

# Sample essay on criminal procedure

[Law](#), [Evidence](#)



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The exclusionary rule, which forbids the use of illegal obtained evidence in trial, has always been a controversial element of the American criminal justice system. Although it is not considered an individual right, the Supreme Court has held that it is a useful tool to deter against the violation of a person's constitutional rights.

In fact, one of the fundamental reasons that the Supreme Court, in *Mapp v. Ohio*, made for the use of the exclusionary rule was the benefit they saw in deterring police from violating the Fourth Amendments rights of the people against unreasonable searches and seizure. Under this theory, police officers would think twice before initiating an illegal investigation or submitting illegally obtained evidence for fear that it would be found inadmissible at trial.

Another benefit of the exclusionary rule would be increasing police professionalism and decreasing police error by forcing police to learn of and apply legal investigatory procedures in the investigation of criminal activities. While this might require more time and effort than say, paying an informant to testify against a suspect, it benefits society by creating a more effective, trustworthy and believable police force that respects the Constitution.

A third and perhaps most important benefit of the exclusionary rule is that it would help free defendants that are innocent by deterring police from using illegal obtained evidence against easy targets rather than performing a proper and legal investigation against a harder but more likely guilty suspect.

On the cost side of the equation, the exclusionary rule degrades the effectiveness of police investigatory capabilities. Under this theory, police investigations, which normally require speed and surprise would be hampered by the requirement that before an investigation is begun, all the legal implications would first need to be considered giving criminal valuable time to escape or destroy evidence

A second cost of the exclusionary rule is that it would lead to less effective police investigations as police miss key opportunities to catch criminals. The result being less successful criminal prosecutions which in turn encourages criminals to increase the illegal activity since they will have less fear of being caught or if caught less fear of actually going to jail. In essence, the exclusionary rule would destroy and deterrence value that police forces hold in stopping crime.

A final and most important cost of the exclusionary rule is that its application may result in the freeing of guilty and dangerous defendants into society and perhaps giving them the further chance to commit crimes or exact retribution on those that sought to put them in jail.

Where there is a clear case of police misconduct, such as in the torture of a defendant to give a confession, there is little doubt about the effectiveness of the exclusionary rule. The larger question of its effectiveness focuses on how judges interpret and apply the rule to cases where a violation of the rule is not so clear. Additionally, since the 1960's, the Supreme Court has issued a line of cases that have increasingly limited the scope of the exclusionary rule. In *United States v. Leon*, for example, the Court found that evidence obtained from an illegal search warrant was still admissible in court if the

police officer had a “ good faith” belief the warrant was valid. Similarly, in Herring v. United States, the Court held that evidence obtained subject to a “ mistakenly identified arrest warrant” by police was admissible at trial as long as the police officer’s error was not deliberate.

## **References**

Herring v. United States, 555 U. S. (2009). Retrieved on April 20, 2014, from <http://www.law.cornell.edu/supct/html/07-513.ZO.html>

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