



# MIAMI-DADE POLICE DEPARTMENT LEGAL BULLETIN

Legal Bulletin 2018-02

July 31, 2018

**SUBJECT: Carpenter v. United States – Expectation of Privacy for Cell Phone Records**

On June 22, 2018, the United States Supreme Court decided Carpenter v. United States, 585 U.S. \_\_\_\_ (2018), No. 16-402, holding that, an individual maintains a legitimate expectation of privacy in the records of his physical movements as captured through an individual's cellphone.

In Carpenter, police officers arrested four men suspected of robbing a series of stores in Detroit, and one of the men confessed that over the previous months, the group had robbed nine different stores in two other states. This suspect further identified 15 accomplices and gave the FBI some of their cell phone numbers, one of which belonged to Timothy Carpenter. With this information, the Government sought a court order under the Stored Communications Act (SCA) to obtain Carpenter's cell phone records. When a cell phone connects to a cell site for signal to make or receive calls or text messages, the cell-site generates a time-stamped record known as cell-site location information (CSLI). Wireless carriers collect and store CSLI for their own business purposes.

The Government's court order produced 12,898 CSLI location points which catalogued Carpenter's movements over the span of 127 days. Various CSLI records showed Carpenter's movements near four of the robberies that took place. Carpenter was indicted on multiple robbery charges and he moved to suppress the CSLI data provided to the Government by the wireless carrier. Carpenter argued that a 4th Amendment violation occurred when the cell-site records were obtained without a warrant supported by probable cause. The trial court denied Carpenter's motion and he was ultimately convicted.

The Court of Appeals for the Sixth Circuit affirmed the conviction and the case was appealed to the U.S. Supreme Court. The Supreme Court reversed the lower courts and held that CSLI information held by a third party is subject to 4th Amendment protection. The Supreme Court noted, "As with GPS information, the time-stamped data provides an intimate window into a person's life, revealing not only his particular movements, but through them his 'familial, political, professional, religious, and sexual associations.'" Id. at 12.

Furthermore, the Supreme Court held that the court order obtained pursuant to the SCA was insufficient because the SCA only requires "reasonable grounds" for believing that the CSLI records were "relevant and material to an ongoing investigation." Accordingly, the Government's court order fell well short of the probable cause standard required for a warrant. The Supreme Court opined, "Before compelling a wireless carrier to turn over a subscriber's CSLI, the Government's obligation is a familiar one – get a warrant." Id. at 18.

As a result of this case, law enforcement must obtain a warrant supported by probable cause before acquiring CSLI records. However, if law enforcement is confronted with exigent circumstances, such urgent situations will likely justify the warrantless collection of CSLI.

MDPD officers having questions regarding this Legal Bulletin should contact the Police Legal Bureau at (305) 471-2550. Officers from other law enforcement agencies should contact their respective legal advisors prior to taking action based on this Legal Bulletin.

AF/jh