

How Department of Justice Civil Rights Division Conducts Pattern-or-Practice Investigations

The Department of Justice has a number of tools that are effective in bringing about lawful and fair policing. One process is a “pattern-or-practice” investigation. The Department of Justice’s Civil Rights Division has employed this process in communities across the nation to reform serious patterns and practices of excessive force, biased policing and other unconstitutional practices by law enforcement. The division has ongoing cases in cities across the country. The division has worked in departments as small as six officers and as large as 17,000.

The first step is conducting a thorough and independent investigation to bring to light any persistent patterns of misconduct within a given police department. The division may look, depending on what information prompted the investigation, at whether the police department has engaged in a pattern or practice of stops, searches, or arrests that violate the Fourth Amendment; use of excessive force; discriminatory policing; violation of the constitutional rights of criminal suspects; or violation of First Amendment rights.

During the investigation, the division assesses whether any systemic deficiencies contribute to misconduct or enable it to persist. A critical part of the investigation is hearing directly from community members and police officers. While the division brings in a wealth of knowledge based on many years of police reform work across the nation, it knows that in order to instill confidence in the thoroughness and integrity of the investigations, as well as to better understand the issues particular to that place, the community must be heard.

In addition to gathering information directly from community members, all pattern and practice investigations involve interviewing police and local officials, gathering information from other criminal justice stakeholders, observing officer activities through ride-alongs and other means, and reviewing documents and specific incidents that are relevant to the investigation.

At the conclusion of an investigation, the division issues a public report detailing the findings. If the investigation finds no systemic violations of constitutional or federal statutory rights by the law enforcement agency, the division will state that and close the investigation. If, on the other hand, there are findings of patterns or practices of misconduct, the division will articulate precisely what those patterns or practices are, and will identify any systemic deficiencies underlying those patterns.

If an investigation reveals patterns or practices of unlawful policing, the division will seek to work with the department, with input from community stakeholders, to effectively and sustainably remedy any unlawful practices. This usually takes the form of a negotiated agreement that incorporates specific remedies and that becomes a federal court order overseen by an independent monitor. If the division is unable to reach such a negotiated reform agreement, then it has authority to initiate a lawsuit to secure reforms.

In all of the division’s cases, it endeavors to include remedies that form the foundation, in any law enforcement agency, for policing that is consistently constitutional, as well as remedies that are carefully tailored to the specific problems identified during the investigation.

The Department of Justice stays involved throughout the implementation of remedies to ensure that meaningful and sustainable change occurs. This process typically takes years. Exactly how long it takes to depends upon a number of factors including the commitment of local leadership to making changes.

The reform process initiated by a pattern-or-practice investigation can enable law enforcement agencies to remedy identified problems; repair mistrust between the community and the police; and bring about policing that is lawful, effective, and responsive to community needs. It can also help police officers, both by ensuring that they have the policies and training they need to police safely and by helping to foster the community confidence they rely on in performing their duties.