

Case	Date	Court	TD?	Standard
620 F.3d 304 2010 WL 302195	9/1/2010 7/29/2010	3rd Circ. Ct. App. W.D.Tex.	Maybe Y	2703(d) or wa Warrant
2009 WL 153019	2/12/2009	EDNY	Y	Warrant
2009 WL 159187	1/13/2009	S.D.N.Y.	Y	Warrant
2008 WL 420015 534 F.Supp.2d 581	4/21/2008 2/19/2008	N.D.Ga. W.D.Pa.	Y Y	hybrid order Warrant
622 F.Supp.2d 410	10/17/2007	S.D.Tex.	N	hybrid order
509 F.Supp.2d 76	9/17/2007	D.Mass.	N	hybrid order
509 F.Supp.2d 67	7/27/2007	D.Mass.	Y	Warrant
497 F.Supp.2d 30	7/18/2007	D.Puerto Rico	Y	Warrant
2007 WL 397129	2/7/2007	E.D. Cal.	N	hybrid order
460 F.Supp.2d 440	10/23/2006	SDNY	N	hybrid order
2006 WL 287174	10/6/2006	E.D.Wis.	Y	Warrant
441 F.Supp.2d 81	7/19/2006	S.D.Tex.	Maybe	Warrant

411 F.Supp.2d 67 1/26/2006 W.D.La.	N	hybrid order
412 F.Supp.2d 94 1/17/2006 E.D.Wis.		probably Warrant
407 F.Supp.2d 13 1/6/2006 D.D.C.	N	Warrant
405 F.Supp.2d 43 2/20/2005 S.D.N.Y.	N	hybrid order
402 F.Supp.2d 59 1/29/2005 D.Md.	Y	private/warrant; public/none
396 F.Supp.2d 29 0/24/2005 E.D.N.Y.	Y	Warrant
396 F.Supp.2d 74 0/14/2005 S.D.Tex.	Y	Warrant

Nos	7	12
Yeses	11	7
N/hybrid order	6	
Y/warrant	9	

Notes	link
installing a tracking device requires a warrant; getting CSLI may not make a phone a tracking device, as it's not that accurate, but for CSLI, magistrate judge has discretion to require only a 2703 showing or a full warrant	<a href="https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;">https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;</a>
if tracking device, then warrant	<a href="https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;">https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;</a>
cell phone is a tracking device for the signals used to actually track it	<a href="https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;">https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;</a>
tracking signals. CSLI requires probable cause	<a href="https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;">https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;</a>
CSLI only gathers location of towers, not D in private spaces, so no warrant necessary; even historical location more exactly might not raise a 4th amd problem	<a href="https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;">https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;</a>
if tracking device, then warrant	<a href="https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;">https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;</a>
concerned that gov't might make a cell phone a 'tracking device'" -- for that, correct standard is probable cause. For CSLI from 1 tower, however, 2703(d) is sufficient	<a href="https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;">https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;</a>
historical cell site info is not sufficient to transform a phone into a tracking device -- even if it were, judge notes that there is no installation here, so he thinks 3117 doesn't apply	
Gov't must show probably cause to use a tracking device (cites MJ Smith)	<a href="https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;">https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;</a>
Phone is a tracking device, but only for location data (cites MJ Smith)	<a href="https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;">https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;</a>
CSLI doesn't implicate private spaces. For this, not a tracking device. Also, calling a phone a tracking device would "prove too much"	
Even if a cell phone is a tracking device, 2703(d) still works, and a warrant is not always necessary (rejects MJ Smith)	<a href="https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;">https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;</a>
CSLI transforms a phone into a tracking device; probable cause is the accepted standard for tracking devices	<a href="https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;">https://web2.westlaw.com/result/result.aspx?vr=2.0&amp;sv=Split&amp;</a>
Rejects hybrid order because of lack of authority in 2702(? Misreads statute.); thinks phones may or may not be tracking devices because they are not installed	

even if a phone is a tracking device, CSLI is not tracking information (but triangulated CSLI and GPS is); phone != tracking device because phones are not installed - "The existence of a true "tracking device" is unknown to, and cannot be disabled or turned off by, the person being tracked."

CSLI is not the same type of information obtained from 'true' tracking devices"

CSLI does not constitute a "virtual map" -- not precise enough to be a tracking device. Judge notes that 3117 contemplates installation, and does not identify the standard needed to install a tracking device

<https://web2.westlaw.com/result/result.aspx?vr=2.0&sv=Split&>

probable cause needed for prospective, real time CSLI  
prospective CSLI on one's property categorized as tracking device information under 3117

<-Warrant

<-hybrid order