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NOTE

EXCLUSIONARY RULE—
GOOD-FAITH EXCEPTION:
NEW LIMITATIONS ON THE SUPPRESSION
OF ILLEGALLY OBTAINED EVIDENCE—
ARIZONA V. EVANS, 115 S. CT. 1185 (1995)

I. INTRODUCTION

On March 1, 1995, the United States Supreme Court in Arizona v. Evans1 extended the good-faith exception to the Fourth Amendment’s exclusionary rule to preclude the suppression of evidence obtained during an arrest in which the arresting officer had reasonably relied on a computer record that was subsequently found to be erroneous as a result of judicial error.2 Critics of the Court’s position have argued that the continued limitation of the exclusionary rule will eventually result in the admission of evidence based on warrantless searches.3

This Note provides a synopsis of the facts and procedural holdings of Evans and the earlier precedent on which the Court based its decision. An evaluation of the Court’s joint, concurring, and dissenting opinions follows. Lastly, the wisdom of the Court’s opinion, the holding’s future implications, and the merits of its criticism will be considered.

2. The Fourth Amendment of the United States Constitution states:

   The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

   U.S. CONST. amend. IV.

   The Fourth Amendment exclusionary rule “commands that where evidence has been obtained in violation of the search and seizure protections guaranteed by the U.S. Constitution, the illegally obtained evidence cannot be used at the trial of the defendant.” BLACK’S LAW DICTIONARY 564 (6th ed. 1990). The “good faith exception” to [the] exclusionary rule provides that evidence is not to be suppressed under such rule where that evidence was discovered by officers acting in good faith and in reasonable, though mistaken, belief that they were authorized to take those actions.” Id. (citing United States v. Leon, 468 U.S. 897 (1984)).
II. STATEMENT OF THE CASE

In January 1991, Isaac Evans was observed by a police officer driving his automobile the wrong way on a one-way street in front of the Phoenix police station. The officer stopped Evans and requested that Evans produce his driver's license. Evans indicated to the officer that his driver's license had been suspended. Upon being notified of Evans' suspension, the police officer entered Evans' name into a computer terminal located in his patrol car. The inquiry confirmed that Evans' license had been suspended and also indicated that he had an outstanding misdemeanor warrant for his arrest. Based on the apparent outstanding warrant, Evans was arrested.

While being handcuffed by the officer, a rolled cigarette dropped from Evans' person, which the officer determined smelled of marijuana. A subsequent search of Evans' vehicle revealed a bag of marijuana under the front passenger's seat. On the basis of this evidence, Evans was charged with possession of marijuana.

Following Evans' arrest, it was discovered that the computer records used by the arresting officer were erroneous because the arrest warrant had been quashed prior to the January arrest. Evans moved to suppress the evidence obtained from the arrest, arguing that the evidence was obtained as a result of an unlawful arrest and that the good-faith exception to the exclusionary rule was inapplicable because police error, not judicial error, caused the unlawful arrest.

At the suppression hearing, the trial court applied the exclusionary rule and suppressed the evidence, reasoning that police personnel were

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4. Evans, 115 S. Ct. at 1188.
5. Id.
6. Id.
7. Id.
8. Id.
9. Id.
10. Id.
12. Id.
13. Id. At the suppression hearing, conflicting evidence was presented on whether the computerized mistake had been made on the part of law enforcement personnel or court employees. Id. The trial judge did not reconcile this issue and apparently concluded that any distinction was insignificant. Id.
negligent in maintaining computer records.\textsuperscript{15} The Arizona Court of Appeals reversed the trial court, holding that the evidence should not have been suppressed because the mistake probably was made by court employees rather than law enforcement personnel.\textsuperscript{16} Furthermore, the court found that the exclusionary rule's purpose of deterring police misconduct would not be served by suppressing the evidence because court employees, the group in error according to the court's analysis, were not directly associated with the arresting officers.\textsuperscript{17} The Arizona Supreme Court reversed the court of appeals, finding the distinction drawn by the court of appeals between court employees and law enforcement unpersuasive.\textsuperscript{18} The court also found that application of the exclusionary rule would improve the efficiency of the criminal record keeping system and, thus, be consistent with the exclusionary rule's deterrence purpose.\textsuperscript{19}

The United States Supreme Court granted certiorari to determine whether the exclusionary rule required the suppression of evidence obtained incident to an arrest resulting from an inaccurate computer record, regardless of whether police or court personnel were at fault for the record's inaccuracy.\textsuperscript{20} The Court held that the exclusionary rule does not require the suppression of evidence seized during an arrest resulting from a computer record that was erroneous as a result of court employee error.\textsuperscript{21}

\section*{III. BACKGROUND OF THE LAW}

\textit{Evans} was the first decision by the United States Supreme Court to address whether application of the Fourth Amendment's good-faith exception was appropriate when an arresting officer had acted in

\begin{thebibliography}{9}
\bibitem{15} \textit{Evans}, 866 P.2d at 870. The trial court relied on \textit{State v. Greene}, 783 P.2d 829 (Ariz. Ct. App. 1989), "which applied the exclusionary rule where police personnel were negligent in maintaining computer records." \textit{Evans}, 866 P.2d at 870. However, the trial court, in applying this rule, failed to clarify who made the mistake, police employees or court employees. \textit{Id.} Perhaps if the trial court had clarified this issue, Evans would not have percolated to the United States Supreme Court, but been resolved through state law.
\bibitem{16} \textit{Id.} The court of appeals disagreed with the trial court's application of \textit{State v. Green} because of its determination that court employees rather than police employees were responsible for the computer error. \textit{Id.}
\bibitem{18} \textit{Id.} at 871-72.
\bibitem{19} \textit{Id.} at 872.
\bibitem{21} \textit{Id.} at 1188.
\end{thebibliography}
objectively reasonable reliance on a computer record later found to be inaccurate because of court employee error. However, the basis of the Evans decision has been established in Court precedent.

In United States v. Peltier, the United States Supreme Court held that evidence seized from a search conducted pursuant to a statute later declared unconstitutional would not be excluded at trial if the police had a reasonable, good faith belief that the evidence would be admissible. However, the Court did not articulate whether, in a judicial application of the good-faith exception, the reasonableness of a police officer’s belief would be based on the subjective knowledge of the officer or an objective measure. In the cases of United States v. Leon and Massachusetts v. Sheppard, the United States Supreme Court clarified this issue by modifying the exclusionary rule through adoption of an objective, good-faith exception that allows illegally obtained evidence to be admitted in the prosecution’s case-in-chief against a defendant.

In United States v. Leon, the Court held that the exclusionary rule should not be applied to evidence seized by a police officer whose reliance on a search warrant issued by a neutral magistrate was objectively reasonable, even though the warrant was later found defective. On the basis of three factors, the Court concluded that application of the exclusionary rule would not serve the rule’s deterrent purpose.

22. 422 U.S. 531 (1975).
23. See id. at 535-42.
24. Id. at 549 (Brennan, J., dissenting).
27. Leon, 468 U.S. at 913. The police officers in Leon primarily based their search warrant requests on an anonymous informant of unproven reliability. A magistrate found probable cause and issued the requested search warrants. The ensuing searches discovered quantities of illegal drugs. The defendants in Leon moved to suppress the evidence, and the district court partially granted the suppression, finding that the warrant was issued on less than probable cause. Id. at 901-05.
28. The Court explained the deterrent purpose and rationale of the Fourth Amendment exclusionary rule as follows:

The deterrent purpose of the exclusionary rule necessarily assumes that the police have engaged in willful, or at the very least negligent, conduct which has deprived the defendant of some right. By refusing to admit evidence gained as a result of such conduct, the courts hope to instill in those particular investigating officers, or in their future counterparts, a greater degree of care toward the rights of an accused. Where the official action was pursued in complete good faith, however, the deterrence rationale loses much of its force.

First, the Court determined that the historical purpose of the exclusionary rule was "to deter police misconduct rather than to punish the errors of judges and magistrates." Second, the Court found no persuasive evidence suggesting that judicial officers were inclined to ignore or subvert the commands of the Fourth Amendment. Third, and most important to the Leon court, there was no basis for believing that the exclusion of evidence seized pursuant to a warrant would have a significant deterrent effect on the arresting officer(s) or the issuing magistrate. In sum, the Leon majority found that "[p]enalizing the officer for the magistrate’s error, rather than his own, [could] not logically contribute to the deterrence of Fourth Amendment violations."

The Leon Court also set forth parameters limiting the application of its holding by recognizing specific instances in which reasonable reliance would not exist. These instances included: (1) when the magistrate had abandoned his detached and neutral role in reviewing search warrant applications; (2) when the executing officer knew or should have known that the information provided to the magistrate was false; (3) when the affidavit was so lacking an indicia of probable cause that an officer’s reliance on the warrant would be unreasonable; and (4) when the warrant was so facially deficient in its particularization of the places to be searched or the items to be seized that the executing officers cannot reasonably presume the warrant to be valid.

In a dissenting opinion, Justice Brennan attacked the majority’s
characterization of the exclusionary rule as a judicially created remedy, rather than a personal constitutional right. In disagreeing with the majority's characterization, Brennan first noted that the provisions of the Fourth Amendment restrain the power of the government as a whole rather than a particular agency. Next, Brennan noted that the admission of illegally obtained evidence logically implicated the same constitutional concerns as the initial seizure of the evidence "[b]ecause seizures are executed principally to secure evidence, and because such evidence generally has utility . . . only in the context of a trial . . . ."

Using these propositions as a basis, Brennan posited that the only interpretation of the Fourth Amendment that would give effect to its limitations was one that read the Fourth Amendment "to condemn not only the initial unconstitutional invasion of privacy—which is done, after all, for the purpose of securing evidence—but also the subsequent use of any evidence." Furthermore, Brennan supported his position by citing an earlier case of the United States Supreme Court, *Mapp v. Ohio,* in which the Court held that, pursuant to the Fourth and Fourteenth Amendments, the states were forbidden from admitting evidence obtained from unreasonable searches and seizures. Implicit in *Mapp's* holding, Brennan explained, was that exclusion of evidence obtained from an unreasonable search or seizure was a constitutional privilege and, thus, the exclusionary rule was "part and parcel of the Fourth Amendment's limitation upon [governmental] encroachment of individual privacy." As discussed below, the dissenting opinions in *Arizona v. Evans* set forth arguments similar to those advanced by Justice Brennan in *Leon.*

In *Massachusetts v. Sheppard,* decided the same day as *United States v. Leon,* the United States Supreme Court held that the exclusionary rule did not require the suppression of evidence seized by police officers who had reasonably relied on a warrant that was later found technically defective. Applying the rules articulated in *Leon,* the

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34. *Id.* at 931 (Brennan, J., dissenting). The dissent was joined by Justice Marshall.
35. *Id.* at 932.
36. *Id.* at 933.
37. *Id.* at 934.
39. See *id.* at 655-58.
42. *Id.* at 987-88. In *Sheppard,* the police sought a warrant authorizing a search of the defendant's residence. In support of their request, the police prepared an affidavit that
Court found that the only issue to be determined was whether the police officers had acted in objectively reasonable reliance on the subject warrant. Relying on the fact that the issuing magistrate failed to make all the necessary clerical corrections to the subject warrant after assuring the officers that he would, the *Sheppard* court held that the officers had acted in an objectively reasonable manner. Furthermore, the Court held that the exclusionary rule’s deterrent function would not be served because it was the judge’s failure to make the necessary corrections, not the officers’ action, that caused the Fourth Amendment violation.

The next decision addressing the good-faith exception to the exclusionary rule was *Illinois v. Krull*. In *Krull*, the United States Supreme Court extended the good-faith exception to preclude the suppression of evidence obtained by police officers who had reasonably relied upon a statute authorizing a warrantless search, even though the statute was later found to be unconstitutional. The Court concluded that suppressing the evidence would have little deterrent effect in changing the officer’s conduct since it was the legislature, not the officer, that had committed the unconstitutional violation.

Similar to the Supreme Court’s analysis of magistrates in *Leon*, the *Krull* Court examined whether application of the exclusionary rule would

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43. *Id.* at 988.
44. *Id.* at 989.
45. *Id.* at 991.
46. 480 U.S. 340 (1987). Krull owned and operated an automobile wrecking yard located in the city of Chicago. Pursuant to an Illinois statute, a person dealing in automobiles, auto parts, and auto scrap was required to have a license, keep records identifying automobiles and parts in its inventory, and be subject to an examination of the premises, at any reasonable time during the day or night, to determine the accuracy of the records. An examination of Krull’s yard uncovered a number of vehicles that were listed as stolen. These vehicles were impounded and Krull was arrested and charged under the Illinois statute. The statute was deemed unconstitutional the day after Krull’s arrest. *Id.* at 340-45.
47. *Id.* at 349-50.
48. *Id.* at 350. The Court further explained: “If the statute is subsequently declared unconstitutional, excluding evidence obtained pursuant to it prior to such judicial declaration will not deter future Fourth Amendment violations by an officer who has simply fulfilled his responsibility to enforce the statute as written.” *Id.*
have a significant deterrent effect on legislatures. Reiterating the three factors set forth in *Leon*, the Court determined that application of the exclusionary rule would have little deterrent effect on legislative misconduct. First, the Court recognized that the exclusionary rule was designed to apply to police misconduct and not legislative misconduct. Second, the Court determined that there was no persuasive evidence indicating that a legislature would ignore or subvert the Fourth Amendment or the Constitution. To the contrary, the Court noted that "courts presume that legislatures act in a constitutional manner." Third, the Court determined that application of the exclusionary rule would have little additional deterrent effect considering the more immediate deterrent mechanism of judicial invalidation of unconstitutional statutes.

Again, similar to the Court's decision in *Leon*, the *Krull* Court qualified the application of its holding. The *Krull* Court recognized that "[a] statute cannot support objectively reasonable reliance if . . . the legislature wholly abandoned its responsibility to enact constitutional laws." Further, the Court recognized that an officer could not have acted in good-faith reliance on a statute if a "reasonable officer should have known that the statute was unconstitutional."

In a dissenting opinion, Justice O'Connor agreed with the majority's application of *Leon*, but disagreed with its result. Justice O'Connor found that the historical basis for the Fourth Amendment was to protect against statutes authorizing unreasonable searches and that the

49. See id. at 350-53.
50. Id.
51. Id. at 350. The *Krull* court stated: "Thus, legislatures, like judicial officers, are not the focus of the rule." Id.
52. Id. at 351.
53. Id. (citing *McDonald v. Board of Election Comm'rs of Chicago*, 394 U.S. 802, 808-09 (1969)).
54. Id. at 350-52. Explaining its determination, the court stated: "Invalidating a statute informs the legislature of its constitutional error, affects the admissibility of all evidence obtained subsequent to the constitutional ruling, and often results in the legislature's enacting a modified and constitutional version of the statute . . . ." Id. at 352.
55. Id. at 355. The Court's position is similar to that taken by the Court in *Leon*, where it observed that an officer cannot be found to have acted in reasonable reliance when evidence demonstrated that the issuing magistrate had abandoned his role as a detached and neutral administrator. See *supra* note 33 and accompanying text.
57. Id. at 362 (O'Connor, J., dissenting). Justice O'Connor's dissent was joined by Justices Brennan, Marshall, and Stevens.
58. Id.
exclusionary rule had been applied consistently to suppress evidence obtained pursuant to such unconstitutional statutes. Additionally, Justice O’Connor disagreed with the Court’s conclusion that legislatures were not adjuncts to law enforcement, arguing that “[t]he legislature’s objective in passing a law authorizing unreasonable searches... is explicitly to facilitate law enforcement.” Lastly, Justice O’Connor disagreed with the Court that application of the exclusionary rule would not have a deterrent effect on legislative misconduct. Instead, Justice O’Connor argued that application of the rule would provide incentive for legislatures to promulgate constitutional laws by closing the grace period during which police could conduct otherwise unconstitutional searches in order to convict those who might otherwise escape prosecution.

IV. EVALUATION OF THE CASE

A. The Joint Opinion

In an opinion authored by Chief Justice Rehnquist, the United States Supreme Court reversed the Arizona Supreme Court and held that the exclusionary rule to the Fourth Amendment did not require the suppression of evidence obtained by an officer who acted in objectively reasonable reliance on a computer record that was later found to be erroneous as a result of judicial error.

Initially, the Court reiterated its established interpretation of the Fourth Amendment, observing that “the Fourth Amendment contains no

59. Id. at 363 (citations omitted).
60. Id. at 365.
61. Id. at 366.
62. Id. Justice O’Connor explained that the police are in effect given a grace period under Leon to collect and use illegally obtained evidence. Id. (O’Connor, J., dissenting). However, the majority addressed this concern by limiting its holding by noting that objectively reasonable reliance would not exist when a “reasonable officer should have known that the statute was unconstitutional.” Id. at 355; see also supra notes 33 and 55 and accompanying text.
63. Justice Rehnquist’s opinion was joined by Justices O’Connor, Scalia, Kennedy, Souter, Thomas, and Breyer.
64. Arizona v. Evans, 115 S. Ct. 1185 (1995). It is important to note that in drafting the question for review the Court considered whether the source of the error, police or clerical personnel, would affect its determination in applying the exclusionary rule. Id. at 1189. In its final holding, the Court stated that the exclusionary rule would not be applied to instances where the underlying computerized error was the result of court employees’ conduct. Id. at 1194. Implicit in the Court’s holding is the position that computerized errors chargeable to police conduct would warrant application of the exclusionary rule, thereby suppressing evidence obtained in violation of the Fourth Amendment.
provision expressly precluding the use of evidence obtained in violation of its commands" and that "[t]he exclusionary rule operates as a judicially created remedy designed to safeguard against future violations of Fourth Amendment rights through the rule's general deterrent effect." Further, the Court restated its position that the wrong condemned by the Fourth Amendment is suffered in the initial search and seizure, and the subsequent use of illegally obtained evidence works no new Fourth Amendment violation. Thus, the Court concluded that application of the exclusionary rule was an issue separate from the issue of whether a Fourth Amendment violation had occurred.

In examining whether application of the exclusionary rule was appropriate, the Court noted that "[w]here 'the exclusionary rule does not result in appreciable deterrence, then, clearly, its use . . . is unwarranted." Applying the analysis set forth in Leon, the Court examined whether application of the exclusionary rule would significantly deter future errors by court employees. Adhering to the analysis in its holdings of Leon and Krull, the Court concluded that: (1) historically, the exclusionary rule was designed to deter police misconduct, not court

65. Id. at 1191.

66. Id.; see also supra note 2 and accompanying text. A preliminary issue faced by the Court was whether it had jurisdiction to review Evans. The Court first examined whether the Arizona Supreme Court's decision was based on an "adequate and independent state ground," thereby foreclosing its review. Id. at 1189. Recognizing that the Arizona Supreme Court had referred to federal law in reversing the lower appellate court and had not offered a plain statement that its reference to federal law was solely for purposes of guidance and not compelling its decision, the Court concluded that the Arizona Supreme Court's decision "was based squarely upon its interpretation of federal law." Id. at 1190. Noting the need to protect against the lack of clarity in state court decisions interpreting the United States Constitution, the Court asserted jurisdiction as the final arbiter of the United States Constitution. Id. (citing Minnesota v. National Tea Co., 309 U.S. 551 (1940)). Justice Ginsburg attacked the Court's position in her dissent. See infra note 95 accompanying text.

67. Evans, 115 S. Ct. at 1191 (citing United States v. Leon, 468 U.S. 897, 906 (1984) (quoting United States v. Calandra, 414 U.S. 338, 354 (1974))) The basis of the Court's conclusion is found in Wolf v. Colorado, 338 U.S. 25 (1949), rev'd, 367 U.S. 643 (1961). In Wolf, the United States Supreme Court explicitly treated the question of whether to exclude illegally obtained evidence as a matter of remedies, separate from the question of whether a Fourth Amendment invasion had occurred. Id. at 28. The Wolf Court stated: "Accordingly, we have no hesitation in saying that were a State affirmatively to sanction such police incursion into privacy it would run counter to the guaranty of the Fourteenth Amendment. But the ways of enforcing such a basic right raise questions of a different order." Id.; see also Potter Stewart, The Road to Mapp v. Ohio and Beyond: The Origins, Development and Future of the Exclusionary Rule in Search and Seizure Cases, 83 COLUM. L. REV. 1365, 1378 (1983).

68. Evans, 115 S. Ct. at 1191 (citations omitted).

69. Id. (quoting United States v. Janis, 428 U.S. 433, 454 (1976)).
employee misconduct,\(^{70}\) (2) no evidence had been offered to demonstrate that court employees had the inclination to ignore or subvert the commands of the Fourth Amendment;\(^ {71}\) and (3) there was no basis for believing that application of the exclusionary rule would deter court employees from failing to inform police officials of quashed warrants considering that court personnel had no stake in the outcome of particular criminal prosecutions.\(^ {72}\)

Additionally, the Court examined whether application of the exclusionary rule would have a significant deterrent effect on police misconduct.\(^ {73}\) The Court concluded that application of the rule would not have a significant deterrent effect since the appearance of computerized errors was minimal.\(^ {74}\) Moreover, there was no evidence that the arresting officer did not act in an objectively reasonable manner when he relied on the computer record.\(^ {75}\)

**B. Justice O'Connor's Opinion**

Justice O'Connor concurred with the majority's opinion, but questioned whether the majority had unwisely limited itself in concluding that the only error committed in the case was that by the court employee.\(^ \)\(^ {76}\) Justice O'Connor posited that "[w]hile the police were innocent of the court employee's mistake, they may or may not have acted reasonably in their reliance on the recordkeeping system itself." \(^ {77}\) In concluding, Justice O'Connor asserted that law enforcement could not be said to have reasonably relied on a recordkeeping system when the

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70. Id. at 1193 (citations omitted).
71. Id. The Court noted that "the Chief Clerk of the Justice Court testified at the suppression hearing that this type of error occurred once every three or four years." Id. (citing App. 37).
72. Id. (citations omitted). The Court found that court employees could not have a stake in a particular criminal prosecution because they were not considered "adjuncts to the law enforcement team." Id. (citing Johnson v. United States, 333 U.S. 10, 14 (1948)).
73. Id. at 1193.
74. Id. at 1193-94. The Court relied on testimony that the type of error involved in Evans only occurred once every three or four years. Id. Justice Stevens attacked this reliance in his dissent and noted that the clerk had stated in her testimony that similar erroneous outstanding warrants existed when records were checked after the Evans incident. See id. at 1196 n.3 (Stevens, J., dissenting).
75. Id. at 1193. The Court quoted the trial court's statement that the officer was bound to arrest Evans under the circumstances and would have been considered derelict in his duty if he had failed to do so. Id.
76. Id. at 1194 (O'Connor, J., concurring). O'Connor's concurrence was joined by Justices Souter and Breyer.
77. Id.
system had no mechanism for checking the accuracy of records.\textsuperscript{78}

\textbf{C. Justice Souter's Opinion}

In a relatively short opinion, Justice Souter concurred with the majority's opinion, but questioned the extent to which the concept of deterrence would be applied beyond the police to reach the government as a whole in dealing with the fruits of computerized error.\textsuperscript{79}

\textbf{D. Justice Stevens' Opinion}

In his dissenting opinion, Justice Stevens disagreed with the majority opinion's characterization of the exclusionary rule's purpose as deterring solely police misconduct.\textsuperscript{80} Under Stevens' rationale, the Fourth Amendment "is a constraint on the power of the sovereign, not merely some of its agents."\textsuperscript{81} Thus, under Stevens' reasoning, application of the Fourth Amendment in \textit{Evans} applied to the conduct of court employees and not specifically law enforcement.\textsuperscript{82} Additionally, Justice Stevens disagreed with the Court's characterization of the exclusionary rule as an "extreme sanction."\textsuperscript{83} Instead, Stevens characterized the exclusionary rule's sanction as merely placing the Government in the same position as if the illegal search and seizure had not occurred.\textsuperscript{84}

Further, Justice Stevens attacked the majority's reliance on \textit{United States v. Leon}. Noting that the central focus of the Court's reasoning in \textit{Leon} was the existence of a presumptively valid warrant and that \textit{Evans} involved an arrest when no warrant was outstanding, Justice Stevens concluded that application of \textit{Leon's} reasoning was misplaced in the context of what he viewed as a warrantless search.\textsuperscript{85}

Justice Stevens also disagreed with the majority's position that law

\begin{itemize}
\item \textsuperscript{78} \textit{Id.} Justice O'Connor compared the standard of reasonable reliance she believed was appropriate to the level of scrutiny required when finding probable cause on the basis of information obtained from an informant. \textit{Id.} (citing Illinois v. Gates, 462 U.S. 213 (1983)).
\item \textsuperscript{79} \textit{Evans}, 115 S. Ct. at 1195 (Souter, J., concurring). Justice Breyer joined in Justice Souter's concurrence.
\item \textsuperscript{80} \textit{Id.} (Stevens, J., dissenting).
\item \textsuperscript{81} \textit{Id.}
\item \textsuperscript{82} \textit{Id.} (Stevens, J., dissenting). Justice Stevens emphasized that the Fourth Amendment protected against \textit{all} official searches and seizures that were unreasonable and, therefore, constrained the power of the sovereign as a whole. \textit{Id.} (Stevens, J., dissenting) (citing \textit{Olmstead v. United States}, 277 U.S. 438, 472-79 (1928) (Brandeis, J., dissenting)).
\item \textsuperscript{83} \textit{Evans}, 115 S. Ct. at 1195 (Stevens, J., dissenting).
\item \textsuperscript{84} \textit{Id.}
\item \textsuperscript{85} \textit{Id.} at 1196.
\end{itemize}
enforcement could not be held accountable for the computerized error.\textsuperscript{86} Stevens argued that the reasonable presumption, under the circumstances of \textit{Evans}, would be to allocate responsibility for the error to the police "who stand in the best position to monitor such errors" and "can influence mundane communication procedures in order to prevent those errors."\textsuperscript{87} Further, Stevens posited that his presumption "comports with the notion that the exclusionary rule exists to deter future police misconduct systematically."\textsuperscript{88}

Lastly, Justice Stevens argued that the majority of the Court had failed to minimize the impact of its decision on the security of citizens.\textsuperscript{89} Stevens argued that the majority overlooked the reality of computer technology's growing infringement on citizen's privacy and, thus, opened "wholly innocent citizens [to] unwarranted indignity."\textsuperscript{90}

\textbf{E. Justice Ginsburg's Opinion}

Justice Ginsburg's dissent initially noted the significant amplification that computerization has on the effect of an error.\textsuperscript{91} Considering the widespread use of national criminal databases, Ginsburg asserted that a corresponding need for prompt correction of data was vital.\textsuperscript{92} With these concerns as a basis, Justice Ginsburg disagreed with the majority's compartmentalization of governmental actors, characterizing it as "artificial."\textsuperscript{93} Instead, Ginsburg reasoned that court and police personnel jointly carry out the state's information-gathering objectives.\textsuperscript{94} Thus, Justice Ginsburg posited that application of the exclusionary rule would supply the necessary incentive for states to promote the prompt updating of computerized records, thereby inhibiting the incident of Fourth Amendment violations.\textsuperscript{95}

\textsuperscript{86} \textit{Id.}
\textsuperscript{87} \textit{Id.}
\textsuperscript{88} \textit{Id.}
\textsuperscript{89} \textit{Id.}
\textsuperscript{90} \textit{Id.} at 1197.
\textsuperscript{91} \textit{Id.} at 1198 (Ginsburg, J., dissenting). Justice Stevens joined Justice Ginsburg's dissent.
\textsuperscript{92} \textit{Id.} at 1194.
\textsuperscript{93} \textit{Id.} at 1200.
\textsuperscript{94} \textit{Id.}
\textsuperscript{95} \textit{Id.} Justice Ginsburg also disagreed with the majority's assertion of jurisdiction based on the presumption announced in Michigan v. Long, 463 U.S. 1032 (1983), that absent a plain statement of intent to rest upon an independent state ground, a state court's decision is presumed to be based on federal law. \textit{Evans}, 115 S. Ct. at 1198 (Ginsburg, J., dissenting). Under Ginsburg's reasoning, \textit{Long} should have been overruled and an opposite presumption should have been applied so that "the States' ability to serve as laboratories for testing solutions to
V. Analysis of the Case

Arizona v. Evans was correctly decided. The holding clearly follows precedent of the Court and, despite opinions to the contrary, is not an authorization for the use of evidence based on warrantless searches. Nevertheless, portions of the joint opinion's analysis fail to provide the parameters set forth in earlier decisions of the Court, reducing the decision's persuasiveness. Furthermore, the dissenting opinions in Evans pose fundamental questions regarding the scope of the Fourth Amendment and the source of the exclusionary rule, thereby deteriorating the persuasiveness of the majority's position and the propriety of the good-faith exception to the exclusionary rule.

A. Analysis of the Joint Opinion

Initially, the Court disagreed with the Arizona Supreme Court's rejection of the distinction between court employees and police employees. However, the Court neither provided an explanation for its disagreement nor support for its rationale. The Court in Leon and Krull clearly defined the differing roles of the police, the judiciary, and the legislature in support of the distinctions it was advocating. Thus, the Evans Court lost potential credibility for its position by not strictly following its prior analysis.

The Evans Court also broke from its prior analysis in Leon and Krull by not limiting the application of its holding by defining instances in which reasonable reliance would not exist. This may cause problems for the Court in the future. The Court did, however, limit its holding novel legal problems would not be impeded. Id. at 1198 (Ginsburg, J., dissenting); see also supra note 66 and accompanying text.

96. Id. at 1193.
97. For example, in both Leon and Krull, the Court described the police officer's role as one "engaged in the often competitive enterprise of ferreting out crime." United States v. Leon, 468 U.S. 897, 914 (1983) (citations omitted); Illinois v. Krull, 480 U.S. 340, 351 (1987) (quoting Johnson v. United States, 333 U.S. 10, 14 (1948)). In Leon, the Court distinguished magistrates from the police by defining the judicial role as a "neutral and detached" administrator reviewing warrant applications. Leon, 468 U.S. at 914. In Krull, the Court defined the purpose of legislators as enacting laws for the continued establishment and perpetuation of the criminal justice system. See Krull, 480 U.S. at 351. Further, the Court noted that this role was different than law enforcement in that it involved a greater deliberation before action. Id.
98. See supra Part III.
99. A potential parameter the Court could have articulated was expressed by Justice O'Connor in her concurring opinion: namely, law enforcement would not be deemed to have acted in objectively reasonable reliance when the record-keeping system they were relying on
by narrowing the sources of computer errors covered by the good-faith exception to those committed by court employees. Implicit in this limitation is the proposition that computer errors caused by police employees would warrant application of the exclusionary rule.

Recently, in State v. White, the Florida Supreme Court reviewed whether the exclusionary rule requires suppression of evidence seized incident to an arrest resulting from an inaccurate computer record, later found to be erroneous because of police error. The Florida Supreme Court held that an arresting police officer was properly chargeable with the knowledge of an inaccurate computer record through the "fellow officer" or "collective knowledge" rule which provides that, when making an arrest, an officer may rely upon information supplied by fellow officers; however, if the information fails to support the arrest, fruits of the arrest are not insulated from challenges that the arresting officer relied on information furnished by fellow officers. Because the arresting officer in White was chargeable with knowledge of the inaccurate computer record, the Florida Supreme Court found that the good-faith exception to the exclusionary rule was inapplicable and suppression of the illegally seized evidence was appropriate.

The strongest portion of the joint opinion in Evans was the Court's evaluation of the efficacy of the exclusionary rule's deterrent purpose. The Court adhered to the strict analysis of its prior holdings and applied the three basic factors articulated in Leon and Krull. Further, the Court supported its conclusion that application of the exclusionary rule would have a minimal deterrent effect on court employees by noting that "once the court clerks discovered the error, they immediately corrected


100. See supra note 64 and accompanying text.
101. 660 So. 2d 664 (Fla. 1995).
102. Id. at 665.
103. Id. at 667 (citing Whitely v. Warden, Wyoming State Penitentiary, 401 U.S. 560, 568 (1971)). It should be noted that Evans relied on Whitely in arguing application of the exclusionary rule. The Evans court found this reliance "dubious" in that the Whitely court treated identification of a Fourth Amendment violation as synonymous with application of the exclusionary rule to evidence seized incident to that violation. The Evans court noted that subsequent cases, such as Leon, Sheppard, and Krull, had rejected this "reflexive" application of the exclusionary rule; instead, emphasizing that the issue of exclusion is separate from the issue of whether a Fourth Amendment violation had occurred. Evans, 115 S. Ct. at 1192-93. Thus, it appears that the Florida Supreme Court's analysis in White is inconsistent with the current position of the United States Supreme Court.
104. White, 660 So. 2d at 668.
105. Evans, 115 S. Ct. at 1193; see also supra Part III.
it, and then proceeded to search their files to make sure that no similar mistakes had occurred.”

B. Analysis of Dissenting Opinions

A key issue posed by the dissenting opinions of Justices Stevens and Ginsburg concerned the appropriate scope of the Fourth Amendment; namely, whether the Fourth Amendment applies to the government as a whole or in particular law enforcement. Justice Stevens argued that the Fourth Amendment was intended to be a "constraint on the power of the sovereign, not merely on some of its agents." Given the combined information-gathering role of court personnel and law enforcement, Justice Ginsburg found the distinction between court personnel and police officers to be artificial. The dissenting opinions do have merit. In *Weeks v. United States*, regarded as the one of the first cases by the United States Supreme Court to recognize the existence of the exclusionary rule, the United States Supreme Court stated that the effect of the Fourth Amendment was
to put the courts of the United States and Federal officials, in the exercise of their power and authority, under limitations and restraints as to the exercise of such power and authority, and to forever secure the people, their persons, houses, papers and effects against all unreasonable searches and seizures under the guise of law.

Considering the breadth of governmental entities that could be potentially construed within the language of this statement of the *Weeks* Court, the *Evans* dissenters may have a point that could provide the necessary basis for a change in the Court’s position in the future.

Another issue raised by the *Evans* dissenters and Justice Brennan in his dissenting opinion in *Leon* is the issue of whether the exclusionary rule is a constitutional privilege or a judicially created remedy. *Mapp v.*

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106. *Evans*, 115 S. Ct. at 1194 (citation omitted) (emphasis added). Justices Stevens and Ginsburg both attacked the Court's reliance on the testimony of the court employees and argued that the numerous errors found by the court employees after the Evans error was discovered were indicative of the potential Fourth Amendment violations lurking unnoticed, and thus, reason to apply the exclusionary rule. See *id.* at 1196 (Stevens, J., dissenting); *id.* at 1200 (Ginsburg, J., dissenting).

107. See *id.* at 1195 (Souter, J., concurring); *id.* (Stevens, J., dissenting); *id.* at 1201 (Ginsburg, J., dissenting).

108. *Id.* at 1195 (Stevens, J., dissenting).

109. *Id.* at 1200 (Ginsburg, J., dissenting).

110. 232 U.S. 383 (1914).

111. *Id.* at 391-92.
Ohio is the central case supporting the proposition that the exclusionary rule can be considered a constitutional privilege.\textsuperscript{112} In Mapp, the United States Supreme Court held that the states were bound by the commands of the Fourth Amendment through the Fourteenth Amendment.\textsuperscript{113} Under the Mapp Court's reasoning, "[t]o hold otherwise is to grant the right but in reality to withhold its privilege and enjoyment."\textsuperscript{114}

The problem with the Mapp characterization is that no provision of the Fourth Amendment expressly provides for the exclusionary rule as a constitutional remedy.\textsuperscript{115} Furthermore, since Mapp, the Court has only referred to the exclusionary rule as a judicially created remedy.\textsuperscript{116} Hence, it is questionable whether the Court's position in Mapp was essentially a constitutional maneuver aimed at producing the desired result of binding the states by the commands of the Fourth Amendment rather than the recognition of a constitutional privilege. Nevertheless, it is important to note that a simple change in the Court's position regarding the source of the exclusionary rule could have a significant impact upon the viability of the good-faith exception.

Both dissenting opinions took the position that application of the exclusionary rule was appropriate because of the significant number of citizens that could be affected by invalid computer errors.\textsuperscript{117} However, the Court has noted in prior cases that in appraising whether application of the exclusionary rule is appropriate, "the simple fact that many are affected... is not sufficient to tip the balance if the deterrence of Fourth Amendment violations would not be advanced in any meaningful way."\textsuperscript{118}

\begin{footnotes}
\item[112] See supra Part III.
\item[114] Id. at 656.
\item[115] See supra note 2 and accompanying text.
\item[117] Justice Stevens explained: "[T]he most serious impact will be on the otherwise innocent citizen who is stopped for a minor traffic infraction and is wrongfully arrested based on erroneous information in a computer data base." Evans, 115 S. Ct. at 1197 (Stevens, J., dissenting). Justice Ginsburg explained that "computerization greatly amplifies an error's effect, and correspondingly intensifies the need for prompt correction." Id. at 1199 (Ginsburg, J., dissenting).
\item[118] Krull, 480 U.S. at 353.
\end{footnotes}
Additionally, the dissenters categorized Evans as a case involving a warrantless search. Under the dissenters' rationale, Evans was a warrantless search because at the time of the search a warrant was not, in reality, in existence. The dissenters' rationale is misplaced in that it takes an after-the-fact review of the situation and fails to recognize the central focus of the Court's analysis in deciding whether the good-faith exception is applicable. The Court's analysis, as advanced in Leon, Krull, and Evans, is to examine the police officer's reliance from the reasonable person standard. Under this standard, the officer's actions are reviewed by examining the information then known to the officer or, in the alternative, information the officer should have known, not facts that arise later in litigation. By abandoning the central focus of the Court's long-standing analysis, the dissenters place too high a burden on law enforcement by making them responsible for information yet unknown to them.

VI. CONCLUSION

In Arizona v. Evans, the United States Supreme Court took on the arduous task of balancing the interests of individual liberty as articulated in the Fourth Amendment with the interests of the Government in maintaining its citizens' safety and pursuing the search for truth. In so doing, the Court appropriately extended the good-faith exception to include instances in which law enforcement officers had acted in objectively reasonable reliance on computer records in making an arrest, even though the records were later found erroneous because of judicial error. Consequently, the Court took another significant step in warning future criminal defendants that mere technical violations by the police are no longer a viable means of escape when based on objectively reasonable behavior. Nevertheless, the dissenting opinions in Arizona v. Evans assert fundamental questions underlying the scope of the Fourth Amendment and the source of the exclusionary rule which, if decided in accordance with their positions, would dramatically affect the jurisprudence of the Fourth Amendment and the viability of the good-faith exception to the exclusionary rule.

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119. See Evans, at 1196 (Stevens, J., dissenting); id. at 1199 (Ginsburg, J., dissenting).
120. Id.