CHAPTER 2

The Exclusionary Rule and Other Remedies
Chapter Agenda

• Distinguish between legal and extralegal remedies
• Summarize the exclusionary rule and the exceptions to it

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Chapter Agenda

- Summarize the "fruit of the poisonous tree" doctrine and the exceptions to it.
- Describe criminal prosecution and civil remedies for constitutional rights violations.
Learning Objective

Distinguish between legal and extralegal remedies.
Remedies

• A method of rectifying wrongdoing
• Legal
  ▪ Made available by law, court decision, police agency policy or procedure

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Remedies

• Extralegal
  ▪ Conducted outside the legal process
  ▪ Vigilantism
Learning Objective

Summarize the exclusionary rule and the exceptions to it.
Exclusionary Rule

• Evidence collected in violation of the defendant's constitutional rights cannot be used in a criminal trial to prove guilt

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Exclusionary Rule

- Criticisms
  - Does not deter police misconduct
  - Cost to society
  - Effective alternative remedies

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Exclusionary Rule

- Does not apply to:
  - Grand jury investigations
  - *Habeas corpus* proceedings
  - Parole revocation hearings
  - Internal revenue actions

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Exclusionary Rule

• Exceptions
  ▪ Good faith
    • Honest mistake
    • *United States v. Leon*
    • *Massachusetts v. Sheppard*

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Exclusionary Rule

- Exceptions
  - Impeachment
    - Witness credibility
Learning Objective

Summarize the "fruit of the poisonous tree" doctrine and the exceptions to it.
"Fruit of the Poisonous Tree" Doctrine

- *Silverthorne Lumber Co. v. U.S.*
- Exceptions
  - Purged taint
  - Independent source
  - Inevitable discovery
FIGURE 2-3  Fruit of the Poisonous Tree Examples.

- A suspect is coerced to confess and alerts police to where evidence can be found. The evidence would be inadmissible because it is fruit of an unconstitutional confession.
- Police arrest a suspect without probable cause and he confesses. The confession would be inadmissible as fruit of the unconstitutional arrest.
- Police arrest a suspect without probable cause. The suspect rats out two co-conspirators whom the police then arrest. The second set of arrests would be considered fruit of the poisonous tree, assuming the police had no other basis for arresting the co-conspirators.
Learning Objective

Describe criminal prosecution and civil remedies for constitutional rights violations.
Other Criminal Remedies

• Federal law

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Other Criminal Remedies

- State law
  - Same law applies to both police and ordinary citizens
  - False arrest
  - Trespassing
Civil Remedies

• Award of damages
  ▪ Actual damages
  ▪ Additional profits of the violator
  ▪ Statutory damages
Nonjudicial Remedies

• Internal review
  - Police department investigation of complaints against officers
  - Internal affairs division

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Nonjudicial Remedies

- Mediation
  - Third party attempts to resolve grievance between police and citizen
- Civilian review
  - Private citizens review complaints