

Third Party Doctrine and CSLI Analysis

The 4th amendment seeks to secure the privacies of life against arbitrary power. As the advancement of technology has made it easier for the government to intrude into areas of one's life that before was normally guarded, the United States Supreme Court has sought to ensure the same level of privacy is protected as what the Framers of the 4th Amendment intended.¹

I agree with Justice Roberts, a search warrant is required for cell-site location information (CSLI). As police officers, doing ethical work and following the rule of law must be at the forefront of the work we do. The 4th Amendment is our roadmap, and we must follow it. We are our citizens' protectors and strive every day not to infringe on their right to privacy.

With the advancement in technology and most citizens having, essentially their entire lives on their phones, and having their phones with them everywhere they go. I also agree it can blur the line of exactly where one's expectation of privacy begins and ends. Cell phones and other communication devices are constantly searching for the nearest cell-tower, all the while recording data of the location of the phone.

Justice Kennedy argues the Third Party Doctrine still applies. As stated in his dissent, the information stored in cell-site records is ownership of the cell phone service provider and not owned by the customer.² *Smith V. Maryland* and *U.S. V. Miller* held the customer voluntarily

¹ Carpenter V U.S. 2018 Module 2 reading University of San Diego [Carpenter v. United States \(blackboardcdn.com\)](#)

² Carpenter V U.S. 2018 Module 2 reading University of San Diego [Carpenter v. United States \(blackboardcdn.com\)](#)

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gave up the expectation of privacy by voluntarily conveying their information to the business or phone company.³ Miller, decided in 1976 long before cell phones were a necessary part of everyday life, laid the foundation the 4th Amendment does not prohibit the government from obtaining information entrusted to a third party.⁴

Professor Begovich breaks down Justice Roberts' opinion who notes the ruling on Riley that almost every important document in a person's life can be stored on cell phone. Justice Roberts' states Smith and Miller do not apply given the unique nature of cell phone location data. Professor Begovich continues to quote Justice Roberts' opinion "This court has never held that the government may subpoena third parties for records in which the suspect has a reasonable expectation of privacy."⁵

As with most warrant requirements, Justice Roberts did offer three critical exceptions to this warrant requirement as well. Exigent circumstances where there is imminent threat to life, bomb threats, child abductions and active shooters.⁶

Cell phones and other communication devices have become a necessary part of everyday life for most citizens. People know and understand their location can be monitored and give up

³ Telephone technology versus the Fourth Amendment reading Module 2 University of San Diego [6097664 \(blackboardcdn.com\)](#)

⁴ Telephone Technology versus the Fourth Amendment Module 2 reading University of San Diego [6097664 \(blackboardcdn.com\)](#)

⁵ Begovich, M. Module 2 Presentation 2.1 Part II Majority Opinion Transcript University of San Diego [6127934 \(blackboardcdn.com\)](#)

⁶ Carpenter V U.S. 2018 Module 2 reading University of San Diego [Carpenter v. United States \(blackboardcdn.com\)](#)

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some expectation of privacy when calls, text messages, web searches etc are completed. All these communications record the time and location they happened. At the end of the day, the majority is right in this opinion that because this mode of communication has become part of everyday life, there is an expectation of privacy in the government needing a warrant to obtain CSLI information.