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Exclusionary rule is too important to be altered or cut

Abstract (Abstract):
The Fourth Amendment to the U.S. Constitution, which protects Americans from unreasonable government searches and seizures, is in danger of becoming meaningless, thanks to a bill passed in the U.S. House of Representatives and one being considered in the Senate.
The first assault on the Constitution was by the House, which passed as part of its anti-crime bill revisions a measure that would write into law a ``good faith'' exception to the exclusionary rule, which bars introduction in trial of illegally seized evidence. The exclusionary rule is intended to put into practice what the writers of the Fourth Amendment plainly intended. But the House bill would allow police to claim they had good intent when they conducted what turned out to be an illegal, even warrantless, search, and would allow such tainted evidence into court.
The Senate would do even more damage by simply abolishing the exclusionary rule in federal criminal proceedings. The bill also would eliminate an existing cause of action for damages against federal officers who violate the exclusionary rule.

Full text:
The Fourth Amendment to the U.S. Constitution, which protects Americans from unreasonable government searches and seizures, is in danger of becoming meaningless, thanks to a bill passed in the U.S. House of Representatives and one being considered in the Senate.
If either bill, or a melding of the two, makes it through Congress, President Clinton should use the veto. We simply do not need to give police virtually unlimited power to rummage around our persons, houses, papers and effects in the name of law enforcement.
The first assault on the Constitution was by the House, which passed as part of its anti-crime bill revisions a measure that would write into law a ``good faith'' exception to the exclusionary rule, which bars introduction in trial of illegally seized evidence. The exclusionary rule is intended to put into practice what the writers of the Fourth Amendment plainly intended. But the House bill would allow police to claim they had good intent when they conducted what turned out to be an illegal, even warrantless, search, and would allow such tainted evidence into court.
The Senate would do even more damage by simply abolishing the exclusionary rule in federal criminal proceedings. The bill also would eliminate an existing cause of action for damages against federal officers who violate the exclusionary rule.
In their place the bill would create what the American Civil Liberties Union describes as ``a very limited civil action against the United States for actual damages and punitive damages of only up to $10,000.''
The idea that such a small fine would discourage officials from engaging in illicit searches is ludicrous, especially considering that an impoverished victim of illegal police activity would have a hard time finding a lawyer willing to take on a case that would involve little compensation.
Furthermore, it is hard to understand how such legislation can hold up to legal scrutiny, given that the Supreme Court has held that when evidence is seized in a particularly egregious manner, it must be excluded from trial.
It might be thought that the impetus behind these measures would be evidence that juries are sticking wholesale lots of police officers with huge fines for violating the Constitution, or that large numbers of cases are jeopardized by illegally seized evidence.
But the available statistics say that neither is the case. Since 1971, only in five cases have police defendants had to pay damages deriving from search-and-seizure activities, the ACLU says.

In 1978, the U.S. comptroller general studied the effect of the exclusionary rule in 2,804 cases and 38 U.S. attorneys' offices. Only 0.4 percent of the cases were declined by prosecutors because of search and seizure problems; evidence was excluded at trial based on Fourth Amendment motions in only 1.3 percent; and more than half of the defendants in that tiny portion of the cases were convicted anyway. Several other studies indicate that the same is true in state prosecutions.

The statistics demonstrate, in fact, that the exclusionary rule works. It keeps police and prosecutors on their toes while affecting the conviction rate only slightly -- exactly what the framers had in mind when they created the Fourth Amendment.

The House and Senate measures should be finally rejected or vetoed.

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