

THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

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Groups Urge Supreme Court to Consider Warrantless Access to Cell Location Data

WASHINGTON, D.C. -- The Constitution Project joined with several other privacy groups to ask the U.S. Supreme Court to consider a case to determine whether the Constitution requires police to obtain a warrant based on probable cause before requesting cell phone location history records from a telephone company.

In a [friend-of-the-court brief](#) filed earlier today, the groups said, "Given the government's newfound ability to track people for extended periods of time through cell site location information, the corresponding constitutional responsibility is to insist police use a probable cause search warrant to obtain this sensitive information."

"Cell location data can reveal the most intimate details of a person's personal life, including professional, political, religious and medical associations," said Virginia Sloan, president of The Constitution Project, a nonpartisan legal watchdog group. "For the constitutional guarantee against unreasonable searches to have any meaning in the digital age, the courts must demand law enforcement officials seek a warrant before accessing it," she said.

TCP was joined by the Electronic Frontier Foundation, the Brennan Center for Justice at NYU School of Law, Center for Democracy and Technology, and National Association for Criminal Defense Lawyers in filing the brief.

The case involves a Florida man, Quartavious Davis, who was convicted of seven armed robberies in 2010. In order to place Davis in the vicinity of six of the seven robberies that occurred in the Miami area, police obtained from his carrier without a warrant 67 days' worth of his cellphone location records, detailing more than 11,000 specific cell site locations.

Earlier this year, the 11th Circuit Court of Appeals ruled that the police's warrantless access to the data did not infringe on Davis' Fourth Amendment rights, which protect against unreasonable search and seizure. Davis is asking the Supreme Court to consider his case. The friend-of-the-court brief supports his request.

The groups' brief says that owning a cell phone is no longer a luxury, noting that 90 percent of all adults in America have one and increasingly rely on them instead of landline phones. As the

number of cell phones has grown, the number of cell towers and cell sites has also increased. According to the brief, background applications running on smartphones constantly create cell location data even when the user is not using the telephone, so the records provide a precise, comprehensive picture of all of a person's present and past public movements. The brief also notes that law enforcement demands for cell location records have also dramatically increased in recent years.

Unlike the 11th Circuit, some state and federal courts have decided that access to cell location data by police does require a warrant. The Supreme Court needs to hear the case in order "to resolve the question and provide clear guidance to both the public and law enforcement," the groups argue.

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[About The Constitution Project](#)

Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.