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Supreme Court Hears Landmark Case: Big Brother Society, CIA, NSA, FBI Spying on Americans

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The Constitution's Fourth Amendment affirms "(t)he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The law is clear, yet consistently breached by the CIA, NSA, FBI and other US intelligence agencies, spying on American citizens and residents extrajudicially, the nation transformed into a Big Brother society.

It's longstanding practice, especially post-9/11, unacceptable yet ongoing, violating Fourth Amendment rights and other fundamental freedoms.

In Miller v. United States (1976), the Supreme Court ruled that

> "(t)he Fourth Amendment does not prohibit the obtaining of information revealed to a third-party and conveyed by him to Government authorities, even if it is revealed on the assumption that it will be used only for a limited purpose and the confidence placed in the third-party will not be betrayed."

The Court added that information revealed to another source "takes the risk (of being) conveyed" to someone else.

In Smith v. Maryland (1979), the High Court extended the so-called third party doctrine to telephone communications.

It said in "expos(ing) that information" to phone company equipment, individuals "assumed the risk that the company would reveal to police the numbers dialed."

In US v. Jones (2012), Supreme Court Justice Sonia Sotomayor acknowledged the need to update Fourth Amendment protections, saying:

> “People disclose the phone numbers that they dial or text to their cellular providers, the URLs that they visit and the e-mail addresses with which they correspond to their Internet service providers, and the books, groceries and medications they purchase from online retailers.”
>
> “I would not assume that all information voluntarily disclosed to some member of the public for a limited purpose is, for that reason alone, dis-entitled to Fourth Amendment protection.”

In United States v. US District Court (the so-called Keith case) (1972), a unanimous Supreme Court ruling upheld Fourth Amendment protections in cases involving domestic surveillance, targeting an alleged threat.

Carpenter v. United States is the latest Fourth Amendment case before the Supreme Court, arguments heard on Wednesday.

It involves the warrantless accessing of an individual’s cell phone records. In June, the High Court accepted Carpenter’s petition for writ of certiorari, agreeing to hear the case.

Modern technology greatly facilitates telecommunications and digital spying. In Riley v. California (2014), the Supreme Court unanimously held that warrantless search and seizure of digital contents of a cell phone during an arrest is unconstitutional.

In 2011, without a probable cause warrant, the federal government obtained months of cell phone location records for suspects in a Detroit criminal investigation, including Timothy Carpenter’s.

They showed he made calls within a two-mile radius of four robberies. He was arrested, charged and convicted on multiple counts of aiding and abetting robbery, sentenced by Eastern Michigan US District Court Judge Sean Cox to over 116 years in federal prison.

On appeal to the US Court of Appeals for the Sixth Circuit, a split three-judge panel upheld his conviction in April 2016.

An amicus brief was filed on his behalf by the ACLU, the ACLU of Michigan, the Brennan Center, Center for Democracy & Technology, Electronic Frontier Foundation, National Association of Criminal Defense Lawyers, Cato Institute, Apple, Facebook, Google, Twitter and Verizon.

The ACLU represents Carpenter in his Supreme Court appeal. It argued that the government violated his Fourth Amendment rights by obtaining location records from his wireless carrier without a warrant.

In his case, an average of 101 daily were obtained over the course of four months. According to ACLU attorney representing Carpenter Nathan Wessler, “(t)his is exactly the kind of private information the Fourth Amendment was designed to protect,” adding:

> “The government’s argument, based on rulings from the analog era, would free it to get comprehensive records of what websites we view, what Google searches we enter, and even our voice commands to smart devices – without constitutional limit.”
>
> “(P)eople have the right to expect that their everyday movements and

thoughts will not be freely available to the government without a warrant."

High Court Justices will decide Carpenter's fate when they rule. At a time when most Americans communicate digitally and/or by cell phones, America's Supremes need to update what protections they deserve.

No one should be abused, mistreated or punished for using today's modern technologies. Yet it's happening to countless numbers of Americans.

Without our knowledge, consent, or just cause, we're spied on by a government hostile to our rights and interests – reading our emails, monitoring our phone calls, accessing our financial and medical records, violating our constitutional rights.

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My newest book as editor and contributor is titled "Flashpoint in Ukraine: How the US Drive for Hegemony Risks WW III."

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