

# Exclusionary rule evaluation essay examples

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## **Law**

The Fourth Amendment guarantees the right of every person to be free from unreasonable searches and seizures, but it does not specifically provide a remedy in the event that a constitutional violation shall take place.

According to Samaha (2011), no person shall have a constitutional right in exclusionary rule or defense of entrapment. The judge established a doctrine called the “ exclusionary rule” which provides that any evidence that was obtained during the search or seizure that violated the defendant’s constitutional rights shall not be allowed to be introduced by the prosecution for purpose of presenting as evidence to prove the guilt of the defendant.

The exclusionary rule is merely a device which was crafted by the US Supreme Court to enforce constitutional rights but it does not stand alone as a right itself. On the other hand, the defense of entrapment is a right which is based on federal or states statutes and court decisions (Samaha, 2011).

In the 1980s, the Supreme Court has limited the scope of exclusionary rule into three exceptions: independent source exception, good faith exception and inevitably discovery rule. Under the independent source exception, the court shall allow the admission of evidence by wholly independent means, without violating the provisions of the constitution. Under the good faith exception, it established the principle that evidence may be used in criminal trial even though the search warrant that was used to obtain it was technically flawed, provided that the police acted in good faith when they applied for a search warrant from a judge (Siegel, 2009, p. 345). The good faith exception was established in the case of U. S. v. Leon, where the court ruled that as long as the police relied on good-faith belief that a warrant has

been validly issued by the judge on the basis of sufficient probable cause, such evidence that obtained pursuant to the warrant shall be considered admissible in court. The rationale of the court in allowing the exclusionary rule is to prevent police misconduct and not to penalize the judges for errors, who remained neutral and have no personal interest in outcome of the case. The exclusionary rule is not established to “deter an impartial and reasonable law enforcement activity” (Siegel, 2009). However, there are four exceptions to good faith rule which are: 1) dishonest affiant; 2) non-neutral and non-impartial; 3) bare bones affidavit; 4) apparent deficiency of warrant.

The third exception to the exclusionary rule is the inevitably discovery rule. This rule states that any evidence that is obtained under an unlawful search and seizure will only be admissible in court after it has established before the court that the police investigation is expected to lead to the discovery to an extremely high degree of probability (Siegel, 2009, p. 345). Here, the police shall not be required to prove that there was absence of bad faith. However, the government must be able to establish that the use of an independent, lawful investigative procedure was unavoidable; and that such procedure is expected to happen and will have led to the discovery of the same evidence which was discovered on the basis of the Constitutional violation.

Those individuals whose rights have been violated under the Fourth Amendment such as illegal arrest and invasion of privacy can file an action for based on statutory and common law. The police officers who may have violated the rights under the Constitution shall be liable for damages and remedies enumerated as part of the civil rights statute.

According to Cameron and Lustiger (1994), from the standpoint of the judiciary, the exclusionary rule may fail due to lack of proportionality. The exclusionary rule enforces costs on the taxpayers by giving freedom to the guilty defendant and at the same diverts the courts from the discovering the truth and results to the damage on the moral fabric of the law (Cameron and Lustiger, 1994). There will be professional financial costs or burden to the public in the administration of the criminal justice system due to the rigidity of the rule. Hence, the police officers, lawyers and judges engage to permit the distortion of evidence and to disregard the violations made under the law in order to suppress the evidence (Cameron and Lustiger, 1994). In effect the administrative costs during the trial proceedings shall be for the account of the taxpayer, which may entail extension of trial time in the event that such case will be appealed to the appellate court. Therefore, it will be the duty of the courts to adopt a balancing approach in order to deter the petition of the rule in the event that it will appear the costs of invoking the exclusionary rule will only outdo the benefits of society. As part of the balancing approach, it the duty of the courts to issue sound decisions in the application of the rule to be able to restore rationality in this specific area of the law (Cameron and Lustiger, 1994).

## References

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