

Sue Jeffers is a legal consultant to the League. You may contact her at sjeffers@mml.org.

Constitutionality of cell phone search

FACTS:

David Riley was stopped by a police officer for driving with expired registration tags. In the course of the stop, the officer also learned that Riley's driver's license was suspended. The car was impounded and an inventory search of the car was conducted. The search resulted in Riley's arrest for possession of firearms. Riley was also searched incident to the arrest and a "smart phone" was seized from his pocket. The contents of the phone were searched and information relating to gang activity was discovered, including photographs of Riley standing next to a car that had been involved in a shooting a few weeks earlier. Riley was ultimately charged with various offenses related to the shooting, including attempted murder. At trial, Riley moved to have all charges relating to the cell phone search suppressed since no search warrant was obtained prior to the search as required by the Fourth Amendment to the U.S. Constitution. The prosecution argued that no search warrant was required since the search was made "incident to an arrest," one of the recognized exceptions to the search warrant requirement.

QUESTION:

May a police officer, without a warrant, search digital information on a cell phone seized from an individual who has been arrested?

THE ANSWER ACCORDING TO THE TRIAL COURT: YES. The trial court rejected Riley's arguments and allowed police officers to testify about the photographs and other information found on the cell phone. As a result of the testimony, Riley was found guilty.

THE ANSWER ACCORDING TO THE CALIFORNIA COURT OF APPEALS: YES. The court affirmed, relying on a California Supreme Court decision which held that the Fourth Amendment permits a warrantless search of cell phone data incident to an arrest, so long as the cell phone was immediately associated with the arrestee's person.

THE ANSWER ACCORDING TO THE UNITED STATES SUPREME COURT: NO.

The Court acknowledged that it was well accepted that a search of a legally arrested person constitutes an exception, within certain parameters, to the Fourth Amendment's search warrant requirement. However, the Court discussed the doctrine when applied to modern cell phones, "which are now such a pervasive and insistent part of daily life that the proverbial visitor from Mars might conclude they were an important feature of human anatomy." Because cell phone data found on smart phones did not constitute a risk of harm to police officers or destruction of evidence, the Court held that police must obtain a warrant before conducting a search of the data. The Court noted, however, that other case-specific exceptions to the search warrant requirement may justify a warrantless search.

Riley v California, No. 13-132 (June 25, 2014).

This column highlights a recent judicial decision or Michigan Municipal League Legal Defense Fund case that impacts municipalities. The information in this column should not be considered a legal opinion or to constitute legal advice.

LONG-TIME CITY ATTORNEY RECEIVES NATIONAL AWARD

Daniel Matson, DeWitt city attorney, was awarded the James H. Epps III Longevity of Service to a Community Award from the International Municipal Lawyers Association (IMLA) for the significant achievement of having the political and legal skills necessary to represent the same community for at least 30 years.



(l to r): Bill Mathewson, League General Counsel; Lori Grigg-Bluhm, Troy City Attorney, MAMA President; Marlene Matson; Daniel Matson; Peter Letzmann, MAMA Education Chair; Abigail Elias, Ann Arbor City Attorney.