

Aerial Surveillance Without a Search Warrant is Unconstitutional - US 4th Circuit Court of Appeals

July 30, 2021 - The City of Baltimore, MD has become a cesspool of criminal activity. That's a fact that isn't disputed by anyone. So it shouldn't be a big surprise that the city would want to do something to stop crime. To that end, they secretly launched something called the Aerial Investigations Research program; commonly referred to as AIRs. It was a program that surveilled the movements of just about everyone in the city during daylight hours. But as with anything secret, news can leak out. In this case it did, and that promptly brought about lawsuits to challenge it.

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AIRs was launched in 2016. It used three airplanes to video all movements in the city during daylight hours. Although people were depicted as dots on a map and couldn't be identified from the pictures alone, AIRs was also a networked system. It worked with more than 800 ground-based cameras that were equipped with facial recognition software. It also networked with law enforcement license plate readers. And it covered more than 90% of movement during daylight hours in Baltimore.

Once word of the system leaked, the city stopped using it. But then a new police chief came into office and he started it back up at a cost of \$3 million. That decision resulted in a lawsuit.

The plaintiffs in the case were direct. They said that the city's use of AIRs constituted a violation of the 4th Amendment which forbids unreasonable searches without a court issued search warrant.

In order to get the suit dropped, the city stopped using AIRs and asked the court to render the lawsuit moot. But even though the city had stopped gathering new intelligence through AIRs, it already had a repository of information that it had gathered, and it wasn't willing to give it up. Furthermore, there was nothing to say that the city wouldn't start using the system again if the suit was dismissed. So the court moved forward with the case.

In the end, the court found that the program is unconstitutional. The court wrote, "The AIR program is like a 21st century general search, enabling the police to collect all movements, both innocent and suspected, without any burden to 'articulate and adequate reason to search for specific items related to specific crimes.'"

The ruling is a victory for personal privacy and slaps down government efforts to build an even more rigid surveillance society. The case is known as Leaders of a Beautiful Struggle v. Baltimore Police Department.

by Jim Malmberg

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