Term Paper

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Abstract

This paper discusses the Exclusionary Rule and its role as it pertains to the admissibility of evidence. The effectiveness and losses due to Exclusionary law have been topic of debate for long. The paper also highlights the legal exemptions of the law.

Term Paper

The exclusionary rule declares the evidence collected from unlawful means inadmissible to the court. Detention or arrest can be made on the basis of this evidence.

# History

           The law deters the government to use any evidence which is gathered while violating the constitution of the United State. During the decision of Mapp v. Ohio, it was determined that rule of exclusion is applied to evidence which is obtained from an unjust search or seizure which violates the Fourth Amendment of the Constitution. According to the Fourth Amendment, unreasonable searches and seizures by law enforcement organization or officer cannot be conducted. If search and seizure are without a warrant and does not meet the condition of warrant exception, it is unjustified. However, the rights given by the Fourth Amendment do not assure exclusion to all kind of search and seizure. It is only effective for that evidence which is held unreasonable according to the law (Hall, 1982).

In Miranda v. Arizona case decision, it was instituted that the exclusionary rule is applicable to inappropriately caused self-incriminatory testimonies congregated in breach of the Fifth Amendment, and also to the evidence obtained in circumstances in which the government dishonored the Sixth Amendment right to counsel of the defendant. According to the Fifth Amendment*,*Protection of Rights to Life, Liberty, and Property, one cannot be detainedfor a crime unless the indictment is proper and according to law. The Sixth Amendment of the Constitution provides the rights to a public trial without unnecessary delay criminal defendant, right to knowledge of nature of crime, evidence and accusers, right to a lawyer and unbiased jury.

Although the exclusionary law is not applicable to the civil cases which deportation hearings.

****Role of Exclusionary Law****

The exclusionary rule is used by the American Courts to prevent law enforcement officers from abusing the rights of citizens as provided by the Constitution. The exclusionary law states that the court will not admit any evidence which is obtained through any lawful conduct, generally the illegal search and seizure. The evidence will be suppressed which means that it will be excluded and remain ineffective in the subsequent trial of the defendant. If the evidence in question is the only evidence and is suppressed by the court, the prosecution has only option to terminate charges against the defendant. The exclusionary law is not a conventional constitutional law, but a court generated a solution to oppression by law enforcement.

The main principle of the law is to discourage unlawful conduct of searches or seizures

which violate the Fourth Amendment and to offer a solution to defendants whose constitutional rights have been disregarded.

If any piece of new evidence is derived or found through the evidence which has to be excluded, the secondary evidence, called ‘’fruit of the poisonous tree” is also excluded given that it was not possible to discover it without prior evidence obtained through illegal means.

It is observed that in some cases which involve crucial social costs while the exclusion of evidence, on the other hand, it also includes some constitutional benefits as well. Those who criticize the rule only focus on the objective that whether it discipline the police or not. Though, they do not understand that the rule of exclusion not only deters the police but also serves numerous vital constitutional purposes (Goodpaster, 1982).

It is a reasonable argument that the efforts of law enforcement bodies to grasp the criminal and bring justice should not be wasted by suppressing evidence, particularly for major victim crimes (Loewenthal, 1980). The court must critically analyze the nature of crime and value of evidence gathered for implementation of exclusionary law.

****Exemptions****

Tangible evidence is one of the significant exceptions to the rule and if the prosecution argues that the evidence would have surfaced anyhow, the evidence is admissible to the court. The tangible evidence including the stolen object or drugs is admissible, even if the statement of the defendant is not admissible to the court.

Another exception is a statement which is obtained while violation of Miranda Rules. The statement can be used to question the credibility of the defendant as a witness if it is inconsistent with the trial statements. There can also be a probability that the witness revealed during the violation of Miranda Rules, can testify in the Court.

Moreover, if the police officer doubts a dangerous situation, the officer can interrogate the suspects about the weapon without the issuance of Marinda Warnings. In addition to it, if a statement is attained through violation of Miranda will be admissible to the court.

**Conclusion**

In the last five decades, the scope of exclusionary law has narrowed down. Often conservatives argue the existence and application of this rule as it is not written in the constitution and only based on amendments. They are of the view that the law does not stop the police from the misconduct, and instead, it dismisses the delinquents from legal charges. According to them, this law hinders criminal justice system in the provision of justice (Lynch, 1998).

Previously, the rule was strictly implemented and considered a vital part of the constitution. However, now the Supreme court has clearly refused to consider it, stating that it is created by courts merely to deter the law enforcement bodies from future violations. On the basis of this understanding, the law is now applicable to the cases in which the value of exclusion is more than the loss of the evidence (Cammack, 2010). For declining the reassessment of exclusionary law, the Supreme Courts might take progressive steps through the better interpretation of the Fourth Amendment. This could lead to the establishment of more feasible and practical law enforcement ethics (Loewenthal, 1980).

References

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