

No-warrant cellphone searches before Supreme Court

April 29 2014, by Mark Sherman



People walk on the steps of the U.S. Supreme Court in Washington on Saturday April 26, 2014. The Supreme Court is considering whether police may search cellphones found on people they arrest without first getting a warrant. The court's latest foray into the issue of privacy in the digital age involves two cases being argued Tuesday that arose from searches of phones carried by a gang member and a drug dealer. Police looked through their cellphones after taking the suspects into custody and found evidence that led to their convictions and lengthy prison terms. (AP Photo/Jacquelyn Martin)

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The issue is of more than passing concern for many people. More than 90 percent of Americans own at least one cellphone, the Pew Research Center says, and the majority of those are smartphones. More than 12 million people were arrested in the U.S. in 2012, according to FBI statistics.

The Supreme Court has previously ruled that [police](#) can empty a suspect's pockets and examine whatever they find to ensure officers' safety and prevent the destruction of evidence. The Obama administration and the state of California, defending the searches, say cellphones should have no greater protection from a search than anything else police find.

But the defendants in these cases, backed by an array of civil libertarians, librarians and news media groups, contend that cellphones, especially smartphones, are increasingly powerful computers that can store enormous quantities of sensitive personal information. They say that officer safety is not an issue and that police can take steps to protect a phone's contents from being wiped clean without also conducting a warrantless search.

Lawyer Jeffrey Fisher, representing a San Diego gang member, said arrests even for such minor violations as jaywalking and littering may subject someone to a [cellphone](#) search. The administration said

cellphones are an important tool in the commission of crimes.

In the two cases, David Leon Riley of San Diego carried a Samsung smartphone, while Brima Wurie of Boston had a less advanced flip phone.

Prosecutors used video and photographs found on Riley's smartphone to persuade a jury to convict him of attempted murder and other charges. Officers who arrested Wurie on suspicion of selling [crack cocaine](#) checked the call log on his flip phone and used that information to determine where he lived. When they searched Wurie's home, armed with a warrant, they found crack cocaine, marijuana, a gun and ammunition.

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. But in the early 1970s, the Supreme Court carved out exceptions for officers dealing with people they have arrested.

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