



## The Fourth Amendment in the Information Age

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The Yale Law Journal published the following article by ODNI General Counsel Robert Litt.

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**Robert S. Litt**  
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To badly mangle Marx, a specter is haunting Fourth Amendment law—the specter of technological change. In a number of recent cases, in a number of different contexts, courts have questioned whether existing Fourth Amendment doctrine, developed in an analog age, is able to deal effectively with digital technologies. Justice Sotomayor, for example, wrote in her concurrence in *United States v. Jones*,<sup>1</sup> a case involving a GPS tracking device placed on a car, that “the premise that an individual has no reasonable expectation of privacy in information voluntarily disclosed to third parties ... is ill suited to the digital age.”<sup>2</sup> And in *Riley v. California*,<sup>3</sup> the Chief Justice more colorfully rejected the government’s argument that a search of a cell phone was equivalent to a search of a wallet:

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\* Robert S. Litt is General Counsel, Office of the Director of National Intelligence. This Essay is adapted from a speech delivered to the American Bar Association’s Standing Committee on Law and National Security on February 16, 2016. The views above are entirely the author’s and do not reflect the position of the United States government, the Obama Administration, the Intelligence Community, or even the Office of General Counsel for the Office of the Director of National Intelligence. Preferred Citation: Robert S. Litt, *The Fourth Amendment in the Information Age*, 126 YALE L.J. F. 8 (2016), <http://www.yalelawjournal.org/forum/fourth-amendment-information-age>.