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U.S. Supreme Court: Police Must Obtain Warrant Before Searching Cell Phones

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In a decision that changes the way law enforcement officers collect electronic information, the U.S. Supreme Court ruled in *Riley v. California*, 573 U.S. ____ (2014), that officers may not search a cell phone incident to a lawful arrest without first obtaining a search warrant. The ruling was a sweeping embrace of digital privacy, touching upon remotely stored private information—*i.e.*, “cloud” computing—and geographic tracking data that cell phones often contain. The result was the broadest constitutional ruling on privacy in the context of modern technology since the Court’s ruling two Terms ago limiting police use of satellite-linked GPS tracking of a suspect’s movements by car.

The defendant in this case, David Leon Riley, was arrested on August 22, 2009, after a traffic stop resulted in the discovery of loaded firearms in his car. The officers seized Riley’s phone and searched through his messages, contacts, videos, and photographs. Based in part on data the officers discovered on his cell phone, Riley was charged with a gang-related shooting that had taken place several weeks prior to his arrest.

Chief Justice John Roberts, writing for the majority, held that the Fourth Amendment requires officers to obtain a warrant before searching the contents of an arrestee’s cell phone. The decision is both a full-throated defense of the Fourth Amendment’s warrant requirement and a meaningful clarification of the way electronic information differs from other types of physical evidence.

The Court distinguished cell phones as “minicomputers,” often containing diverse information that “reveal more in combination than any isolated record.” Slip op. at 18. The Court discussed, more clearly than it ever had before, the distinction between ordinary physical objects—*e.g.*, a diary or a letter—and electronic information stored in a cell phone or other comparable device. Chief Justice Roberts noted that there was both a quantitative and qualitative difference between the information stored on a cell phone and the information typically contained in compact physical storage. Not only is the information quantitatively greater, but often qualitatively more descriptive and personal.

The Court summarily rejected the government’s arguments to allow warrantless searches of an arrestee’s cell phone for officer safety or evidence preservation purposes. In rejecting these arguments, the Court emphasized that electronic data rarely, if ever, presents physical threats to an officer. Furthermore, the government employs a multitude of methods to preserve electronic information without a warrantless search. Recognizing the limitations that the ruling imposes, though, the Court held that officers have one option to search a cell phone without a warrant: in truly extraordinary circumstances where officers have reason to expect that

electronic data presents imminent dangers, such as locating a missing child or foiling dangerous plots. *Id.* at 11-12, 15. But even then, the Court explained, those “exigent” circumstances justifying an exception to the warrant requirement would have to satisfy a judge after the fact.

While the type of technology incorporated into a cell phone was the rationale behind this ruling, its constitutional foundation was the Founding generation’s fear of the British practice of general searches. In rejecting the government’s argument that it could employ protocols to limit the scope of warrantless searches into an arrestee’s electronic data, the Court noted that the “Founders did not fight a revolution to gain the right to government agency protocols.” *Id.* at 22. The fact that modern technology allows an individual to access personal information on demand “does not make the information any less worthy of the protection for which the Founders fought.” *Id.* at 28.