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Baltimore, Chicago will continue police department reforms despite Justice Department hesitation

Andrea Noble

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Officials in Chicago and Baltimore pledged Tuesday to move forward with drastic reforms of their police departments even after the Justice Department signaled that it may pull back on oversight of troubled law enforcement agencies.

But in the 23 years since the Justice Department was given authority to investigate local law enforcement agencies suspected of unconstitutional practices, police departments haven't always been willing participants in court-stipulated reform agreements, known as consent decrees.

Analysts on police oversight and departmental reforms say that without Department of Justice intervention, systemic abuses may never be addressed. The Justice Department often is asked to get involved when a department does not hold officers accountable, said David Harris, a police accountability researcher at the University of Pittsburgh School of Law.

"It's not about one bad officer. It's about long-sustained patterns," Mr. Harris said. "When you have that, you have a situation where the department either cannot or will not change itself."

The Justice Department at times has resorted to legal action to force agencies to enter agreements after the discovery of systemic abuses, including racial profiling or excessive use of force.

Such was the case last year in Ferguson, Missouri. The city became the focal point for law enforcement reform movements after riots in the wake of the 2014 fatal police shooting of Michael Brown, a young black man.

Even when police leaders are more receptive to the practice, analysts say, the Justice Department's experience has helped bring to light problems that otherwise wouldn't have been addressed.

The D.C. Metropolitan Police Department entered an agreement in 2001 after Chief Charles H. Ramsey asked the Justice Department to examine reports indicating that officers were shooting more civilians per capita than any other city police force in the nation.

"I do not think all of the reforms D.C. accomplished would have been accomplished without a federal investigation and federal oversight, and I think both of the chiefs I worked with in D.C. would agree with me," said Michael R. Bromwich, a lawyer who served as the independent

monitor overseeing the D.C. department's agreement on use of force policies, misconduct investigations and other matters. "One of the issues is getting the money that you need to do what you know needs to be done. In a way, [a consent decree] provides power to the police department to get resources it has not been provided with."

He said that when the Justice Department investigates police, it generally finds "that there has been a failure by the department to be accountable."

Issuing consent decrees became a hallmark of the Obama administration's strategy to reform police agencies. Since 2009, the Justice Department opened 25 investigations into law enforcement agencies and oversaw 15 consent decrees.

But the proposed Baltimore agreement and the findings of an investigation into the Chicago Police Department were announced in the waning days of the Obama administration — leaving finalization of agreements up to the Trump administration.

Attorney General Jeff Sessions has expressed skepticism over the use of consent decrees. On Monday, he announced that the Justice Department would undertake a systemwide review of "existing or contemplated" court-supervised consent decrees with local police.

Hours after the announcement, the Justice Department requested a 90-day postponement of an upcoming hearing on the proposed agreement involving the Baltimore Police Department.

"Local control and local accountability are necessary for effective local policing," Mr. Sessions wrote in a two-page memo explaining the goals of the review, which is to reset and strengthen relationships with local law enforcement agencies. "It is not the responsibility of the federal government to manage non-federal law enforcement agencies."

Jim Pasco, executive director of the Fraternal Order of Police, said the review can ensure that when departments come under investigation, they are not unfairly maligned in cases "where there have been one or two instances of misconduct or alleged misconduct."

"I hope they will take a look at the investigations to ensure that if in fact anything untoward has occurred that the consent decree and the remedy it imposes will improve the relationship between the city and the department rather than pillorying the department by painting all the police officers as villains," Mr. Pasco said.

Tim Lynch, director of the Cato Institute's project on criminal justice, said downplaying the problem as "a few bad apples" underestimates the scope of the problem affecting many local law enforcement agencies. But he said the attorney general's approach in shifting responsibility for dysfunctional departments back to local leaders is a step in the right direction.

"Local officials have it within their power and jurisdiction to implement police reforms," Mr. Lynch said. "Too often, the local officials evade their responsibility or their oversight failures by loudly calling for the federal government to intervene. They shift attention away from themselves and what they should have been doing all along."

If local lawmakers or prosecutors don't take on police reform, Mr. Lynch said, state governors or attorneys general are well equipped to step in. As examples of reform implemented at the state level, he pointed to Texas lawmakers' establishment of a statewide database meant to track all police shootings and Wisconsin's adoption of a law requiring outside investigations of all on-duty fatal shootings and other deaths caused by law enforcement officers.

While analysts say the Justice Department memo signals a likely halt of future consent decrees, it is uncertain what lies in store for agreements already in place.

Consent decrees are overseen by independent monitors and federal judges, so changes to the scope of the agreements would have to go through the courts.

"The DOJ as a party to the decree can be a passive participant, but there are so many other actors involved for things to just disappear overnight," said Kanya A. Bennett, legislative counsel for the American Civil Liberties Union.

Agreements are stipulated for a specific period and can later be renewed, but Mr. Lynch said the Justice Department could back away from renewal requests.

While presidential administrations have taken their own approach to negotiating consent decrees, analysts say, they have left finalized agreements in place. The Justice Department might be wary of radically altering agreements.

"I think some of the judges presiding over these consent decrees are going to be very skeptical of changes to these agreements," Mr. Bromwich said. "That would be hugely embarrassing if the DOJ applied to withdraw a formal consent decree or to make large modifications and a judge said, 'Over my dead body.'"