

# SpringerBriefs in Criminology

## Policing

*Series Editor*

M. R. Haberfeld, John Jay College of Criminal Justice (CUNY)  
New York, NY, USA

For further volumes:  
<http://www.springer.com/series/11179>

Jon Shane

# Learning from Error in Policing

A Case Study in Organizational  
Accident Theory

 Springer

Jon Shane  
Department of Law, Police Science  
and Criminal Justice Administration  
John Jay College of Criminal Justice  
New York, NY  
USA

ISSN 2194-6213                      ISSN 2194-6221 (electronic)  
ISBN 978-3-319-00040-4            ISBN 978-3-319-00041-1 (eBook)  
DOI 10.1007/978-3-319-00041-1  
Springer Heidelberg New York Dordrecht London

Library of Congress Control Number: 2013932560

© The Author(s) 2013

This work is subject to copyright. All rights are reserved by the Publisher, whether the whole or part of the material is concerned, specifically the rights of translation, reprinting, reuse of illustrations, recitation, broadcasting, reproduction on microfilms or in any other physical way, and transmission or information storage and retrieval, electronic adaptation, computer software, or by similar or dissimilar methodology now known or hereafter developed. Exempted from this legal reservation are brief excerpts in connection with reviews or scholarly analysis or material supplied specifically for the purpose of being entered and executed on a computer system, for exclusive use by the purchaser of the work. Duplication of this publication or parts thereof is permitted only under the provisions of the Copyright Law of the Publisher's location, in its current version, and permission for use must always be obtained from Springer. Permissions for use may be obtained through RightsLink at the Copyright Clearance Center. Violations are liable to prosecution under the respective Copyright Law. The use of general descriptive names, registered names, trademarks, service marks, etc. in this publication does not imply, even in the absence of a specific statement, that such names are exempt from the relevant protective laws and regulations and therefore free for general use.

While the advice and information in this book are believed to be true and accurate at the date of publication, neither the authors nor the editors nor the publisher can accept any legal responsibility for any errors or omissions that may be made. The publisher makes no warranty, express or implied, with respect to the material contained herein.

Printed on acid-free paper

Springer is part of Springer Science+Business Media ([www.springer.com](http://www.springer.com))

# Foreword

When a commercial aircraft crashes, no one doubts that a significant failure has occurred. Steps are quickly taken to identify the sources of error in order to learn from the tragedy and prevent future mishaps. So, too, when a patient dies at a teaching hospital, doctors convene morbidity and mortality conferences to study the case and identify lessons that may prevent further mishaps. Yet, when the criminal justice system makes an error by wrongly convicting an innocent person, the case typically gets much less attention. In the United States, police and prosecutors rarely call for an inquiry or convene a panel of their peers to sift through the mistakes that may have led to the erroneous conviction. It is as if the professionals we charge with securing our safety are unwilling to acknowledge that they make mistakes and are uninterested in improving their work.

The situation is even worse when the innocent suspect is “merely” indicted, but not convicted. Here, we can say that the system “worked” on some level by dismissing the case prior to conviction. But we are still left with questions about why the police would arrest an innocent person and why prosecutors would push to indict and begin to pursue a case against someone who did not commit the crime.

I do not begrudge police and prosecutors for making mistakes. That is the natural consequence of any system that is built on human processes and decision making. Planes unfortunately crash; patients occasionally die in surgery; and innocent suspects are sometimes indicted and less often convicted of crimes they did not commit. But, unless the criminal justice system is willing to investigate its errors, we are all in a poor position to prevent those mistakes.

If police and prosecutors were to join forces to analyze erroneous convictions, they would likely learn that the sources of error are multifaceted and interlocking. Rarely is there one mistake that “causes” an erroneous indictment or conviction. Even when an eyewitness identifies the wrong suspect, a prosecution can often be avoided if relevant forensic evidence is properly collected and tested or the suspect is represented by a capable and zealous advocate. Nor does police or prosecution error likely exist in a vacuum. The officer that unintentionally offers feedback to a witness during a show-up was likely trained by a department that is not up to date

on best practices or does not follow up with adequate supervision. The prosecutor who does not appreciate a witness' ulterior motives in lying may lack mentoring from more experienced lawyers who have encountered similar situations in the past.

It is the organizational context of these errors that makes them so ripe for investigation and so promising for correction. Fortunately, we now have Jon Shane's compelling inquiry into organizational failure. In the book that follows, he applies a systems theory of causation to the existence of an erroneous indictment. Distinguishing between latent conditions, organizational factors, and both active and passive failures, Dr. Shane makes a significant contribution to our understanding of how errors occur in the criminal justice system. Rather than weeding out "bad apples" or correcting single policies, his work shows us that efforts are needed at several levels within criminal justice institutions and among multiple categories of professionals to prevent wrongful convictions and mistaken indictments. Is the process of identifying and rectifying mistakes likely to be easy? No. But, as Dr. Shane clearly illustrates, the consequences are too significant to ignore.

Jon B. Gould

Jon Gould is professor and director of the Washington Institute for Public and International Affairs Research at American University, where he also teaches at the Washington College of Law. He has published extensively on erroneous convictions. He is author of *The Innocence Commission: Preventing Wrongful Convictions and Restoring the Criminal Justice System* (NYU Press 2007) and is the lead author of a research project funded by the U.S. National Institute of Justice titled *Predicting Erroneous Convictions: A Social Science Approach to Miscarriages of Justice*.

## **Acknowledgments**

The author thanks Maki Haberfeld, Ph.D., John Jay College for her comments and assistance; James Doyle, J. D. and Jon Gould, Ph.D. for their insight and contribution; Nicky Miller, Ph.D., and Julia Morris, National Policing Improvement Agency (U.K.) for facilitating the research; the participating attorneys who made the case available; and the anonymous reviewers who made this better.

# Contents

<b>1 Introduction</b> .....	1
References .....	4
<b>2 Theoretical Framework</b> .....	7
2.1 Brief Overview .....	7
2.2 Organizational Factors .....	9
2.3 Unsafe Supervision .....	10
2.4 Preconditions for Unsafe Acts .....	11
2.5 Unsafe Acts .....	12
References .....	14
<b>3 Data and Methodology</b> .....	17
3.1 Qualitative Design .....	17
3.2 Quantitative Design .....	19
3.3 Participant Protection .....	26
3.4 Research Questions .....	27
References .....	27
<b>4 Details of the Incident</b> .....	29
<b>5 Show-Up Procedures, Relevant Policy Standards, and Training Standards</b> .....	31
5.1 Show-Up Procedures .....	31
5.2 Relevant Policy Standards .....	32
5.3 Training Standards .....	33
References .....	34
<b>6 Analysis and Findings</b> .....	37
6.1 Organizational Factors .....	37
6.1.1 Policy on Show-Up Procedures was Absent .....	37
6.1.2 Internal and External Pressure for Results Due to Rising Crime .....	41
6.1.3 Unsafe Supervision .....	42

6.2	Preconditions for Unsafe Acts . . . . .	54
6.3	Unsafe Acts . . . . .	56
6.4	The Prevalence of Acts and Omissions and the Failure Points . . . . .	58
6.4.1	Descriptive Analysis . . . . .	58
6.4.2	Inferential Analysis . . . . .	61
	References . . . . .	64
<b>7</b>	<b>Discussion, Policy Implications, Limitations and Directions for Future Research.</b> . . . . .	<b>67</b>
7.1	Discussion . . . . .	67
7.2	Policy Implications . . . . .	70
7.3	Limitations . . . . .	74
7.4	Directions for Future Research . . . . .	75
	References . . . . .	78
<b>8</b>	<b>Conclusion.</b> . . . . .	<b>81</b>
	<b>Afterword.</b> . . . . .	<b>83</b>
	<b>Index</b> . . . . .	<b>87</b>



# Abstract

This study explores an organizational accident that occurred in American policing, but the context and circumstances have direct implications for all rule-of-law societies that practice democratic law enforcement. While the proximate cause of any accident is usually someone’s immediate action or omission, there is often a trail of underlying latent conditions that facilitated the error; the person has, in effect, been unwittingly “set up” for failure by the organization. The study is described in terms of organizational accident theory, which suggests a single unsafe act—in this case a wrongful arrest—is facilitated by several underlying latent conditions that triggered the event and failed to stop the harm once it was set in motion. The analyses show the risk of errors committed by omission were significantly more likely to occur than errors committed by acts of commission and among them, procedural omissions posed the greatest risk. The analysis also reveals proof of concept for the organizational accident model. Policy implications and directions for future research are discussed.

**Keywords** Organizational accident • Learning from error • Eyewitness • Show-up • Near miss • Police • Robbery investigation • Case study • Probable cause • Wrongful arrest