

**WHY LAW ENFORCEMENT
ORGANIZATIONS FAIL**

WHY LAW ENFORCEMENT ORGANIZATIONS FAIL

Mapping the Organizational Fault Lines in Policing

SECOND EDITION

Patrick O'Hara

JOHN JAY COLLEGE OF CRIMINAL JUSTICE
THE CITY UNIVERSITY OF NEW YORK

CAROLINA ACADEMIC PRESS
Durham, North Carolina

Copyright © 2012
Patrick O'Hara
All Rights Reserved

Library of Congress Cataloging-in-Publication Data

O'Hara, Patrick, 1946-

Why law enforcement organizations fail : mapping the organizational fault lines in policing / Patrick O'Hara. -- 2nd ed.

p. cm.

Includes bibliographical references and index.

ISBN 978-1-59460-911-4 (alk. paper)

1. Law enforcement--United States. 2. Police administration--United States. 3. Organizational effectiveness. I. Title.

HV8141.O53 2012

363.2'30973--dc23

2012021332

Carolina Academic Press
700 Kent Street
Durham, NC 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

*To my wife, Kim, and my sons Christopher and Michael.
To my daughter-in-law Kristin, my mother-in-law Lyn
and my grandchildren Hudson, Rowan and Harper.
Nothing is more important than family and the love amongst us.*

Bless you all.

CONTENTS

Preface to the Second Edition	xi
Acknowledgments	xv
Prologue	3
Chapter One • Diagnosing Organizational Dysfunction in Policing	11
Discerning Management Failure	11
Defining Failure	15
The Analysis of Failure: Searching for Suspects	16
Categories of Failure	18
Applying the Categories	21
Going Forward	22
Endnotes	23
Chapter Two • Normal Accidents in Law Enforcement: Making Sense of Things Gone Wrong	25
Normal Accidents	26
Congenital Error in Organization	28
The “At Risk” Law Enforcement Organization	29
<i>Runaway Police Van at the Holiday Parade</i>	30
The Obscure Origins of Normal Accidents	31
<i>The Tragedy of Eleanor Bumpurs</i>	32
Criminal and Organizational Post-Mortems	35
Identifying Normal Accident Characteristics	36
<i>The Death of Amadou Diallo</i>	38
When What We See Isn’t	41
When What We Want Can’t Be	43
<i>Pursuit to the Death in Minnesota</i>	44
High Speed Pursuit of the Normal Accident	45

What <i>Went</i> Wrong versus What <i>Is</i> Wrong	48
Endnotes	50
Chapter Three • Structural Failure in Law Enforcement:	
Design Defects in Organization	53
Basic Structures of Organization	53
The Haphazard Design of Organization	54
Viewing Organizations Realistically	56
Defining Structural Failure	57
<i>Battling Bureaucracies in Boulder</i>	59
Challenging Case, Challenged Agencies	63
Resource Limitations of Smaller Departments	64
Dealing with Hierarchical Dysfunction	66
Understanding Inter-organizational Fracture	70
<i>Terrorist Welcome Wagon at the INS</i>	73
Managing Chronic Task Overload	73
The Burden of Conflicting Mandates	74
The Subordination of Law Enforcement	75
<i>The First 9/11: February 26, 1993</i>	77
Making a Policy Difference in the Organization	84
<i>The Philadelphia Police Assault on MOVE</i>	86
Miscommunication and Crisis	92
The Impact of “Shadow Structure” on Organizations	94
Leading the Structurally Challenged Agency	97
Endnotes	100
Chapter Four • Oversight Failure in Law Enforcement:	
Marginalizing the Guardians	105
The Challenge to Internal Control	105
<i>The Watcher: Internal Affairs and the Case of Michael Dowd</i>	107
When the Structure of Oversight Fails	110
The “Independence” of Internal Affairs	112
<i>The Secret World of David Brame</i>	115
Identification with Offenders	118
Addressing Domestic Abuse by Law Enforcement Officers	120
Zero Tolerance and Measured Administrative Response	121
<i>In Residence at Philadelphia Internal Affairs</i>	123
<i>Social Affairs and Internal Affairs in Baltimore</i>	125
Role Modeling in Internal Affairs	126

' <i>Friends of the Police</i> '— <i>Ticket-Fixing at the NYPD</i>	127
External Oversight of Law Enforcement	130
Finding the Correct Vectors for Oversight	131
Endnotes	132
Chapter Five • Cultural Deviation in Law Enforcement: Closed Worlds	
That Damage Agencies	137
The Power of Culture in Policing	137
The Concept of Cultural Deviation	139
<i>LAPD Blues: The Case of Rampart CRASH</i>	140
Unit Transformations from Supportive to Subversive	143
The Dangers of Cultural Autonomy	145
<i>The Buddy Boys: Brooklyn's Bandits in Blue</i>	147
Concentrating Problem Employees	152
The Power of Obstructionist Cultural Networks	153
Institutional Racism as Management Policy	155
Antidotes: Transparency and Performing with Integrity	157
<i>Sexual Predators in the Pennsylvania State Police</i>	159
Peer Privilege and Cultural Immunity	161
Dealing with Deviant Employees and Enabling Cultures	163
<i>New Orleans: The Perfect Storm</i>	165
<i>Death on the Danziger Bridge</i>	166
Battling Intractable Culture	170
Summary: Leading Means Managing Culture	175
Endnotes	176
Chapter Six • Institutionalization in Law Enforcement:	
Running Agencies for Those Within	181
Introspective, Insulated and Institutionalized	182
<i>The FBI Lab Implodes</i>	186
Mismanaging the Interface of Image and Reality	189
Self-Protection at the Institutionalized Agency	190
The Historical Roots of Institutionalization	193
<i>Profiling on the New Jersey Turnpike</i>	195
Institutionalizing Problematic Practice	198
Agency-Environment Disconnects and Institutionalization	200
<i>Separated at Birth? The CIA and FBI Spies</i>	203
Sheltering Marginal Employees in Institutionalized Organizations	207

<i>The Felonious Judges of Luzerne County</i>	208
Nepotism: Inbred Institutionalization	213
Coda: New York's Family Court	214
Curing Institutionalization	216
Endnotes	219
Chapter Seven • Resource Diversion in Law Enforcement: Exploiting Organizational Systems	223
Creative Expropriations and Compromised Agencies	223
Organizational Commonalities and Legal Nuance	225
<i>Winning the "Disability Lottery"</i>	226
Profiling and Reinforcing Vulnerable Systems	228
<i>Getting a Good Deal on Home Improvements</i>	231
The Expansive Definition of "Mine" in the Executive Suite	232
The Demoralizing Impact of Executive Resource Diversion	234
Justice for Resource Diverting Executives	236
Profiling Risk in the Rising Executive	238
<i>From Police Commissioner to Inmate #84888-054</i>	239
When Loyalty Trumps All	243
<i>The Iron Men and Women of Labor, Law Enforcement Style</i>	246
The Negation of Management by Systems Abuse	248
Organization as Territory	249
Scanning for Systems Anomaly and Abuse	250
The Bottom Line on Resource Diversion	251
Endnotes	252
Epilogue • Managing Imperfection	257
When Organizational Failures Have Multiple Causes	259
<i>The Needless Sacrifices of 9/11</i>	260
Saving Tomorrow's Heroes	262
Coda: From Organizational to Policy Dysfunction	265
<i>Walking with Your Hood up</i>	266
When Public Policy Is a Problem for Policing	267
Endnotes	270
Bibliography	273
Index	279

PREFACE TO THE SECOND EDITION

This book has enjoyed success.

Professors who adopted the book have let me know they consider it a valuable teaching tool.

Emails and surveys from students as far away as Australia have made plain that they get what the book is about and value what it has taught them.

Police agencies have used this book for executive training, a professional recognition that this book captures the realities of police management and organization.

Police officers have communicated with the author praising the book as accurately conveying the world in which they work.

What does everyone like?

The cases: Each is real, most are high profile. Each case is presented with minimal editorial interruption—the analytical bits follow. The cases engage students and readers in general. The analyses provoke thought and discussion and, in the college classroom, allow for other perspectives that students or faculty members choose to inject.

The writing — it is direct, jargon-free and dedicated above all to communicating clearly with the reader, whether it is Professor X, Student Y or Officer Z.

The conceptual clarity—the framework used by this book may not be the periodic table but does provide a way to sort diverse cases of dysfunction into categories that make sense to most readers.

So I haven't changed the book's basic approach.

The cases from the first edition are still here, so are the associated analyses and the overall framework. If you are a faculty member with lesson plans built around the first edition, those lessons will work just fine with this one. Same goes if you are a police trainer who has been using this book.

So what's new?

A new case has been added in each chapter, along with analyses that zero in on issues arising from each new case.

Most of the new cases occurred, or came to a climax, after the first edition went to press.

Bernard Kerik, once NYPD Commissioner and poised to become Homeland Security Secretary in late 2004, sits in federal prison as I write this. His exploitation of public office for his own enrichment makes his a marquee case for the chapter on “Resource Diversion.”

In Hurricane Katrina’s aftermath in 2005, a group of New Orleans police officers gunned down unarmed civilians doing nothing wrong, investigating officers conspired to cover it up, and jeering officers swarmed the halls at the subsequent state murder trial that was aborted by a technicality. The problematic New Orleans police culture revealed in the five years it took to bring the officers to justice in federal court makes this the capstone case in the chapter on “Cultural Deviation.” Documentary material regarding this case, from Frontline and other sources, is available online as a powerful supplement to what’s in this book.

In Luzerne County, Pennsylvania, the two judges who ran the Court of Common Pleas with an iron hand were railroading juvenile defendants to fill a detention facility whose principals were funneling money to the judges even as ground was broken for construction. This went on through early 2009, nearly a decade in all, and was abetted by an organization staffed via patronage and nepotism, run by favoritism and infected with a see/hear/speak no evil mindset. Those familiar with the first edition will recognize this as “Institutionalization” writ large, and that’s the chapter where this case lands.

In 2011, a ticket-fixing scandal engulfed the NYPD after blindsiding Internal Affairs investigators who were looking into allegations about a drug dealing cop when the wiretaps lit up with union delegate officers arranging to “disappear” tickets issued to particular individuals. Despite police union leaders’ unselfconscious claims that this was a widespread “professional courtesy,” more than a dozen officers were indicted, including an Internal Affairs lieutenant accused of tipping off fellow cops. The allegations against the Internal Affairs lieutenant, plus the fact that Internal Affairs needed to stumble over a practice that was supposedly so common, earned this case a place in the “Oversight Failure” chapter.

Two older, but quite high profile and very teachable, cases have also been added.

The case of John O’Neill, who ran national security programs for the FBI right up until 9/11, has been added. O’Neill was the FBI’s brain for all things Al Qaeda but got caught up in headquarters versus field office struggles and other issues that left him marginalized. His case has been added to the “Structural Failure” chapter. This case dovetails with, and adds to, the case in that

chapter concerning border enforcement in the run-up to 9/11. The presence online of a dramatic Frontline documentary about O'Neill, *The Man Who Knew*, also makes this a very teachable case.

The Amadou Diallo case is iconic, memorialized by Bruce Springsteen's *41 Shots*. I chose not to put it in the first edition, but reading Malcolm Gladwell's *Blink* recently caused me to reconsider. *Blink* is about how we misperceive when information is coming at us fast and is very relevant to what happened that night in the Bronx, as Gladwell so well explains in his own analysis of the case. Those familiar with this book's first edition will know that the Eleanor Bumpurs shooting was analyzed in terms of the velocity of the situation and how other actors shaped the misperceptions that police then acted on. The Diallo case, therefore, has been coupled with the Bumpurs case in the "Normal Accident" chapter to further dissect these perception issues and also to illuminate NYPD policy and operational choices that had street crime officers chasing too hard after crime reductions that, mathematically, were becoming more and more elusive.

And, finally, there is Trayvon Martin.

This edition had basically been put to bed when the Martin case broke. But the more I pondered what happened, which at times I did in Florida during the uproar, the more I was convinced the case belonged in this book, even if the publisher had to wait. So, at the very end of this book the Trayvon Martin case has been added as a parting lesson on how public policy, as opposed to organizational dysfunction, can handcuff the police, camouflage crimes and put the public more at risk. My hope is that, in criminal justice programs where this book is used, students will have come from, or will be going on to, courses that deal with criminal justice-related policy. Let this case, so stark and so tragic, be a post-script or an entrée to the reader's understanding that sometimes policy, not policing, is the problem.

So, whether you are a student, a police officer, a professor or just an interested reader, I hope you enjoy this book. And, if you have a mind to, let me know what you think: patohara@jjay.cuny.edu.

Patrick O'Hara

April 2012

ACKNOWLEDGMENTS

No author's labor comes to fruition without the help of many, and this is even truer of scholarly work. I have been blessed to be able to rely on so many friends, colleagues and family members.

Thanks, first and foremost, to my wife, Kim, whom I love for bearing with me as, insane and isolated, I wrapped up this edition. My gratitude also goes to Lyn Kenyon, whose home was my office for this book's final edits.

My friends and colleagues at John Jay College of Criminal Justice have given me unstinting support. This edition was made possible by a sabbatical that was just one way John Jay's President Jeremy Travis and Provost Jane Bowers encouraged my work. And this continues the college's support of my research for this book dating back to 2004, when another sabbatical and a small grant helped me along thanks to President Emeritus Gerald W. Lynch and Dr. Basil Wilson who was then provost.

Professor Maki Haberfeld and Dean Jannette Domingo, my partners in building the NYPD Certificate Program more than a decade ago, have remained go-to sources for testing my thinking about police and community. This book would never have been written were it not for our joint commitment to providing a credit-bearing opportunity for NYPD officers and commanders to engage with the realities of community and organization in a college-centered learning environment.

My thanks go as well to colleagues who helped review what I wrote. A professional eye was cast by retired Paterson, New Jersey, Police Director Michael Walker, long an NYPD Program mainstay as well as a faculty member at Passaic County Community College in New Jersey. The legacy material in this volume owes much to Dr. Harald Otto Schweizer of California State University Fresno, a primary reviewer for the first edition, which he convinced me to write. Eugene O'Donnell of John Jay's Law and Police Science Department shared his expertise on this go-around. Dr. Enzo Sainato, of Loyola University New Orleans, was also a reviewer, as was Caroline McMahan, Adjunct Professor of Public Management at John Jay, a proofreader for the first edition, who did that and more for this one.

I would also like to thank my long-time faculty colleagues at John Jay's Department of Public Management. Marilyn Rubin, my friend who directs John Jay's Master of Public Administration, goads me into writing. Someday I may achieve a reputation in organizational analysis equal to hers in public finance. Ned Benton, the Chair of the Department of Public Management did nothing, and everything. He has insulated our faculty from administrative distractions so well for so long that I have no frame of reference when colleagues at other universities complain about bureaucratic distractions from their teaching and research.

I'll not name every faculty member in my department, but I will thank them all. We are a family, and a pretty happy one at that, which helps all of us get more done. That said, a few specific recognitions are in order.

The feedback years ago of Professors Peter Mameli and Bob Sermier on what was little more than a series of concept papers shaped the book you see today, particularly the case study approach that Bob so champions. Professor Andy Rudyk—attorney, long-time federal executive and Renaissance man—has long been a go-to person for all manner of questions that stump me. Professor Adam Wandt is my guide for cutting edge online instruction and the creation of web-based supplements for this book. Lisa Rodriguez, our departmental administrator as well as an adjunct lecturer, always has my back.

And everyone should have a friend and colleague like Dr. Judy-Lynne Peters. She also reviewed this volume, but her support goes far beyond that. She is always there to keep me honest, to tolerate my lunacy, and to catch my mistakes. I appreciate her more than she could ever know.

I also owe a debt to former colleagues now elsewhere, retired or, sadly, passed on, as is the case with Dr. Lotte Feinberg, who helped shape my thinking for this book back in 2004. Dr. Lydia Segal, now at Suffolk University, influenced my thinking when she was on faculty at John Jay and her book, *Battling Corruption in America's Public Schools*, was ahead of its time in identifying the critical fault lines in public education that are now such a policy focus.

Professors Jae Kim, Ellen Rosen and Flora Rothman, all now retired from my department, were major influences on what you are about to read. Dr. Kim, the MPA Program's organization and management expert when I arrived at John Jay, was always incisive, especially with his comparative skills. Ellen Rosen's legacy to me was the "Bureaupathology" course that is very much a foundation for this book. She remains, in her eighties, a person I hope to keep up with. Flora Rothman, when she retired last year, gave me yet more books about backfiring public policies and imploding public organizations. Those gifts shaped this edition much as her thinking helped shape the first.

Sharon Tanenhaus, a friend and confidante since my program director days at John Jay, is always ready with her support, even from faraway Florida. John Jay Professor Bob Fox, who recently retired but will not so easily escape being my friend, is always there for me whether the issue is academic—he knows more about stress in policing than I could ever learn—or personal. I am grateful to Bob and Sharon for everything.

I also must thank two individuals I count on for mental exercise: Fannette Druz Kaiser, my progressive friend who rages at folly, and Bill Fraher, who does the same, but more conservatively. Fannette has been politically active forever, and time hasn't dulled her edge. Bill Fraher, Police Chief (acting, as I write) of Paterson, New Jersey, regularly sends me organizational dysfunction articles, on higher education even! He is also a colleague, combining his political science graduate degree with full-spectrum law enforcement experience to teach organizational leadership to NYPD Program officers.

Jacob Marini, Director of Sponsored Programs at John Jay, provided critical support for the first edition of this book, as well as kind, supportive words for my work always. If his oft-threatened retirement ever happens, I owe him a game of golf.

Publisher Keith Sipe was kind enough to buy into the idea for this book years ago, and leads a Carolina Academic Press team that sold enough copies to warrant a second edition. Beth Hall, Tim Colton and Karen Clayton have also put up with me in the rush to deadline, and I also thank everyone else at the press for doing the heavy lifting to get this in print.

Finally, I am indebted to all the police officers and commanders who have sat in my classes educating me about policing. What I have learned from them has made this book immeasurably better.

And to anyone I forget, please forgive, for I owe you as much as anyone else.