



## **Fourth Amendment Ruling on Cell Phone Data Upheld**

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In July, U.S. District Court Lucy Koh upheld a lower court's ruling requiring law enforcement investigators to obtain a warrant before seeking location data from mobile phone companies.

Obama administration lawyers have filed an appeal of Koh's order in the U.S. Court of Appeals for the Ninth Circuit.

Historical cell site location information (CSLI), a log of the cell phone towers to which a mobile phone has connected, can be used to track individuals' location and movements. Federal law enforcement agencies say they should not be required to obtain a warrant before asking mobile phone companies to turn over this information during an investigation.

### **Someone's Watching**

Nathan Wessler, a staff attorney with the American Civil Liberty Union's Project on Speech, Privacy, and Technology says government investigators should be required to obtain warrants before tracking people's activities.

"Every time we make or receive a cell phone call or send or receive a text message, or increasingly, every time our cell phone updates its data connection, our service provider ... is logging and retaining a record of our location at each of those points in time," Wessler said.

### **'Details of Our Lives'**

Wessler says government agents can use CSLI to violate constitutional rights.

"It's our position, and courts are now agreeing, that the Fourth Amendment requires a warrant for this extraordinarily sensitive information—information that can show some of the most private parts of our lives, [including] ... where we go to the doctor, the psychologist, ... if a person goes to a gun store or a [National Rifle Association] rally or a political convention, who they spent time with, and so many more details of our lives," Wessler said.

## Settling the Question?

Julian Sanchez, a senior fellow with the Cato Institute, says this issue will eventually be decided by the U.S. Supreme Court.

“Judge Koh’s ruling sets up a circumstance where this is going to have to make its way eventually to the Supreme Court, because courts are absolutely all over the map when it comes to cell phone tracking,” Sanchez said. “There are courts that say, ‘You need a warrant to do it in the real time, but not [for] looking through historical records like phone bills,’ and now you have some courts saying, ‘No, even if it’s historical records, you need a warrant to get huge amounts of information that amounts to a map of someone’s movements over weeks or maybe months.’”

Sanchez says technological advancements are making the Fourth Amendment more important to Americans’ daily lives.

“We’re approaching a time where if you don’t live like Henry David Thoreau, almost everything you do is going to leave some kind of data trace somewhere,” Sanchez said. “If lots of that data is aggregated, the government will have an almost complete picture of your activities and your life. The bigger picture here is how is the Fourth Amendment ... going to adapt to that new reality?”