



Urban League
Twin Cities

Consent Decrees

Center for Social Justice Research, Policy, and Advocacy

Consent Decrees: A Primer

What is a Consent Decree?

An order of a judge based upon an agreement, almost always put in writing between the parties to a lawsuit instead of continuing the case through trial or hearing.

- Cannot be appealed unless based upon:
 - fraud by one of the parties
 - mutual mistake (both parties misunderstood the situation)
 - court does not have jurisdiction over case or parties
- A decree is almost always final and non-appealable
- Common practice when the government has sued to make a person or corporation comply with the law
 - e.g., (improper securities practices, pollution, restraints of trade, conspiracy) or the defendant agrees to the consent decree (often not to repeat the offense) in return for the government not pursuing criminal penalties.
- Generally, a consent decree and a consent judgment are the same.

Consent Decrees: Overview

- Established in 1994 (§ 14141) after the attack on Rodney King¹
- 1994-2017: 21 federal consent decrees on police agencies.^{1,2}
 - 2009-2016 alone, DOJ launched 25 investigations & enforced 14 consent decrees, including for Baltimore, Chicago, New Orleans, and Ferguson.^{3,4}
- A couple of the most recent investigations include:
 - Louisville (2021-present) after the murder of Breonna Taylor
 - Minneapolis (2020-2022) after the murder of George Floyd
 - An investigation of the Louisiana PD was just announced this year

What Happens **After DOJ Gets Involved?**

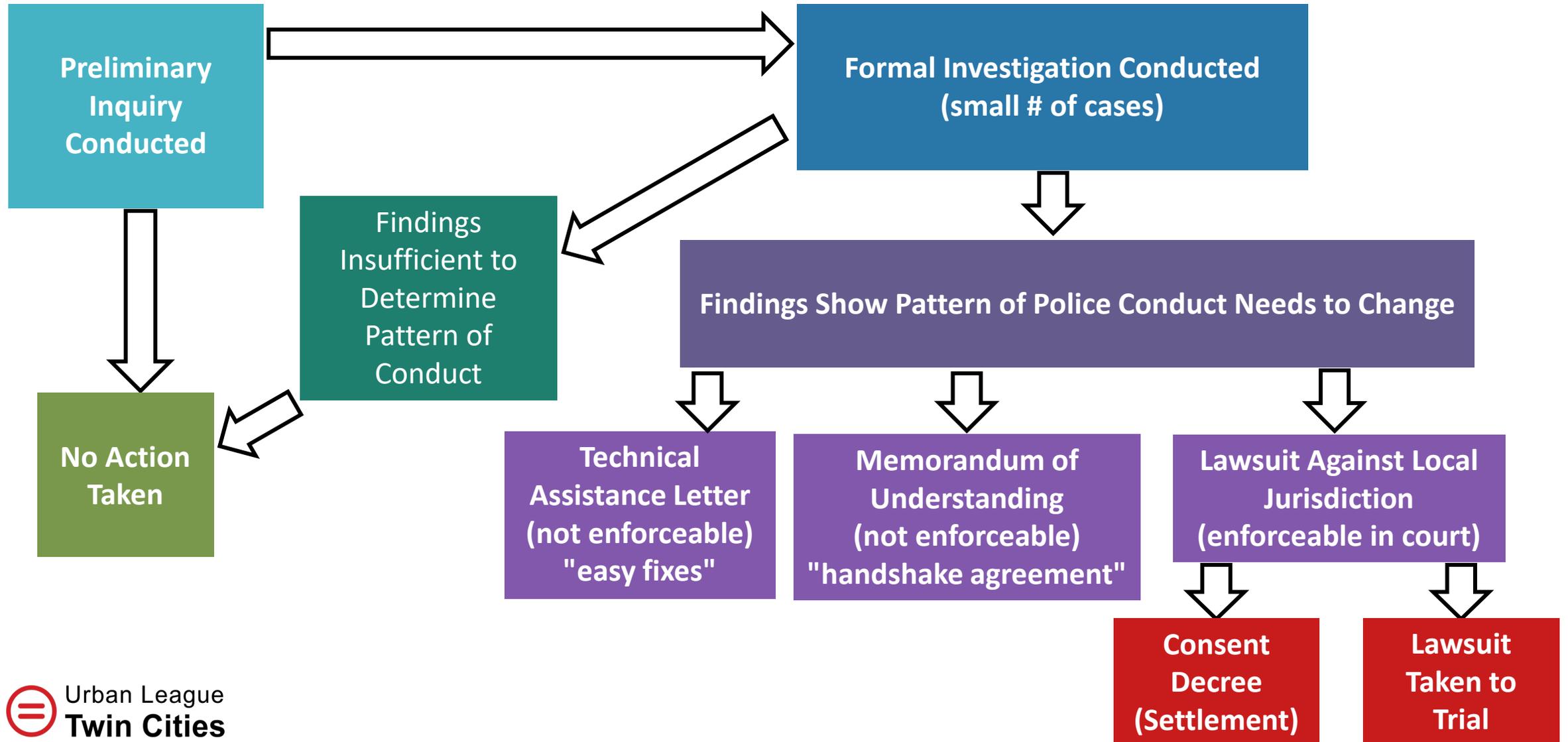
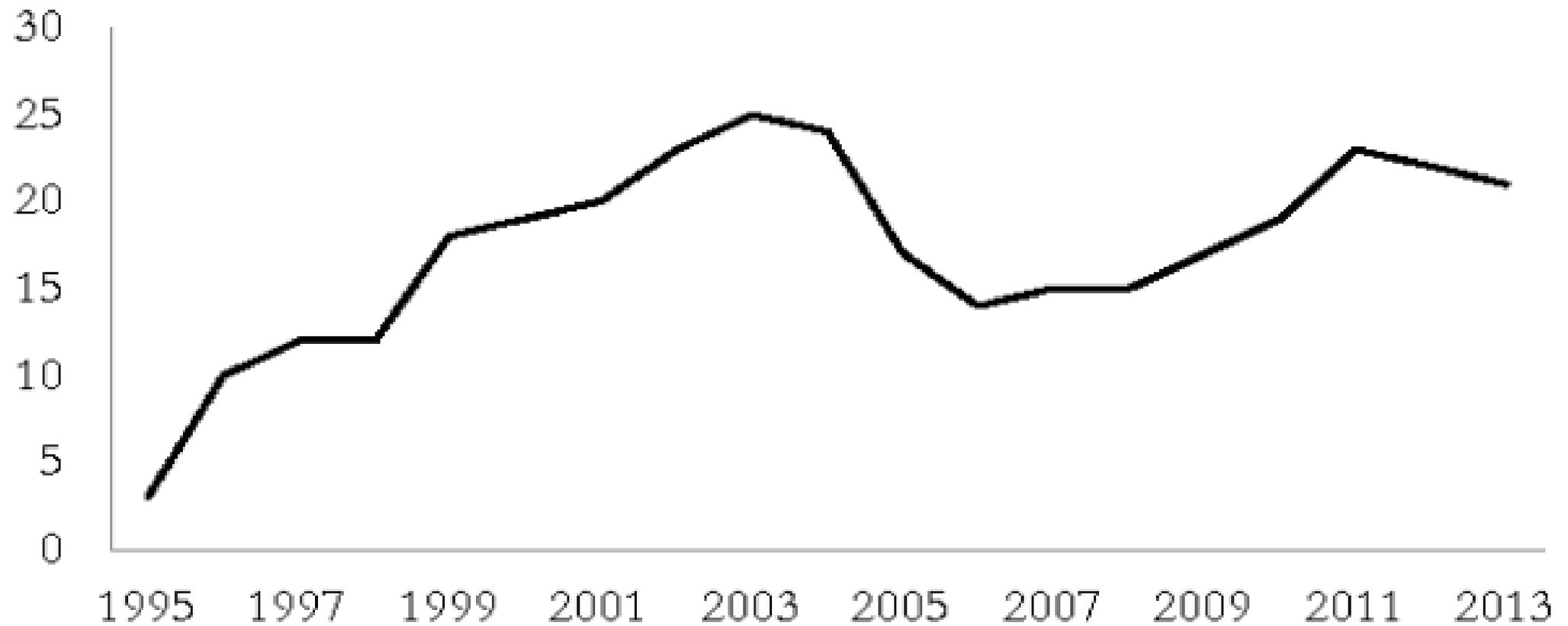
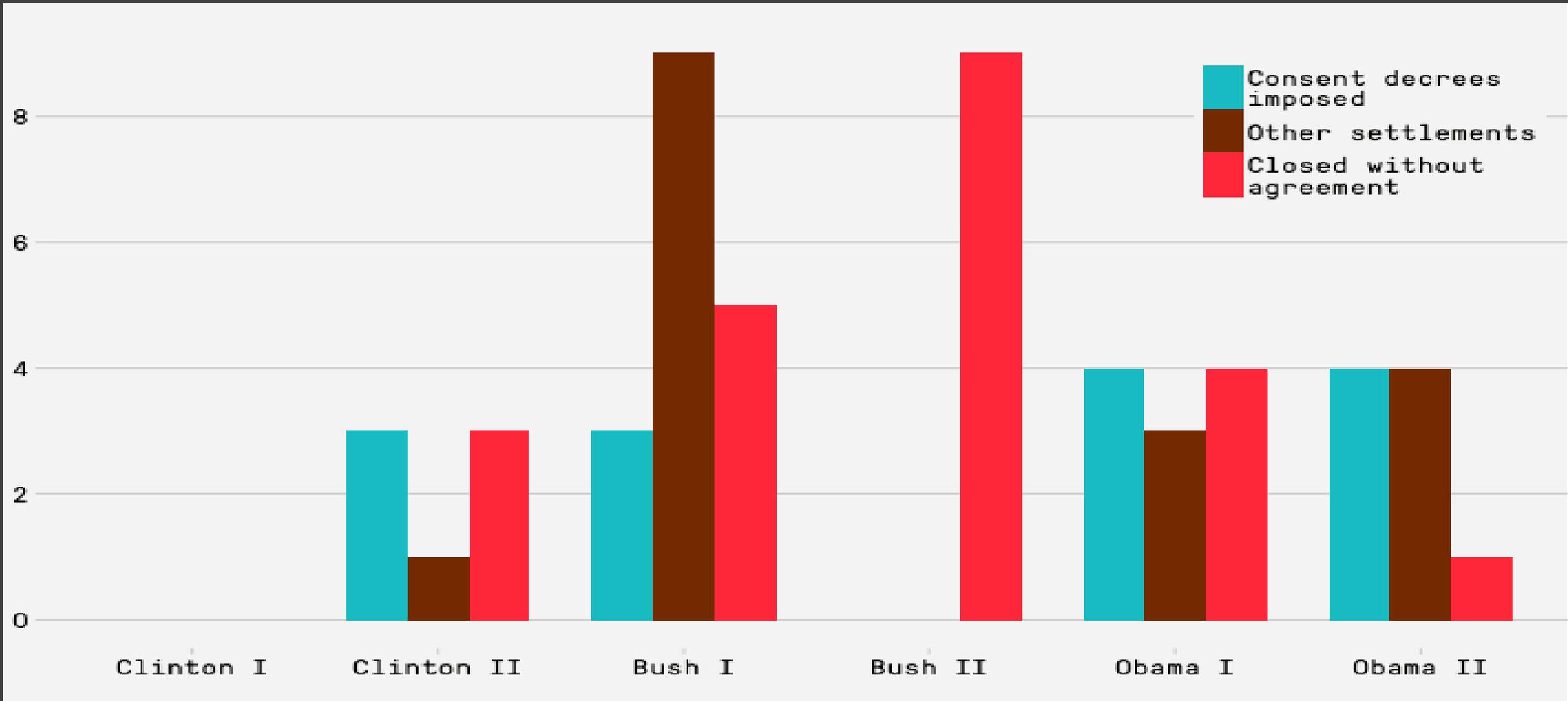


FIGURE 2. OPEN § 14141 CASES OVER TIME



Resolutions of Federal Civil Rights Investigations of Police Agencies, by Presidential Term



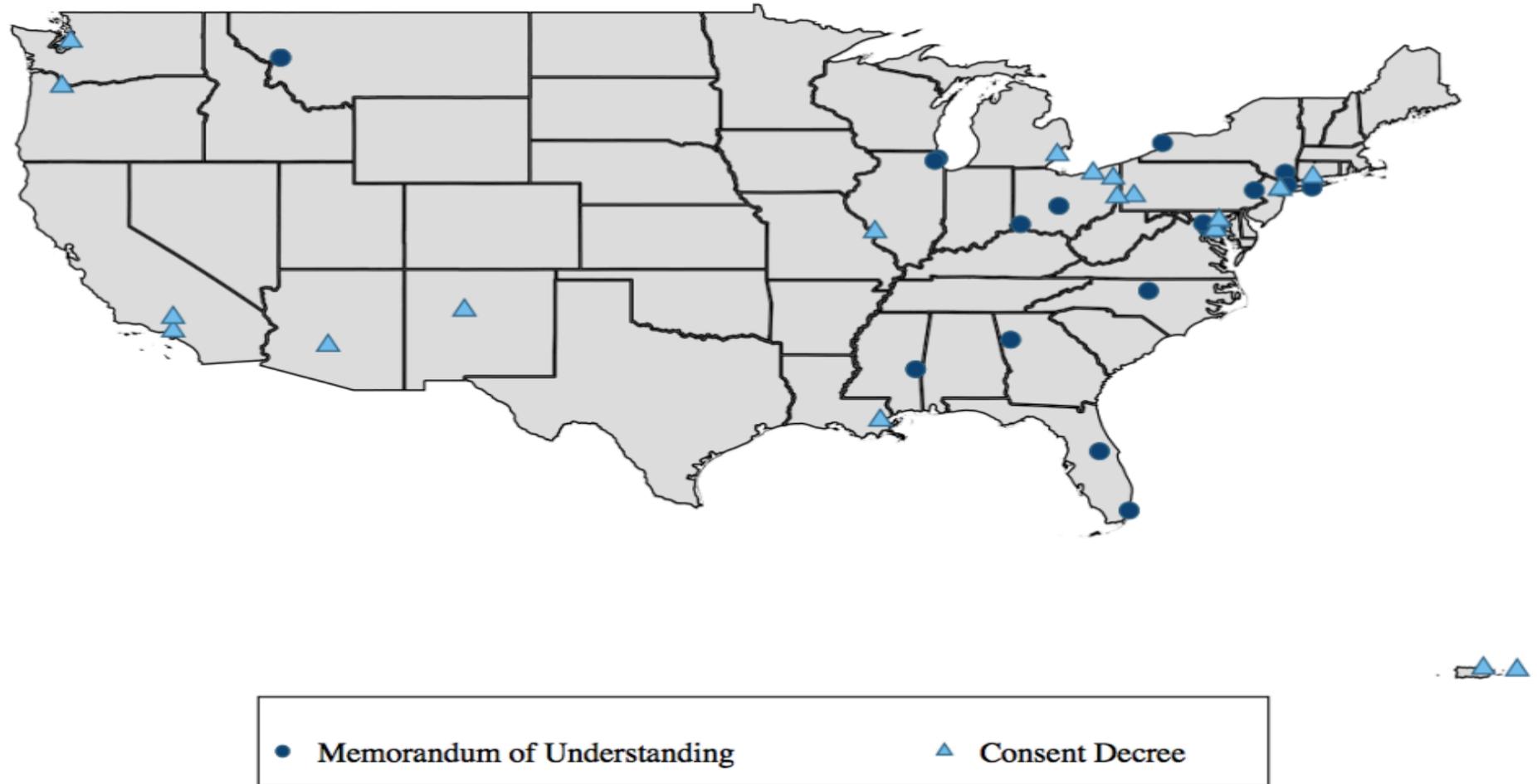


Figure 1: Distribution of Pattern or Practice Agreements by Type (1994-2017)

Patterns in Investigation Findings

Most Frequent

- Violations in searches, stops, seizures, & arrests by police
- Excessive use of force
- First Amendment violations

Over and over:

Racial bias, especially against African Americans

Missing/Rare

- Monitoring of Black orgs via social media only mentioned in the Mpls report by MDHR.
- Occasionally mentioned: theft by police officers, use of canines
- While youth interaction was noted in 10, mention of police in schools was only in 2 decrees

Frequency of Select Reforms

Addressed in Consent Decree	# of Occurrences/21 Total Consent Decrees
Use of Force Policies & Data Collection on Use of Force	16
Addressing Gender Bias	5
Policing & LGBTQ Individuals	3
Transparency	10
De-escalation	16
Complaint Systems (of some form)	18
Chokeholds/Neck Holds	10
Medical Help After Use of Force	8

Patterns in Community Engagement

- Most common tools:
 - Annual feedback surveys [8 decrees]
 - Training on “Community Policing” [11 decrees]
 - Police Body to create a Community Outreach Plan [12 decrees]
- Less Common:
 - Community Meetings, such as town halls [7 + Newark said this *could* occur]
 - Youth Advisory Boards [Ferguson]
 - Community-Based Restorative Justice Project [New Orleans]
- Community Committees/Councils [8 decrees]:
 - Membership appointed by the mayor, the city, or the police dept.
 - Most often provide general oversight of reforms and provide feedback
 - Sometimes seen: complaint review, hiring + promotions feedback for PD

FIGURE 4. APPROXIMATE AVERAGE YEARLY COST OF MONITORING SERVICES

City	Cost
Seattle	\$880,000
Prince George's County	\$900,000
Washington, D.C.	\$1,000,000
Oakland	\$1,700,000
Detroit	\$1,750,000
New Orleans	\$2,000,000
Los Angeles	\$2,200,000

The Cost of Consent Decrees Cont.

Recent updates on the status of cities (2019-2021 reporting)¹

- Baltimore spending ~\$1.5 million each year
- Oakland spent over \$28 million across 17 years
- New Orleans spent ~\$1.4 million each year (~\$55 mil total)
- Seattle invested over \$100 million on reforms
- Albuquerque spent \$4.5 million over 4 years on court monitoring

Select Reforms Associated with Costs

Required Reform	# of Occurrences/21 Total Consent Decrees
Installing Body/In-Car Cameras	5
Early Intervention System (database)	18
Officer Wellness	8
Increases to Compensation/Incentives for Officers	2 (+1 with a "staffing allocation" study)

Of course, each decree includes aspects that will have a cost attached: monitoring, development and implementation of training associated with reforms, and various data collection and management systems.

Limitations of Consent Decrees

- High cost with only some federal offset
 - In some cases, includes PD officer pay increase (Ferguson)
- Need for Local Investment in Accountability
 - Typically lack instatement of a Civilian Review Board
- De-Policing: Avoiding Accusations by Withdrawing Crime Prevention
- Questions on Sustainability of Change
 - No evaluation once the Justice Department wraps up monitoring.
- Dependence on the Administration over DOJ, Limited Federal Oversight
- Can Focus on "Bad Apples" Rather Than Larger Systemic Problems
- The Stakeholders at the Table Determine the Metrics, Defining Success

Lessons: Patterns of Police Misconduct

- New Orleans (2013-Present)
 - Population: 391,249 [60% Black, 33% White, 3% Asian, 2.5% Two+ Races]
 - DOJ investigation cited *systemic* deficiencies leading to or contributing to unconstitutional conduct across policing, including use of force.
 - Of note: LGBT discrimination, Gender-bias, and failure to provide services to persons with limited English language proficiency.
- Baltimore (2017-Present)
 - Population: 602,274 [62% Black, 30% White, 3% Two+ Races, 2.5% Asian]
 - DOJ investigation *specifically* identified police targeting African Americans.
 - Of note: Interactions with youth, First Amendment protections, responding/interacting with people with disabilities or in crisis.

Outcomes: Los Angeles

Consent Decree: 2001-2013

- 2000-2007: Complaints by Black and Hispanic civilians alleging racial profiling rose from 30 to nearly 180 complaints (6x increase) and ~5 to ~45 complaints (9x increase), respectively. A review of racial profiling complaints was initiated in 2007.
- 2000-2010: Crime rates decreased by an extra 25.4% after the DOJ stepped in
- 2015: Data shows LAPD killed more people than other law enforcement agencies.
- 2016: A report by Campaign Zero found the LAPD still did not require de-escalation, other use of force policies aimed at prevention.
- 2016: Study by LAPD found 73% of residents strongly/somewhat approve of LAPD's work
 - Black folks disapproved at a rate of 32%, compared to white disapproval at 14%
- 2017: New use of force policies established.
- 2020: Protests met with rubber bullets, tear gas, and acts of force, including on journalists. Further assaults on journalists continue to be reported.

Outcomes: Seattle

Consent Decree: 2012-present

- 2014-2016: Use of moderate/high-level force dropped 60% compared to 2011.
- 2018: Prosecution no longer must prove “evil intent”/“malice” in deadly force cases, another “reasonable” officer must prove rationale but there’s no legal mechanism for accountability.
- 2019: 0.15% of officer dispatches reported using force.
 - 29% of use of force deployed on Black people (7% of Seattle’s population)
 - 31% of people stopped under “reasonable suspicion” were Black and were frisked at a higher frequency compared to whites (26% versus 18%).
- 2020: During protests after the murder of George Floyd, Seattle PD used tear gas and flash bangs. Now starting a whole new process to reform crowd control policy. City withdrew request to end consent decree, **extended fed oversight.**

Progress?*: Ferguson

Consent Decree: 2016-present

- 2017: Critical deadlines to craft new policies and procedures missed.
- 2020: The city seemed to be stalling, citing issues with financial capability.
 - The interim city manager was cited in the DOJ investigation 10 times for abuses.
- 2021: NAACP submitted comments to the courts related to the lack of transparency in use of force policy revisions, urging community engagement, and the failure to implement any in-service trainings.
- 2022: Ferguson PD reportedly facing an “extreme officer shortage.” Even with this, the mayor reports efforts to engage community, including youth.

*Ferguson has had issues meeting their critical deadlines and their progress has been unsteady.

“Ultimately, Structural Reform Litigation requires institutional and political support within a municipality to succeed.”
– Rushin, 2015