High court takes cases on cellphone searches

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This Oct. 7, 2013 file photo shows people waiting in line to enter the court in Washington. Forty years ago, the Supreme Court decided that police don't need a warrant to look through anything a person is carrying when arrested. But that was long before smartphones gave people the ability to take with them the equivalent of millions of documents and thousands of photos. The justices are being asked to resolve a new clash of technology and privacy in the digital age. (AP Photo/ Evan Vucci, File)

The Supreme Court agreed Friday to decide whether police need a warrant to search the cellphones of people they have arrested.

The court will hear two cases in which criminal defendants were convicted and sentenced to lengthy prison terms at least in part on the strength of evidence obtained by warrantless searches of their cellphones.

The high court ruled 40 years ago that police don't need a search warrant to look through anything a person is carrying when arrested. But lower federal and state courts have differed over whether that decision, predating the digital age, should apply to increasingly sophisticated cellphones, including even more advanced smartphones.

The cases will be argued in April and decided by late June.

More than 90 percent of Americans own at least one cellphone, the Pew Research Center says, and the majority of those are smartphones—essentially increasingly powerful computers that are also telephones.

The two cases the court agreed to review present several aspects of the issue.

In one, from Boston, a federal appeals court said the warrantless, but limited, search of an older flip phone violated the Fourth Amendment. After arresting Brima Wurie on suspicion of selling crack cocaine, police eventually examined the call log on his flip phone and used the information to determine where he lived. When they searched Wurie's home, armed with a warrant, they found crack, marijuana, a gun and ammunition. The evidence was enough to produce a conviction and a prison term of more than 20 years.

In the other case, from California, state courts upheld the search of defendant David Leon Riley's Samsung smartphone. San Diego police found several indications that Riley belonged to a gang and was involved

in a gang-related shooting. Prosecutors used video and photographs found on the smartphone to persuade a jury to convict Riley of attempted murder and other charges.

Smartphones also have the ability to connect to the Internet. In this case, though, there is no indication police used the device to access other personal information of Riley's. The high court made clear it will review the case only to the extent that information obtained in the search was used at Riley's trial.

Under the U.S. Constitution's Fourth Amendment, police generally need a warrant before they can conduct a search. The warrant itself must be based on "probable cause," evidence that a crime has been committed, the Constitution says.

But in the early 1970s, the Supreme Court carved out exceptions for officers dealing with people they have arrested. The court was trying to set clear rules that allowed police to look for concealed weapons and prevent the destruction of evidence. Briefcases, wallets, purses and crumpled cigarette packs all are fair game if they are being carried by a suspect or within the person's immediate control.

Car searches pose a somewhat different issue, and in 2009, in the case of a suspect who had been handcuffed and placed in the back seat of a police cruiser, the court said police may search a car only if the arrestee "is within reaching distance of the passenger compartment" or they believe the car contains evidence relevant to the crime for which the person had been arrested.