

Mapp v. Ohio / Excerpts from the Majority Opinion

The following are excerpts from Justice Clark's majority opinion:

Since the Fourth Amendment's right of privacy has been declared enforceable against the States through the Due Process Clause of the 14th, it is enforceable against them by the same sanction of exclusion as is used against the Federal Government. Were it otherwise . . . the freedom from state invasions of privacy would be so ephemeral and so neatly severed from its conceptual nexus with the freedom from all brutish means of coercing evidence as not to merit this Court's high regard as a freedom "implicit in the concept of ordered liberty." . . . in extending the substantive protections of due process to all constitutionally unreasonable searches—state or federal—it was logically and constitutionally necessary that the exclusion doctrine—an essential part of the right to privacy—be also insisted upon as an essential ingredient of the right.

[O]ur holding that the exclusionary rule is an essential part of both the Fourth and 14th Amendments is not only the logical dictate of prior cases, but it also makes very good sense. There is no war between the Constitution and common sense.

Federal-state cooperation in the solution of crime under constitutional standards will be promoted, if only by recognition of their now mutual obligation to respect the same fundamental criteria in their approaches.

There are those who say, as did Justice (then Judge) Cardozo, that under our constitutional exclusionary doctrine "[t]he criminal is to go free because the constable has blundered." . . . In some cases this will undoubtedly be the result. But, as was said in *Elkins*, "there is another consideration—the imperative of judicial integrity." . . . The criminal goes free, if he must, but it is the law that sets him free. Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence.

Our decision, founded on reason and truth, gives to the individual no more than that which the Constitution guarantees him, to the police officer no less than that to which honest law enforcement is entitled, and, to the courts, that judicial integrity so necessary in the true administration of justice.

Questions to Consider

1. In the majority opinion, the justices refer to the “exclusionary rule.” Under this rule, what has to be excluded from trial? Why?
2. The majority identifies several reasons why evidence gained in an illegal search cannot legally be used against a defendant during trial. Why do they say that such a rule is constitutionally necessary?
3. The majority insists that to allow illegally seized evidence during trial would destroy the government. Explain.
4. What foundation of U.S. government is the Court referring to when it states, “Nothing can destroy a government more quickly than its . . . disregard of the charter of its own existence?”
5. Do you agree with the Court’s statement “there is no war between the Constitution and common sense”? Explain.