

# The Exclusionary Rule and the Fourth Amendment

**OVERVIEW:** The U.S. Constitution provides no remedies for violation of the Fourth Amendment's restrictions on unreasonable searches and seizures. Thus, state and federal courts crafted remedies, which attempt to ensure that the Fourth Amendment and its state analogs do not wither under police and judicial neglect. Beginning in 1949 (*Weeks v. United States*), the Supreme Court provided that illegally obtained evidence cannot be used against a defendant in court. In the landmark case of *Mapp v. Ohio (1961)*, the exclusionary rule was made applicable to the states.

## ARGUMENTS- PRO

- (a) Deterrence argument -- Police will have no motive to conduct the search if they know they can't use what they find.
- (b) Other remedies have completely failed to secure compliance with the constitutional provisions on the part of law enforcement.
- (c) To not exclude makes the court a participant in lawless activity. Compromise the integrity of the judicial system.

## ARGUMENTS- CON

- (a) Objective of rules of evidence is to allow court to find the truth and to secure a fair trial for the accused. Evidence seized in unlawful search is ordinarily as true and reliable as that seized properly.
- (b) The exclusionary rule does not protect the D from an illegal search and seizure since it has already happened. Thus, only Ds who will benefit from rule are criminals.
- (c) Excluding evidence does not punish officer.
- (d) No hard evidence that the exclusionary rule prevents unreasonable searches and seizures.

## EXCEPTIONS TO THE EXCLUSIONARY RULE

**Good Faith Exception** - The exclusionary rule does not mandate suppression of illegally seized evidence obtained pursuant to a constitutionally defective warrant, so long as the police officer acted in objective good faith reliance upon the warrant issued by a neutral and detached magistrate.

- Ex. Police have a specific house under surveillance for criminal activity, obtain a warrant but the address on the warrant is incorrect. The courts have allowed this obtained evidence.

**Independent Source and Inevitable Discovery** - The exclusionary rule does not apply to evidence obtained after an improper search or seizure if the government also learned of the evidence through an independent source.

- Ex: if the police illegally seize the gun but another cop also knew where the gun was and would have come across the gun regardless of whether the illegal activity/search went on, the gun can be submitted.