
Assessing the Impact of *Carpenter v. United States* on Digital Data Privacy

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A year ago, in *Carpenter v. United States*, 138 S. Ct. 2206, 2217 (2018), the Supreme Court held that police acquisition of a defendant's historical cell-site location information (CSLI) from his cell phone provider constituted a search for purposes of the Fourth Amendment. In doing so, the Court upended some established Fourth Amendment doctrines and raised more questions than it answered about the constitutional limits on government acquisitions of digital data. Over the past year, lower federal courts and state courts have begun to grapple with *Carpenter's* implications—not only for CSLI collection but also for other forms of location monitoring and digital surveillance. Despite attempts by criminal defendants to extend *Carpenter* to internet protocol data, internet transaction history, cell-tower dumps, pole cameras and similar surveillance cameras, and even financial records held by banks, courts have applied *Carpenter* almost exclusively in situations involving historical or real-time CSLI.

Carpenter characterized CSLI as having the ability to provide a “detailed, encyclopedic, and effortlessly compiled” record of “a person’s physical presence” over long periods. Courts have so far rejected attempts to extend *Carpenter* principally on the ground that other surveillance techniques rarely allow the acquirer to learn about tracked individuals’ activities as extensively as CSLI acquisition does and thus raise less serious privacy concerns. The few notable exceptions involve data that would allow the government to intrude upon the intimacies of people’s lives by tracking their physical location over extended periods—as *Carpenter* found CSLI does. Thus, courts have found that certain uses of GPS devices, pole cameras, and Internet-of-Things (IoT) devices rise to the level of being Fourth Amendment searches.

In this [Law360 article](#), Partner Jonathan Cedarbaum and Summer Associates Nina Cahill and Sam McHale provide a comprehensive review of how lower courts are applying the framework *Carpenter* established for assessing the government demands for digital evidence.