

Course Learning Outcomes for Unit II

Upon completion of this unit, students should be able to:

4. Explain the exclusionary rule in association with criminal procedures.
 - 4.1 Explain the origin of the exclusionary rule.
 - 4.2 Explain the origin of the Miranda rule.
 - 4.3 Discuss limits of the exclusionary rule.

Course/Unit Learning Outcomes	Learning Activity
4.1	Unit Lesson Chapter 9 Chapter 10 Unit II Assessment
4.2	Unit Lesson Chapter 9 Chapter 10 Unit II Assessment
4.3	Unit Lesson Chapter 9 Chapter 10 Video: <i>Ronald Reagan on the Exclusionary Rule, ca. 1976</i> Unit II Assessment

Required Unit Resources

Chapter 9: The Exclusionary Rule

Chapter 10: Where the Exclusionary Rule Does Not Apply

In order to access the following resource, click the link below.

The WPA Film Library. (2012). [Ronald Reagan on the exclusionary rule, ca. 1976 \[Video file\]](https://libraryresources.columbiasouthern.edu/login?auth=CAS&url=https://fod.infobase.com/PortalPIaylists.aspx?wID=273866&xtid=46871). Retrieved from <https://libraryresources.columbiasouthern.edu/login?auth=CAS&url=https://fod.infobase.com/PortalPIaylists.aspx?wID=273866&xtid=46871>

The transcript for this video can be found by clicking on “Transcript” in the gray bar at the top of the video in the Films on Demand database.

Unit Lesson

The Exclusionary Rule

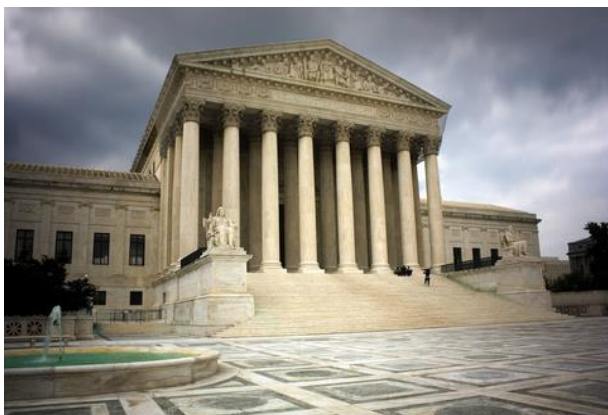
From a historical perspective, the *exclusionary rule* was a creation of the U.S. Supreme Court. Ironically, for most of our history, there were no exclusionary rules at the state and federal levels. The exclusionary rule is another rule that governs the ways in which criminal evidence is admitted to a criminal trial. Watch the [video *Ronald Reagan on the Exclusionary Rule, ca. 1976*](https://libraryresources.columbiasouthern.edu/login?auth=CAS&url=https://fod.infobase.com/PortalPIaylists.aspx?wID=273866&xtid=46871), which explains the exclusionary rule.

The exclusionary rule prohibits the admission of illegally obtained evidence in a criminal trial (Gardner & Anderson, 2016). Similar to the hearsay rule, the exclusionary rule also has exceptions. The fruit of the poisonous tree doctrine expands this exclusion of illegally obtained evidence.

Fruit of the Poisonous Tree

A progeny of the exclusionary rule is referred to as *fruit of the poisonous tree*. This is where evidence that was obtained indirectly is a violation of an individual's constitutional rights. As such, any evidence obtained directly or indirectly from a constitutional violation must be excluded. First, even if unconstitutional police conduct leads to the discovery of evidence, the independent source exception may apply. The police must show that they also got to the evidence by an independent source that did not include a violation of rights. If the government can show that it would undoubtedly have obtained the evidence later through means independent of any constitutional violation, the evidence does not have to be excluded. This is the inevitable discovery exception.

Key Cases in the Exclusionary Rule



The U.S. Supreme Court has ruled on the exclusionary rule at the state and federal levels. (Webdata, n.d.)

federal levels. After the *Mapp v. Ohio* ruling, some states removed their exclusionary rules. It should be noted that both SCOTUS and the state courts have demonstrated a reluctance to apply the fruit of the poisonous tree doctrine in *Miranda* violation cases (Price, 2010).

The cases described below were litigated in the Supreme Court of the United States (SCOTUS) and are key cases in referencing the exclusionary rule.

Weeks v. United States: SCOTUS ruled in a unanimous decision that the exclusionary rule become mandatory in all federal courts. Subsequently, police, while acting under the color of law, seized evidence without a warrant, which violated the Fourth Amendment protection against a search and seizure. People have a right to secure their persons, houses, papers, and effects. This became known as the first application of the exclusionary rule (Wilson, 2019).

Mapp v. Ohio: SCOTUS ruled in 1961 that the exclusionary rule become mandatory in all state courts. Many states within the union are covered by two sets of exclusionary rules. This entails both the state and

Exclusionary Rule Applies Only in a Criminal Case

In *Wong Sun v. United States*, police unlawfully arrested the defendant; however, a couple of days after being released on bail, the defendant returned to the police and made incriminating statements (Gardner & Anderson, 2016). Therefore, the subsequent information provided in the incriminating statements was admissible because it was not directly related to the initial unlawful arrests. The inevitable discovery doctrine also voids the fruit of the poisonous tree doctrine in instances in which the unlawfully obtained evidence would have been discovered inevitably. That is to say that even if the police had not illegally obtained evidence, then it would have been obtained eventually in a legal manner. There is also the *silver platter doctrine* under which evidence that is illegally obtained by state officers can be handed over to federal officers and used for prosecution of offenses in a federal court (Gardner & Anderson, 2016). Ultimately, the purpose of the exclusionary rule is to deter police officers from ignoring the U.S. Constitution when attempting to conduct a criminal investigation, collect related evidence, or use evidence in a criminal trial. It is important to understand that not every officer who violates an aspect of the U.S. Constitution does so intentionally; therefore, there is a good-faith exception to the exclusionary rule that allows evidence that has been obtained in "good faith" to be admitted in court. If an officer obtained information with a warrant that he or she believed was valid, even if the officer discovered that the warrant was invalid, then the obtained information may be admissible in court. We should also note that if the evidence was excluded from a criminal trial because it violated the Fourth Amendment rights of the accused, then it might be used to impeach the testimony of the accused (Wilson, 2019).

Types of Evidence That Cannot be Suppressed

There are types of evidence that cannot be suppressed in a court of law. Examples of these types of evidence are listed below:

- abandoned real estate,
- throwaway,
- denial of ownership,
- trash or garbage,
- abandoned motor vehicles,
- open fields, and
- honest mistakes.

There are four basic reasons why the exclusionary rule would not apply. First, if there is no violation of a constitutional rule, there is no wrong to remedy. For instance, if there has been no Fourth Amendment violation, there is no need to consider the exclusionary rule. Second, there are exceptions to the exclusionary rule. Here, there has been a constitutional violation, but for policy reasons, the U.S. Supreme Court has decided not to apply the exclusionary rule. An example would be the good-faith exception. Third, the defendant may not have *standing* (a legal right) to raise the issue. Finally, by consent or waiver, the person could give up his or her rights and, thus, be left without a remedy, such as the exclusionary rule (McGlynn, 2017). The exclusionary rule only applies in criminal cases before the courts. Civil matters are excluded and do not apply.

Good-Faith Doctrine

There are rare circumstances where the Fourth Amendment does not apply to intrusions by the government. If the investigating police or agents are acting reasonably, the social cost of the loss of relevant and reliable evidence outweighs the deterrent effect of excluding the evidence (McGlynn, 2017). Additionally, it does not apply in civil cases, grand jury proceedings, or probation and parole revocation hearings. In *United States v. Leon*, the U.S. Supreme Court refused to suppress evidence obtained pursuant to a valid search warrant because a magistrate issued the warrant and a reasonable police officer could believe the warrant was valid.

There are other circumstances where the exclusionary rule does not apply. The court ruled in *United States v. Drayton* that consent was given voluntarily and that there was proof that consent was obtained from a person with actual or apparent authority. Secondly, the person giving consent may limit the area to be searched or may revoke the consent at any time. Only in urgent circumstances does consent not apply. In instances of extreme circumstances, timeliness for a warrant does not apply.

References

- Gardner, T. J., & Anderson, T. M. (2016). *Criminal evidence: Principles and cases* (9th ed.). Boston, MA: Cengage Learning.
- McGlynn, M. (2017). Competing exclusionary rules in multistate investigations: Resolving conflicts of state search-and-seizure law. *Yale Law Journal*, 127(2), 406–463. Retrieved from <https://libraryresources.columbiasouthern.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=bsu&AN=126538120&site=eds-live&scope=site>
- Price, P. J. (2010). Mapp v. Ohio revisited a law clerk's diary. *Journal of Supreme Court History*, 35(1), 54–70. Retrieved from <https://doi-org.libraryresources.columbiasouthern.edu/10.1111/j.1540-5818.2010.01230.x>
- Webdata. (n.d.). *ID 10422271* [Photograph]. Retrieved from <https://www.dreamstime.com/stock-image-u-s-supreme-court-image10422271>

Wilson, R. L. (2019). Weeks v. United States. *Salem Press Encyclopedia*. Retrieved from <https://libraryresources.columbiasouthern.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=ers&AN=95330497&site=eds-live&scope=site>

Suggested Unit Resources

In order to access the following resource, click the link below.

The following article discusses admissibility of evidence at trial. This article discusses the exclusion of improperly obtained evidence.

Daly, Y. M. (2011). [Judicial oversight of policing: Investigations, evidence and the exclusionary rule](#). *Crime, Law and Social Change*, 55(2–3), 199–215. Retrieved from <https://libraryresources.columbiasouthern.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=tsh&AN=59764269&site=ehost-live&scope=site>