

CAN POLICE SEARCH YOUR PHONE WHEN THEY ARREST YOU?



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A lawful arrest lets officers take and hold your phone. Reading what is inside it is a different matter — and the answer, in Pennsylvania, is usually: get a warrant.

Here is the short answer, stated up front: if police arrest you in Pennsylvania, they may seize and secure your phone, but they generally may not search its digital contents without a warrant. Voluntary consent or a genuine emergency can change that. Mere arrest does not.

That rule rests on a simple distinction the law draws between holding a device and reading what is on it. The first is a seizure. The second is a search. Understanding why the line falls where it does explains nearly every question people ask about phones and arrests.

The old rule: search incident to arrest

For decades, police have been allowed to search an arrestee and his immediate surroundings without a warrant. The doctrine is called "search incident to a lawful arrest," and it exists for two practical reasons — officer safety and the preservation of evidence.

The Supreme Court fixed that doctrine's boundaries in [Chimel v. California](#). The search reaches only what is "within his immediate control," a phrase the Court construed to mean "the area from within which he might gain possession of a weapon or destructible evidence." An arrestee can lunge for a knife in his jacket or swallow a packet in his pocket. He cannot do either with the gigabytes of data sitting inert on a server somewhere.

Why a phone is different

When the search-incident doctrine met the modern smartphone, the doctrine lost. In [Riley v. California](#), a unanimous Supreme Court refused to extend the exception to the data on a cell phone. The Court's reasoning tracked Chimel's two rationales and found neither applied:

The digital data stored on cell phones does not present either Chimel risk.

Data is not a weapon. An officer cannot be stabbed with a text message. And once the phone is in police hands, the arrestee cannot reach in to delete anything. So the twin justifications for a warrantless search — safety and evidence destruction — simply evaporate as to the contents.

The Court then gave the clearest instruction it could:

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.

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What police can still do

Riley did not put phones off-limits at arrest. It drew a line through them. On a lawful arrest, officers may still:

- Seize the phone and take it into custody;
- Secure it so it cannot be remotely wiped;
- Examine the device physically — for instance, checking the case for a razor blade or other hidden threat.

What changes is the digital interior. The seizure of the device is permissible; the search of its contents is what requires the warrant. Think of it as the difference between confiscating a sealed envelope and steaming it open.

A useful rule of thumb: if an officer can do it without learning anything stored on the phone, the arrest probably authorizes it. The moment the inquiry turns to what is on the screen, the warrant requirement arrives.

The exceptions that survive

Two independent doors remain open. The first is consent. If you voluntarily agree to let an officer look through your phone, no warrant is needed — ordinary Fourth Amendment consent doctrine does the rest. Riley left that untouched.

The second is exigent circumstances. Riley was explicit that "other case-specific exceptions may still justify a warrantless search of a particular phone." The Court described the kinds of emergencies it had in mind:

the need to prevent the imminent destruction of evidence in individual cases, to pursue a fleeing suspect, and to assist persons who are seriously injured

These are case-specific. A vague worry that evidence "might" be lost does not qualify — the government must show a genuine, individualized emergency. Exigency is a real exception, but a demanding one.

Pennsylvania goes further

Pennsylvania does not merely follow Riley — it applies the rule with notable force. In [Commonwealth v. Fulton](#), the Pennsylvania Supreme Court held that "accessing any information from a cell phone without a warrant contravened the United States Supreme Court's decision in Riley v. California and United States v. Wurie," and that "in the absence of an applicable exception, any search of a cell phone requires a warrant."

Read the word "any" carefully, because the court meant it. The phone in Fulton was a basic flip phone, not a smartphone. The officers did almost nothing — they powered it on, navigated the menu to read the phone's own number, and monitored incoming calls and texts. Each of those minimal acts was treated as a warrantless search, and the resulting evidence was suppressed. There is no "it was only a flip phone" exception, and no "I just turned it on" exception.

A worked example

Picture a routine Pennsylvania arrest. Officers stop a driver, develop probable cause, and place him under arrest. His phone is in the center console.

The officers may take the phone, power it down or bag it to prevent remote wiping, and book it into evidence. So far, no warrant is required. But suppose an officer, curious, opens the messaging app and scrolls through recent texts looking for incriminating chatter. Under Riley and Fulton, that scroll is a warrantless search of digital contents. If no warrant, consent, or genuine exigency supports it, a defense lawyer will move to suppress whatever the officer found — and, on these facts, will likely win. Now change one detail: the driver, after a Miranda warning, says "go ahead, look at my phone." That voluntary consent supplies the missing authority, and the same scroll becomes lawful.

The lesson is that the outcome turns almost entirely on which door the officer walked through — warrant, consent, or exigency — not on how interesting the phone's contents turn out to be.

The bottom line

On a lawful arrest in Pennsylvania, police may take and hold your phone, but they generally may not look at any of its contents without a warrant, your voluntary consent, or a genuine emergency. The rule protects officers as much as suspects — it gives both sides a clear path.

Evidence pulled from a warrantless contents search is subject to suppression under both the Fourth Amendment and Article I, Section 8 of the Pennsylvania Constitution. If your phone was searched after an arrest, the first question worth asking is the one Riley posed: was there a warrant?

Authorities Cited

1. Chimel v. California, 395 U.S. 752 (1969) — <https://www.law.cornell.edu/supremecourt/text/395/752>
 2. Riley v. California, 573 U.S. 373 (2014) — <https://supreme.justia.com/cases/federal/us/573/373/>
 3. Commonwealth v. Fulton, No. 3 EAP 2017 (Pa. Feb. 21, 2018) (179 A.3d 475) — <https://law.justia.com/cases/pennsylvania/supreme-court/2018/3-eap-2017.html>
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