

# Can U.S. police search your iPhone without a warrant?

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“Say you’re arrested for possessing a marijuana cigarette in a state where that’s still illegal,” Roger Parloff writes for CNNMoney. “Can the arresting officer, without a warrant, riffle through your Apple iPhone or Google Android with impunity, inspecting, say, 16 gigabytes worth of emails, text messages, contacts, calendars, photos, videos, and GPS records of your comings-and-goings?”

“That’s the bottom-line question permeating two cases being heard by the U.S. Supreme Court on Tuesday — one involving the prosecution of a California man for a gang-related shooting and the other, a federal case against a Boston man for selling crack cocaine,” Parloff writes. “Since 2011, the California Supreme Court has greenlighted broad warrantless cellphone searches ‘incident to an arrest,’ while a split panel of the U.S. Court of Appeals for the First Circuit — which hears federal cases from Maine, Massachusetts, Puerto Rico, and Rhode Island— categorically forbade such searches last May. The Court will apparently be resolving this conflict before its current term ends in late June.”

“Since the country’s founding, an arresting officer has traditionally been permitted to search and inspect, without a warrant, anything found on the arrestee’s person, even if that meant opening closed envelopes and containers, and flipping through the accused’s notebooks, datebooks or wallets—all containing private information that does not differ in kind from what is now stored on cellphones,” Parloff writes. “But attorneys for the two defendants in these two cases—backed by numerous constitutional and civil liberties groups, ranging from the progressive American Civil Liberties Union to the libertarian Cato Institute—argue that the traditional rule needs to be revised in light of the massive storage capacity of modern digital devices and the extraordinary sensitivity of the private data citizens now routinely store there. ‘Technology now makes it possible for individuals to carry huge quantities of information with them every day,’ write Yale Law School professor Eugene Fidell and private attorney Andrew Pincus in a brief they’ve co-authored by the Center for Democracy and Technology and the Electronic Frontier Foundation. ‘Prior to the advent of digital technology, this information would have been stored in the drawers and file cabinets of people’s homes,’ they write. ‘Law enforcement officers would have been required to obtain a warrant in order to search such materials.’”