U.S. Supreme Court rules your cell phone is private: What they're saying

By Marie Morelli
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The U.S. Supreme Court today (June 25) ruled 9-0 that police must get a warrant to search a person's cellphone.

The decision in Riley v. California and United States v. Brima Wurie immediately was hailed as a victory for privacy rights and an omen that the U.S. government's warrantless surveillance of cellphone data is in trouble.

Chief Justice John Roberts, writing for the court, said smart phones were not merely phones, but "are in fact minicomputers that also happen to have the capacity to be used as a telephone. They could just as easily be called cameras, video players, rolodexes, calendars, tape recorders, libraries, diaries, albums, televisions, maps, or newspapers."

The immense storage capacities of these devices make them more than just another item carried on your person, Roberts wrote. "Most people cannot lug around every piece of mail they have received for the past several months, every picture they have taken, or every book or article they have read--nor would they have any reason to attempt to do so. And if they did, they would have to drag behind them a trunk of the sort held to require a search warrant."

This led the court to a simple conclusion:

> Modern cell phones are not just another technological convenience. With all they contain and all they may reveal, they hold for many Americans "the privacies of life," *Boyd*, *supra*, at 630. The fact that technology now allows an individual to carry such information in his hand does not make the information any less worthy of the protection for which the Founders fought. Our answer to the question of what police must do before searching a cell phone seized incident to an arrest is accordingly simple—get a warrant.

Here's a sampling of analysis and reaction from around the Web.

» First the news, from The New York Times, Washington Post and USA Today.

» Harvard Law professor and Bloomberg View columnist Noah Feldman said the court avoided repeating a "historic mistake."

"In a disastrous 1928 decision, the U.S. Supreme Court failed to protect telephone conversations from wiretapping -- a ruling not overturned until 1967. Today, the court avoided making the same historic mistake twice. It held that digital information stored on a mobile phone may not be read by police without a warrant as part of a search incident to arrest.

The decision, written by Chief Justice John Roberts and almost unanimous, is a landmark in the protection of personal data. And it stands in stark contrast to what has been thus far the court's willingness to allow the National Security Agency to monitor private communications."

Read more of "Justices Don't Want Their Smartphones Searched."

» Lyle Denniston, writing at Scotusblog, said the court's "broad cloak of privacy" reached beyond the device in your pocket or purse.

"The ruling was such a sweeping embrace of digital privacy that it even reached remotely stored private information that can be reached by a hand-held device -- as in the modern-day data storage "cloud." And it implied that the tracking data that a cellphone may contain about the places that an individual visited also is entitled to the same shield of privacy."

Read more of "Opinion analysis: Broad cloak of privacy for cellphones"

» In May, Sens. Rand Paul and Chris Coons wrote a piece in Politico Magazine explaining why "The Founding Fathers Would Have Protected Your Smartphone."

"There can be little doubt that the modern smartphone is today's equivalent of our Founders' 'papers and effects.'

The Fourth Amendment protects us from unreasonable, warrantless searches of these modern-day versions of 'papers and effects.' Indeed, as the Cato Institute observes in its own friend-of-the-court brief, allowing for warrantless searches of cellphones "would throw open too-wide a door onto suspects' personal and private information without judicial supervision. Cellphones are doorways into people's lives as broad as the front doors of their homes."

» A backgrounder prepared by Brianne Gorod of the Constitutional Accountability Center discussed the privacy issues at stake in the two cases decided today. Here's No. 1 on her list of four reasons you should pay attention to this ruling:

1) It Could Happen To You: Although these cases involve searches after an arrest, the arrest doesn't have to be for a serious offense. People can be--and often are--arrested for the most minor of infractions, such as jaywalking, littering, or riding a bicycle the wrong

way on a residential street. People can also be wrongly convicted for offenses they didn't commit. As Petitioner Riley's brief notes, a majority of people who are arrested are never convicted of any crime. So the next time you decide to skip the crosswalk or drop a piece of trash on the street, you could be opening yourself up to a search of anything and everything on your cell phone, no matter how private.

Read more of "The Supreme Court Cases Everyone With a Cell Phone Should Be Watching"

» The two attorneys who argued the Riley case discussed the arguments June 16 at the National Constitution Center. Listen to the podcast.

» Vox.com called the ruling a victory for people who hate to make phone calls but love their smartphones. "John Roberts rules that iPhones aren't really phones."