



Supreme Court Holds That Individuals Have Fourth Amendment Privacy Rights In Cell Phone Location Records

Carpenter v. United States, No. 16-402

Decided June 22, 2018

The Supreme Court held 5-4 that law enforcement officials must generally obtain a warrant when seeking historical cell phone location records from a telecommunications provider.

Background:

Wireless carriers regularly collect and store information reflecting the location of cell phones when those phones connect to cell sites to transmit and receive information. Prosecutors collected a suspect's cell-site location data from wireless carriers following the procedure in the Stored Communications Act, 18 U.S.C. §§ 2701-12, but without obtaining a warrant. The suspect argued that the Government's acquisition of this data without a warrant was an unconstitutional search that violated the Fourth Amendment. This argument set up a conflict between two lines of Supreme Court precedent: the longstanding third-party doctrine, which holds that information a person voluntarily reveals to others is not protected by the Fourth Amendment; and several recent cases holding that cell phones implicate significant privacy concerns because so many people store large amounts of information on them.

Issue:

Whether an individual has a protected privacy interest under the Fourth Amendment in historical cell phone location records.

Court's Holding:

Yes. The Fourth Amendment protects cell phone location records because of their comprehensive and private nature, even though they are collected and held by the phone company. The Government must ordinarily obtain a warrant before acquiring the records.

"In light of the deeply revealing nature of [cell site location data], its depth, breadth, and comprehensive reach, and the inescapable and automatic nature of its collection, the fact that such information is gathered by a third party does not make it any less deserving of Fourth Amendment protection."

Chief Justice Roberts,
writing for the 5-4 majority

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What It Means:

- The decision continues a trend of recent Supreme Court decisions limiting Government access to personal information stored electronically. In *United States v. Jones* (2012), the Court unanimously rejected the Government's argument that it could place a GPS tracker on a suspect's car without a warrant, although it divided as to the reason. Likewise, in *Riley v. California* (2014), the Court unanimously declined to allow police officers to routinely search cell phones incident to arrest, based in part on the volume and importance of personal information stored on them.
- The Court emphasized that its decision was limited to the collection of historical cell phone location records covering an extended period of time. The Court declined to consider whether the Fourth Amendment protected real-time cell phone location information or historical location data covering a shorter period of time than the Government collected here (seven days). The Court also emphasized that it was not calling into question conventional surveillance tools such as security cameras, or collection techniques involving foreign affairs or national security.
- The Court expressly declined to overrule the third-party doctrine. Instead, it stated that the doctrine should not be extended to historical cell site location data because the breadth and depth of the information available made that data "qualitatively different" from other information that the Court had previously allowed the Government to obtain from third parties without a warrant.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the Supreme Court. Please feel free to contact the following practice leaders:

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