No. 25-112

In the Supreme Court of the United States

OKELLO T. CHATRIE, *Petitioner,*

v.

UNITED STATES

On Writ of Certiorari to
the United States Court of Appeals
for the Fourth Circuit

BRIEF OF *AMICUS CURIAE*
PROJECT FOR PRIVACY & SURVEILLANCE ACCOUNTABILITY, INC.
SUPPORTING PETITIONER

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QUESTION PRESENTED

The question presented is:

Whether the execution of the geofence warrant violated the Fourth Amendment.

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INTRODUCTION, SUMMARY, AND INTEREST OF *AMICUS CURIAE*[1]

Geofence warrants are modern general warrants that violate the Fourth Amendment. Because they collect location data on all persons, regardless of individualized cause or suspicion, in the fenced area, they also pose particularly acute threats to religious freedom and associational rights protected by the First Amendment. In this case, the geofence warrant encompassed Journey Christian Church in Midlothian, Virginia, thus surveilling and violating the privacy of anyone who was visiting the church for worship, work, or counselling.

The core principles underlying this Court's Fourth Amendment caselaw lead inexorably to the conclusion that geofence warrants and the increasingly widespread practice of retrospective tracking violate the Constitution. Those practices are incompatible, as this Court put it in *Carpenter* v. *United States*, 585 U.S. 296 (2018), with "that degree of privacy against government that existed when the Fourth Amendment was adopted." *Id.* at 305 (citation omitted). But federal and state courts continue to treat *Carpenter* as the exception rather than the rule. This Court should reverse the Fourth Circuit to clarify that it meant what it said in *Carpenter*.

Because of the serious privacy issues geofence warrants raise, they are of particular concern to

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[1] This brief was not authored in whole or in part by counsel for any party and no person or entity other than *amicus curiae* or its counsel has made a monetary contribution toward the brief's preparation or submission.

Amicus Curiae Project for Privacy & Surveillance Accountability, Inc. (PPSA), a nonprofit, nonpartisan organization dedicated to protecting privacy rights. PPSA urges the Court to hold that Americans have a reasonable expectation of privacy in even short-term portions of long-term tracking databases, and thereby ensure that Fourth Amendment rights are not left "at the mercy of advancing technology." *Carpenter*, 585 U.S. at 305 (citation omitted).

ARGUMENT

Amicus agrees with Petitioner (at 32-42) that geofence warrants are general warrants prohibited by the Fourth Amendment and his argument (at 2, 24, 51) that they often involve collateral intrusions into First Amendment sensitive spaces like places of worship. Simply put, geofence warrants violate the Fourth Amendment by enabling suspicionless, exploratory searches of all persons who happen to be carrying a cell phone or other GPS-enabled device while present in any location the government sees fit to surveil. And often this mass surveillance of geofenced areas contains constitutionally protected spaces such as religious venues, which threatens religious liberty and association, warranting heightened scrutiny under this Court's precedents. The Fourth Circuit's narrow reading of *Carpenter* thus threatens to leave Americans "at the mercy of advancing technology," *Carpenter*, 585 U.S. at 305 (citation omitted), as it lays bare their private lives, including their religious beliefs, practices, and association.

I. Geofence Warrants Are General Warrants Prohibited by the Fourth Amendment.

No government intrusion offends the Fourth Amendment more than mass, generalized searches—the very British abuses that sparked the American revolution. *Stanford* v. *Texas*, 379 U.S. 476, 481 (1965). Geofence warrants manifest this same offense today as mass, suspicionless searches of intimate location data. Yet this Court held in *Carpenter* that individuals retain a reasonable expectation of privacy in the "whole of their physical movements" over time, a broad principle not confined to that case's facts. 585 U.S. at 310. Like the search in *Carpenter*, geofence warrants enable retrospective tracking of every passerby's physical movements at any time and place the government selects—i.e., *every* time and place—inverting the constitutional order: suspicion follows the search. The Founders would surely have included such warrants in that "long train of abuses" tending toward "absolute Despotism." Decl. of Independence para. 2 (U.S. 1776).

A. Founding Era Americans recognized general warrants as instruments of arbitrary power and oppression.

The Fourth Amendment expressly protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures," requiring warrants "particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. amend. IV. This provision was an affirmance of common-law safeguards against general warrants, which

empowered officials to search, among other things, without particularized suspicion. *Carpenter*, 585 U.S. at 303-304 (citation omitted). By this amendment, the Framers sought to prevent "a too permeating police surveillance." *Ibid.* (citation omitted).

This Court has detailed the "history of the use of general warrants as instruments of oppression from the time of the Tudors, through the Star Chamber, the Long Parliament, the Restoration, and beyond." *Stanford*, 379 U.S. at 482. Indeed, general warrants systematically suppressed dissent—targeting Catholic and Puritan literature in Tudor England, and later seditious libel. *Ibid.* (citation omitted).

General warrants, moreover, were condemned in the "landmark cases" of *Entick* v. *Carrington*, 19 How. St. Tr. 1029, 95 Eng. Rep. 807 (K.B. 1765), and *Wilkes* v. *Wood*, 19 How. St. Tr. 1153, 98 Eng. Rep. 489 (K.B. 1763). *Stanford*, 379 U.S. at 483. The more famous *Entick* decision involved the ransacking of Entick's home based on an overly broad general warrant that "specifically nam[ed] [Entick] and [his] publication, and authoriz[ed] his arrest for seditious libel and the seizure of his 'books and papers.'" *Stanford*, 379 U.S. at 483. But modern digital searches more often resemble the circumstances in *Wilkes*, which involved a warrant ordering the search for "the authors, printers, and publishers of a [specifically named] seditious and treasonable paper." *Stanford*, 379 U.S. at 483. That warrant meant those enforcing it "held in their hands the liberty of every man whom they were pleased to suspect." *Ibid.* The English Court of Common Pleas rightly held that warrant to be "a

ridiculous warrant against the whole English nation." *Ibid.*

That outrage against general warrants took firm root in the American colonies. The Founding generation declared general warrants to be "the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law, that ever was found in an English law book."[2] When President John Adams later reflected on the events leading up to the birth of the United States, he wrote that it was "[t]hen and there" during James Otis's famous speech decrying general warrants that "the Child Independence was born."[3]

Since then, this Court has consistently held up general warrants as the classic example of government overreach that the Fourth Amendment was designed to prevent. See, *e.g.*, *Carpenter*, 585 U.S. at 303-304; *Stanford*, 379 U.S. at 481-482; *Olmstead* v. *United States*, 277 U.S. 438, 463 (1928); *Boyd* v. *United States*, 116 U.S. 616, 624-627 (1886). Now in Petitioner's case, general warrants again rear their ugly heads, this time manifesting as geofence warrants.

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[2] *John Adams's Reconstruction of Otis's Speech in the Writs of Assistance Case*, *in* Collected Political Writings of James Otis 11, 11 (Richard A. Samuelson ed., Liberty Fund 2015), https://tinyurl.com/2zhmukac.

[3] Richard A. Samuelson, *Introduction: The Life, Times, and Political Writings of James Otis, in Collected Political Writings of James Otis,* at x (Richard A. Samuelson ed., Liberty Fund 2015) (citation omitted).

B. Geofence warrants replicate—and exceed—the vices of general warrants through mass, suspicionless digital rummaging.

If Founding Era police dragnets provoked such revulsion, the Framers would doubtless have recoiled at modern geofence warrants that compel a single provider hosting the private papers of millions to search vast repositories of their intimate location data—without particularized suspicion—which then yields target lists for discretionary further searching. Like despised general warrants, geofence warrants "specif[y] only an offense," leaving "to the discretion of the executing officials the decision as to * * * which places should be searched." *Steagald* v. *United States*, 451 U.S. 204, 220 (1981). They thus permit the "general, exploratory rummaging" the Fourth Amendment was designed to prevent. *Coolidge* v. *New Hampshire*, 403 U.S. 443, 467 (1971); see also *Riley* v. *California*, 573 U.S. 373, 403 (2014). Worse yet, geofence warrants do not merely operate prospectively; they permit virtual time travel, allowing the government to retrospectively surveil the movement of virtually any and all persons at any time and place, all with data gathered without any particularized suspicion.

This Court previously targeted retrospective digital tracking in *Carpenter*, focusing on the "depth, breadth, and comprehensive reach" of stored location information and the ease of retracing movements. 585 U.S. at 309-310, 320. But lower courts have failed to apply that decision faithfully. *Carpenter* was never meant to be limited to its facts or to the details of how

the government asked for such comprehensive data to be sliced and diced.[4]

Thus, efforts to portray geofence warrants as narrowly tailored are misleading and misdirected. While the *results* of a geofence warrant may be narrow, the search itself is not. Having the stored location data of virtually all persons at the government's disposal is not negated by the fact that the government accesses it in smaller chunks. A general warrant cannot be saved simply by arguing that *after* the broad search has been performed, the second tier of information received was narrowly tailored to the crime being investigated.

When law enforcement compels a company to search its entire database of hundreds of millions of accounts for even anonymized data, it engages in a mass, suspicionless search. Narrowing that search within temporal and geographic bounds may shrink the size of the digital dragnet, but a dragnet it remains. When law enforcement requests a geofence warrant, they are unaware of the suspects' identities, or even whether any results will emerge. See *United States* v. *Smith*, 110 F.4th 817, 836-837 (5th Cir. 2024). This practice is quintessential "general,

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[4] For that same reason, it is irrelevant that geofence warrants are now less feasible because technology companies have changed or may change their storage practices—in Google's case, centralized Sensorvault storage for Location History has been phased out. See BIO 18. The constitutional problem with compelling technology companies to retrospectively search users' locations is not limited to a single technology or app, anymore than *Carpenter*'s circumstances were limited to a specific cell phone carrier.

exploratory rummaging." *Coolidge*, 403 U.S. at 467. Even Google's former Maps creator called these warrants "fishing expedition[s]," and explained that Google employees originally assumed law enforcement would only seek Location History data on specific people—which obviously did not occur.[5]

These geofence fishing expeditions inherently lack particularity except perhaps in extreme cases where every person in an exceedingly narrow geofence satisfies probable cause—a showing absent in this case. Here the geofence warrant described no specific user, only a location and time where a suspect might have appeared in the past. As the Fifth Circuit recognized, the "constitutionality of reverse warrants is highly suspect because, like general warrants * * * they permit searches of vast quantities of private, personal information without identifying any particular criminal suspects or demonstrating probable cause to believe evidence will be located in the corporate databases they search." *Smith*, 110 F.4th at 838 (citation omitted). "Indeed, the quintessential problem with these warrants is that they never include a specific user to be identified, only a temporal and geographic location where any given user may turn up post-search." *Id.* at 837.

The dragnet fishing expeditions that geofence warrants allow are not restricted to a small pond, but instead sweep in the full ocean of people who carry a cell phone. As this Court has recognized, those phones

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[5] Jennifer Valentino-DeVries, *Tracking Phones, Google Is a Dragnet for the Police*, N.Y. Times (Apr. 13, 2019), https://tinyurl.com/jvv7e5fk.

have become so "pervasive and insistent" that they might seem "a feature of human anatomy." *Riley*, 573 U.S. at 385. Most Americans "compulsively" carry them constantly. *Carpenter*, 585 U.S. at 311. The subset of people with cell phones who could have been tracked for using the same app as Petitioner included over half a billion Google users worldwide. *Smith*, 110 F.4th at 836. And numerous other apps likewise collect location data.

As with the cell-site location information in *Carpenter*, app-generated location history creates a "deep repository of historical location information" accessible "with just the click of a button" at "practically no expense." *Carpenter*, 585 U.S. at 311-312. And as in *Carpenter*, because this information is collected for nearly all users at all times, "police need not even know in advance whether they want to follow a particular individual, or when"—they are effectively following *everyone* all the time. *Id.* at 312. The result is "near perfect surveillance," akin to ankle monitors on a significant portion of the population. *Ibid.*

That is why the Fifth Circuit drew a parallel between general warrants and the first step of Google's geofence response protocol. That protocol involved searching the entire Google database—all 592 million individual accounts—for users who were at a particular location at a given moment, even though law enforcement did not yet know, and may never know, whom they were looking for. *Smith*, 110 F.4th at 836-837. Accordingly, the Fifth Circuit correctly held that "geofence warrants fail" to pass Fourth Amendment scrutiny, as "they allow law enforcement to rummage through troves of location

data from hundreds of millions of Google users without any description of the particular suspect or suspects to be found." *Ibid.*

Because geofence warrants are general dragnets that search the private information of vast groups of innocent people to generate, rather than respond to, actual suspicion, they violate the principles laid down in *Carpenter* and thus violate the Fourth Amendment.

II. Geofence Warrants Pose Unique Threats to Religious Freedom and Associational Rights.

Geofence warrants also threaten core First Amendment freedoms by enabling surreptitious mass intrusions into sensitive spaces like places of worship, as happened here. When First Amendment rights are implicated, warrants demand "the most scrupulous exactitude." *Stanford*, 379 U.S. at 485. But geofence warrants lack that exactitude. Location data reveals intimate details of First Amendment-protected activities—faith affiliation; sacrament participation; belief shifts via changing attendance or visiting a new church; or involvement in recovery ministries, such as for alcohol or pornography addictions. And with "[a]wareness that the government may be watching" comes "chill[ed] associational and expressive freedoms." *United States* v. *Jones*, 565 U.S. 400, 416 (2012) (Sotomayor, J., concurring). These violations and their chilling effect provide an additional compelling reason to reverse the Fourth Circuit here.

A. Geofence warrants facilitate collateral and targeted intrusions into sensitive First Amendment spaces.

This Court has recognized that the Fourth Amendment's history is intimately connected with suppression of First Amendment freedoms. *Stanford*, 379 U.S. at 482. The government's use of "the power of search and seizure as an adjunct to a system for the suppression of objectionable publications is not new. Historically the struggle for freedom of speech and press in England was bound up with the issue of the scope of the search and seizure power." *Marcus* v. *Search Warrant*, 367 U.S. 717, 724 (1961). The Bill of Rights emerged against that background recognition that unrestricted search power could "stifl[e] liberty of expression." *Id.* at 729. The First, Fourth, and Fifth Amendments are thus "closely related" and safeguard "not only privacy * * * but 'conscience and human dignity and freedom of expression as well.'" *Stanford*, 379 U.S. at 485 (citation omitted).

The indiscriminate, general search involved with geofence warrants threatens all Americans in their most intimate affairs. Drawing a geofence around a church like the one here or any other religious venue; a political party headquarters; or a newspaper or printer sweeps in data on everyone—not just unidentified criminals. And these intrusions occur without the notice or outcry that would accompany physical searches of those protected spaces to obtain the same information.

This case illustrates the peril geofence warrants pose to religious liberty. The geofence here included

Journey Christian Church, capturing the data of anyone on the premises at that time who was carrying a cellphone with Google Maps enabled.

And, for every case like Petitioner's that reveals the government's surreptitious surveillance of sensitive spaces, how many intrusions go unnoticed? It is clear that this religious intrusion is not unique. Another case, also on petition for certiorari before this Court, similarly involved a geofence that encompassed a church, including its parking lots and grounds. See *Wells* v. *State*, 714 S.W.3d 614, 616 (Tex. Crim. App. 2025), *cert. pet. docketed*, No. 25-484 (U.S. Oct. 20, 2025). Given the ubiquity of sensitive First Amendment spaces, the risk to them is inherent in geofence warrants.

B. In the digital age, First Amendment sensitive spaces are at risk more than ever.

Sensitive spaces like churches face unprecedented risk today. Geofence warrants are just the tip of the surveillance iceberg. The same rationales for geofence warrants could easily be used to justify all sorts of privacy encroachments through new technologies. Such encroachments are likely to continue sweeping in, or even targeting, First Amendment-protected spaces.

1. Just a short distance from the geofence in Petitioner's case in Midlothian, Virginia, for example, the FBI carried out surveillance against "radical-traditionalist Catholics" in Richmond on the pretext that they were potential violent extremists, as opposed

to simply perceived political opponents.[6] An FBI memo proposed church infiltration for "threat mitigation," including interviewing priests and choir directors. Recent oversight reveals broader distribution of the FBI's memo than originally claimed and broader anti-Catholic bias throughout the FBI.[7]

2. The FBI's actions are especially worrisome given law enforcement's use of technologies that mirror or exceed the intrusive and pervasive surveillance that geofence warrants represent. Like geofence warrants, tower dumps and automatic license plate readers (ALPR) involve suspicionless, pervasive data collection and retrospective searches. Tower dumps are similar to geofence warrants, except they involve cell phone companies instead of technology companies, and they demand a list of all users connecting to a specific cell tower during a specified time instead of those users passing through a geofence.

ALPR presents a far more intrusive practice at the forefront of nationwide, AI-enabled surveillance networks. One surveillance industry leader, Flock,

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[6] Nicholas Reimann, *FBI Director Subpoenaed By House GOP Over Monitoring 'Traditionalist' Catholics*, Forbes (Apr. 10, 2023, 3:25 PM), https://tinyurl.com/36n9rrsb; Tyler Arnold, *FBI Used Undercover Agent To Investigate Catholics, Says Weaponization Committee Chairman*, EWTN News (Apr. 11, 2023, 3:30 PM), https://tinyurl.com/2b5ukuxy.

[7] Chuck Grassley, *Grassley Oversight Unveils Disturbing Extent of FBI's Anti-Catholic Bias* (June 3, 2025), https://tinyurl.com/2dmuauat; Staff of H. Comm. on the Judiciary, How the Biden-Wray FBI Manufactured a False Narrative of Catholic Americans as Violent Extremists, 119th Cong. (2025), https://tinyurl.com/529k8npx.

reportedly already has more than 80,000 surveillance cameras across the United States.[8] And Flock is seeking to expand its reach, including a recent ill-fated partnership with Amazon's Ring doorbells to merge data from ALPR with neighborhood video footage.[9] The capabilities of this surveillance are exponentially expanding, as seen when Ring unveiled its AI integration to the American public during the 2026 Super Bowl. The bipartisan blowback to that unveiling showed that Americans are unsettled with this level of pervasive, dystopian surveillance.[10] Yet Flock continues to expand and is not content to keep its eyes on the streets. It is now also helping police departments take to the skies by enhancing their drone fleets with artificial intelligence.[11] And that represents just one of many surveillance companies

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[8] Thomas Brewster, *AI Startup Flock Thinks It Can Eliminate All Crime In America*, Forbes (Sep. 3, 2025), https://tinyurl.com/3zaterup.

[9] Amazon quickly announced that it was cancelling its partnership with Flock, noting that it would "continue to carefully evaluate future partnerships to ensure they align with [Amazon's] standards for customer trust, safety and privacy." Omar Gallaga, *Days After Its Super Bowl Ad, Ring Cancels Flock Partnership Amid Surveillance Concerns*, CNET (Feb. 13, 2026), https://tinyurl.com/44w9ss2s; see also Proj. Priv. & Surveillance Accountability, Inc., *Flock Partners with Ring–"It's a Warrantless Day in the Neighborhood!"* (Oct. 20, 2025), https://tinyurl.com/57re9hfr.

[10] Ahmad Austin Jr., *'Dystopian' Super Bowl Ad for Ring Camera Gets Bipartisan Blowback: 'Propaganda for Mass Surveillance*,' Mediaite (Feb. 9, 2026, 11:05 AM), https://tinyurl.com/4behp38v.

[11] Proj. Privacy & Surveillance Accountability, Inc., *AI Drones Sharpen the Security/Privacy Tradeoff of a Surveillance State* (Oct. 30, 2025), https://tinyurl.com/yc8x4kar.

seeking to place every ordinary Americans under the government's microscope.

3. So-called "reverse warrants" involving geofencing or ALPR, moreover, are not limited to location data. The government has used other forms of these "reverse search warrants" to extract other private data, such as identifying anyone who has searched for a specific phrase, *Pennsylvania* v. *Kurtz*, 348 A.3d 133, 138 (Pa. 2025) (government obtained list of every person to Google a specific address where an unsolved crime occurred), or forcing commercial genealogy companies to allow access to their DNA databases.[12] These broad uses of surveillance will almost certainly lead to a variety of novel contexts, such as tracking political protests, that implicate Americans' rights to free speech and freedom of assembly.

All of these technologies separately pose severe threats to First Amendment freedoms. But these surveillance techniques do not exist in isolation. If this Court is to preserve "that degree of privacy against government that existed when the Fourth Amendment was adopted," *Carpenter*, 585 U.S. at 305 (citation omitted), it must curb the use of suspicionless surveillance, such as that inherent in geofence warrants and the many technological searches that will follow in their tracks.

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[12] Jocelyn Kaiser, *A Judge Said Police Can Search the DNA of 1 Million Americans Without Their Consent. What's Next?* Science (Nov. 7, 2019), https://tinyurl.com/28bxdrns.

CONCLUSION

Geofence warrants combine previously unimaginable and precise retrospective surveillance with something mirroring a general warrant. This Court should hold that they violate the Fourth Amendment. The judgment of the Fourth Circuit should be reversed.

Respectfully submitted,

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