

# Should the exclusionary rule be abolished analysis essay



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According to the Encyclopedia Britannica's article entitled, Exclusionary Rule (2008), exclusionary rule is that principle in United States law that provides that "evidence seized by police in violation of the Fourth Amendment to the United States Constitution may not be used against a criminal defendant at trial". It is, according to the article The Exclusionary Rule (n. d. ) "a judge-made rule, adopted by the courts to stop the police from conducting illegal searches and seizures". The Fourth Amendment of the Constitution affords the citizens the protection against unreasonable searches and seizures.

This protection extends even to the accused or a defendant in a criminal case. One way to promote this right is through the exclusionary rule. Under the Exclusionary rule, evidence obtained illegally by law enforcement officers should be considered inadmissible in court founded under the Fourth Amendment provisions. With the safeguard that the exclusionary rule provides, I think that it should not be abolished but should instead remain as one of the more important pillars of the criminal justice system.

One of the essential justifications for the exclusionary rule is the phrase "fruit of a poisonous tree" under criminal procedure. Under this principle evidenced seized illegally are inadmissible in court. This is very important because the rights of the accused are protected by the constitution as much as the rights of the victim are. To allow the recognition of illegally seized evidence in court is to allow ad to provide law enforcement officers an excuse for their improper administration of justice and to disregard specific criminal procedures set by law.

This will give them the opportunity to abuse the authority conferred upon them by virtue of their position, in dealing with suspects. Moreover, it should also be noted that the law also provides for other instances by which evidence may be legally seized even without a warrant, which only means that if law enforcement would want to, they would always find a way to stay with the established rules in handling evidence and an accused.

It is never denied that even with the rights of the accused provisions or the Miranda doctrines, various violations of the rights of the accused have been reported; thus to take away the shield being provided by the exclusionary rule will even more expose the accused to more abuses and the disregard of their rights. In fact, as it is provided by Lynch (1999), “ history shows that, where courts do not employ the exclusionary rule, the problem of police lawlessness gets worse”. For example, Lynch (1999) observed that in Ohio specifically, when the exclusionary rule was not in effect, the “ police force rarely applied the search warrants”.

Thus, in this aspect, the exclusionary rule also helps police officers so that they may be guided and motivated to act according to established criminal procedure principles. The concept of exclusionary rule should be upheld because it may be illogical how law enforcement officers cannot seized evidence through legally recognized procedures. The exclusionary rule does not only protect the rights of the accused but also the integrity of the criminal justice system by ensuring that rules are upheld to the strictest sense.

As it is a common principle in criminal law, laws should be interpreted in its strictest sense in favor of the accused. According to Lynch (1999), the exclusionary rule can be justified under the concept of separation of powers. Under the law, the government is composed of interdependent entities: the executive department, the Legislature and the Judiciary. With the principle of separation of powers, these branches of the government enjoy the right to deal with its affairs without necessarily being hampered by the other.

However along with the concept of separation of powers is the principle of checks and balances that allows each department to check on the functions of the other departments to ensure that they are according to law. These concepts are pertinent in criminal procedure. According to Lynch (1999), when law enforcement officers, members of the executive branch disregards the terms of the warrants or attempts to bypass the warrant-issuing processes altogether, the judiciary can respond by checking misbehavior, as much as it can.

The court should not allow that its functions and reputation be tainted by transgressions of people coming from other departments. Accordingly, Lynch (1999) also provided that the best time to check on this behavior is when the executive branch through the prosecutor attempts to introduce the illegally seized evidence in the courts of law. “ Because the exclusionary rule helps the judiciary to uphold its integrity of its warrant-issuing process it is an inestimable weapon against executive branch transgressions” (Lynch, 1999). Under the law, a person is presumed innocent until proven guilty.

In this regard, an accused should be afforded the full protection of law including the protection against abusive law enforcement officers. The exclusionary rule should not be abolished because to do so would only mean the degradation of the criminal justice system. Besides, even without the exclusionary, if the evidence against an accused is strong, conviction can be sustained with or without the illegally seized evidence. What is important is that the criminal procedure is carried out to the full extent of the law that fully observes the rights of everyone involved, most importantly of the accused.