

Search and Seizure

Name of Student

Institutional Affiliation

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Two pivotal cases, *Carpenter v. United States* and *Leaders of a Beautiful Struggle v. Baltimore Police Department*, underscore the judiciary's challenge in adapting constitutional principles to modern technology in the realm of digital privacy and surveillance.

Carpenter v. United States focused on whether the government requires a warrant to access an individual's cellphone location history (*Carpenter v. United States*, 2018). The Supreme Court ruled that law enforcement's access to historical cell site location information (CSLI) without a warrant to prosecute a robbery suspect constitutes a Fourth Amendment search, thus requiring a warrant due to the sensitive information CSLI can reveal.

Conversely, *Leaders of a Beautiful Struggle v. Baltimore Police Department* dealt with a police department's aerial surveillance program to record public movements across Baltimore (*Leaders of a Beautiful Struggle v. Baltimore Police Department*, 2020). The Fourth Circuit concluded that this extensive surveillance violated the Fourth Amendment, affirming the residents' reasonable expectation of privacy.

Both cases reflect the tension between public safety interests and individual privacy rights concerning technology-driven data gathering by law enforcement without traditional warrants. A geo-fence warrant, relevant here, allows law enforcement to obtain data about all devices within a designated geographical area at a particular time, raising significant privacy concerns.

Clients concerned about searches of electronic devices and DNA usage in genealogy sites should be informed about their rights to digital privacy and legal protections against unwarranted searches. Forensic genetic genealogy, which uses DNA profiles to link suspects to crimes via family genetic history, should also be understood, as well as its crime-solving potential and privacy implications.

Interdisciplinary insights from healthcare, public policy, and technology are crucial as DNA's role in law enforcement evolves. Ethical considerations in healthcare emphasize the need for strong DNA data protection (Oosthuizen & Howes, 2022). Public policy guides legislative adaptation to technological advances in genetic analysis, which demands responsive legal frameworks. Courts can leverage these insights to navigate complex DNA-related cases, ensuring decisions reflect current understandings and societal values.

Law enforcement agencies have recently enacted legislation to regulate the use of DNA. The Liberty State Legislature passed a law that strictly limits access to genetic information and requires a court order for law enforcement to obtain DNA samples from genealogy databases. The legislation was in response to growing concerns about privacy and the ethical implications of genetic surveillance. To gauge public sentiment on this new law, a state-wide poll was conducted, revealing that 70% of Liberty's residents support the legislation, appreciating the enhanced privacy protections. However, 30% expressed concerns that these restrictions could hinder law enforcement's ability to solve crimes effectively. The data reflects a nuanced public opinion where the majority value their genetic privacy while a significant minority prioritize public safety and crime-solving capabilities.

To enhance constitutional clarity on digital and genetic privacy, I propose an amendment to federal and state constitutions: "Every individual's digital data and genetic information are entitled to privacy under this Constitution. No government entity shall access such data without a warrant issued upon probable cause, supported by oath or affirmation, and particularly describing the data to be searched, and the persons or things to be seized."

The amendment aims to explicitly safeguard digital and genetic data against unwarranted governmental access, extending traditional Fourth Amendment protections to contemporary forms of data.

References

Carpenter v. United States, 585 U.S. (2018). Justia Law.

<https://supreme.justia.com/cases/federal/us/585/16-402/>

Leaders of a Beautiful Struggle v. Baltimore Police Department, No. 20-1495. (2020). Justia Law.

<https://law.justia.com/cases/federal/appellate-courts/ca4/20-1495/20-1495-2020-11-05.html>

Oosthuizen, T., & Howes, L. M. (2022). The development of forensic DNA analysis: New debates on the issue of fundamental human rights. *Forensic Science International: Genetics*, 56, 102606.