

Topic:
The Exclusionary Rule

Time:
2 hours

**Historical
Period:**

Core:
US I 6120 - 0602
US II 6250 - 0102
Gov. 6210 - 0201

Objectives: Students will:

1. Identify the constitutional amendment(s) that apply to the case.
2. List arguments both for and against the “allowability” of the evidence.
3. Work with others and try to reach consensus within their groups.
4. Form an opinion of the Exclusionary Rule and be able to list reasons for their opinions.

Procedure:

1. Discuss the Fourth, Fifth, Sixth and Fourteenth Amendments. Ask students if the Exclusionary Rule is found anywhere in the Constitution. Explain that the rule is not in the Constitution, but that it was a rule of law that was decided by the U. S. Supreme Court. Explain that the rule not only excludes illegally seized evidence during searches, it excludes illegally seized evidence from illegal questioning of suspects and the “fruits of the poisonous tree” as well. Students should understand the concept of suppressed evidence. Students should understand that some of these cases were closely split by the courts. Students should know that the suppression of evidence does not necessarily mean that the defendant goes free. It only means that the evidence cannot be used in the courtroom. The defendant can still be brought to trial using other evidence that was legally seized.
2. Students should break up into groups of three or five. They should place their name at the top of the Case Study Handout along with the names of their fellow judges.
3. Student should review the 4th, 5th, 6th and 14th Amendments to the Constitution. They should read each case and list the constitutional amendment(s) that might apply and a short reason why that amendment applies. Students should list points both for and against applying the Exclusionary Rule in each case.
4. Groups should attempt to reach consensus as to whether the evidence should be allowed or suppressed. Consensus is not required. Each Case Study sheet should explain the majority and dissenting opinions along with reasons for the majority and dissenting votes.

Handouts/Worksheets:

1. Handout 1: Case Studies 1-6
2. Handout 2: Student Opinion

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Procedure continued

5. After completing the cases, students are to give their own *opinion* of the Exclusionary Rule. This should be their individual opinion, not the opinion of their group. Student should list some alternatives that could be considered other than the practice of excluding all illegally seized evidence.
6. There should be a follow-up classroom activity that gives students the actual Supreme Court decision in each case, the year it was decided and the vote. It should be emphasized that their answer is not wrong if they disagree with the Supreme Court. Their *opinion* is different. Another follow-up classroom activity could include the theory that perhaps some guilty people must be set free in order for our country to preserve constitutional values.

Teacher Options

The teacher may want to give different cases to different groups, one at a time. This way, each group would be working on a different case. As groups finish each case, the teacher could quickly review the assignment and give out the next case to that group.

HANDOUT 1

CASE STUDY 1: *ROCHIN v. CALIFORNIA*

Justices:

Los Angeles Deputies had information that Anthony Rochin was selling narcotics. Three deputies entered the Rochin home through an open door without a warrant. The deputies forced open his bedroom door and observed what appeared to be drugs on the table next to his bed. Anthony grabbed two pills off the table and swallowed them. The deputies forcefully tried to open his mouth in an attempt to recover the pills. Rochin was then taken to a local hospital where his stomach was pumped against his will. Rochin vomited two capsules of morphine (a narcotic), which police intend to use at his trial.

1. What constitutional amendment(s) might apply to this case and why?
2. List reasons why the evidence should be allowed.
3. List reasons why the evidence should be disallowed.
4. The **Majority Opinion** of this court states that (List what your group has decided and give the reasons along with specific references to the Constitution.)
5. If you do not all agree, then there is a **Dissenting Opinion**. The Dissenting Opinion of this court states (List reasons why one or more of the judges disagree with the majority of the court along with specific references to the Constitution.)

CASE STUDY 3:
BROWN v. STATE OF MISSISSIPPI

Justices:

Deputies arrested Ed Brown and Henry Shields and took the two of them to the county jail. They were told to take their clothes off and lie down on chairs. The deputies whipped the two accused with leather straps that had buckles attached. The buckles cut into their backs causing severe pain and bleeding. The defendants were told that they must confess to the crime of murder. They were told exactly what they were to say. If they did not confess, they were told the whipping would continue until they confessed. The defendants confessed in every detail as instructed by the deputies. The confessions are to be used at the upcoming murder trial.

1. What constitutional amendment(s) might apply to this case and why?

2. List reasons why the evidence should be allowed.

3. List reasons why the evidence should be disallowed.

4. The *Majority Opinion* of this court states that (List what your group has decided and give the reasons along with specific references to the Constitution.)

5. If you do not all agree, then there is a *Dissenting Opinion*. The Dissenting Opinion of this court states (List reasons why one or more of the judges disagree with the majority of the court along with specific references to the Constitution.)

CASE STUDY 4:
MIRANDA v. ARIZONA

Justices:

Ernesto Miranda was arrested and questioned by police officers regarding the rape of an Arizona woman. Miranda was not told that he did not have to answer the police officers' questions, nor was he told that he had a right to speak with an attorney. After two hours of questioning by police officers, Ernesto Miranda confessed to the rape. Police officers intend to use the confession at his trial.

1. What constitutional amendment(s) might apply to this case and why?

2. List reasons why the evidence should be allowed.

3. List reasons why the evidence should be disallowed.

4. The *Majority Opinion* of this court states that (List what your group has decided and give the reasons along with specific references to the Constitution.)

5. If you do not all agree, then there is a *Dissenting Opinion*. The Dissenting Opinion of this court states (List reasons why one or more of the judges disagree with the majority of the court along with specific references to the Constitution.)

ANSWER KEY CASE STUDIES

***Rochin v. California*, 342 U.S. 165 (1952)**

The Court ruled that the morphine should have been excluded from evidence because the methods used by the police to obtain it violated due process of law. Justice Frankfurter said in the majority opinion: “*This is conduct that shocks the conscience . . . this course of proceeding by agents of government to obtain evidence is bound to offend even hardened sensibilities. They are methods too close to the rack and the screw to permit constitutional differentiation.*”

***Brewer v. Williams*, 430 U.S. 387 (1977)**

The Court ruled that the Sixth and Fourteenth Amendments to the Constitution prohibited the use of a confession that is obtained by police officers deliberately eliciting incriminating information from a defendant in the absence of counsel after a formal charge against a defendant has been filed.

***Brown v. State of Mississippi*, 297 U.S. 278 (1936)**

This is the first Fourteenth Amendment due process confession case. It is based on the principle that confessions must be voluntary and free of influences which would make them untrustworthy or untrue. In this case, the Court ruled that the physical violence was an influence that made the confessions untrustworthy.

***Miranda v. Arizona*, 384 U.S. 436 (1966)**

The Court ruled that police violated Miranda’s Fifth Amendment Constitutional rights. They failed to inform him of his right to remain silent, that anything he would say could be used against him, and that he had a right to counsel before the police could question him. This case established the **Miranda Warning** which police now use prior to interrogation of persons who have been arrested.

***Mapp v. Ohio*, 367 U.S. 643 (1961)**

The Court ruled that evidence which is obtained without the consent of the owner, without a valid search warrant, and with intimidation by the police, is not admissible in a trial. The Court reaffirmed the principle that the “*home is your castle*” and overturned Mapp’s conviction.

***Minnesota v. Murphy*, 465 U.S. 419 (1984)**

The Court ruled that Murphy’s constitutional rights were not violated because, although he did confess to the crime without being told of his right to keep silent or his right to counsel, he was not being held in custody for purposes of receiving the Miranda warning; he was free to leave, and he was free to keep silent. The Court stated that it is the individual’s obligation to assert his or her Fifth Amendment right and that unless the individual is being held in custody, evidence obtained is admissible.

