chapter 3

Multiple Choice
Identify the letter of the choice that best completes the statement or answers the question.

___ 1. The exclusionary rule:
   a. requires that the state not prosecute a person if the police violate the accused's constitutional rights.
   b. requires that admissible evidence be relevant and trustworthy.
   c. currently applies only to federal courts and federal officers.
   d. requires that if police unconstitutionally seize evidence, it not be used in a criminal prosecution against the person whose rights were violated.

___ 2. The exclusionary rule:
   a. requires that a defendant not be prosecuted if police violate the defendant's rights.
   b. requires that police be prosecuted if they violate a defendant's rights.
   c. allows prosecution with other evidence but not with the tainted evidence.
   d. forbids prosecution with poisonous fruits.

___ 3. The exclusionary rule:
   a. requires exclusion of tainted evidence even if it is relevant.
   b. requires that the state not prosecute an individual whose constitutional rights have been violated by police.
   c. excludes testimony by a defendant whose constitutional rights have been violated by police.
   d. excludes testimony from police who have violated a defendant's constitutional rights.

___ 4. Under common law, the exclusionary rule:
   a. was frequently used.
   b. was sometimes used.
   c. was not used.
   d. applied only to irrelevant and untrustworthy evidence.

___ 5. The case which first applied the exclusionary rule is:
   b. Mapp v. Ohio.
   c. Weeks v. U.S.
   d. Silverthorne Lumber Co. v. U.S.

___ 6. In Wolf v. Colorado, the Supreme Court:
   a. first applied the exclusionary rule to the federal courts.
   b. first applied the exclusionary rule to the state courts.
   c. first developed the fruit of the poisonous tree doctrine.
   d. refused to apply the exclusionary rule to the state courts.

___ 7. The case that declared Fourth Amendment restrictions on police applicable to the state courts but that also refused to require an exclusionary rule in them is:
   b. Mapp v. Ohio.
   c. Weeks v. U.S.
   d. Wong Sun v. U.S.
8. The case that required the exclusionary rule be used in state courts is:
   b. *Mapp v. Ohio*.
   c. *Weeks v. U.S.*
   d. *Wong Sun v. U.S.*

9. In *Mapp v. Ohio* the Supreme Court:
   a. first applied the exclusionary rule to the federal courts.
   b. first applied the exclusionary rule to the state courts.
   c. first outlined the fruit of the poisonous tree doctrine.
   d. refused to apply the exclusionary rule to the state courts.

10. The exclusionary rule is:
    a. a constitutional right.
    b. implied by the due process clause.
    c. implied by the equal protection clause.
    d. a rule devised by the Court.

11. The exclusionary rule is:
    a. contained in the Fourth Amendment.
    b. implied in the Fourth Amendment.
    c. implied in the Fourteenth Amendment.
    d. not in the Constitution or its Amendments.

12. The exclusionary rule is not applicable to:
    a. violations of privacy by police.
    b. state criminal courts.
    c. violations of privacy by private citizens.
    d. federal criminal courts.

13. The exclusionary rule applies to the use of illegally obtained evidence:
    a. in a civil trial.
    b. before a grand jury.
    c. to revoke parole.
    d. in none of the above.

14. Evidence which develops or comes to light from the exploitation of other evidence is:
    a. circumstantial evidence.
    b. direct evidence.
    c. secondary evidence.
    d. indirect evidence.
    e. primary evidence.

15. Secondary evidence is another name for:
    a. direct evidence.
    b. primary evidence.
    c. circumstantial evidence.
    d. derivative evidence.

16. Police interrogate a suspect who tells police where a stash of illegal drugs is hidden which are then seized by the police. The drugs are:
    a. primary evidence.
    b. secondary evidence.
    c. circumstantial evidence.
    d. fruit of the poisonous tree.
17. Police interrogate a suspect who tells police where a stash of illegal drugs is hidden. The suspect's statement is:
   a. primary evidence.
   b. secondary evidence.
   c. circumstantial evidence.
   d. fruit of the poisonous tree.

18. The fruit of the poisonous tree doctrine does not apply to evidence resulting from:
   a. unconstitutional searches.
   b. illegal arrests.
   c. illegal identification procedures.
   d. involuntary confessions.
   e. violations of Miranda procedures.

19. Which of the following is not an exception to the fruit of the poisonous tree doctrine?
   a. attenuation
   b. inevitable discovery
   c. derivative evidence
   d. good faith
   e. independent source

20. Tainted evidence may be admissible if the evidence was also obtained through a means separate from the primary constitutional violation. This is called:
   a. the attenuation exception.
   b. the independent source exception.
   c. the inevitable discovery exception.
   d. the good faith exception.

21. Which of the following best describes the "inevitable discovery" exception to the exclusionary rule?
   a. If the government can show that the discovery of the evidence by lawful means was inevitable, the evidence will be admissible, even though it was initially discovered unconstitutionally.
   b. If the defense can show that the evidence was obtained in violation of the Constitution, that evidence is not admissible, even though the contested evidence would have been discovered by lawful means in the absence of police misconduct.
   c. The exclusionary rule does not apply if the officer made an illegal search but later obtained a search warrant that particularly described the evidence seized.
   d. If the inevitable discovery exception is to apply as an exception to the exclusionary rule, the government must show beyond a reasonable doubt that the contested evidence would have been discovered by lawful means.

22. Tainted evidence may be admissible if there is a severe weakening of the causal connection between the primary illegality and the derivative evidence. This is called the:
   a. attenuation exception.
   b. independent source exception.
   c. inevitable discovery exception.
   d. good faith exception.
23. Tainted evidence may be admissible if the evidence would ultimately have been discovered by lawful means as a result of predictable and routine behavior of a law enforcement agency. This is called the:
   a. fruit of the poisonous tree doctrine.
   b. good faith exception.
   c. inevitable discovery exception.
   d. attenuation exception.
   e. independent source exception.

24. Police with probable cause to believe that a warehouse contains marijuana unlawfully enter the warehouse and observe marijuana. The officers leave and obtain a search warrant using their original probable cause, not their unlawful observations. The best chance for the prosecutor to have the evidence, marijuana, be admissible would be under:
   a. the attenuation exception.
   b. the independent source exception.
   c. the inevitable discovery exception.
   d. the good faith exception.

25. An officer awakens the local magistrate at 2:30 am to obtain a search warrant. The officer observes that the magistrate signs the warrant without reading the affidavits attesting to probable cause. The officer executes the warrant and seizes evidence. At the suppression hearing the magistrate:
   a. should not admit the evidence because of the good faith exception.
   b. should admit the evidence because of the good faith exception.
   c. should not admit the evidence because of the independent source exception.
   d. should admit the evidence because of the independent source exception.

26. Officers acted pursuant to a state statute which authorized them to search the records of car parts sellers without a warrant. Their search located evidence of stolen auto parts. The statute was later determined to be unconstitutional. At the suppression hearing the magistrate:
   a. should not admit the evidence because of the exclusionary rule.
   b. should not admit the evidence because of the derivative evidence rule.
   c. should admit the evidence because the good faith doctrine allows it.
   d. should admit the evidence because of attenuation.

27. A patrol officer is chasing a suspect fleeing from an armed robbery where the suspect fired a pistol. The suspect flees into his own home where the officer enters and arrests the suspect. An immediate search of the suspect reveals an empty shoulder holster. Without advice of rights the officer asks the suspect the whereabouts of the gun. The suspect states that he threw it into the trash bin as he ran through the house. The weapon is found. Which of the following would be most applicable to making the gun admissible at trial?
   a. derivative evidence exception
   b. good faith exception
   c. inevitable discovery exception
   d. attenuation exception

28. When a police officer, acting in honest belief that they have an apparently valid search warrant, executes the warrant and seizes evidence, the evidence may still be admissible, even though the warrant is later determined to be invalid due to the magistrate's error. This is an expression of the:
   a. derivative evidence rule.
   b. secondary evidence rule.
   c. inevitable discovery doctrine.
   d. attenuation exception.
   e. good faith exception.
29. An officer is about to execute a search warrant but notices that the magistrate failed to sign and date the warrant. Realizing that the warrant is not valid but rationalizing that the magistrate can sign it later, the officer executes the warrant and seizes property. At the suppression hearing the magistrate:
   a. should not admit the evidence because of the good faith doctrine.
   b. should admit the evidence because of the good faith doctrine.
   c. should not admit the evidence because of the inevitable discovery doctrine.
   d. should admit the evidence because of the inevitable discovery doctrine.

30. An officer is about to execute a search warrant but notices that the magistrate failed to sign and date the warrant. Realizing that the warrant is not valid but rationalizing that the magistrate can sign it later, the officer executes the warrant and seizes property. At the suppression hearing the magistrate:
   a. should admit the evidence because the officer acted in good faith.
   b. should not admit the evidence because the officer did not act in good faith.
   c. should admit the evidence under the attenuation exception because the officer could have gotten another warrant.
   d. should not admit the evidence because the magistrate did not act in good faith.

31. To invoke the exclusionary rule to challenge the admissibility of evidence, a defendant must have standing. This means that:
   a. the defendant must be competent to stand trial.
   b. the defendant must be sane.
   c. the defendant must have had his Fifth Amendment rights infringed.
   d. the defendant must have had his Fourth Amendment rights infringed.

32. To invoke the exclusionary rule to challenge the admissibility of evidence, a defendant must have standing. This means that:
   a. the defendant must be competent to stand trial.
   b. the defendant must be sane.
   c. the defendant must be on trial.
   d. the defendant's right to privacy must have been violated.

33. Police suspected that a car was involved in a robbery and stopped the car. Police ordered the occupants out and searched the car, discovering a sawed off rifle under the front passenger seat. The passenger was arrested and disclaimed ownership of the car and of the rifle. Assuming that the police search was unconstitutional, the passenger, now defendant:
   a. has standing to object to admissibility of the rifle because he was the target of the search.
   b. has standing to object to admissibility of the rifle because he is the defendant.
   c. has standing to object to admissibility of the rifle because his privacy was invaded.
   d. has no standing to object to admissibility of the rifle because his privacy was not invaded.

34. What case signaled a major shift in judicial interpretation of the right to privacy?
   a. Griswold v. Connecticut
   b. Terry v. Ohio
   c. Katz v. United States
   d. Illinois v. Gates

35. Prior to Katz v. U.S. (1967), courts interpreted that the Fourth Amendment had been violated:
   a. whenever police trespassed onto property.
   b. whenever police invaded a person's expectation of privacy.
   c. whenever police invaded a person's reasonable expectation of privacy.
   d. whenever police physically invaded a residence.
36. In *Katz v. U.S.* (1967), the Supreme Court:
   a. affirmed the traditional view of privacy.
   b. interpreted privacy to exist wherever there is a constitutionally protected area.
   c. interpreted privacy to exist wherever a person has a subjective expectation of privacy.
   d. interpreted privacy to exist wherever a person has a reasonable expectation of privacy.

37. The exception to the fruit of the poisonous tree doctrine that was first established in *Nardone v. United States*, 308 U.S. 338 (1939), is the:
   a. good-faith exception.
   b. inevitable discovery doctrine.
   c. attenuation doctrine.
   d. fruit of the poisonous tree doctrine.

38. The method of establishing probable cause through the use of an informant's information is sometimes referred to as the:
   a. direct observation method.
   b. informant method.
   c. hearsay method.
   d. citizen method.

39. In *Aguilar v. Texas*, 378 U.S. 108 (1964), a test was established for determining probable cause when the information in an affidavit was either entirely or partially obtained from an informant. This test is known as the:
   a. Aguilar test.
   b. totality of the circumstances test.
   c. two-pronged test.
   d. application test.

40. When the state court opinion is ambiguous as to whether it is based on an adequate and independent ground, the Supreme Court applies the:
   a. plain statement rule.
   b. exclusionary rule.
   c. good-faith exception.
   d. reasonableness rule.

41. Law enforcement officers acting under color of state law who violate a person's Fourth Amendment rights are subject to a suit for damages and other remedies in federal courts under a federal civil rights statute. This is known as:
   a. an illegal search and seizure action.
   b. a section 1983 action.
   c. a tort action.
   d. a Bivens action.

**True/False**

*Indicate whether the sentence or statement is true or false.*

42. The exclusionary rule is a constitutional right guaranteed in the Bill of Rights.

43. The exclusionary rule is not a constitutional right but a court-created right.

44. State courts must follow the federal law governing arrest and search.

45. State courts are allowed to apply the exclusionary rule to restrict state police seizures of evidence even more stringently than required in federal courts.
46. In matters of arrest and search, state courts must provide at least as much protection to citizens as is provided under the federal Constitution.

47. The Supreme Court adopted the exclusionary rule primarily to control police misconduct, but the rule actually restricts the prosecutor more than the police.

48. The exclusionary rule applies to civil trials.

49. The exclusionary rule applies only to criminal trials.

50. A codefendant has automatic standing to object to the introduction of illegally seized evidence, even if his privacy was not invaded.


52. According to the definition in *U.S. v. Jacobsen*, a search occurs whenever a police officer picks up and examines any object closely, even if the object has been abandoned or lost.

53. Probable cause must be based only on legally admissible evidence.

54. Less persuasive evidence will justify the issuance of a warrant than would justify a warrantless search or warrantless arrest.

55. Probable cause means that the officers could be incorrect in their assessment of the facts.

56. An illegal search and seizure may be criminally actionable, but an officer performing an illegal search or seizure is not subject to prosecution.

57. Two different types of information are required to establish probable cause for search and arrest.

58. The exclusionary rule prevents the Fourth Amendment’s right of privacy from being "a form of words, valueless and undeserving of mention in a perpetual charter of inestimable human liberties."