

## Police Must Get Warrant for Cell Phone Search

Recognizing the vast trove of personal information on today's smart phones, the Supreme Court found that a warrant is necessary before police search a person's cell phone after an arrest.

The issue before the court involved a "search incident to arrest," that is, what can the police search following an arrest. The defendants in two separate cases argued the police violated their Fourth Amendment rights when the police obtained data from the suspects' smartphones after they were lawfully arrested. From the data obtained, both were charged with additional offenses.

The court noted that, once an arresting officer has secured a phone and eliminated any potential physical threats, "data on the phone can endanger no one," so there is no need for an immediate search without a warrant of the phone's data.

Finding cell phones to be "such a pervasive and insistent part of daily life that the proverbial visitor from Mars might conclude they were an important feature of human anatomy," the court said cell phones have a vast amount of personal information and "implicate privacy concerns far beyond those implicated by a search" incident to an arrest. "Cell phones differ in both a quantitative and a qualitative sense from other objects that might be kept on an arrestee's person," the court wrote.

"Prior to the digital age, people did not typically carry a cache of sensitive personal information with them as they went about their day. Now it is the person who is not carrying a cell phone, with all that it contains, who is the exception." the opinion states. "Allowing the police to scrutinize such records on a routine basis is quite different from allowing them to search a personal item or two in the occasional case."

The court compared a cell phone search with the search of a house, which requires a warrant. "Indeed, a cell phone search would typically expose to the government far more than the most exhaustive search of a house: A phone not only contains in digital form many sensitive records previously found in the home; it also contains a broad array of private information never found in a home in any form—unless the phone is."

Using smart phone data, the police can find Internet search and browsing history—which may reveal a person's interests or diseases, can find where the person has been, and can reconstruct someone's specific movements down to the minute. In addition, examining a person's apps "can form a revealing montage of the user's life," the court found.

"The fact that technology now allows an individual to carry such information in his hand does not make the information any less worthy of the protection for which the Founders fought," the court concluded. "Our answer to the question of what police must do before searching a cell phone seized incident to an arrest is accordingly simple—get a warrant."

*Riley v. California*, Supreme Court No.13-132, issued June 25, 2014.