



# LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

## *MAPP V. OHIO* (1961)

MONDAY, OCTOBER 23, 2006

### OVERVIEW

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The rule that evidence seized in violation of the Fourth Amendment may not be used at trial, which many Americans are familiar with from television crime shows, has its origins in the landmark Supreme Court case *Mapp v. Ohio* (1961). In this case, the Court held that states must abide by the “exclusionary rule” – a sometimes-controversial means of ensuring justice.

### RESOURCES

- <http://www.oyez.org/oyez/resource/case/223/>
- <http://utopia.utexas.edu/explore/clark/mapp.html>
- [http://www.providence.edu/polisci/students/exclusionary\\_rule/home.htm](http://www.providence.edu/polisci/students/exclusionary_rule/home.htm)

### ACTIVITY

The police pushed open the door of Dollree Mapp’s home, despite her protests. They believed a bombing suspect was hiding in her home. She demanded to see their search warrant, and they waved a piece of paper at her, claiming it was a warrant. It was not. Police did not find the suspect they were looking for. They did, however, find sexually explicit books and photographs. Mapp was charged with violating Ohio state law prohibiting “lewd, lascivious, or obscene material.” She was convicted and sentenced to one to seven years in prison.

Mapp appealed her conviction. She based her claim on First Amendment grounds, saying that she had a right to possess the materials. When the case reached the Supreme Court, however, it did not address her First Amendment claim and instead threw out her conviction on other grounds, saying that the evidence against her should never have been used because it was seized without a warrant—in violation of the Fourth Amendment. This is called the exclusionary rule.

The exclusionary rule already applied to federal cases. In *Mapp*, the Court held that the exclusionary rule was an “essential part” of the Fourth Amendment, and that the Fourteenth Amendment’s Due Process Clause, which says that “No state shall...deprive any person of life, liberty, or property, without due process of law,” meant that the federal exclusionary rule now applied to the states. “Since the Fourth Amendment’s right of privacy has been declared enforceable against the States through the Due Process Clause of the Fourteenth, it is enforceable against them by the same sanction of exclusion as is used against the Federal Government.”

The exclusionary rule is controversial. Critics argue that if the police act improperly they should face punishment, but evidence should not be excluded. On the other hand, the Court reasoned, “The criminal goes free, if he must, but it is the law that sets him free. Nothing can destroy a government more quickly than failure to observe its own laws, or worse, disregard the charter of its own existence.”

### QUESTIONS

1. Why did Dollree Mapp claim a search of her home violated her rights?
2. How did the Supreme Court rule in her case?
3. What is the exclusionary rule? Do you think it is an essential means of ensuring justice?
4. To what was the Court referring to as “the charter of its [the government’s] own existence?”
5. In his dissent, Justice Harlan raised concerns of federalism. He criticized the majority for ignoring the First Amendment issues Mapp had raised and instead “reaching out” to “impose upon the states this federal remedy.” Do you agree with Justice Harlan? Why or why not?



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### ANSWERS

1. The police searched her home without a warrant.
2. The Court ruled that evidence against her could not be used because it was obtained without a warrant and therefore in violation of the Fourth and Fourteenth Amendments. In ruling this way, the Court applied the federal exclusionary rule to the states through the doctrine of incorporation.
3. The exclusionary rule holds that evidence seized in violation of the Fourth Amendment may not be used against the accused at trial. Some students will say that this rule is the essence of justice. It ensures checks and balances in government before someone's home and papers can be searched by forcing the police—agents of the executive branch—to get a warrant from a court—the judicial branch—in order to perform a search. Allowing illegally seized evidence to be used at trial would be like giving police permission to search wherever and whenever they wanted. Others will say that the exclusionary rule goes too far by excluding the evidence obtained. The police should face stiff punishment for violating citizens' rights, but excluding any evidence obtained hinders justice by sometimes allowing criminals to go free. Everyone then pays the price for the police's misconduct.
4. The Constitution
5. Answers will vary. Some students will argue that the exclusionary rule is so fundamental to the Fourth Amendment and to justice in government that the federal remedy imposed on states was justified. Others will say that the exclusionary rule is something states are free to abide by under their own constitutions and criminal laws, and that nothing in the Constitution forces states to adhere to it. Still others may say that the Court should have considered the First Amendment issues as well as the Fourth and Fourteenth Amendment issues raised by the case.