decree’s provisions as mere best practices.⁴⁰

Despite the existence of supportive leadership atop the LAPD, the entire implementation process took nearly twelve years to complete.⁴¹ The federal government spent more time overseeing the LAPD than virtually any other agency.⁴² However, once the reforms had concluded, the LAPD was a remarkably different agency by virtually any metric. The parts that follow walk through many of these important measures, showing the progress that the LAPD made under the federal monitor’s watchful eye.

A. Evidence of Reform

Before discussing the evidence of reform in Los Angeles, it is important to fully acknowledge the limitations of the available data. Ideally, any test of the Los Angeles consent decree would examine the effects of federal intervention on rates of police misconduct. Unfortunately, there is no universally accepted way to measure the prevalence of police misconduct. Police misconduct is varied. In a perfect world, the number of civil rights complaints filed against a police department would roughly approximate the amount of misconduct present in that agency. Unfortunately, the flawed complaint procedures were one of the key reasons for federal intervention in the LAPD in the first place; it would not be surprising to see the total number of complaints against the LAPD rise during

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* In § 14141 actions, the district judge typically plays a minor role. This case was no exception. In their report, the monitors described the role played by each party in the process. The sections describing the role of the monitoring team, DOJ, and LAPD included detailed descriptions of the ways that each party advanced the reform process. The section on the role of the federal district court included a mere single sentence reading: “The Honorable Gary Feess of the United States District Court for the Central District of California has presided over this matter for the entire time it has been pending.” *Id.* at 6.

⁴¹ “The Los Angeles monitoring lasted from June 15, 2001, to May 16, 2013—approximately 4353 days or 11.9 years.” Stephen Rushin, *Structural Reform Litigation in American Police Departments*, 99 MINN. L. REV. 1343, 1392 n.269 (2015).

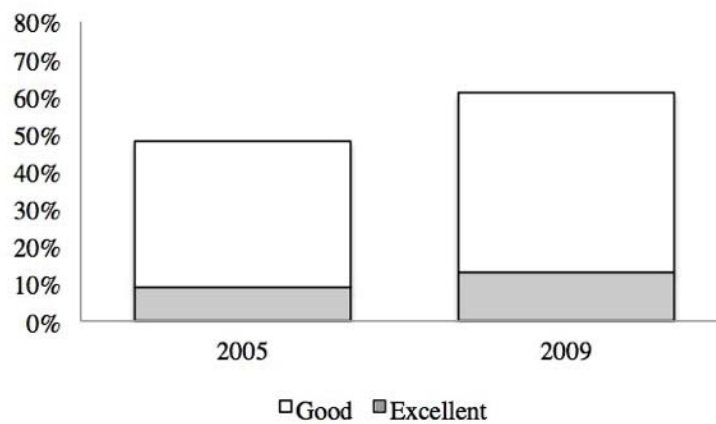
⁴² This is not surprising, though, given the complexity of the agreement, the size of the department, and depth of the problems facing the agency before intervention.

federal intervention. This rise may not be because LAPD officers are engaged in more misconduct. Instead, this rise could very well suggest that citizens finally have an easy avenue to file their grievances against police officers. Thus, the subsections that follow will walk through a range of alternative methods to test the effectiveness of federal intervention in Los Angeles.

1. Citizen Opinions of the LAPD

One way to evaluate the impact of the federal consent decree is to see whether public opinion of the LAPD shifted over this time period. Surveys of Los Angeles residents conducted by previous researchers around the time of federal intervention give some insight into shifts in public opinion. In 2005, a few years into federal intervention, less than fifty percent of residents surveyed said that the “services of the police” were “good” or “excellent” policing services.⁴³ Near the end of federal intervention in 2009, this number increased to around 60 percent.⁴⁴ The proportion of Los Angeles residents that believed the LAPD was doing a “good” or “excellent” job overall also increased during the time of federal intervention. Figure 1 illustrates this trend.

Figure 1. Resident Assessment of LAPD Policing Services



⁴³ CHRISTOPHER STONE, TODD FOGLESONG & CHRISTINE M COLE, POLICING LOS ANGELES UNDER A CONSENT DECREE: THE DYNAMICS OF CHANGE AT THE LAPD 44 (2009), <http://www.lapdonline.org/assets/pdf/Harvard-LAPD%20Study.pdf> (showing these statistics in Figure 29).

⁴⁴ *Id.*

By 2009, across all racial groups, Los Angeles residents reported high satisfaction with the overall job done by the LAPD.⁴⁵ It is worth noting, though, that Black residents still reported somewhat less satisfaction with the LAPD than White, Latino, and Asian residents.⁴⁶ Another survey asked respondents: “Compared with the LAPD three years ago, do you believe the police department in Los Angeles today is more likely, less likely, or equally likely to bring offenders to justice while respecting their rights and complying with the law?”⁴⁷ A strong majority of Black, White, Latino, and Asian respondents answered either “equally likely” or “more likely,”⁴⁸ and over eighty percent of Black, White, Latino, and Asian respondents reported being somewhat or very hopeful about the direction of the LAPD in 2009.⁴⁹

Perhaps most interestingly, in interviews with detainees—those taken into custody by the LAPD—the majority reported that the LAPD was doing a “good” or “excellent” job.⁵⁰ All of this data suggests that the LAPD may have made some meaningful progress over the federal intervention term. This data is also similar to the experience of other cities that underwent federal intervention. In Pittsburgh, for example, a survey of 400 residents found that a significant number reported visible improvements in policing services and fair treatment.⁵¹

In Los Angeles, some troubling patterns remain in the survey data. For instance, some surveys in Los Angeles showed significant racial divides. When residents were asked whether the LAPD “treat all racial and ethnic groups fairly,” a strong majority of white respondents answered “almost always” or “most of the time.”⁵² By contrast, only around half of Latino and around 40 percent of Black respondents expressed similar optimism.⁵³ Similar disparities existed when interviewers asked Los Angeles residents: “Based on your personal experiences, how many of the LAPD officers you encounter treat you, your friends, and your family members with respect?” and “How would you describe relations between the LAPD and the community where you live?”⁵⁴ It is worth noting that Los

⁴⁵ *Id.* at 45 (showing in Figure 30 that Hispanic, White, Black, Asian, and other racial groups all showed a strong majority assessing the LAPD as either “good” or “excellent”).

⁴⁶ *Id.*

⁴⁷ *Id.* at 46 (displaying these statistics in Figure 31).

⁴⁸ *Id.*

⁴⁹ *Id.* (providing this data in Figure 32).

⁵⁰ *Id.* at 48.

⁵¹ *See generally* ROBERT C. DAVIS, CHRISTOPHER W. ORTIZ, NICOLE J. HENDERSON, JOEL MILLER & MICHELLE K. MASSIE, VERA INST. OF JUST., TURNING NECESSITY INTO VIRTUE: PITTSBURGH’S EXPERIENCE WITH A FEDERAL CONSENT DECREE (2002), http://archive.vera.org/sites/default/files/resources/downloads/Pittsburgh_consent_decree.pdf.

⁵² STONE ET AL., *supra* note 43, at 50.

⁵³ *Id.*

⁵⁴ *Id.* at 51–53.

Angeles is not alone in witnessing an apparent disparity in citizen satisfaction based on race. The same basic pattern emerged in the surveys done in Pittsburgh after federal intervention.⁵⁵

Of course, citizen survey responses are hardly dispositive. It is often unclear how familiar any given respondent is with the changes made during a consent decree. And an individual citizen is not necessarily well positioned to judge changes in the frequency of police misconduct. But overall, these surveys in Los Angeles should inspire tempered optimism. Some racial disparities aside, these results are consistent with a police department that may have made observable improvements during federal intervention.

2. TEAMS II

Remember that one of important components of the LAPD consent decree was the development of a new early information system (EIS)⁵⁶ called TEAMS II to keep track of “risk-oriented data (uses of force, complaints, etc.) [and] operational data (arrests, traffic stops, citations, etc.)” and “automatically notify supervisory personnel when officers in their command deviate significantly from the norms of their sworn peers.”⁵⁷ The monitoring team found that the LAPD not only developed a satisfactory EIS in TEAMS II, but that the department “incorporated [it] into the LAPD Manual and in the daily business practices . . . including promotions, pay-grade advancement, selections to specialized units[,] . . . annual performance evaluations, transfers to new commands, . . . and complaint investigations.”⁵⁸ The monitoring team audited dozens of monthly reports created by this new data system, and found the department was generally using this new data system properly.⁵⁹ An event in 2008 illustrates just how useful these kinds of data-driven warning systems can be in improving the constitutionality of local policing. The LAPD in coordination with the monitoring team conducted an assessment of data collected by the new data system and found that the Central

⁵⁵ DAVIS ET AL., *supra* note 51, at 39.

⁵⁶ This EIS involved five separate systems that were integrated together: “the Complaint Management System (CMS), the Use of Force System (UOFS), the STOP database, the Risk Management Information System (RMIS) and the Deployment Planning System (DPS).” FINAL REPORT FOR LAPD, *supra* note 7, at 10.

⁵⁷ *Id.* at 9.

⁵⁸ *Id.*

⁵⁹ *Id.* at 11–12 (“[T]he Monitor reviewed 34 different monthly reports produced by RMIS, including four individual summary and comparison reports, 15 different summary and comparison reports for units and/or workgroups and 15 different incident reports. . . . [and] determined that these reports met the Consent Decree requirement . . .”).

Area Narcotics unit appeared to engage in statistically unusual behavior.⁶⁰ The unit was disproportionately taking advantage of a narrow exception in LAPD policy that permitted officers to avoid completing a field data report after stopping a suspect.⁶¹ Thanks to the data-driven system mandated via federal intervention, the LAPD was able to notice this potentially unconstitutional pattern of behavior and take actions to correct it preemptively.

3. Use of Force

According to the external monitoring team, the LAPD's improved use of force policies and procedures were "the single most encouraging aspect" of the federal intervention era.⁶² The DOJ had identified a pervasive pattern of unlawful use of force present in the LAPD at the time of the federal investigation. Starting in August of 2002, the monitoring team began documenting various measures to test whether the LAPD was using force in a constitutional manner. First, the LAPD made dramatic improvements in properly reporting use of force incidents to superiors.⁶³ Second, the consent decree mandated that the Use of Force Review Board review all so-called categorical use of force incidents.⁶⁴ Categorical use of force refers to any lethal force used by law enforcement or any force resulting in injury requiring hospitalization, all head strikes, and deaths in custody.⁶⁵ The

⁶⁰ *Id.* at 13 (explaining how, after a staff review of "total Department-wide action items for the second quarter of 2008," the LAPD determined that the Central Area Narcotics unit "appeared to be statistically higher than the average of other specialized units for RMIS thresholds").

⁶¹ *Id.* The monitors also observed that supervisors appeared to be engaged directly in use of force incidents rather than serving in a merely supervisory capacity. *Id.*

⁶² *Id.* at 20.

⁶³ OFFICE OF THE INDEP. MONITOR OF THE L.A. POLICE DEP'T, REPORT FOR THE QUARTER ENDING JUNE 30, 2002 6-7 (June 30, 2002) [hereinafter FOURTH QUARTERLY REPORT FOR LAPD], <http://www.clearinghouse.net/chDocs/public/PN-CA-0002-0015.pdf> (stating "[n]otification and a prompt response by CIID is critical to preserve evidence and maintain integrity"). The Fourth Quarterly Report stated that, "[t]he CIID's overall response time ranged from approximately 25 to 106 minutes, with an average mean arrival time of 69 minutes. This response time is judged to be within acceptable limits and not an impairment to the investigation." *Id.* at 6. The report also stated that the police chief was properly notified in twenty-two out of twenty-three cases, or 95.7% of the time. *Id.* at 7; FINAL REPORT FOR LAPD, *supra* note 7, app. D, at 2 (showing paragraph 58 in compliance throughout the period of the consent decree).

⁶⁴ OFFICE OF THE INDEP. MONITOR OF THE L.A. POLICE DEP'T, REPORT FOR THE QUARTER ENDING SEPTEMBER 30, 2002 20 (Nov. 15, 2002) [hereinafter FIFTH QUARTERLY REPORT FOR LAPD], <http://www.clearinghouse.net/chDocs/public/PN-CA-0002-0016.pdf> ("Paragraph 69 requires the LAPD to continue its practice of presenting every Categorical Use of Force investigation before the Use of Force Review Board.").

monitors observed the process by which the Use of Force Review Board hears cases of categorical use of force and found them to be in line with the requirements in the consent decree.⁶⁶ The LAPD continued these full board reviews for categorical use of force throughout the period of the consent decree.⁶⁷

Similarly, the consent decree required the LAPD to review non-categorical use of force incidents within 14 calendar days.⁶⁸ The LAPD initially had a tough time abiding by this requirement. When the monitoring team first audited use of force files in December of 2002 to determine whether non-categorical use of force incidents were being properly investigated within the requisite 14 days, the team found that only 75% of cases were evaluated in the proper time frame.⁶⁹ This was deemed insufficient.⁷⁰ By June of 2003, the LAPD had dramatically improved this figure. By then, the LAPD processed approximately 94% of non-categorical use of force cases within 14 days.⁷¹ This figure increased to 95.6% in December of 2003 and remained above 95% thereafter.⁷²

⁶⁵ L.A. POLICE DEP'T, USE OF FORCE ANNUAL REPORT 4 (2009) [hereinafter USE OF FORCE REPORT FOR LAPD 2009], <http://www.lapdonline.org/assets/pdf/2009YearEndReportFinal.pdf>. The LAPD's full definition of categorical use of force is as follows:

All incidents involving the use of lethal force such as intentional Officer Involved Shootings; Unintended Discharges of a firearm; all uses of Carotid Restraint Control Holds; all uses of force resulting in an injury requiring hospitalization, commonly referred to as Law Enforcement Related Injuries; all Head strikes with an impact weapon; all other uses of force resulting in death; all deaths while the arrestee or detainee is in the custodial care of the LAPD referred to as an In-Custody Death; or a K-9 Contact which result in hospitalization.

Id.

⁶⁶ FIFTH QUARTERLY REPORT FOR LAPD, *supra* note 64, at 20–21.

⁶⁷ FINAL REPORT FOR LAPD, *supra* note 7, app. D, at 2 (showing under paragraph 69(a) that the LAPD was in compliance with this portion in the Fifth Quarterly Report and remained in compliance over the duration of the consent decree).

⁶⁸ OFFICE OF THE INDEP. MONITOR OF THE L.A. POLICE DEP'T, REPORT FOR THE QUARTER ENDING DECEMBER 31, 2002 18 (Feb. 15, 2003) [hereinafter SIXTH QUARTERLY REPORT FOR LAPD], http://assets.lapdonline.org/assets/pdf/6th_quarterly_report_03_02_15.pdf (explaining that the consent decree requires "LAPD Division . . . to review each use of force within 14 calendar days of the incident, unless a deficiency in the investigation is detected, in which case the review shall be completed within a reasonable time period").

⁶⁹ *Id.* at 19 ("The Monitor found that 21 of the 85 investigations selected for review were not reviewed within 14 calendar days of their submission. For all 21 incident investigations the Monitor noted no extenuating circumstances and the LAPD did not document any extenuating circumstances that would have precluded the investigation from reasonably being reviewed as required.").

⁷⁰ *Id.*

⁷¹ OFFICE OF THE INDEP. MONITOR OF THE L.A. POLICE DEP'T, REPORT FOR THE QUARTER ENDING JUNE 30, 2003 18 (Aug. 15, 2003) [hereinafter EIGHTH QUARTERLY REPORT FOR LAPD], <http://www.clearinghouse.net/chDocs/public/PN-CA-0002-0024.pdf> ("During the current quarter, the Monitor reviewed the merits of 87 NCUOF incident investigations . . . [and in] all but five investigations, LAPD Division Management reviewed the incident within 14 days and the investigations were completed within a reasonable time period thereafter.").

⁷² OFFICE OF THE INDEP. MONITOR OF THE L.A. POLICE DEP'T, REPORT FOR THE QUARTER ENDING DECEMBER 31, 2003 23–24 (Feb. 17, 2004) [hereinafter TENTH QUARTERLY REPORT FOR

Third, another part of the consent decree required the LAPD to utilize specific procedures in investigating both categorical and non-categorical use of force claims. For example, the consent decree required the audio and video recording of interviews conducted after categorical use of force incidents.⁷³ It barred the use of group interviews after both categorical and non-categorical use of force events.⁷⁴ It also established requirements for the collection and preservation of evidence and mandated officer interviews with all supervisors after use of force incidents, among other requirements.⁷⁵ The monitoring team first measured compliance with these requirements in September of 2002. In this initial examination, the monitors examined 37 categorical force investigations.⁷⁶ While this initial assessment found the LAPD in compliance with most of the categorical force investigation requirements, it did find that the LAPD had failed to adequately tape or video record interviews,⁷⁷ and failed to collect and preserve adequate evidence.⁷⁸ The monitors similarly found the non-categorical investigations to be insufficient in multiple ways during the first examination.⁷⁹ Soon, though, the LAPD corrected these problems and generally maintained compliant use-of-force investigation procedures from that point forward.⁸⁰

Combined, these various measures suggest that the LAPD's reporting and investigation of use-of-force improved substantially during the consent decree period. What is surprisingly absent, though, from the monitoring report is some measure of how these changes impacted the LAPD's proclivity towards using force against criminal suspects. The Office of Inspector General (OIG), though, does provide some consistent measure of use of force over time. During the time that the monitors were regularly overseeing the categorical use of force report procedures, the total number of categorical use of force incidents declined

LAPD], <http://www.clearinghouse.net/chDocs/public/PN-CA-0002-0026.pdf> (stating that eighty-seven out of ninety-one cases of non-categorical use of force were properly handled within fourteen days).

⁷³ FINAL REPORT FOR LAPD, *supra* note 7, app. D, at 3 (describing the conduct of investigation requirements in paragraphs 80i and 81i for categorical and non-categorical uses of force incidents).

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ FIFTH QUARTERLY REPORT FOR LAPD, *supra* note 64, at 37.

⁷⁷ *Id.* at 38 ("For the 37 incidents reviewed, two contained witness statements that were not captured on tape and one contained a suspect's statement that was not captured on tape.").

⁷⁸ *Id.* ("In two separate Categorical Use of Force incidents the Monitor identified a key witness to the incident who was not interviewed by the investigating officers.").

⁷⁹ FINAL REPORT FOR LAPD, *supra* note 7, app. D, at 3 (noting that the LAPD was not in compliance in the first audit of the non-categorical investigation procedures in the Sixth Quarterly Report for paragraph 81i).

⁸⁰ *Id.* (showing a move from non-compliance to compliance for various categories listed under paragraphs 80i and 81i for categorical and non-categorical uses of force investigations).

noticeably. Figure 2 below shows the decline in categorical use of force incidents during the monitoring period.

Figure 2. Categorical Uses of Force per Officer by LAPD



The notable decrease in categorical use of force incidents during the monitoring time period may be a mere coincidence. It may be a side effect of decreased crime. Or it may represent a genuine change in officer behavior to use categorical force less often, since officers are aware that the OIG and the external monitor are observing their behavior. It is tough to make any definitive conclusions from the data, although the general trend is encouraging.⁸¹

4. Bias-Free Policing

One controversial subject during the federal intervention era was the LAPD's adherence to the consent decree's mandated non-discrimination policy for automobile and pedestrian stops. The Christopher Commission, convened after the Rodney King incident, found significant evidence of racial bias in the LAPD's ranks, and investigations after the Rampart Scandal revealed similar problems.⁸²

⁸¹ It is important to note that two years after the external monitoring team stopped monitoring categorical uses of force, the total number of categorical use of force incidents increased by about 37%. ALEXANDER A. BUSTAMANTE, OFFICE OF THE INSPECTOR GEN., QUARTERLY USE OF FORCE REPORT: FIRST QUARTER 2012 2 (June 27, 2012) [hereinafter 2012 USE OF FORCE REPORT], http://www.lapdpolicecom.lacity.org/070312/BPC_12-0284.pdf. I reached the 37% statistic by comparing the 2009 number of categorical use of force incidents with the 2011 number (84 and 115 respectively). Most of this uptick was tied back to an increase in officer-involved shootings, which increased by 58% in just one year. *Id.* The LAPD has not publicly provided any thorough explanation for this sudden jump in officer-involved shootings. This is a potentially discouraging development.

⁸² FINAL REPORT FOR LAPD, *supra* note 7, at 69.

To measure the presence of possible racial profiling, the LAPD began collecting demographic statistics on vehicle and pedestrian stops starting in November of 2001.⁸³ The Audit Unit then began auditing this data in August of 2003.⁸⁴ By 2005, Los Angeles released a major public report detailing the results of these audits.⁸⁵ It found that, even when controlling for several variables, racial disparities remained.⁸⁶ A few years later, Professor Ian Ayres worked with the ACLU of Southern California to conduct an additional study of this same data set.⁸⁷ Ayres found apparent racial bias in how LAPD officers exercised authority post-stop.⁸⁸ In response to these reports, the LAPD leadership instituted additional protocols that required officers to fully articulate detailed reasons for conducting traffic and pedestrian stops.⁸⁹ Complaints against officers for racial profiling were not closed unless the officer had provided such a full explanation.⁹⁰

The LAPD made several other attempts to correct this problem. First, the LAPD put in place an automated reporting system that automatically recorded stop data into the TEAMS II system.⁹¹ This way, even if it was difficult to reach conclusions on the presence of racial bias via aggregate statistics, the LAPD hoped to identify individual officers that may be engaged in a more visible pattern of race-based stops. Second, the LAPD began installing cameras in squad cars.⁹² The LAPD has also agreed to conduct regularized audits of audio and video from these cameras.⁹³ Thus, while some claims of racial bias remain in the LAPD, it appears that the department has taken substantial steps to correct these problems.

⁸³ *Id.* at 70 (“The Decree also mandated that the Department require LAPD officers to complete a written or electronic report each time an officer conducts a motor vehicle or pedestrian stop by November 1, 2001.”).

⁸⁴ *Id.* at 71 (“[The Audit Unit] completed its first *Motor Vehicle and Pedestrian Stop Data Collection Audit* in August 2003.”).

⁸⁵ *Id.* at 72 (“The City, working through the Analysis Group, Inc. prepared and released the ‘Final Pedestrian and Motor Vehicle Stop Data Analyses Methodology Report,’ dated December 8, 2005.” (citation omitted)).

⁸⁶ *Id.*

⁸⁷ IAN AYRES & JONATHAN BOROWSKY, A STUDY OF RACIALLY DISPARATE OUTCOMES IN THE LOS ANGELES POLICE DEPARTMENT 1 (2008), <https://www.aclusocal.org/issues/police-practices/racial-profiling-the-lapd-a-study-of-racially-disparate-outcomes-in-the-los-angeles-police-department/>.

⁸⁸ *See id.* at i.

⁸⁹ FINAL REPORT FOR LAPD, *supra* note 7, at 74.

⁹⁰ *Id.*

⁹¹ *Id.* (“This system incorporates the collection of stop data as approved by DOJ and provides for its storage in TEAMS II.”).

⁹² *Id.* (“[T]he City and Department have continued to move toward Department-wide implementation of cameras in cars (DICVS), which the Monitor has strongly endorsed and recommended as a best practice in monitoring potential bias in stops.”).

⁹³ *Id.* at 75 (stating that the LAPD planned to “[c]onduct regular audits of the audio and video, in addition to periodic inspections by supervisors.”).

5. Auditing

Perhaps the single most transformative change made in the LAPD was the structural change in monitoring police behavior via auditing. Before, the LAPD had some mechanisms in place to monitor police behavior—namely, an Office of the Inspector General.⁹⁴ However, in the years before federal intervention, these two oversight mechanisms lacked the authority and skills to properly oversee LAPD behavior.⁹⁵ Thus, as part of the consent decree, the federal government demanded that the LAPD create a new Audit Unit.⁹⁶ This new Audit Unit was given the responsibility of conducting stratified, randomized audits of various police practices.⁹⁷ Under the consent decree, the Chief of Police was to submit to the Police Commission and the OIG a list of planned audit targets.⁹⁸ The Audit Unit was then responsible for conducting these regular audits and submitting the results to the Police Commission and OIG for review.⁹⁹ The consent decree mandated several required subjects of these regular audits: warrants, arrests, use of force, stops, complaints, financial disclosures, and police training.

During the federal intervention era, the external monitoring team examined the quality of the audits conducted by the Audit Unit. At first, these audits were frequently flawed. For example, the monitoring team found that many of these early audits “used inadequate samples and included questions that yielded imprecise results.”¹⁰⁰ Over time, and with the help of both the external monitors and additional newly hired personnel, the LAPD dramatically improved the quality of these regular audits. After only a few years, the Audit Unit began submitting timely audits that met quantitative and qualitative expectations.¹⁰¹ Figure 3 shows the progress that the Audit Unit made in just four short years.

⁹⁴ In the wake of the Rodney King beating, Los Angeles established an Inspector General responsible for overseeing “receipt of citizen complaints, monitoring the progress of complaints through the Internal Affairs investigation process, and auditing the results of those investigations.” MERRICK J. BOBB, MARK H. EPSTEIN, NICOLAS H. MILLER & MANUEL A. ABASCAL, FIVE YEARS LATER: A REPORT TO THE LOS ANGELES POLICE COMMISSION ON THE LOS ANGELES POLICE DEPARTMENT’S IMPLEMENTATION OF INDEPENDENT COMMISSION RECOMMENDATIONS 69 (May 1996) [hereinafter FIVE YEARS LATER REPORT ON LAPD], <http://www.morongobasinombudsman.com/files-for-download/five-years-later---christop.pdf>.

⁹⁵ Letter from DOJ to LA, *supra* note 16.

⁹⁶ See *supra* text accompanying note 29.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ FINAL REPORT FOR LAPD, *supra* note 7, at 109.

¹⁰¹ *Id.* at 110.

Figure 3. Number of Required and Sufficient Audits Conducted by Audit Unit



This is not to say that the Audit Unit has been perfect. In fact, in the later years of monitoring, the Audit Unit still had some issues with timeliness, as seen by the slight dip in compliance between 2005 and 2007. The LAPD, an agency that once suffered from serious deficiencies in monitoring their own officers, has made tremendous improvement in this regard over the federal intervention era—so much improvement that the agency “[p]articipat[ed] as founding members of the International Law Enforcement Auditor’s Association (ILEAA) and coordinat[ed] the first ILEAA conference in August 2007.”¹⁰² The LAPD Audit Unit has even participated in peer reviews of other similar systems that have been installed in cities like Phoenix, Dallas, and Richmond.¹⁰³

6. Additional Measures

The monitoring team also found that the LAPD made substantial progress in improving its management of gang units,¹⁰⁴ handling of persons with mental illnesses,¹⁰⁵ policies on confidential informants,¹⁰⁶ and broader training programs.¹⁰⁷ Monitors also audited warrant applications and arrest records to

¹⁰² *Id.* at 112.

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 76–83 (stating that although the LAPD struggled with the gang unit requirements early on, the “Department has made substantial strides toward a better trained and supervised gang unit . . .”).

¹⁰⁵ *Id.* at 89–93 (claiming that the LAPD has made “significant advances” in this area and now “continues to be in the national forefront of this important policing issue”).

¹⁰⁶ *Id.* at 84–88 (“The Department released a Confidential Informant Manual in 2002 that incorporated all of the requirements of the Consent Decree.”).

¹⁰⁷ *Id.* at 93–99 (“The LAPD has been tremendously successful in its effort to improve its training function.”).

verify legal sufficiency and authenticity of officer behavior.¹⁰⁸ The monitors found that the LAPD made substantial progress in both areas.¹⁰⁹

B. *Costs of Reform*

Federal intervention appears to have been successful in reducing misconduct in Los Angeles—but at what cost? What did the City of Los Angeles have to sacrifice to make this apparent improvement in its police force? Surprisingly, it appears that Los Angeles made little sacrifice to achieve these improvements in constitutional policing. Although the City of Los Angeles spent a considerable amount of money to pay for initial investments into misconduct reforms, there is reason to believe that the city has been able to recoup many of these costs through reductions in police misconduct. Police officers also worried that the consent decree may result in de-policing—that is, a reduction in police aggressiveness, resulting in an increase in crime. In actuality, though, little statistical evidence exists to verify this so-called de-policing hypothesis in Los Angeles. If anything, the LAPD has become more aggressive and more effective at combatting crime, relative to other municipalities, during the federal intervention era. Combined, these two observations suggest that the real cost of federal intervention was quite low. This realization makes the Los Angeles case study a true success story—a case where the law helped to facilitate meaningful improvement in police conduct without significant cost.

1. Financial Costs

The consent decree appears to have directly affected the overall budget of the LAPD. Around the time that the LAPD entered into a consent decree with the DOJ, the City of Los Angeles spent around \$314 (adjusted for inflation) per resident on policing services.¹¹⁰ By 2008, that number ballooned to around \$374.¹¹¹ By the end of the consent decree period, average expenditures per resident had receded somewhat—possibly because of the waning implementation costs of the consent decree and the nationwide recession that strapped city budgets across the nation.¹¹² Initial estimates suggested that the consent decree would cost

¹⁰⁸ *Id.* at 34–38 (stating that initially audits only found 55.5% of arrest packages to be in line with policy, but 88% were in line with policy after the monitoring; also noting that compliance rates significantly increased for warrants as well).

¹⁰⁹ *Id.*

¹¹⁰ Rushin, *supra* note 41, at 1399.

¹¹¹ *Id.*

¹¹² *Id.* (showing in Figure 6 that expenditures per resident over time receded somewhat from their peak).

around \$40 million to implement in the first year, with an additional \$30–50 million a year in expenses in the years to follow.¹¹³

As is the case in many communities facing structural reform litigation, the cost of the monitor was particularly controversial. Towards the end of the consent decree monitoring, the then-President of the Police Protective League Tim Sands argued publicly that the Kroll was “wast[ing] taxpayer dollars [with] incessant, meaningless auditing that does nothing to enhance public safety or ‘reform’ the LAPD.”¹¹⁴ Political critics of the consent decree also focused their attacks on the high cost of monitoring services. Council Dennis Zine publicly criticized the cost of things like airfare and food paid to monitors who needed to travel from out of state to perform their duties.¹¹⁵

But such short-term complaints about visible and immediate costs likely fail to account for the cost savings achieved through improving the constitutionality of the LAPD’s behavior. Admittedly, the initial cost of federal intervention was high. Other metrics, though, suggest that the City of Los Angeles was likely able to recoup much of this cost. One way Los Angeles may have recouped these costs is through reductions in civil liability. The LAPD appeared to experience a measurable reduction in civil rights and use of force lawsuits resulting in financial payouts during the federal intervention era.¹¹⁶ During this time period, the number of these types of civil suits against the LAPD appeared to fall by nearly 75 percent.¹¹⁷ It is easy to imagine other ways that a substantial reduction in police misconduct may result in cost savings. For example, fewer invalid warrant applications and more sufficient supporting affidavits could lead to less city resources spent on suppression hearings.

Of course, it may take many years for the LAPD to fully recoup the large, upfront costs of federal intervention via reduced litigation costs or other consequences of improved police conduct. Time will tell whether Los Angeles will be able to sustain these improvements. These caveats aside, though, it remains theoretically plausible that federal intervention may be a reform that ultimately pays for itself financially.

¹¹³ Joseph Giordano & Jason Kandel, *Police Union Threatens Suit; LAPD: League President Says Officers to File Federal Case About Consent Decree*, LONG BEACH PRESS TELEGRAM, Nov. 2, 2000, at A8.

¹¹⁴ Rick Orlov, *Police Want End to Consent Decree; LAPD: Union Protests Cost of Using New York Monitoring Firm*, DAILY NEWS OF L.A., Feb. 1, 2008, at A3.

¹¹⁵ *Id.* Mr. Zine said, “I don’t know why we had to hire a New York firm to do this work. And I don’t know why they couldn’t hire someone in Los Angeles to serve as monitor.” *Id.*

¹¹⁶ Rushin, *supra* note 41, at 1406–08.

¹¹⁷ *Id.*

2. Did Reform Hurt Police Effectiveness?

Some critics of federal intervention allege that this regulatory mechanism causes police departments to become less aggressive, thereby contributing to an increase in crime rates.¹¹⁸ According to this view, federal intervention reduces the amount of encounters between police and citizenry, either because structural reform makes officers hesitant, or because it forces officers to spend valuable time completing procedural hurdles.¹¹⁹ Some officers suggest that de-policing is most likely to affect the number of police contacts and arrests for minor street crimes.¹²⁰ This is because arrests for serious crimes normally happen after lengthy investigations, while arrests for minor crimes happen via police officers proactively monitoring the streets and responding to visible wrongdoing.

The de-policing hypothesis suggests that policies and procedures mandated by federal intervention inhibit an officer's abilities to engage in this type of proactive, order maintenance policing. If this de-policing hypothesis were true in Los Angeles, the total number of arrests for minor offenses ought to decrease over the structural reform era in Los Angeles. In order to measure whether federal intervention impacted the aggressiveness of LAPD officers, this part starts by using data on the number of arrests towards the start and end of the structural reform era. Figure 4 shows the change in arrests and stops over the course of federal intervention in Los Angeles.¹²¹

¹¹⁸ See, e.g., ROBERT DAVIS, NICOLE HENDERSON & CHRISTOPHER ORTIZ, CAN FEDERAL INTERVENTION BRING LASTING IMPROVEMENT IN LOCAL POLICING?: THE PITTSBURGH CONSENT DECREE 16 (2005) (explaining how officers in Pittsburgh felt “hesitant to intervene in situations involving conflict because they were afraid of having a citizen file an unwarranted anonymous complaint against them”).

¹¹⁹ See, e.g., Joshua M. Chanin, Negotiated Justice? The Legal, Administrative, and Policy Implications of “Pattern or Practice” Police Misconduct Reform (July 6, 2011) (unpublished Ph.D. dissertation, American University) (quoting a leader from the Washington, D.C. Police Union as saying that structural police reform leads to more time-consuming paperwork).

¹²⁰ STONE ET AL., *supra* note 43, at 19–20 (showing in Figure 10 that a high proportion of LAPD officers believed that the threat of community complaints would hurt proactive street policing; also stating that “concerns have been raised that the consent decree would lead to de-policing or what one law enforcement official describe to us as the ‘drive-and-wave syndrome’”).

¹²¹ L.A. POLICE DEP'T, STATISTICAL DIGEST (2001–2011), http://www.lapdonline.org/crime_mapping_and_compstat/content_basic_view/9098 (follow “statistical digest” hyperlink under the requisite year) (providing the number of serious, or type I, arrests, and the number of minor, or type II, arrests for 2001 and 2011 in Los Angeles); BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, UNIFORM CRIME REPORTS (UCR): CRIME IN THE UNITED STATES (2000–2012) [hereinafter FBI UCR STATISTICS], <http://www.fbi.gov/about-us/cjis/ucr/ucr-publications> (follow “Crime in the United States” hyperlink under the requisite year; follow “Police Employee Data” hyperlink; follow “Table 78” hyperlink; then follow “California” hyperlink). For arrests, I used data from 2001 to represent the start of federal intervention and 2011 to represent the end of structural police reform—the most recent date when the LAPD has made thorough data publicly available. For pedestrian and vehicle stops, I used 2002 to represent the start of structural police reform since it was the first date that there was good data available. I used 2008 as the end

Figure 4. Annual Arrests and Stops by LAPD

Stage of Structural Reform	Total Arrests	Minor Arrests	Minor Arrests per Officer	Pedestrian and Car Stops	Pedestrian and Car Stops per Officer
Start	139,928	108,005	12.1	587,200	65.7
End	146,065	123,226	12.5	875,204	88.8

The LAPD executed more arrests towards the end of the structural reform than it did at the beginning of the process. And even when controlling for the size of the police force, the number of minor arrests per officer actually increased by about 3.3% over the time period.¹²² Additionally, the number of vehicle and pedestrian stops per officer increased from around 65.7 near the start of federal intervention to 88.8 near the end—an increase of 35.2%.¹²³ No matter how you break it down, LAPD officers appeared to be more aggressive after federal intervention than before. These statistics are even more impressive, considering the fact that LAPD officers likely had fewer opportunities to execute arrests at the end of federal intervention than at the start. This is because the total number of reported crimes in Los Angeles declined over this time period by 43.8%.¹²⁴ This makes the increase in total arrests and minor arrests even more impressive. If officers do feel more reluctant to engage in proactive street policing, the arrest and stop numbers show no evidence of such hesitation.

The next obvious question is whether federal intervention has correlated with any changes in crime outcomes. Figure 5 compares the change in violent crime rates in Los Angeles to the change in violent crime rates in the other largest cities over the time period in the United States.¹²⁵

date for motor vehicle and pedestrian stops since it was the most recent date when thorough data was easily accessible.

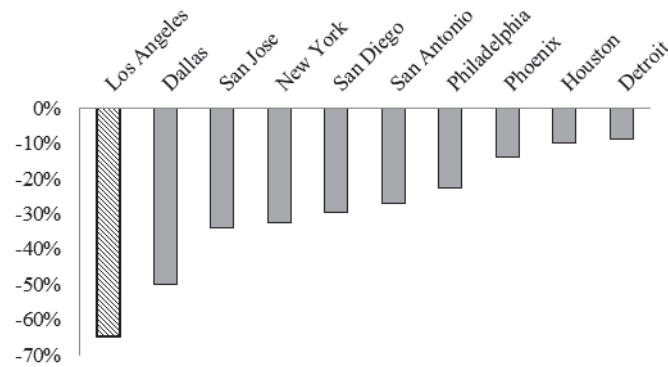
¹²² The LAPD had approximately 8,943 sworn police officers in 2001 and 9,860 sworn officers in 2011. *Id.*

¹²³ The LAPD had approximately 9,056 sworn police officers in 2002 and 9,743 sworn officers in 2008. *Id.*

¹²⁴ During 2001, the LAPD reported 189,278 total violent crimes and property crimes via UCR. By 2011, this number fell to 106,375. *Id.*

¹²⁵ FBI UCR STATISTICS, *supra* note 121 (follow “Crime in the United States” hyperlink under the requisite year; follow “Violent Crime” hyperlink; follow “Table 8” hyperlink; then follow the hyperlink to the requisite police agency). Chicago is not included in this sample because it has not collected data on rape offenses in a manner that is consistent with the rest of the country. It is also worth noting that during part of this same time period, Detroit was under a § 14141 consent decree as well. Around the end of this time period, New York City was also in the midst of litigation that would result in injunctive relief to correct a racially disparate pattern of *Terry* stops.

Figure 5. Changes in Violent Crime Rates from 2000 to 2012



During the same time that Los Angeles was undergoing federal intervention, the city saw a tremendous decrease in violent crime relative to other major American cities. In total, violent crime rates in Los Angeles dipped by 65% between 2000 and 2012.¹²⁶ By comparison, violent crime in the United States fell by around 24% during this time period,¹²⁷ and the median large American city in Figure 5 saw violent crime fall by about 28%.¹²⁸ Figure 6 similarly compares changes in property crime in Los Angeles and other large American cities.¹²⁹

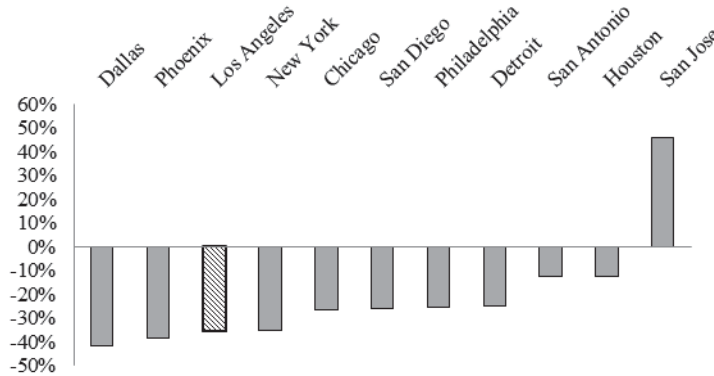
¹²⁶ *Id.* (Los Angeles's violent crime rate dropped from 1,359.8 crimes per 100,000 residents to 481.1 crimes per 100,000 residents).

¹²⁷ The violent crime rate in the United States over the time period started at 506.5 per 100,000 residents and fell to 386.9 by 2012. *Id.* (follow "Crime in the United States" hyperlink under the requisite year; follow "Violent Crime" hyperlink; then follow "Table 1" hyperlink).

¹²⁸ Using the data from Figure 5, San Diego and San Antonio are jointly the median cities. San Diego's violent crimes fell by 29% and San Antonio's by 27%, resulting in a median of 28%. *Id.*

¹²⁹ *Id.* (follow "Crime in the United States" hyperlink; follow "Property Crime" hyperlink; then follow "Table 8" hyperlink). It is worth noting here that crime rates across the developed world have decreased in recent decades. There is not a complete explanation for this international drop in crime rates. *The Curious Case of the Fall in Crime*, THE ECONOMIST (July 20, 2013), <http://www.economist.com/news/leaders/21582004-crime-plunging-rich-world-keep-it-down-governments-should-focus-prevention-not>. What makes Los Angeles unique is that it experienced a greater crime drop than comparable cities over the same time period.

Figure 6. Changes in Property Crime Rates from 2000 to 2012



Although not as impressive as the violent crime numbers, Los Angeles still outperforms the typical large American city during the structural reform era in property crime prevention.¹³⁰ Los Angeles also outperformed the United States as a whole.¹³¹ Combined, these statistics demonstrate that, at minimum, after the start of federal intervention in Los Angeles, the sky is not falling.¹³²

This essay does not offer a definitive explanation for the dramatic crime decline in Los Angeles during the federal intervention era. In fact, a recent empirical examination shows that the Los Angeles experience may be unusual. On

¹³⁰ The median city—San Diego—saw a decline of 26% in property crime. Los Angeles saw a decline of 36% in property crime. FBI UCR STATISTICS, *supra* note 121.

¹³¹ The United States saw property crime decline from a rate of 3,618.3 in 2000 to a rate of 2,859.2 in 2012, an overall drop of about 21% (significantly lower than Los Angeles at 36%). *Id.* (follow “Crime in the United States” hyperlink under the requisite year; follow “Property Crime” hyperlink; then follow “Table 1” hyperlink).

¹³² Of course, it is not immediately clear whether the LAPD had an effect on these changes in crime outcomes. Criminologists have theorized that a number of demographic, legal, and socio-economic factors may affect crime rates. Historically, criminologists explained the causes of crime in four ways. Classical criminologists generally argued that individuals are rational actors; thus, in order to deter crime, policymakers ought to raise the costs of crime through increasing the length or certainty of criminal penalties. *See generally* CESARE BECCARIA, ON CRIMES AND PUNISHMENTS AND OTHER WRITINGS (Richard Bellamy ed., 1995); JAMES Q. WILSON, THINKING ABOUT CRIME (1975). Sociological criminologists contend that society defines and creates crime through poverty, income inequality, and culture. JOHN LEA & JOCK YOUNG, *Relative Deprivation*, in WHAT IS TO BE DONE ABOUT LAW AND ORDER (1984); LAMBERT A. J. QUETELET, *Of the Development of the Propensity to Crime*, in A TREATISE ON MAN AND THE DEVELOPMENT OF HIS FACULTIES (Edinburgh, William & Robert Chambers 1842). And situational criminologists have argued that society can deter criminal deviance by adjusting situational incentives for illegal behavior. Ronald V.G. Clarke, “Situational” Crime Prevention: Theory and Practice, 20 BRIT. J. CRIMINOLOGY 136 (1980); Marcus Felson, *The Routine Activity Approach as a General Crime Theory*, in OF CRIME & CRIMINALITY 205 (Sally S. Thompson ed., 2000). Any of these factors may partially explain the unusually large decrease in crime in Los Angeles during the structural reform litigation era.

average, police departments undergoing federal intervention have seen increases in some reported crime categories compared to unaffected municipalities—particularly in the first few years immediately after the initiation of federal intervention.¹³³ Instead, this essay offers a narrower, but nonetheless important claim. The LAPD case study demonstrates that constitutional policing in Los Angeles did not necessarily come at the price of crime control. In fact, Los Angeles was able to introduce significant constitutional reforms that curbed apparent police misconduct while also undergoing one of the largest crime drops in American history.

III. ALAMANCE COUNTY SHERIFF’S DEPARTMENT

While the LAPD may represent a best case scenario for § 14141 intervention, the Alamance County Sheriff’s Department (ACSD) demonstrates some emerging limitations of this regulatory mechanism. For years, the DOJ appeared to manage its enforcement of § 14141. During this time, the DOJ has successfully negotiated settlements with jurisdictions and avoided costly litigation. This approach worked fairly well, as the DOJ was able to leverage the structure of local government to obtain favorable settlements with targeted municipalities. While some police chiefs have resisted DOJ-initiated reform, the DOJ typically has found a more receptive audience in the municipality’s mayor, city council, city attorney, or city manager. Generally, city government officials have been more receptive to negotiation with the DOJ if they perceive that a settlement can reduce costs and avoid lengthy litigation. For this reason, the DOJ has been able to reach amicable settlements with most cities targeted under § 14141.¹³⁴ That changed with Alamance County, North Carolina.¹³⁵

In the years leading up to the DOJ suit against Alamance County, “civil rights advocates in Alamance County . . . accused [Alamance County Sheriff Terry] Johnson of targeting Latino residents in an effort to spur deportations.”¹³⁶ One

¹³³ Stephen Rushin & Griffin Edwards, *De-Policing*, 102 CORNELL L. REV. (forthcoming 2017).

¹³⁴ Rushin, *supra* note 41, at 1373.

¹³⁵ It is worth noting that the Department of Justice is appealing its loss to Alamance County at the trial level. See Anna Johnson, *Despite DOJ Appeal, Alamance Sheriff’s Office Once Again Eligible for State, Federal Grants*, TIMES-NEWS (Oct. 29, 2015), <http://www.thetimesnews.com/article/20151029/NEWS/151028706> (explaining that the DOJ is appealing its loss to Alamance County). The Department of Justice was able to defeat Colorado City in a similar trial. See Press Release, U.S. Dep’t of Justice, Justice Department Wins Religious Discrimination Lawsuit Against Colorado City, Arizona, and Hildale, Utah (Mar. 7, 2016), <https://www.justice.gov/opa/pr/justice-department-wins-religious-discrimination-lawsuit-against-colorado-city-arizona-and>.

¹³⁶ Billy Ball, *The Department of Justice Lays out its Case Against the Alamance County Sheriff*, INDY WEEK (Aug. 20 2014), <http://www.indyweek.com/indyweek/the-department-of-justice-lays-out-its-case-against-the-alamance-county-sheriff/Content?oid=4229013>.

local newspaper reporter described Sheriff Johnson as “a white Southern sheriff prone to saying things every so often a white Southern sheriff shouldn’t say.”¹³⁷ The DOJ filed suit against Sheriff Johnson and the Alamance County Sheriff’s Department in 2012 after a multiyear long investigation revealed an apparent pattern and practice of “systematic racial profiling of Latinos.”¹³⁸ Sheriff Terry Johnson was hostile to DOJ intervention from the very beginning. The complaint against Sheriff Johnson also alleged that he withheld documents and falsified records.¹³⁹

Among the more inflammatory accusations in the DOJ’s findings letter was a claim that Sheriff Johnson ordered his officers: “Go out there and catch me some Mexicans,” and “Go out there and get some of those taco eaters.”¹⁴⁰ The DOJ cited examples of apparent racial bias within the leadership structure in Alamance County, like a time when an Alamance County Sheriff’s Office captain sent “his subordinates a video game premised on shooting Mexican children, pregnant women, and other ‘wetbacks.’”¹⁴¹

Prominent civil rights organizations like the American Civil Liberties Union took an interest in the Alamance County case, urging Sheriff Johnson to comply with DOJ requests.¹⁴² But “[t]he Alamance County commissioners, all white,” strongly supported Sheriff Johnson’s resistance to federal intervention, “praising his hard-line stance against illegal immigration.”¹⁴³ And in the midst of the dispute, Governor Pat McCrory honored Sheriff Johnson with the Order of the Long Leaf Pine award, one of North Carolina’s top civilian honors.¹⁴⁴

¹³⁷ David Zucchino, *North Carolina Town Split over Sheriff’s Treatment of Latinos*, L.A. TIMES (Nov. 23, 2012), <http://articles.latimes.com/2012/nov/23/nation/la-na-sheriff-20121124>.

¹³⁸ Michael Biesecker, *US Files Civil Rights Complaint Against NC Sheriff*, ASSOCIATED PRESS, Dec. 20, 2012; Emery P. Dalesio, *Attorney: NC Sheriff Won’t Settle Profiling Claims*, ASSOCIATED PRESS, Sept. 26, 2012 (stating that the DOJ’s investigation of the Alamance County Sheriff’s Department lasted two years).

¹³⁹ Biesecker, *supra* note 138.

¹⁴⁰ Billy Ball, *Feds sue Alamance Sheriff for Alleged Racial Profiling of Latinos*, INDY WEEK (Jan. 2, 2013), <http://www.indyweek.com/indyweek/feds-sue-alamance-sheriff-for-alleged-racial-profiling-of-latinos/Content?oid=3232247>.

¹⁴¹ *Justice Department Documents Discriminatory Practices by Alamance Sheriff’s Office in Latest Court Filing*, AM. CIVIL LIBERTIES UNION (Mar. 4, 2014), <https://www.aclu.org/news/justice-department-documents-discriminatory-practices-alamance-sheriffs-office-latest-court>. This alleged behavior happened at a time when the Alamance County demographics were changing. In 1990, Alamance County had only 736 Latinos. Today, the County is home to approximately 17,000 Latinos, with whites now making up only 66% of the County population. Zucchino, *supra* note 137.

¹⁴² Zucchino, *supra* note 137.

¹⁴³ *Id.*

¹⁴⁴ Colin Campbell, *McCrory Honors Alamance County Sheriff Facing Federal Allegations of Racial Profiling*, NEWS & OBSERVER (Dec. 19, 2014), <http://www.newsobserver.com/news/politics-government/politics-columns-blogs/under-the-dome/article10198235.html>. It is worth noting that

So when the “Justice Department invited the Sheriff’s Office to negotiate a court enforceable agreement to remedy the violations[,] [t]he Sheriff’s Office declined the offer.”¹⁴⁵ Instead, the DOJ and Alamance County began the first § 14141 trial since the statutes passage in 1994. The trial itself only lasted for a few days in August of 2014.¹⁴⁶ But U.S. District Judge Thomas D. Schroeder took nearly a year to issue his opinion in the case.¹⁴⁷ When he eventually released his opinion, Judge Schroeder concluded that the DOJ had failed to demonstrate a pattern or practice of unconstitutional misconduct.¹⁴⁸ In a detailed 253-page opinion, Judge Schroeder found “no evidence that any individual was unconstitutionally deprived of his or her rights under the Fourth or Fourteenth Amendments,” and argued that “the Government’s case rested largely on vague, isolated statements attributed to Sheriff Johnson and on statistical analyses.”¹⁴⁹

Judge Schroeder did recognize that the Alamance County Sheriff’s Department had some problems. The department was inconsistent in its use of discipline against officers engaged in misconduct.¹⁵⁰ Judge Schroeder harshly criticized officers for their “abhorrent” decisions to circulate racist emails and their use of epithets and slurs.¹⁵¹ Nevertheless, he concluded that the government still presented insufficient evidence to prove that any of these actions resulted in a pattern or practice of unconstitutional behavior by frontline officers.¹⁵² And Judge Schroeder rejected statistical evidence presented by DOJ experts that purported to show a pattern of discriminatory policing.¹⁵³ In its first real showdown with a defiant police department under § 14141, the DOJ lost. In the process, the DOJ

Government Pat McCrory claimed that the award was unrelated to the ongoing federal suit against Sheriff Johnson and this was the second time that Sheriff Johnson received this sort of an honor. *Id.*

¹⁴⁵ *Cost of Alamance Sheriff Terry Johnson’s Trial Continues to Grow*, GREENSBORO NEWS & RECORD (Aug. 26, 2014), http://www.greensboro.com/news/cost-of-alamance-sheriff-terry-johnson-s-trial-continues-to/article_1a68694a-2d16-11e4-a78a-001a4bcf6878.html.

¹⁴⁶ Michael D. Abernethy, *Judge Dismisses DOJ Case Against Johnson, Finds No Evidence of Unconstitutional Practices*, TIMES-NEWS (Aug. 7, 2015), <http://www.thetimesnews.com/article/20150807/NEWS/150809283/?Start=1>.

¹⁴⁷ *Id.* (“Five days shy of a year since the case was tried, a federal judge Friday found for Alamance County Sheriff Terry Johnson and ruled that the U.S. Department of Justice failed to show a pattern or practice of racial profiling against Latinos.”).

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* (“The evidence at trial highlighted inconsistencies in ACSO’s discipline. Some conduct violating ACSO’s policies was disciplined, while other conduct was not. A competent, efficient, and professional functioning law enforcement organization requires consistent, regular discipline.”).

¹⁵¹ *Id.* (“He admonished officers who circulated racist emails and jokes, and said epithets and slurs used by some officers were ‘abhorrent.’”).

¹⁵² *Id.*

¹⁵³ *Id.* (explaining that the judge “found as matters of fact that the statistical analyses proffered by the DOJ were unpersuasive and in instances scientifically unsound”).

may have severely crippled its future of § 14141 as a mechanism to promote cooperative reform in local police departments.

Before the Alamance County case, police departments facing § 14141 litigation likely were hesitant to go to trial in part because they were not certain what legal standard courts would use in interpreting a so-called “pattern or practice” of misconduct. If the Alamance County case is any indication, some municipalities may have underestimated their chances of success against the DOJ in a § 14141 trial.¹⁵⁴

Perhaps most unsettling about the Alamance County case, though, are the allegations by one deputy in the Alamance office about how Sheriff Johnson responded to dissent within his ranks during and after the DOJ inquiry. One of Sheriff Johnson’s deputies—Jeffrey Randleman—testified on behalf of the DOJ, claiming that Sheriff Johnson had asked him to check the immigration status of people not yet in custody.¹⁵⁵ Deputy Randleman had been working at the sheriff’s department in Alamance County for twenty-two years under numerous different sheriffs.¹⁵⁶ But soon after testifying on behalf of the DOJ, Sheriff Johnson chose “not to re-swear Randleman as an [sic] deputy, effectively firing him.”¹⁵⁷ This apparent firing stood in stark contrast to how Sheriff Johnson treated other officers after the lawsuit. Even though the DOJ lawsuit uncovered undisputed incidents of some of the sheriff’s department’s “highest-ranking supervisors” circulating highly offensive jokes based on ethnic stereotypes, there has been no evidence that Sheriff Johnson reprimanded or fired any of these employees.¹⁵⁸ Instead, Randleman appears to be “the sole deputy dismissed.”¹⁵⁹ When questioned about the firing, Johnson argued that “North Carolina deputies serve at the pleasure of the Sheriff and have no property right in their job[s].”¹⁶⁰ Such a firing raises a difficult

¹⁵⁴ It is worth acknowledging that at some point, it is likely that the DOJ may bring a § 14141 suit that it deserves to lose. No administrative agency will be perfect, even if resource constraints force the DOJ to only take on what they view as the most egregious cases. This essay takes no position on whether the DOJ provided sufficient evidence to prove that Alamance County is engaged in a pattern or practice of unconstitutional misconduct. Instead, this essay merely uses the Alamance County Sheriff’s Department as an example of a case where the DOJ failed to achieve an amicable resolution.

¹⁵⁵ Kenwyn Caranna, *Update: Former Alamance Deputy Sues Sheriff Terry Johnson over Firing*, GREENSBORO NEWS & RECORD (Feb. 18, 2015), http://www.greensboro.com/news/update-former-alamance-deputy-sues-sheriff-terry-johnson-over-firing/article_8d858f2c-b78e-11e4-961f-330273b86bfd.html.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Officers Never Reprimanded for Inappropriate Emails, Racial Slurs*, GREENSBORO NEWS & RECORD (Aug. 16, 2014), http://www.greensboro.com/news/officers-never-reprimanded-for-inappropriate-emails-racial-slurs/article_a71c81dc-2591-11e4-a237-0017a43b2370.html.

¹⁵⁹ Caranna, *supra* note 155.

¹⁶⁰ *Id.*

question under North Carolina law: whether political conformity with the sheriff is a permissible job requirement in sheriffs' departments.¹⁶¹ And if so, what is to keep sheriffs from creating an organization that openly punishes cooperation with federal civil rights investigations under the guise of political patronage?

The Alamance County example raises several unanswered questions: What evidence must the DOJ provide in order to prove the existence of a "pattern or practice" of unconstitutional misconduct at trial? Will Alamance County's successful trial against the DOJ embolden more police departments to resist federal intervention under § 14141? And perhaps most importantly, what happens if the DOJ wins its next trial against a police agency like the ACSO? Will the DOJ be successful in overhauling such a problematic agency without organizational buy-in?

IV. CONCLUSION

Two lessons emerge from this tale of two cities. The first lesson is that, under the right conditions, federal intervention appears to be an effective tool in facilitating organizational reform. Even after the Rodney King and Rampart Scandal, the LAPD seemed unwilling to dedicate significant amounts of money to the cause of police misconduct reform.¹⁶² Federal intervention forced Los Angeles to make a concerted investment into police reform. The use of external monitoring led to extensive data on frontline officer behavior in the LAPD. It also led to improvements in how the LAPD internally audited and responded to officer behavior. The initiation of federal intervention also correlated with a change in leadership atop the LAPD. Chief Bratton's support for federal intervention may have contributed to the measure's success in Los Angeles. And the LAPD was able to make substantial improvements in the quality of its police force without significantly impairing the quality of police services. The evidence does not suggest that federal intervention in Los Angeles correlated with any reductions in police efficiency or effectiveness. Instead, the evidence suggests that Los Angeles improved the constitutionality of its police force with little compromise. This particular case study is encouraging.¹⁶³

¹⁶¹ Michael Patrick Burke, Comment, *Political Patronage and North Carolina Law: Is Political Conformity with the Sheriff a Permissible Job Requirement for Deputies?*, 79 N.C. L. REV. 1743 (2001).

¹⁶² Editorial, *The Lame Duck Truth; Mayor Riordan's Final Budget Speaks to the Sad State of the LAPD*, DAILY NEWS OF L.A., Apr. 23, 2001, at N12 (showing that the LAPD did not see an increase in funding to support the reforms deemed necessary after the Rodney King incident).

¹⁶³ It is worth noting, however, that a recent empirical examination shows that the Los Angeles experience may be unusual. On average, police departments undergoing federal intervention have seen crime increase somewhat compared to unaffected municipalities. Rushin & Edwards, *supra* note 133.

The second lesson from this essay is less encouraging. Federal intervention initiated by the DOJ may be most effective in agencies like Los Angeles that are generally supportive of external intervention. In some cases, the police agencies most in need of the DOJ's assistance—like, arguably, Alamance County—may be the least supportive of federal intervention. This is a particularly dispiriting realization. Section 14141 reform is a powerful tool for facilitating organizational change in some police departments. But it remains unclear whether the DOJ can use this mechanism to overhaul a police department that vehemently opposes federal intervention.