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When it comes to education, should we separate church and state?

By Emily Tyler, Freshman, Biology

The teaching of Creationism or Intelligent Design in public schools is out of the question. Creationism and evolution do not belong in the same classroom, as they answer completely different questions concerning human existence. Evolution looks at human existence from a scientific perspective, while Creationism looks at it from a religious perspective. The debate between the teaching of evolution and creationism seems to be ongoing ever since the publication of Darwin's *Origin of Species* in 1859. With Darwin's discovery, some members of the Christian faith fought back by reiterating their idea of how humans came to exist. Proponents of Creationism or Intelligent Design claim their theory should be taught alongside evolution in the classroom, if evolution should be taught at all. In some areas of the country, laws were passed to remove evolution from education. These laws have all raised eyebrows in the scientific community and they have been challenged in the Supreme Court, making it a constitutional matter.

Evolution is a scientific theory concluding that all life on earth today is the product of a common ancestral group of organisms that has changed by natural selection over billions of years due to living in different environments. The theory of evolution, as Darwin and Alfred Russel Wallace understood it, holds that "all *species* – all distinct, identifiable types of organisms – are connected by common ancestry." Natural selection is "the process by which individuals with certain heritable traits tend to produce more surviving offspring than do individuals without those traits, often leading to a change in the genetic makeup of the population." Since Darwin and Wallace's discovery, the scientific community has continued to modify and test the theory of evolution making it into what it is today.

On the opposite spectrum, Creationism, which is also referred to as Intelligent Design or "creation science," is based on the *Book of Genesis* and concludes that God created all living things on earth exactly as they are today, including plants, fish, birds, terrestrial animals and humans using His own design. In addition, it claims that when God created humans He gave them a soul. According to Intelligent Design, the existence

of human life and all other living things is the result of supernatural forces. In 1802, the Rev. William Paley published an argument for human existence as a result of a superior being who was the creator and designer. After the theory of evolution arose in 1859 and eventually made its way into American classrooms, authors supporting the design theory modified their argument in the 1990s so it could be taught in public schools alongside evolution. Instead of referring to God as the sole creator of human existence they simply referred to an intelligent designer. Further, they renamed the theory Intelligent Design rather than Creationism.

Is Creationism a theory of science? Creationism or Intelligent Design is not a part of the scientific world; it is based upon religious beliefs. While it may be a theory, it is not a scientific theory. A scientific theory is not the same as a common language theory, which is the same as a guess. A scientific theory derives from the scientific method, which includes performing experiments and collecting data, making detailed observations about processes or objects as they occur in nature or in an experiment, analyzing data and observations, and formulating hypotheses based on data and observations. Further experiments are performed and more data is collected until a law (relationship between phenomena under the same conditions) is made. Finally, a scientific theory is developed. It must be testable and falsifiable.

Intelligent Design is neither testable nor falsifiable, whereas the theory of evolution is both. Evolution has been put to the test many times and has been modified since its beginnings with Charles Darwin. Evolution is also widely recognized among the scientific community because of the vast amount of evidence that has been tested and retested to support it. The only evidence for "creation science" is the *Book of Genesis* or the *Bible*, which is a religious book. Its evidence cannot be tested or observed in nature. Because Creationism focuses on the supernatural causes of human existence, which are not recognized in science and scientific theory, Intelligent Design belongs in the church or in the home, not in the science classroom.

Because evolution is a scientific theory, it most certainly should be included in the science curriculum. Without evolution major aspects of biology would not be understood. The concepts discussed within the sphere of biology are all interconnected. If a large chunk of the puzzle is removed, the picture becomes muddled. For example, the key to major discoveries in biomedicine have been the concepts of evolution, which provides evidence on how diseases mutate and survive treatments. Evolution seeks to answer questions about human existence that improve the understanding of science, while Creationism works to answer questions about human existence that are beyond the ability of science. This means that evolution and Creationism can coexist in society, but not in the science classroom.

Supporters of Intelligent Design misunderstand the vital contribution evolution has to the world of science. Some communities have tried to pass laws regarding the teaching of evolution, but the Supreme Court has overturned them. The so-called Scopes Monkey trial, perhaps the most well-known case, started when Tennessee passed a state law banning the teaching of evolution. John Scopes, a biology teacher in a Dayton,

Tennessee, high school, was prosecuted in 1925 for including evolution in his curriculum. Scopes was fined \$100, and the law remained in place until *Epperson v. Arkansas* was decided by the Supreme Court.

Epperson v. Arkansas (1968) arose when Susan Epperson, a tenth grade biology teacher at Central High School in Little Rock, Arkansas, found herself in a bind when the school system required her to teach a textbook chapter on evolution in violation of an Arkansas statute banning the teaching of evolution. The Supreme Court unanimously held that “the law must be stricken because of its conflict with the constitutional prohibition of state laws respecting an establishment of religion or prohibiting the free exercise thereof. The overriding fact is that Arkansas’ law selects from the body of knowledge a particular segment which it proscribes for the sole reason that it is deemed to conflict with a particular religious doctrine; that is with a particular religious interpretation of the Book of Genesis by a particular religious group.”

Almost twenty years later, *Edwards v. Aguillard* challenged a Louisiana statute called the Creationism Act, which required that if either evolution or Creationism was taught in primary and secondary public schools, the other had to be taught as well. The Supreme Court held that “the Act is facially invalid as violative of the Establishment Clause of the First Amendment, because it lacks a clear secular purpose.”

A majority of justices on the Supreme Court have always agreed that Creationism has its place somewhere other than public education due to its strong religious basis. But laws banning the teaching of evolution and laws insisting the teaching of Intelligent Design in public schools violate the Establishment Clause of the First Amendment of the United States Constitution. When it comes to education, church and states should not be mixed. Intelligent Design is part of the church and does not belong in science education. Just as evolution is never taught in a church, so Intelligent Design should never be taught in science education.

Antonin Scalia: A Necessary Evil *By Jennifer Ryan, Senior, Deaf Studies*

In elementary school, children learn about the Constitution and how it is a “living document.” They are taught that the Necessary and Proper Clause lets the government do what is “necessary and proper” at the time to protect American citizens. No one ever tells children that there is another way to look at the Constitution: the Doctrine of Original Understanding. Justice Antonin Scalia is a strong advocate for this doctrine. In his book, *A Matter of Interpretation*, Scalia explains, “by trying to make the Constitution do everything that needs doing from age to age, we shall have caused it to do nothing at all.” Scalia discusses how the current process for changing laws seems to be different than it was in the past. He cites the way women got the right to vote by going through the amendment process rather than going through the court system. In essence, Scalia’s view is that the Court needs to look at what the Constitution actually says, not what people wish it said.

A great example of Scalia's interpretive approach can be seen in the case of *Atkins v. Virginia*. In this case, a mentally retarded man robbed, kidnapped, and with eight bullets shot to death another man. He was sentenced to die, and the case was appealed to the Supreme Court on the grounds that his sentence violated the Eighth Amendment's prohibition against cruel and unusual punishment. The Court reversed the lower court's sentence and agreed that it was cruel and unusual punishment to execute a mentally retarded person. Scalia dissented, stating that the Court's decision found, "no support in the text or history of the Eighth Amendment." He explained different requirements that are now involved in death penalty cases and said that "none of those requirements existed when the Eighth Amendment was adopted, and some of them were not even supported by current moral consensus." Scalia's own words in his opinion here show that he favors leaving matters up to the democratic process, whether by passing law or amending the Constitution. He does not believe that it is the job or place of the Supreme Court to make laws or to change them.

It is, therefore, the role of the legislative branch, and ultimately the people to decide most matters. As he argued in his book, Scalia's opinion is that matters like this one must go through the democratic process. If people want the right to die, they need to get a Constitutional Amendment passed that gives them that right, just like women got one passed to give them the right to vote. This point is supported in Scalia's opinion in *Sosa v. Alvarez-Machain* as well: "We Americans have a method for making the laws that are over us. We elect representatives to two Houses of Congress, each of which must enact the new law and present it for the approval of a President, whom we also elect. For over two decades now, unelected federal judges have been usurping this lawmaking power. . . . This Court seems incapable of admitting that some matters—any matters—are none of its business."

Another case that explains my reasoning that Scalia is a necessary evil is *Wabunsee County v. Umbehr*. The background of the case involves Keen A. Umbehr, a county contractor who spoke out against the government. Umbehr was fired and sued because he said his speech was protected under the First Amendment. The Court ruled in his favor, with Justices Scalia and Thomas dissenting. The dissent, written by Scalia, describes the Court's outlook on the Constitution as "fickle." He says that "the Court must be living in another world. Day by day, case by case, it is busy designing a Constitution for a country I do not recognize." While I disagree with Scalia's opinion in this case, I think the powerful language he uses gets right to the heart of his view on the role of the Court. Scalia believes that the Court is changing the Constitution with every decision they make, when that is really the job of Congress, the President and ultimately the people of the United States.

Overall, I tend to disagree with Scalia though he is more conservative than I. However, I would not want Scalia off the Court. I actually wish that we had more justices who had a similar interpretive approach to his. In thinking about cases involving privacy and abortion, I found myself thinking like Scalia and asking, "Where is the right to an abortion in the Constitution?" I am very uncomfortable with unelected justices "discovering" the right to privacy in the Constitution; what else can they "discover" that

will have an impact on our lives as Americans? I think that Scalia's approach to interpreting the Constitution and deciding the cases before him is necessary to have on the Court because he can act almost as an internal check on and bring balance to the institution. While I do agree with critics that Scalia can go overboard sometimes, and that he can be somewhat outrageous in what he writes in his opinions, no other justice on the Court is willing to stand up and say, "No, this is wrong. It's not in the Constitution."

To ensure that the Court sees all sides of an issue, I think it needs to have justices who believe that the Constitution as a living document and those who believe that we should look to its original meaning. If we do not have justices who view the Constitution in both ways, we are simply not seeing all sides of the issue the Court is deciding. Therefore, whether I agree with Scalia's style of writing, or his sometimes aggressive language, I think he is a necessary evil on the Court. If it was your case, your life, in front of the Supreme Court, wouldn't you want to know that all sides and views were being discussed by those nine justices? If so, then you need someone like Scalia on the Supreme Court.

The Right to Keep and Bear Arms

By Michael Doody, Freshman, Environmental Science and Studies

The Second Amendment to United States Constitution asserts that "a well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed." It is easy to overlook. After all, it does follow perhaps the single most important amendment of the twenty seven. The First Amendment protects rights like freedom of expression and religion, while the Second simply protects the right of Americans to possess firearms. However, with gun violence and subsequent controls and bans ever-present in our society, the amendment is no longer standing in the shadows, and has become the cause of much debate. But to understand why the Second Amendment has become so controversial, one must first understand it in its entirety.

The Second Amendment was ratified in 1791 as part of the Bill of Rights. Like most of those ten amendments, it has its roots in English common law and the English Bill of Rights. The Supreme Court has ruled on matters concerning the amendment in cases such as *United States v. Cruikshank*, *Presser v. Illinois*, *Miller v. Texas*, and *United States v. Miller*. However, the last of these cases was decided in 1939, and the issue has been absent from the Court ever since.

The main source of controversy surrounding the Second Amendment is whether the right is a collective or individual one. Proponents of the collective right theory believe that it was written with the intention of ensuring the people that they could defend the state, if the need arose. Their argument is based off the first clause of the amendment, which refers to the need for a well-regulated militia. They also cite English common law, which regulated the possession and use of firearms as early as 1328. Accordingly, collective right theorists believe gun control and bans to be fully constitutional.

In an age where the need for the raising of a militia of neighborhood fathers and sons seems almost ludicrous, the collective right theory simply does not apply to modern American society. This should not render the amendment useless however. Those who advocate the individual right theory argue that the amendment can be divided into two parts. On one hand, the first clause asserts the need for keeping a well-regulated militia; this is simply an amplifying clause without much substance. On the other hand, the amendment declares the right to be an individual one by referring to the right of the people. Like their opponents, they reference the laws of England to bolster their argument. They cite the English Bill of Rights, which declares the "Freedom for Protestants to bear arms for their own defence."

Recently, in *District of Columbia v. Heller*, the Court heard arguments over the District's Firearms Control Regulations Act of 1975 (FCRA). This act effectively banned almost all handguns and prohibited other long-barreled weapons such as shotguns and rifles from being loaded or even assembled from being kept in the home. Dick Heller, a D.C. special policeman, challenged the law after he was denied a permit to keep a gun at home. By a vote of five to four, with Justice Kennedy providing the key fifth vote, the Supreme Court ruled in June of last year that the FCRA was unconstitutional.

Writing for the Court, Justice Scalia held that "the Second Amendment is naturally divided into two parts: its prefatory clause and its operative clause. The former does limit the latter grammatically, but rather announces a purpose. The Amendment could be rephrased, 'Because a well regulated Militia is necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.'" He clearly subscribed to the individual right theory, asserting that the amendment is intended to protect the right of an individual to possess a firearm. By finding that the FCRA violated the Second Amendment, the Court declared that the amendment protected individual rights. This is not to say that all legislation regulating, restricting, or banning the use of firearms is unconstitutional, but only that legislators' must now reflect the Founding Fathers' intentions and their constituents' desires.

The *Heller* decision has now opened the doors for cases concerning the incorporation of the Second Amendment. Perhaps the most notable of these is *Nordyke v. King*, a case currently before the United States Court of Appeals for the Ninth Circuit. The case originated as an attack on an Alameda County, Calif., ban of all gun shows, but it has since morphed into a question of whether the Second Amendment can be enforced on the state and local level. The federal district court ruled in favor of the county, holding that the amendment does not apply to actions taken by state or local government. However, in light of the *Heller* decision, Nordyke seems poised to take his case to the Supreme Court, where a favorable ruling would certainly be attainable, given the ideological distribution of the current justices.

Assuming that the case eventually reaches the Supreme Court, it may be safely predicted that the Court would vote as it did in *Heller* along ideological lines with Justice Kennedy again providing the crucial fifth vote. Should this occur, the decision would

ultimately provide each state with the same guidelines to regulate gun ownership as laid out in *Heller*.

Because the Supreme Court is not a politically isolated institution, its decisions are likely to change over time as the overall ideology of the Court changes. With the Court in relative ideological balance, any change in its composition could result in a catastrophic shift in either direction. With a Democratic president in office, the Court would likely only become more liberal. This may open the possibility of a reversal of *Heller*, as well as a different outcome in the *Nordyke* case. The future meaning of the Second Amendment, in any event, is in the hands of the judicial process, and its fate will not be sealed with a single decision by Court, but by a series of decisions over an extended period of time.

Scared Stiff: The United States, Torture, and Guantanamo

By Elliot Glotfelty, Sophomore, Medicinal Chemistry

Since the opening of Guantanamo Bay in Cuba, many suspected terrorists have filed into cells to live a life of confinement for years at a time. In their 2007 article in the *New York Times*, "Guantanamo by the Numbers," David Bowker and David Kaye stated that only 53 percent of the detainees "are known to have committed 'hostile acts' against the United States or coalition forces before detention." This leaves the status of 47 percent of other detainees to be unknown. The question that undoubtedly crosses the minds of many around the world concerns the amount of innocent people who are or have been held in Guantanamo Bay.

With the enactment of the Military Commissions Act of 2006 (MCA), the Bush administration stripped away many avenues for detainees in Guantanamo to actively pursue *habeas corpus* hearings to determine why the United States was holding them. In 2008, the Supreme Court decided the case of *Boumediene v. Bush*, challenging the MCA's constitutionality under the Fifth Amendment's guarantee to the right of due process. The United States has gone way too far in pursuing innocent people as terror suspects. The policies of former President George W. Bush concerning the "War on Terror" promoted torture, discrimination, and unconstitutional detainment without trial.

It is very easy to immediately jump to the conclusion that some provisions of the MCA of 2006 are unconstitutional. The right to *habeas corpus* is a protected right included in the Fifth Amendment. However, Article I, Section 9 of the constitution states that "the Privilege of the Writ of Habeas Corpus shall not be suspended unless when in Cases of Rebellion or Invasion the public safety may require it." Known as the Suspension Clause, these words form the seemingly legitimate grounds for which the MCA of 2006 was signed into law.

The Supreme Court thought differently and ended up overturning part of the MCA in the *Boumediene* case by a narrow five to four vote. Justice Kennedy, who wrote the opinion of the court, concluded that certain procedural restrictions of *habeas corpus* are acceptable. However, complete removal of the right is unreasonable. According to

Kennedy, the MCA of 2006 did not provide a suitable alternative to *habeas corpus*. Also included in the argument is a point about separation of powers as they apply to the court and the President. Kennedy declared that the President should not be allowed to pick and choose where law can be applied: "To hold that the political branches may switch the Constitution on or off at would lead to a regime in which they, not this Court, say 'what the law is.'" In a concurrence, Justice Souter pointed out that many detainees had been held for six years or more.

When analyzing the constitution, it is very important that each word is carefully put into context. With respect to *habeas corpus*, the Fifth Amendment states that no "person [shall] . . . be deprived of life, liberty, or property, without due process of law." There is not necessarily a line drawn for people, such as those detainees held in Guantanamo, who have not been found guilty of anything. The fact that the constitution says "any person" gives the impression that those who are in U.S. custody should have access to the right. The Suspension Clause of Article I mentioned above is ground for denying *habeas corpus* to those who are known to have committed crimes against the United States; however, the many detainees in Guantanamo whose guilt has not been determined, should be eligible for a trial. Holding somebody indefinitely is not a way to eradicate terrorism.

A great deal of controversy regarding Guantanamo and other United States military prisons surrounds allegations of torture and abuse of prisoners. There are many problems with torture as a means of acquiring evidence and confessions. Although the United States has repeatedly made claims that it has not violated the Geneva Conventions and the United Nations Convention Against Torture, there is mounting evidence that this is not the case. One type of interrogation method called "waterboarding" has been employed in U.S. military prisons as a "non-torture" technique. Christopher Hitchens, a writer for *Vanity Fair* magazine who actively supported the Bush war on terror, volunteered to undergo the controversial interrogation method. After lasting barely thirty seconds of the process, Hitchens stopped the waterboarding. In his *Vanity Fair* article "Believe Me, It's Torture," he concluded that "if waterboarding does not constitute torture, then there is no such thing as torture."

Hitchens makes the point that people who undergo torture are going to be apt to give up "junk information" just to stop the process from continuing. This is a very logical argument against torture and is definitely proven to have occurred. Maher Arar was tortured for over eighteen hours, and when asked whether or not he received military training in Afghanistan, he falsely confessed just to stop the beatings. Although Arar was not waterboarded, he was interrogated brutally by U.S. officials. If waterboarding is not condemned as torture, the U.S. will begin sliding down a slippery slope into using even more brutal techniques.

Although the Eighth Amendment protects against cruel and unusual punishment, the United States Supreme Court still has not taken up any cases regarding interrogation methods in Guantanamo Bay. Most of the "cruel and unusual punishment" cases involve the death penalty. Perhaps the connotation of the amendment allows for interpretation.

The word *punishment* carries with it the definitions of retribution or pay back. In order for somebody to be punished, they *must* have done something wrong in order to deserve that punishment. In cases of torture, there is nothing a person is being punished for. The purpose of the torture is to get information or a confession. It is in no way a form of "payback," a case where punishment could be deemed warranted. Following this line of thought, it is very easy to see where the constitution can be seen as murky. Is torture punishment? No. Is it cruel? Yes. Perhaps the framers should have explicitly stated cruel and unusual "treatment" alongside of punishment in the writing of the Eighth Amendment.

The United States, and more than likely other countries around the world, have dismissed for at least a decade international laws regarding torture. The Bush administration took the stance that international laws were non-binding. There is really nothing that can be done to the United States for the ways it has acted regarding treatment of prisoners. The allegations and proof of torture seem to give the U.S. nothing more than a sore thumb in the eyes of the world. Yes, torture is looked down upon, yet *nothing* can necessarily be done to stop it.

Until the advent of the Obama administration, torture had not been justified nor refuted on constitutional grounds. There is way too much room for error in interrogating prisoners with torture. Many innocent people could be victims of these atrocities, as has been demonstrated numerous times in the past. Perhaps a Supreme Court case will arise that confronts torture head on. Although the Suspension Clause does allow for suspending *habeas corpus*, it does not allow for the mistreatment of possibly innocent individuals.

The Fifth Amendment may be the only glimmer of hope in confronting this controversial issue. Denial of life, liberty, or property is not warranted without due process of law. Can the U.S. deny to people life and liberty without proving guilt? The answer is no. Until the court takes on torture, there will be no definitive stance on the issue. On the bright side of things, Osama bin Laden's driver, Salim Hamdan, became the first Guantanamo prisoner to face a trial for war crimes. This happened nearly seven years after prisoners began trickling into the base. It's about time.

Computer Related Crimes: The Impact on the Youngest of Society

By Emily F. Belanger, Junior, Business Administration

Technological advances are being developed every moment in our society. From the classroom to Apple headquarters and even in a few parents' basements, professional programmers, developers and even your average Joe are taking part in a technological revolution. While the technical advances can and should ultimately help society, is there a cost for this revolution? As the use of the computer, telecommunications and the Internet as a means of sending inappropriate material is on an alarming rise, I will investigate a recent New Jersey case where a fourteen-year old girl was prosecuted for child pornography after posting nearly thirty nude pictures of herself on MySpace.

Through identifying what a computer related crime is, how minors are using social networking sites as a tool to transmit explicit pictures and how authorities and the law are responding to the outcry, I will shed light on this alarming online trend.

Many people who aren't familiar with the Internet and the computer might think that computers cannot be used to commit a crime. However, as a gun is used to a murder, a computer is used by some people to commit crimes; it becomes a weapon. The U.S. Department of Justice defines computer crime as "any illegal act for which knowledge of computer technology is essential either for its perpetration, investigation, or prosecution." A computer crime generally refers to any criminal activity when a computer or network is the source, tool, target, or place of a crime. A prime example of this is child pornography.

In Trenton, New Jersey, a fourteen-year old girl was recently arrested and charged with possession of child pornography and distribution of child pornography, after posting thirty "very explicit" photographs of herself on her MySpace page. If the minor is convicted of these charges, she would have to register as a sex offender with the state and could face seventeen years in jail, though such a sentence is unlikely. Child pornography, sadly, has been around for decades, but prosecutors are focusing on a new trend as they pursue cases resulting from kids sending nude photos to each other through email and social networking sites like MySpace.

The New Jersey case is believed to be the first child pornography case resulting from a teen's posting to a social networking site. Seth Kreimer, a law professor at the University of Pennsylvania, noted, "I'm not sure I've seen a prosecution like this coming out of a social networking site."

Meantime, several federal and state regulations are in place to protect minors from being harmed by exposure to child pornography online. These regulations also attempt to eliminate child pornography online, which could be significant in this case. The Child Pornography Protection Act (CPPA) prohibits and criminalizes the use of computer technology to knowingly produce child pornography depicting real children as well as "virtual" children. The Child Online Protection Act (COPA) extended a provision in the CPPA to include online transmission by service providers and e-commerce site providers.

In New Jersey, Megan's Law requires authorities to make public the names of sex offenders who reside or move within the state. Maureen Kanka, a supporter of Megan's Law and the mother of Megan the laws namesake, notes that "the teen needs help, not legal trouble," when asked about the recent New Jersey case.

Yes, the Internet is a tool, but with all tools, the end result is highly dependent on the user and what we do with the Internet in our daily lives. The technological revolution is already here – the price of the advances comes in the form of computer-related crimes and society's inability to recognize the abuses before it is too late. We must educate all users including minors of the dangers both physically, mentally, and criminally that could result from their *seemingly* innocent postings on social networking sites and their

transmissions through electronic mail. The New Jersey case may be the first child pornography case resulting from a teen's posting to a social networking site, but it certainly will not be the last.

The Exclusionary Rule Revisited

By Kristine Deprey, Sophomore, Business Administration

The Fourth Amendment to the United States constitution explicitly states the right to secure a person's belongings against unreasonable searches and seizures. Without the proper warrants, police and prosecutors may be unable to gather sufficient evidence to convict a defendant of his or her alleged crime. The exclusionary rule makes evidence collected or analyzed in violation of the defendant's constitutional rights inadmissible in a court of law. It is designed to deter prosecutors and police from obtaining evidence illegally, but its use is sometimes too drastic. The rule may lead to the freeing of guilty parties and it may infringe on Fourth Amendment rights provided in the constitution. Although useful in some cases, it should never be relied on without the good faith exception.

Unlike a constitutional right, the exclusionary rule is a legal technicality, and because it is so, it cannot be guaranteed to every person. It is after all used on a case by case basis. What is most interesting about it is that it is not necessary for the defendant to admit to being guilty or claim to be innocent in order to use this rule. Those who use the rule have had evidence found against them that would normally lead to an arrest and/or conviction, but the means by which that evidence was collected does not make the defendant any less guilty. One could argue that without the exclusionary rule, the United States violates the rights of its people, but it negatively affects the United States as a whole.

The good faith exception allows for law enforcement's motives to be beyond question. If police officers, acting upon a defective warrant, had reason to believe that a warrant was valid at the time of the arrest, the evidence is admissible in a court of law. This precedent was set in 1984 in *United States v. Leon*.

Although the exclusionary rule should not be used in a court of law without the consideration of the good faith exception, the courts may not consider it in every case. Although a search may violate the constitution, it is up to the judge to decide whether the rule applies. It is only used when the effect outweighs the cost of letting a defendant go free. This may seem reasonable, but if the evidence is not examined or used, guilt cannot be determined. The gray line that has been created by this rule alone is the very weakness that renders it inefficient and potentially dangerous.

According to one commentator, Morgan O. Reynolds, "As former Chief Justice Warren Burger points out, 'There is no empirical evidence to support the claim that the rule actually deters illegal conduct of law-enforcement officials.'" Some people may argue that using the exclusionary rule with the good faith exception is still ineffective because it does not deter the police from performing illegal searches and seizures; it just

encourages them to continue conducting them and making excuses later. The social impact is so great that it has led to a fifteen percent increase in the crime rate alone, according to Reynolds. To deter police officers from making illegal searches, more legal liability should be placed on the police departments by setting up compensation funds for monetary damages. This is a reasonable alternative, considering that there would now be a consequence for police carelessness and spiteful actions.

Because the constitution does not guarantee the rule, perhaps the justices should never have imposed it on the courts. Judge Malcolm Wilkey of the Washington, D.C., Circuit Court once wrote that "if one were diabolically to attempt to invent a device designed slowly to undermine the substantive reach of the Fourth Amendment, it would be hard to do better than the exclusionary rule."



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