

Exclusionary rule evaluation

Law



Exclusionary Rule Exclusionary rule is controversial at some point as it could be substantially explained in detail based on the issue about crime control and due process models. In this paper, the proponent tries to include the rationale and the purpose of Exclusionary Rule, including its costs and benefits and alternative remedies. The proponent's stand on this issue is also included. Keywords: Exclusionary rule, searches, seizures Rationale and purpose of Exclusionary Rule Exclusionary Rule prevents the use of gathered evidences that are illegally seized in the law enforcement because of not observing the right of suspect to be free from unreasonable searches and seizures which is subject of the Fourth Amendment (Del Carmen, 2009, p. 92). However, any violation of the suspect's rights especially in the process or procedure of gathering evidences may still invalidate the information to be used in the court, but they could not be suppressed under Exclusionary Rule. The purpose therefore of the Exclusionary Rule is to implement the due process model from the perspective of the perpetrator, suspect or the culprit. This is also a way to protect an individual to obtain certain rights especially on giving a fair process or procedure in gathering of evidences. Exclusionary Rule is therefore an integral component of the due process model. Under this rule, there is a need for giving equal treatment on protecting the innocent in the same way as employing punishment of the guilty (Braswell, McCarthy & McCarthy, 2011, p. 81). Employing punishment of the guilty is certainly under the scope of Exclusionary Rule as the suspect's rights are especially highlighted most importantly on unreasonable searches and seizures. In other words, under Exclusionary Rule, the crime control model is significantly hindered at some point due to substantial slowing down in the rapid response to identify, apprehend, convict and

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punish perpetrator, which should suppose to be maximized in this model (Braswell, McCarthy & McCarthy, 2011). Costs and benefits One potential cost of Exclusionary Rule is the release of countless guilty criminals (Neubauer, 2008, p. 265). This is due to the fact that the guilty will be given ample amount of time to cover potential evidences as they have to be informed beforehand prior to actual searches and seizures. Furthermore, this would also lead to potential freeing of the guilty defendant during actual prosecutorial trials (Neubauer, 2008, p. 265). In other words, Neubauer is simply pointing out that Exclusionary Rule creates a marginal effect on the criminal court system. The Exclusionary Rule seeks to protect the constitution. However, it cannot be denied that there are law enforcement personnel who would want to achieve closure of criminal cases no matter what it costs (Chambliss, 2011). By virtue of the Exclusionary Rule, every citizen is given fair procedural undertakings in the criminal procedure.

Alternative remedies Suit for damages and administrative sanctions are considered significant alternative remedies for arbitrary searches. All of these would ensure that the law enforcement officers would be properly enlightened with the fair procedures in their search and seizure operations. As a result, the individual in questioned would be substantially given with the opportunity to be investigated under a sound constitutional procedure without being harassed by law enforcement officers who want to achieve rapid case closure at any cost.

Analysis As for me, Exclusionary Rule should be eradicated because I believe there is substantial number of guilty defendants who could easily escape their obligation with the law due to their ability to wash away evidences, just prior to retrieving them by the law enforcement officers. In fact, it is clearly stated that a substantial number of

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guilty criminals or offenders were released from any liabilities due to the presence of Exclusionary Rule (Neubauer, 2008). This means that at some point, this procedure is a bit an advantage to all the guilty law-breakers or offenders as they would be able to create their own version of evidences just prior to the actual search and seizure of the law enforcers. This would mean culprits will have significant reasons to manipulate their reasoning for the sake of trying to escape their law obligation. They also have the opportunity to justify their actions that would end up maximizing the advantage of Exclusionary Rule. Conclusion Exclusionary Rule has significant basis in its implementation and this could be highly aligned with the due process model. In the same way, it minimizes the negative impacts of crime control model especially on rapid case closure and unjustifiable attempts of some law enforcers. However, the rule is also a mitigating factor especially in cases where there is a need for rapid response to identify, apprehend, convict and punish perpetrator. The rule will significantly give an ample opportunity for the said perpetrator to clean some evidences and secure a strong point of view of maximizing their chance in case acquittal. References Braswell, M. C., McCarthy, B. R., & McCarthy, B. J. (2011). *Justice, Crime, and Ethics* (7th ed.). Burlington, MA: Elsevier. Chambliss, W. J. (2011). *Courts, Law and Justice*. Washington, DC: SAGE. Del Carmen, R. V. (2009). *Criminal Procedure: Law and Practice* (8th ed.). Belmont, CA: Cengage Learning. Neubauer, D. W. (2008). *America's courts and the criminal justice system* (9th ed.). Belmont, CA: Cengage Learning.