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Report

Is the Chicago Consent Decree Working?

Consent Decrees for Police Reform: The Chicago Experience

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Executive Summary

In 2019, the Chicago Police Department (CPD)—one of the most controversial police departments in the nation—was placed under a federally enforced consent decree that mandates sweeping reforms and subjects the department to the supervision of a court-appointed independent monitor. Although implementation of the decree is still ongoing, this report reviews the preliminary evidence of its effects.

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The Manhattan Institute is a think tank whose mission is to develop and disseminate new ideas that foster greater economic choice and individual responsibility.

Across a variety of indicators, it seems that the consent decree has not had an appreciable effect on police conduct or public perception of the department. And there is at least some evidence that the process leading up to the consent decree exacerbated Chicago's already-substantial crime problem. While prior research on consent decrees suggests that they can sometimes have an effect, that outcome is far from certain, casting further doubt on the prospects of Chicago's decree.

Why is the consent decree having little or no measurable impact? It may be the result of unwillingness on the part of CPD and the city to embrace reform. Alternatively, the consent decree's ineffectiveness may be attributed to preexisting reforms that CPD had already implemented on its own before the decree took effect. Both of these explanations, however, cast doubt on the viability of the federal investigation and consent decree process as a tool for achieving police reform.



Introduction: The Chicago Challenge

The Chicago Police Department (CPD) is the nation's second largest department but arguably its most controversial. This distinction is not recent—as far back as 1968, a presidential blue-ribbon commission alleged that CPD had engaged in a “police riot” after officers beat protesters at the Democratic National Convention.¹ The department has long been dogged by allegations of abusive interrogation tactics, including a decades-long program of torture overseen by former CPD commander Jon Burge.² Several high-profile shootings—again, a pattern of decades—have provoked further distrust.³

CPD's history and recent conduct have strained trust with the community. In a 2016 survey, just 20% of all Chicagoans, and only 6% of black Chicagoans, reported that they think CPD treated all citizens fairly.⁴ In a survey conducted in late 2019 and early 2020, slightly less than half of Chicagoans said that CPD treated people fairly, but only 25% of young black men said the same thing.⁵ Such racial disparities are particularly significant because CPD is responsible for one of the nation's most diverse jurisdictions: Chicago is roughly equal parts black, white, and Hispanic, and the city is home to a larger-than-average Asian population.⁶ The profound lack of trust in CPD among black Chicagoans, in particular, tends to have an outsize impact on the city's politics.

In 2015, these long-standing tensions came to a head. The trigger was the killing of 17-year-old Laquan McDonald by CPD officer Jason Van Dyke in October 2014, followed by a yearlong effort by police and civilian leaders to suppress video of the incident. The video's eventual release, in November 2015, prompted massive protests against CPD and then-mayor Rahm Emanuel. It also led to an investigation by the U.S. Department of Justice, making Chicago the largest department hit by the Obama administration's wave of such investigations. Some 14 months later, just days before Obama left office, DOJ issued a report alleging that CPD had engaged in a “pattern or practice” of unconstitutional policing. In 2019—after a complicated process detailed in this report—CPD assented to substantial reforms through a federally enforced “consent decree,” under which it still operates as of this writing.

The Chicago consent decree represents an important test. For CPD, it is a test of whether a fairly aggressive form of oversight—federal monitorship—can alleviate a long-standing culture of dysfunction and poor community relations. But just as important, it is a test of whether such oversight is an effective tool for police reform in general. If the federal consent decree process can solve a hard case like Chicago's, perhaps it should be used more widely. Can it?

Though the consent decree is still in the process of implementation, this report argues that the signs do not look good. Across a variety of measures, the consent decree seems to have had little impact on CPD's behavior or public perception thereof. And there is at least some evidence that the process leading up to the consent decree exacerbated Chicago's already-substantial crime problem.

That failure may be attributable to recalcitrance on the part of CPD and city officials. But if so, that still raises the question of whether a consent decree is a viable tool for imposing change on a police department or city that does not want to change. Alternatively, the lack of change in the wake of the decree's implementation may be attributable to reforms that Chicago had already imposed independently before it took effect. But in that case, the consent decree was redundant (a position that Emanuel seemed to take for a while in the summer of 2018).

Either way, it is hard to conclude that the consent decree has done the good that proponents promised it would. That raises important questions—not only about how to reform the CPD generally but also about the viability of the consent decree model for other police departments.



What Is a Consent Decree? Putting Chicago in Context

A consent decree is a way of settling a legal dispute between two or more parties. Specifically, as the Cornell Legal Information Institute neatly summarizes, it is “a *decree* made by a judge with the *consent* of all parties.”⁷ The parties reach an agreement as to terms that would resolve the lawsuit, and then the court enforces the agreement, binding both parties and prohibiting appeal. Consent decrees are commonly used to resolve legal action taken by the government against people or companies, often in areas such as environmental protection, antitrust, or securities law. They are sometimes, although not always, overseen by court-appointed third-party monitors, who document compliance or lack thereof.

In public discourse, consent decrees are most often mentioned in the context of police departments. In most cases, these decrees settle allegations that the department has engaged in illegal activity in violation of the civil rights of the citizens in its jurisdiction. Federally, most consent decrees are brought under 34 U.S.C. § 12601, passed into law as part of the 1994 Violent Crime Control and Law Enforcement Act;⁸ § 12601 prohibits “any governmental authority, or any agent thereof” from engaging in 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.” It also authorizes the attorney general, when he has “reasonable cause” to believe that a violation of that prohibition has occurred, to bring a civil suit against the jurisdiction.⁹

The investigations that lead up to such suits are conventionally referred to as “pattern-or-practice investigations.” Typically conducted by DOJ’s Office of Civil Rights, these investigations look at factors such as “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.” DOJ has investigated departments as small as six officers and as large as 17,000.¹⁰

In the event of a finding of a pattern or practice of violation of civil rights, DOJ will generally give the jurisdiction an opportunity to respond, before negotiating with it a resolution to DOJ’s concerns. That sometimes takes the form of a consent decree, although it can also mean out-of-court resolutions such as an offer of “technical assistance” from DOJ to the jurisdiction. Of 79 federal interventions identified by the Law Enforcement Knowledge Lab since 1995, 20 have resulted in consent decrees.¹¹

Supporters of pattern-or-practice investigations and consent decrees argue that they are effective tools for curtailing bad behavior by police departments, particularly given the challenges of obtaining relief under other statutes.¹² Opponents, meanwhile, tend to argue that they serve to reduce trust in and disempower police departments, contributing to crime, while being ill-suited to the needs of police reform.

Recent years have seen the ascendance of one and then the other position. During the Obama administration, DOJ used consent decrees more aggressively than any previous administration—opening a total 24 pattern-or-practice investigations.¹³ Speaking about the pattern-or-practice investigation that his office opened into the Ferguson, Missouri, police department in the wake of the death of Michael Brown, then-attorney general Eric Holder touted that action as part of “historic results in ensuring constitutional policing from coast to coast” and said that he aimed to achieve “lasting, positive change” in Ferguson—an index of his faith in the process.¹⁴



The Trump administration, in turn, dramatically curtailed the use of pattern-or-practice investigations, part of President Trump's reversal of Obama's criminal-justice policy more generally. It opened just one investigation in its four years.¹⁵ Attorney General Jeff Sessions, who once called pattern-or-practice investigations "one of the most dangerous, and rarely discussed, exercises of raw power" and who said during his confirmation hearings that they tend to "undermine respect for our police officers," was particularly hostile.¹⁶ Within four months of taking office, Sessions ordered a review of all preexisting consent decrees.¹⁷ One of Sessions's last acts in office, in fact, was to issue an order curtailing the use of monitors in consent decrees.¹⁸

It was against this backdrop that Chicago's own consent decree came about. Indeed, the whims of federal policymakers had a significant impact on Chicago's trajectory.

Chicago's Strange Consent Decree Journey

Most police departments enter into pattern-or-practice-related consent decrees in the same way. Some instigating event causes the initiation of a pattern-or-practice investigation; the Department of Justice brings suit on the basis of an affirmative finding in that investigation; the police department reaches a settlement with DOJ in which it agrees to a consent decree with an eye toward federally facilitated reform. Chicago's journey was not quite so simple. This section briefly recounts the history of CPD's consent decree to provide context for measures of its impact.

On October 20, 2014, Chicago police officer Jason Van Dyke shot and killed 17-year-old Laquan McDonald. Initial use-of-force reports filed by Van Dyke and another officer indicated that McDonald had been attacking them with a knife. But this, the Chicago inspector general would later contend, was false: dash-cam footage showed that McDonald had not attacked Van Dyke and was, in fact, turned away from him when Van Dyke fired. A total of 16 officers were eventually alleged to have covered up the details of McDonald's death, with the aim of protecting Van Dyke.¹⁹ Concern about the fallout of the shooting appears to have reached as high as the office of then-mayor Rahm Emanuel.²⁰

Six months after McDonald's death, his family received \$5 million in a settlement from the city of Chicago.²¹ But that was not the end of the story. On November 24, 2015—over a year after McDonald's death and following a protracted legal battle—the city released the dash-cam footage; Van Dyke was indicted the same day. The footage's release brought the shooting to local and national attention, prompting months of protests against CPD and Emanuel.²²

It also attracted the formal attention of Illinois attorney general Lisa Madigan. On December 1, 2015, she formally requested an investigation by the federal DOJ into whether McDonald's death was part of a larger pattern of discriminatory and unconstitutional behavior on the part of CPD.²³ Six days later, the department opened its investigation.²⁴ In the following year, the Emanuel administration took steps of its own to address the crisis, establishing a Police Accountability Task Force, which recommended an aggressive reform agenda.²⁵ (The administration followed only some of the recommendations.)²⁶

On January 13, 2017—a week before the end of Barack Obama's term of office—DOJ released its final investigation. To almost no one's surprise, it concluded that CPD had, in its view, engaged in a pattern or practice of unconstitutional policing, particularly in its use of force, which DOJ



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characterized as unnecessarily dangerous and racially discriminatory. It recommended that CPD's ongoing reform efforts be enforced by a formal consent decree entered into as a federal court order and overseen by an independent monitoring team.²⁷

Then, on January 20, Donald Trump was sworn in as the 45th president of the United States. As a candidate, Trump had been hostile to the Obama "police reform" agenda. And his selection for attorney general, Jeff Sessions, was particularly skeptical of the consent decree model. It was thus apparent that the Trump DOJ would not bring the requisite lawsuit against CPD that is required to establish a consent decree. In June 2017, Emanuel announced that he had asked Sessions to appoint an "independent monitor" to oversee Chicago's police reform. Such a monitor, agreed to by DOJ and the administration, would not have had the same enforcement powers that a federal court-appointed monitor would have.²⁸ Chicago activists, outraged at the about-face, filed a federal lawsuit, attempting to do what DOJ would not do.²⁹

Cornered, Emanuel found his escape valve in Madigan, the Illinois attorney general who first asked DOJ to investigate CPD. In August, Madigan filed a federal lawsuit, with Emanuel's blessing.³⁰ The arrangement gave Emanuel and CPD a more friendly counterparty in the ensuing negotiations. Eleven months later, they came to terms on a proposed consent decree.³¹ True to form, the Trump DOJ publicly opposed the final agreement.³² Nevertheless, it received the approval of Judge Robert M. Dow, Jr., of the Northern District of Illinois, and was effected on March 1, 2019.³³

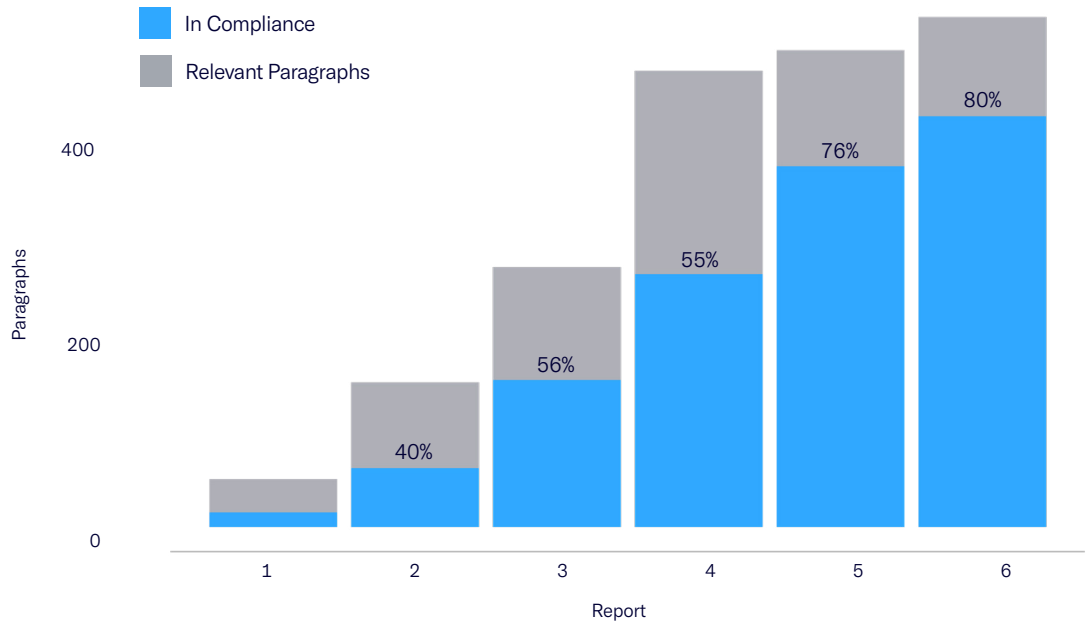
The unique procedural history of the Chicago consent decree makes it an interesting case study when considering the use of this policy tool more generally. On the one hand, any failure of the consent decree could be ascribed to the lack of buy-in from relevant federal actors. On the other, because its counterparty is not the federal government, the Chicago consent decree could provide information about the efficacy of consent decrees as such, rather than consent decrees specifically established pursuant to DOJ lawsuits.

The final consent decree was a massive document, running to 236 pages and involving hundreds of proposed reforms to CPD.³⁴ Key provisions, as identified by Illinois attorney general Kwame Raoul,³⁵ included expanded use of de-escalation; enhanced tracking of officer use of force; reforms to oversight investigations and prohibitions on retaliation against officers who report misconduct; and enhanced trainings across a variety of domains. An independent monitoring team (IMT) was appointed to monitor the process of implementation.³⁶



Figure 1

CPD Preliminary Compliance with Federal Consent Decree (March 2019–June 2022)



Source: Independent Monitoring Team Reports

Throughout its reports, IMT has measured how many paragraphs of the consent decree the CPD is in compliance with at the time, compared with the number of paragraphs that it could be in compliance with, as of that report. As **Figure 1** shows, implementation started slowly. As of IMT’s first report, at the end of August 2019, the city had complied with only about 30% of relevant paragraphs. It had missed 37 of 50 deadlines that it had agreed to, which IMT attributed to a variety of challenges, from administrative limitations to record-access problems.³⁷

Similar problems plagued implementation in the run-up to the end of the second reporting period—a period that the court ended early, in order to accommodate response to the Covid-19 pandemic. Even before Covid, however, the city faced substantial challenges, including the unexpected departure of Superintendent Eddie Johnson. As a result, the city was in compliance with only about half the assessed paragraphs, and it met just 22 of the 74 deadlines agreed to with IMT.³⁸

Notwithstanding these early problems and the challenges imposed by the pandemic, compliance improved substantially in the following two years. As of IMT’s most recent report, covering January through June 2022, CPD was at least in preliminary compliance with most of the paragraphs of the consent decree.³⁹ But IMT and the city remained uncertain as to whether *full* compliance could be achieved within the originally allotted five-year time frame. In March 2022, in fact, Chicago and the Illinois attorney general agreed to a three-year extension, as then-mayor Lightfoot complained of a daunting \$50 million price tag for full compliance.⁴⁰

Despite the steady growth in compliance, CPD continues to face vocal criticism from the attorney general’s office, activists, and Chicago citizens. In a tearful hearing in November 2022, Chicago residents recounted “abusive and disrespectful policing practices” during what they described as “racist and traumatic encounters with Chicago police officers.” The Illinois deputy attorney general



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charged with overseeing the consent decree, meanwhile, said that the city and CPD had “resisted commonsense” proposals to fix major problems.⁴¹ Advocates have been particularly infuriated by the case of Anjanette Young, a Chicago resident whose home CPD mistakenly raided, holding her naked and at gunpoint with no justification.⁴² Perhaps most damning is Brandon Johnson’s narrow victory over Paul Vallas in the 2023 Chicago mayoral race, a contest that was widely perceived as a referendum on crime and the criminal-justice system in the city, with Johnson representing the police-skeptical side.

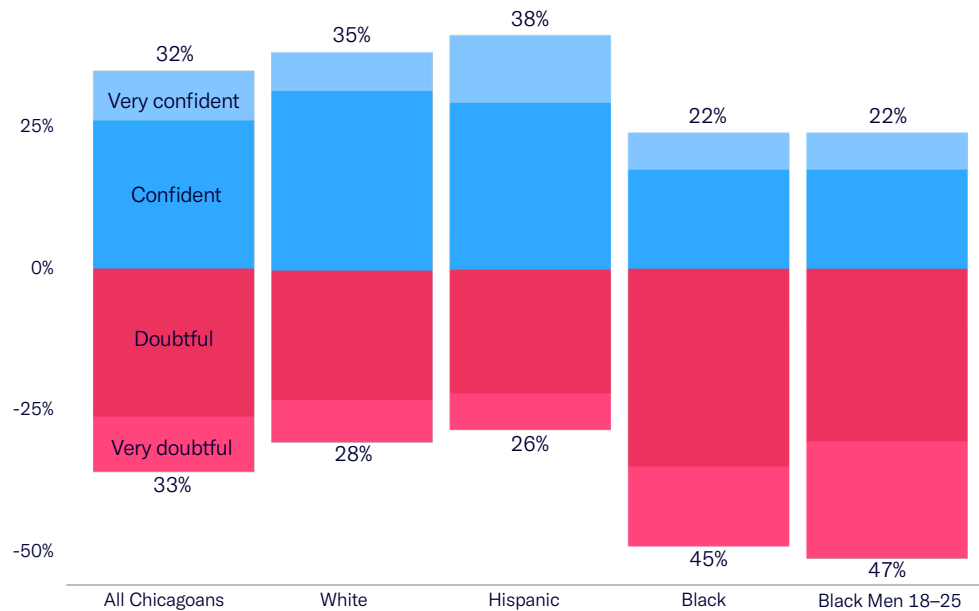
There are several ways to interpret the mismatch between Chicago’s apparent progress in compliance and continued discontent with CPD on the ground. One is that, as some critics of consent decrees have contended, the process of oversight has served to embolden those already most predisposed to criticize the police. But there is also a significant difference between facial compliance with the terms of a consent decree—box-checking, as it were—and a substantive change to institutional culture and practices. Indeed, if we want to understand the impact of Chicago’s consent decree, we have to look past formal compliance and look at its effects on police and community behavior.

The Consent Decree’s Effects

The goal of the consent decree was simple: address the Chicago Police Department’s pattern or practice of unconstitutional policing—in particular, its unconstitutional use of force. A simple question we can ask: How did various measures of this issue, and of the state of the CPD more broadly, change after implementation of the consent decree?

Figure 2

Chicagoans’ Confidence in the Consent Decree Process (2019–20)



Source: Independent Monitoring Team Survey



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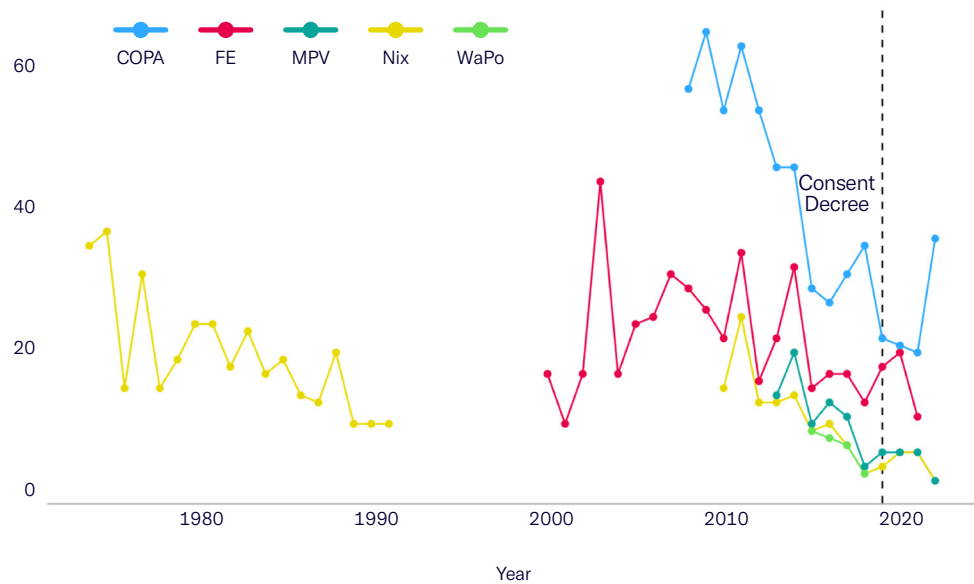
Chicagoans, it turns out, were not optimistic that the consent decree would have much of an impact. In late 2019 and early 2020, IMT and a number of Chicago researchers asked more than 1,300 Chicagoans about their perceptions of the police department.⁴³ One question was: “How confident are you that any reforms being made in the Chicago Police Department will have a lasting and positive effect?” As **Figure 2** shows, many Chicagoans were quite skeptical. Across the whole sample, slightly more were doubtful or very doubtful (33%) than were confident or very confident (32%). But that narrow split was driven by stark disagreement across racial groups, with Hispanics (+12 points) and whites (+7 points) more hopeful and blacks (-23 points) more pessimistic.

Were the pessimists right? Or the optimists? The results are, of course, not yet in—the consent decree is still in process. Still, the evidence presented below makes a stark case for the pessimists’ position.

One powerful index of police behavior is the killing of civilians by officers. After all, it was the police killing of Laquan McDonald that triggered Chicago’s consent decree. One would hope, then, that the consent decree would have an appreciable impact on CPD killings of civilians.

Figure 3

Killings by Chicago P.D. (1973–2022)



Source: Civilian Office of Police Accountability (COPA); Fatal Encounters (FE); Mapping Police Violence (MPV); Justin Nix; *Washington Post*

Figure 3 reports counts of police killings from five sources, stretching back to the 1970s.⁴⁴ Although the data are noisy, they generally seem to show similar trends. Chicago police shootings were elevated through the early 1990s, at levels that persisted or possibly even rose through the early 2010s. Beginning around 2015, however, numbers of police killings fall precipitously in most of the data sets available. By 2019, when the consent decree was put into effect, police killings were well below both recent and last century’s norms.

With data this noisy, it is hard to say anything for certain. But it is not unreasonable to speculate that police killings began falling in the wake of the Laquan McDonald protests. Any of a number of phenomena could explain this decline—decreased police activity, increased public accountability



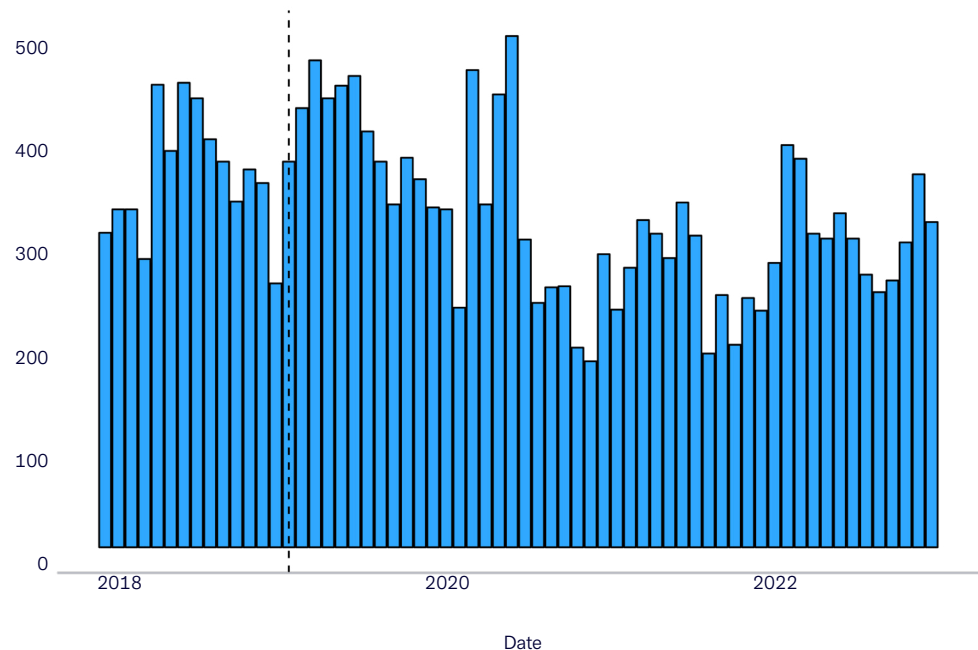
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and oversight, changes in reporting behaviors, and so on. But what it suggests is that by the time the consent decree was implemented, changes in conditions on the ground had already had a significant impact on the behaviors that the decree was meant to alter.

Since the decree was implemented, however, there has been little or no change in the number of police killings across our data sources. This may be because they were already as low as they could be—some number of police shootings really are essential to secure life and limb. That would perhaps mean that the consent decree’s implementation has had no appreciable effect on the metric. In the data set that is most focused on Chicago, the Civilian Office of Police Accountability (COPA) data, the number of complaints actually rose last year. That observation is hard to square with the consent decree having a positive (i.e., killing-reducing) effect.

Figure 4

Use of Force Reports by Chicago P.D. (January 2018–April 2023)



Source: Chicago P.D.

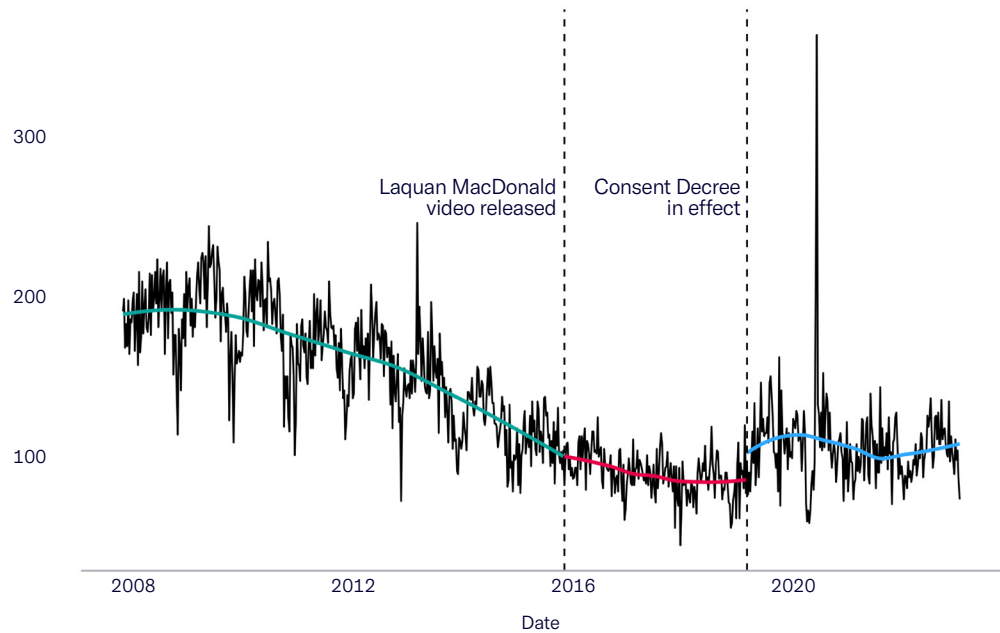
Of course, the focus of the consent decree was not just officer-involved shootings but use of force in general. **Figure 4** reports monthly counts of tactical response reports filed by CPD officers—a measure of use-of-force incidents, according to the department.⁴⁵ The data do show a decline in the post-decree period. Specifically, the pre-decree period saw an average of 381 reports per month, compared with 337 in the post-decree period.

The change is not immediate. CPD averaged 416 reports a month in 2019 and 354 reports per month in 2020. Counts dip below 300 in 2021 and rise above 300 in 2022 and 2023, as of this writing. This pattern suggests that something other than the consent decree—for example, a change in police activity (see Figure 6)—may be driving the pattern.



Figure 5

Weekly Complaints Against CPD (2008–22)



Source: COPA

Another index of police behavior is complaints against officers. In Chicago, those complaints are collected by the Civilian Office of Police Accountability (COPA) and its predecessor, the Independent Police Review Authority (IPRA).⁴⁶ **Figure 5** reports weekly counts of complaints to IPRA/COPA between the beginning of 2008 and the end of 2022, including trend lines.⁴⁷

The data suggest that complaints filed with IPRA/COPA were already falling through the late 2000s and early 2010s. Indeed, the release of the Laquan McDonald video seems to have had little effect on the underlying trend, with complaints bottoming out at 80 or 90 per week in the post-video, pre-consent decree period. In the post-decree period, complaints actually increase, to an average of just over 100 per week.

Does this mean that the consent decree increased complaint-worthy behavior among CPD? Maybe. But an equally plausible explanation is that the decree has had no effect on officer behavior but has changed COPA's behavior. After all, the oversight agency (then IPRA) was specifically dinged in DOJ's initial report for failing to hold police officers sufficiently accountable. This was part of why IPRA became COPA even before DOJ had completed its investigation.⁴⁸ And the final consent decree emphasized the need for more reporting to COPA, as part of greater transparency about the use of force. The post-decree increase, in other words, may represent measurement bias introduced by a change in data collection practices, itself instigated by the decree.

If this is the case, it is likely that complaint-worthy behavior is roughly unchanged relative to the pre-decree regime. Weekly figures had leveled out in the year before the decree; after the decree, they increase by a fixed level, but there is no decline from that fixed increase. That suggests that while more complaints are being collected, they are being collected at a constant rate; absent that effect, the number of complaints has remained constant.

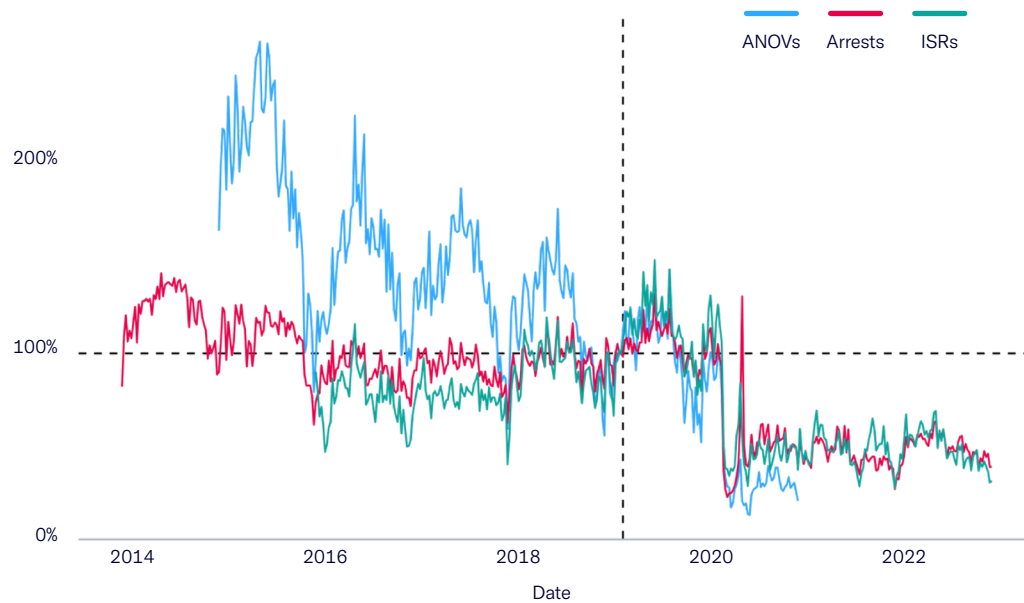


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One confounder in assessing the impact of the consent decree is the effect that it has on police activity in general. It is plausible that the consent decree simply led to officers doing less policing—which may yield fewer police shootings, uses of force, and complaints against the police. **Figure 6** captures trends in three weekly measures of police activities: arrests; administrative notices of violation (“ANOVs,” i.e., citations issued in lieu of arrest); and investigatory stops (ISRs, where “R” is “report”). All three measures are shown as a percentage of their level on the week of the consent decree’s implementation.

Figure 6

Weekly Measures of Police Activity Relative to Consent Decree Implementation (2014–22)



Source: ANOVs; Arrests; ISRs

There is a large and precipitous decline in police activity in the period following the implementation of the consent decree. But the drop comes a year later, coinciding with (and probably caused by) Covid and the associated shutdowns. Activity levels have not rebounded, but that is true across big-city police departments, not just in Chicago.⁴⁹ That suggests that something else has suppressed activity since the spring and summer of 2020.

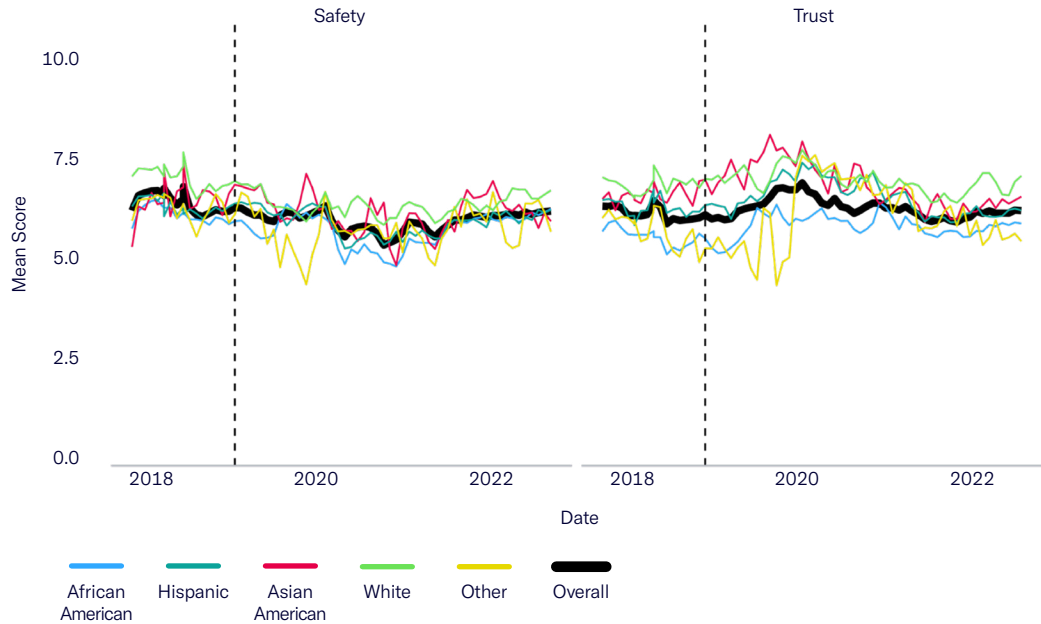
Before Covid, the consent decree appears to have had little effect on police activity. Levels of all three measures actually rose slightly in the immediate wake of implementation, and then fell, but not below pre-decree norms. It seems plausible that in the absence of Covid, there would have been little overall change in CPD activity, much as there was little change in our other measures. This pattern may also explain the slow drop-off of use-of-force incidents in Figure 4—fewer police mean fewer opportunities for use of force. Furthermore, it suggests a disturbing twist to Figure 5 and Figure 3. If shootings are flat and complaints flat or increased as activity has declined, then both have *risen* when adjusted for activity levels.

A final way to measure the effect of the consent decree is simply to ask people how they feel about the police. In 2018, as part of its efforts at pre-decree reform, CPD partnered with survey firm Elucid to survey Chicagoans about their perception of safety and their trust in the police, scoring both on a scale from 1 to 10.⁵⁰



Figure 7

Chicagoans' Perception of Safety and Trust in CPD (November 2017–April 2023)



Source: Chicago Data

Note: Dotted line denotes when the consent decree went into effect.

The results of these surveys are depicted in **Figure 7**, providing details on trends in overall and by-race response. While the data show some variation, what is most remarkable is how flat the trends are, with no appreciable effect of the consent decree on either measure.⁵¹ In the pre-decree period, Chicagoans rated their sense of safety as 6.1 out of 10 and their sense of trust as 5.8 out of 10, on average. The between-month variation on these measures was remarkably small—the standard deviation for safety was 0.26 points and for trust 0.18 points. Furthermore, there is little appreciable change in the post-decree period. Sense of safety falls slightly, to 5.6 out of 10, on average, while sense of trust rises minimally, to 5.9 out of 10. The between-month variation also remains small. And, as Figure 6 shows, this lack of a post-decree shift is true across racial groups, not just overall.

The Elucid survey seems to confirm a general pattern. Across a variety of measures, the consent decree has had little impact on measures of police behavior and misconduct. It may have marginally reduced the use of force and possibly slightly improved trust in the police. But it appears to have had no effect on complaints, officer-involved shootings, or even pre-Covid activity. If the consent decree was meant to improve any of these outcomes, it cannot be said to have been a success, particularly not compared with the post-Covid drop in activity.

One reasonable objection to this kind of pre–post analysis is that it does not give us a valid control group against which to truly estimate the effects of the consent decree. This is right, as far as it goes—it’s possible that but for the consent decree, many of these measures might have gotten appreciably worse. On the other hand, the consent decree was supposed to actively improve the situation, not simply prevent worsening. Whether Chicago took a different path from its counterfactual self without a consent decree is less important in assessing the success of the consent decree than whether the desired changes have obtained. They have not.



There is, of course, one other outcome that the consent decree could have affected: crime. Unlike the other outcomes, however, this one has been quasi-experimentally analyzed, at least indirectly. In a 2020 paper, Tanaya Devi and Manhattan Institute fellow Roland Fryer estimated the effects of pattern-or-practice investigations on crime rates.⁵² They find that in jurisdictions where pattern-or-practices are preceded by “viral” incidents of police violence, crime rises precipitously, compared with synthetic control cities. In Chicago, they find that the homicide rate increased 14.4 per 100,000 over what it would have been in the absence of the investigation. Devi and Fryer attribute this change to a dramatic decrease in police activity after the opening of an investigation sparked by a viral incident—something that is partially but not fully visible in Figure 6, which does not contain all data from the period following the initiation of the investigation in December 2015.

Of course, pattern-or-practice investigations are not consent decrees. And Chicago’s pattern-or-practice investigation, conducted by the U.S. Department of Justice, is not the same as the city’s consent decree, entered into over DOJ’s objection. Still, they are related. But for the investigation, it is less likely that there would have been a consent decree. And if the investigation caused such a stark change in police behavior, while the consent decree did little to alter it, it is hard to say that the consent decree itself improved a situation already made worse by the initiation of scrutiny. If the consent decree is one fruit of the investigation, and the increase in homicide another, one has plainly not paid for the other.

Should We Expect Improvement?

Supporters of federal monitoring might point out that the consent decree process is not yet finished. Indeed, the city has until 2027 to reach compliance. Should we expect things to improve over the next four years? To answer that question, we must look at the literature on the effects and impacts of consent decrees generally.

Some previous research relies on case studies of specific consent decree jurisdictions. Joshua Chanin combines both original research into and evidence from previous analyses on consent decrees in Pittsburgh; Washington, D.C.; Prince George’s County, Maryland; Cincinnati; and Los Angeles.⁵³ In Cincinnati and Los Angeles, it finds that the consent decree process worked, as measured by declines in uses of force, officer-involved shootings, and allegations against police. In the other three jurisdictions, however, the consent decrees had no appreciable impact. In D.C. and Prince George’s County, measures of use of force and citizens’ complaints were flat. In Pittsburgh, complaints and use of force actually rose, and disciplinary action fell, after the decree ended. Another case study, by Vijay Chillar, looks at the effects of Newark’s consent decree, finding that it significantly reduced police stops of Hispanic and black residents.⁵⁴

Several quasi-experimental studies investigate the effects of consent decrees on different outcomes. Zachary Powell, Michele Bisaccia Meitl, and John Worrall exploit the variation in timing of onset of consent decree in 23 jurisdictions to estimate the effect of consent decrees on federal civil rights violation complaints against treated departments, using not-yet-treated departments as controls.⁵⁵ Across a variety of model specifications, they find that consent decrees reduce complaints 23%–43%, depending on specification. Their results are of similar magnitude but no longer statistically significant, when they reconduct the analysis only with departments that completed their decree as of 2008.

Li Sian Goh applies a similar quasi-experimental design to officer-involved shootings, comparing levels of shootings in departments that do and do not have consent decrees before and after implementation.⁵⁶ Somewhat surprisingly, the implementation of a consent decree is associated with a nonsignificant increase in officer-involved shootings, suggesting that the implementation per



se has no effect. The appointment of a monitor leads to a significant and large (~29%) reduction in police killings; being subject to a DOJ investigation has a similar effect. The monitor effect might, however, have been driven by NYPD, which was subject to a monitor but not under a consent decree—dropping it from the analysis leads to a result of similar magnitude but no longer significant. There is also “some evidence in the event study of pre-treatment selection trends,”⁵⁷ meaning that apparent improvement after the appointment of a monitor may reflect trends before the monitor was appointed.

Two additional quasi-experimental studies investigate a controversial question: How do pattern-or-practice investigations affect police activity and crime? Joshua Chanin and Brittany Sheats find that rates of misdemeanor and felony arrest do not change significantly following investigations or the announcement of findings or a settlement.⁵⁸ Devi and Fryer, previously mentioned, complicate this finding somewhat.⁵⁹ Using a more robust design than that of Chanin and Sheats, they find that, in most cases, investigations reduce crime relative to “synthetic control” cities with no investigations. But in cases where the investigation was preceded by a “viral incident” of police violence—as in Chicago—crime and violence increase dramatically, due to substantial and sudden declines in police activity.

So what does the research augur for Chicago’s chances? It certainly suggests that success is possible. Individual consent decrees have led to durable reductions in misconduct. And quasi-experimental assessments of their effects suggest that they have small but real impacts, on average. But failure is also not unusual. In the case studies, they fail at least as often as they succeed. And the quasi-experimental findings are fragile and sensitive to design specification. In other words, Chicago may turn it around, but it is by no means a sure thing.

Why Didn’t Chicago’s Consent Decree Have an Impact?

One way to predict the future course of Chicago’s reform efforts is to look, as the previous section did, at how past reform efforts have gone. Another, admittedly speculative, approach is to figure out why reform efforts have thus far not yielded dramatic results. There are two plausible explanations, neither of which is particularly flattering to the consent decree approach. In brief, it may be that most of the change to CPD’s behavior was already “baked in” before the decree was implemented, due to a mix of city-led reform and de-policing in response to public criticism. But it might also be that the consent decree process itself is ill-suited to effecting real change, particularly in the absence of an agency’s will to change itself.

Initial implementation of Chicago’s consent decree came nearly four and a half years after the event that triggered it, i.e., the death of Laquan McDonald. In the intervening period, the city made substantial steps toward changing CPD. That process began with the appointment of the Police Accountability Task Force (PATF), mere days before DOJ began its investigation.⁶⁰ When PATF released its report several months later, the city began implementing some of its recommended changes immediately.⁶¹ The city replaced IPRA with COPA specifically in response to complaints about IPRA’s unusual friendliness to officers.⁶²

The 2019 consent decree was not the first legal restraint to which CPD had been subjected. In August 2015, the department reached a settlement agreement with the ACLU of Illinois that substantially constrained CPD’s use of investigative stops. These stops—and therefore police activity—were, in other words, already declining before the release of the video of McDonald’s



death and ensuing agitation for reform. Indeed, they fell 80% between 2016 and 2019.⁶³ (At least one analysis has blamed the ACLU agreement, and the ensuing decline in stop-and-frisk, for Chicago's increase in homicide.)⁶⁴

It's worth noting one other vector for "reform," in the sense of changes to police behavior: popular protest of the police. Well before "defund the police" was a nationwide protest slogan, hundreds took to the streets to protest in the wake of the release of the video of McDonald's death.⁶⁵ Such popular hostility can reduce police activity, artificially cutting complaints, shootings, and other kinds of misconduct because of the lowered rate of police-civilian contacts. Indeed, one analysis, by Ba and Rivera, estimates that the post-McDonald scandal led to an increase in both complaints and crime, which they attribute to de-policing.⁶⁶

In short: well before the formal implementation of the consent decree, pressures both formal and informal were shifting CPD behavior. By the time the consent decree was actually signed—never mind before it began to be substantially implemented—much of the work of "reform" had already been done. In this view, Chicago's slow consent decree process rendered it moot, perhaps explaining why Mayor Emanuel seemed to think that the consent decree was unnecessary in the first place.

While one version of events suggests that a great deal of reform has already happened, another argues that very little has come to pass. Activist groups have continued to criticize CPD for its inaction on issues like home-raid policy.⁶⁷ And while, according to IMT's most recent report, CPD is in "preliminary compliance" with 279 out of 503 applicable paragraphs, it is in "secondary compliance" with just 77 and "full compliance" with just 23.⁶⁸ This is, recall, three years into implementation, with another five years asked for and granted on top. What, one might ask, is taking so long?

One answer is that compliance with many of the terms of the decree—which entail new technology, training, and hiring—takes time. But another is, as the Illinois AG's office has alleged, that CPD is uninterested in "commonsense" solutions to its problems.⁶⁹ And that, indeed, might be expected from a department with such a long history of public-relations problems. If CPD is as bad as its critics allege, it would be hard to imagine that a simple consent decree and monitoring arrangement would force substantive, long-term change.

Neither of these stories can be definitely proven. But both suggest that Chicago's consent decree, per se, was and is an ineffective means to secure reform. That may be because all the "real" reform had already happened, whether it came from within or was imposed by the ACLU or the public. Or it may be because CPD is uninterested in making changes that will result in lower rates of the sort of behaviors that the public is concerned about. Either way, it's not clear what, if anything, the consent decree contributed to the situation.

Conclusion: The Future of Consent Decrees

Since retaking the White House in 2020, President Joe Biden has restored the Obama-era embrace of pattern-or-practice investigations, opening eight within its first two years and rescinding the Sessions memo that limited their use.⁷⁰ That is, broadly speaking, in line with public priorities: 50% of Americans say that policing needs "major changes," and another 39% want "minor changes."⁷¹ The consent decree was the hallmark tool of the Obama administration's reform agenda. It is



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thus little surprise that Biden “[couldn’t] wait to restart” it.⁷² The success or failure of Chicago’s consent decree, as well as the other Obama-era consent decrees, is thus an important referendum on the use of this particular policy tool.

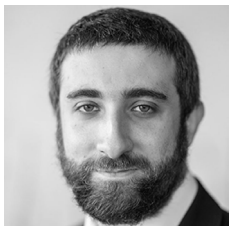
It is also worth thinking about the Chicago consent decree for its own sake and for the sake of the broader question of the plausibility of police reform in Chicago. CPD is uniquely controversial. Even if consent decrees can work in Cincinnati, can they work in Chicago? Is the consent decree the appropriate tool, or is some other tool, as-yet identified or otherwise, a better remedy?

The evidence reviewed above should give us reason for pessimism. Most relevant indicators have seen little meaningful movement since the consent decree’s implementation. It is, of course, possible that CPD will demonstrate some marked improvement—it has another five years to do so—but it is equally possible that things will remain where they are. In either case, it is hard to attribute positive change to the consent decree as such, rather than to the pressures that came before or after it.

A reasonable reader might wonder whether there are other possible avenues for reform. The answer is, of course, yes, and the avenues range in their intensity. The city could continue to pursue its own internal reforms—like the ones that it adopted before the consent decree, which may have been the major driver of recent change in police behavior. It could also, as Mayor Emanuel considered, contract with an independent monitor but without the power of the consent decree (although this does not seem meaningfully different, in effect, from the status quo).

At the other end of the spectrum of severity, CPD could be placed in receivership, putting the state or federal government in charge of it (as almost happened to the Oakland police department).⁷³ Or CPD could be disbanded and absorbed into some other administrative entity—as was done with the Camden, New Jersey, police department, which was placed under the authority of the county in 2013.⁷⁴ Such steps would be drastic, and their enumeration here should not be taken to indicate an endorsement.

The debates over consent decrees are about the governance of reform (who decides what changes get implemented?), rather than the substance of reform itself (what are those changes, actually?). The consent decree model presupposes that one particular approach to the governance of reform—an agreement between a troubled department and plaintiffs, enforced by a court—is more conducive to substantive changes than other forms of governance. What this report has shown is that—at least in Chicago and at least for now—that form of governance has not produced the change that both sides profess to desire.



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- FE: Counts “people killed during interactions with the police.” I use all entries in the Fatal Encounters data set in which “Chicago Police Department” is among the agencies involved.
- MPV: Counts “any incident where a law enforcement officer (off-duty or on-duty) applies, on a civilian, lethal force resulting in the civilian being killed whether it is considered ‘justified’ or ‘unjustified’ by the U.S. Criminal Legal System.” I use all entries in the Mapping Police Violence data set in which “Chicago Police Department” is the “agency responsible.”
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