SUPREME COURT OF THE UNITED STATES

No. 93–1660

ARIZONA, PETITIONER *v.* ISAAC EVANS

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ARIZONA

[March 1, 1995]

JUSTICE O'CONNOR, with whom JUSTICE SOUTER and JUSTICE BREYER join, concurring.

The evidence in this case strongly suggests that it was a court employee's departure from established record-keeping procedures that caused the record of respondent's arrest warrant to remain in the computer system after the warrant had been quashed. Prudently, then, the Court limits itself to the question whether a court employee's departure from such established procedures is the kind of error to which the exclusionary rule should apply. The Court holds that it is not such an error, and I agree with that conclusion and join the Court's opinion. The Court's holding reaffirms that the exclusionary rule imposes significant costs on society's law enforcement interests and thus should apply only where its deterrence purposes are "most efficaciously served," *ante,* at 8.

In limiting itself to that single question, however, the Court does not hold that the court employee's mistake in this case was necessarily the *only* error that may have occurred and to which the exclusionary rule might apply. While the police were innocent of the court employee's mistake, they may or may not have acted reasonably in their reliance *on the recordkeeping system itself.* Surely it would *not* be reasonable for the police to rely, say, on a recordkeeping system, their own or some other agency's, that has no mechanism to ensure its accuracy over time and that routinely leads to false arrests, even years after the probable cause for any such arrest has ceased to exist (if it ever existed).

This is saying nothing new. We have said the same with respect to other information sources police use, informants being an obvious example. In *Illinois* v. *Gates,* 462 U. S. 213 (1983), the Court indicated that where an informant provides information about certain criminal activities but does not specify the basis for his knowledge, a finding of probable cause based on that information will not be upheld unless the informant is "known for [his] unusual reliability." *Id.,* at 233, citing *United States* v. *Sellers,* 483 F. 2d 37, 40, n.1 (CA5 1973) (involving informant who had provided accurate information "in more than one hundred instances in matters of investigation"); see generally 1 W. LaFave, Search and Seizure §3.3(b) (2d ed. 1987 and Supp. 1995). Certainly the reliability of recordkeeping systems deserves no *less* scrutiny than that of informants. Of course, the comparison to informants may be instructive the opposite way as well. So long as an informant's reliability does pass constitutional muster, a finding of probable cause may not be defeated by an after-the-fact showing that the information the informant provided was mistaken. See 2 *id.* §3.5(d), at 21, n. 73 (citation omitted); see also 1 *id.* §3.2(d), at 575 ("It is axiomatic that hindsight may not be employed in determining whether a prior arrest or search was made upon probable cause").

In recent years, we have witnessed the advent of powerful, computer-based recordkeeping systems that facilitate arrests in ways that have never before been possible. The police, of course, are entitled to enjoy the substantial advantages this technology confers. They may not, however, rely on it blindly. With the benefits
of more efficient law enforcement mechanisms comes the burden of corresponding constitutional responsibilities.