

The Facts on Pattern-or-Practice Investigations

How the U.S. Department of Justice Can Bring About Police Reform and Accountability

BY KENNY LO JULY 8, 2021

On April 21, 2021, one day after a Minneapolis jury [convicted](#) former police officer Derek Chauvin for the murder of George Floyd, U.S. Attorney General Merrick Garland [announced](#) that the U.S. Department of Justice (DOJ) had opened an investigation into the city of Minneapolis and the Minneapolis Police Department (MPD). The [civil probe](#) will assess whether the MPD engages in a pattern or practice of unconstitutional or unlawful policing, marking the first pattern-or-practice investigation under the Biden administration. Less than a week later, Garland [announced](#) a second investigation, this time into the Louisville/Jefferson County metro government and the Louisville Metro Police Department, whose police officers [shot and killed](#) Breonna Taylor in her apartment while executing a no-knock search warrant.

As the DOJ under the Biden administration ramps up its use of pattern-or-practice investigations, here is what you need to know about this vital tool for bringing about police reform and accountability.

What are pattern-or-practice investigations?

In 1994, in the aftermath of an independent commission's [finding](#) that linked the beating of Rodney King to institutional failure within the Los Angeles Police Department, Congress [authorized](#) the attorney general to investigate law enforcement agencies for "a pattern or practice of conduct...that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States." These investigations, commonly referred to as pattern-or-practice investigations, [focus](#) on widespread or systemic misconduct—as opposed to isolated or sporadic instances of wrongdoing—which might include routine uses of excessive force; repeated stops, searches, or arrests that are unreasonable; and discrimination based on race, ethnicity, national origin, religion, disability, or sex. As such, pattern-or-practice investigations differ from criminal civil rights prosecutions of individual law enforcement officers by the DOJ, which focus on specific instances of police misconduct.



How do pattern-or-practice investigations work?

The Civil Rights Division of the DOJ first [identifies](#) potential subjects for investigation by examining publicly available information, allegations brought by witnesses and complainants, and its own research on common or developing issues in law enforcement nationwide. If the division decides to open a probe, the Special Litigation Section immediately engages a variety of stakeholders in the jurisdiction, including community members and victims of police misconduct, officers at all levels of rank, police unions and affinity groups, and local government leaders. And while no investigation is the same, almost all involve reviewing written policies and systems for accountability, observing officer training and activities, and analyzing data of relevant incidents.

At the end of the probe, the division [issues](#) its findings in a public report or letter. If the law enforcement agency is found to have engaged in a pattern of unconstitutional or unlawful policing, the division can negotiate a reform package with the police department to remedy the systemic failures identified during the investigation. A federal court signs off on the legally binding agreement, called a consent decree, and often appoints an independent monitoring team to oversee the implementation of the mandated reforms. Alternatively, the DOJ can offer reform recommendations that are not legally binding in a technical assistance letter or negotiate a memorandum of agreement—a court-enforceable contract that is similar to a consent decree but does not require ongoing oversight. If an agreement cannot be reached, the division may look to compel the reforms through civil litigation.

How have states used pattern-or-practice investigations?

Building on this federal model, a number of states have statutorily empowered their state attorneys general to conduct their own pattern-or-practice investigations. In 2000, California [became](#) the first to do so, prompting then-state Attorney General Bill Lockyer to [secure](#) a consent decree with the Riverside Police Department a year later. In the wake of national protests against police violence in 2020, [Colorado](#), [Virginia](#), and [Nevada](#) passed similar legislation aimed at combating systemic police misconduct. With this newfound authority, Colorado Attorney General Phil Weiser [opened](#) a pattern-or-practice investigation into the Aurora Police Department following the death of Elijah McClain. Similarly, Virginia Attorney General Mark Herring [announced](#) that he was investigating patterns or practices of misconduct within the Windsor Police Department after its officers pepper sprayed a Black U.S. Army medic in uniform while holding him at gunpoint during a traffic stop.

Read more

“Expanding the Authority of State Attorneys General to Combat Police Misconduct,” December 2018 | A report from the Center for American Progress on why states should empower their attorneys general to combat systemic police misconduct

“The Civil Rights Division’s Pattern and Practice Police Reform Work: 1994-Present,” January 2017 | An in-depth report from the DOJ that details the process for conducting pattern-or-practice investigations and negotiating police reform agreements, as well as the impact of the Civil Rights Division’s police reform work to date

“Violent Crime Rates Declined in 10 Jurisdictions Following Comprehensive Police Reform,” November 2020 | A CAP analysis of public safety trends in jurisdictions that fulfilled police reform agreements with the DOJ

“Civil Rights Investigations of Local Police: Lessons Learned,” July 2013 | A comprehensive review of the DOJ’s role in local policing from the Police Executive Research Forum

“[C]onsent decrees do not target a few ‘bad actors,’ but rather departments with systemic and often long patterns of civil rights and other constitutional abuses or ingrained problems that undermine the effectiveness of law enforcement, the strength of police confidence and community relations, and the achievement of justice.”

— DETROIT BOARD OF POLICE COMMISSIONERS

What are some common misconceptions about pattern-or-practice investigations?

Critics of pattern-or-practice investigations have [argued](#) that the resulting police reform agreements tie the hands of police officers and therefore undermine public safety. But research suggests the opposite to be true. For example, a study from the Harvard Kennedy School [found](#) that Los Angeles experienced lower crime rates and a higher quality of enforcement activity after its police department implemented a consent decree.

While some opponents [point](#) to data showing crime spikes in certain jurisdictions immediately after they entered into reform agreements, such increases have been [temporary](#) and diminished over time. In fact, the Center for American Progress [found](#) that in all 10 analyzed jurisdictions that fulfilled a reform agreement, violent crime rates declined in the years thereafter. Moreover, research from the University of Pennsylvania [found](#) that the use of consent decrees—when accompanied by court-appointed monitoring—was linked to a 29 percent reduction in officer-related fatalities.

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This fact sheet will be periodically updated to account for new policy developments. It was last updated on July TK, 2021. Click [here](#) to view other fact sheets in this series.