fer of such evidence.[449] Yet the Court permitted such evidence to be introduced into trial courts when the defendant lacked "standing" to object to the search and seizure that produced the evidence[450] or when the search took place before the announcement of the decision extending the exclusionary rule to the states.[451] At these times, the Court turned to the "basic postulate of the exclusionary rule itself. The rule is calculated to prevent, not to repair. Its purpose is to deter—to compel respect for the constitutional guaranty in the only effectively available way—by removing the incentive to disregard it."[452] "*Mapp* had as its prime purpose the enforcement of the Fourth Amendment through the inclusion of the exclusionary rule within its rights. This, it was found, was the only effective deterrent to lawless police action. Indeed, all of the cases since *Wolf* requiring the exclusion of illegal evidence have been based on the necessity for an effective deterrent to illegal police action."[453]

Narrowing Application of the Exclusionary Rule.—For as long as we have had the exclusionary rule, critics have attacked it, challenged its premises, disputed its morality.[454] By the early 1980s, a majority of Justices had stated a desire either to abolish the rule or to sharply curtail its operation,[455] and numerous opinions had rejected all doctrinal bases other than deterrence.[456] At the same

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of the constitutional rights of citizens by permitting unhindered governmental use of the fruits of such invasions. . . . A ruling admitting evidence in a criminal trial . . . has the necessary effect of legitimizing the conduct which produced the evidence."

[449] Elkins v. United States, 364 U.S. 206, 222–23 (1960); Mapp v. Ohio, 367 U.S. 643, 660 (1961). *See* McNabb v. United States, 318 U.S. 332, 339–40 (1943).

[450] *See* "Operation of the Rule: Standing," *infra*.

[451] Linkletter v. Walker, 381 U.S. 618 (1965).

[452] Elkins v. United States, 364 U.S. 206, 217 (1960).

[453] Linkletter v. Walker, 381 U.S. 618, 636–37 (1965). The Court advanced other reasons for its decision as well. Id. at 636–40.

[454] Among the early critics were Judge Cardozo, People v. Defore, 242 N.Y. 13, 21, 150 N.E. 585, 587 (1926) (the criminal will go free "because the constable has blundered"), and Dean Wigmore. 8 J. WIGMORE, A TREATISE ON THE ANGLO-AMERICAN SYSTEM OF EVIDENCE 2183–84 (3d ed. 1940). For extensive discussion of criticism and support, with citation to the literature, *see* 1 WAYNE R. LAFAVE, SEARCH AND SEIZURE: A TREATISE ON THE FOURTH AMENDMENT § 1.2 (4th ed. 2004).

[455] *E.g.*, Stone v. Powell, 428 U.S. 465, 496 (1976) (Chief Justice Burger: rule ought to be discarded now, rather than wait for a replacement as he argued earlier); id. at 536 (Justice White: modify rule to admit evidence seized illegally but in good faith); Schneckloth v. Bustamonte, 412 U.S. 218, 261 (1973) (Justice Powell); Brown v. Illinois, 422 U.S. 590, 609 (1975) (Justice Powell); Robbins v. California, 453 U.S. 420, 437 (1981) (Justice Rehnquist); California v. Minjares, 443 U.S. 916 (1979) (Justice Rehnquist, joined by Chief Justice Burger); Coolidge v. New Hampshire, 403 U.S. 443, 510 (1971) (Justice Blackmun joining Justice Black's dissent that "the Fourth Amendment supports no exclusionary rule").

[456] *E.g.*, United States v. Janis, 428 U.S. 433, 446 (1976) (deterrence is the "prime purpose" of the rule, "if not the sole one."); United States v. Calandra, 414 U.S. 338, 347–48 (1974); United States v. Peltier, 422 U.S. 531, 536–39 (1975); Stone v. Pow-