

Rutherford Institute Challenges Baltimore's Use of City-Wide, Daytime Aerial Surveillance to Spy On and Track Citizens

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[PDF:](#)

[The amicus brief in](#)

[Leaders of a Beautiful Struggle v. Baltimore Police Department](#)

RICHMOND, Va. – Pushing back against efforts to extend the government's spying powers, The Rutherford Institute has asked a federal appeals court to end Baltimore's use of aerial surveillance to continuously track and monitor the activities of citizens throughout the city. In an [amicus brief](#) filed in partnership with Electronic Freedom Foundation, National Assn. of Criminal Defense Lawyers, and Brennan Center for Justice, Rutherford Institute attorneys have asked the U.S. Court of Appeals to rule that the city's Aerial Investigative Research program, which uses plane-based cameras to record ground movements and is integrated with other city surveillance systems, violates the Fourth Amendment's prohibition on unreasonable searches and seizures. The [brief](#) in *Beautiful*

Struggle v. Baltimore Police Department, which asks the Appeals Court to reconsider and reverse its earlier ruling upholding the program, argues that the comprehensive collection of data and tracking of over a half million people every day is a severe infringement on privacy rights and chills the exercise of the rights of speech and assembly protected by the First Amendment.

“We’re on the losing end of a technological revolution that has already taken hostage our computers, our phones, our finances, our entertainment, our shopping, our appliances, and now, it’s focused its sights on us from the air,” said constitutional attorney John W. Whitehead, president of The Rutherford Institute and author of [*Battlefield America: The War on the American People*](#). “By subjecting Americans to surveillance without their knowledge or compliance and then storing the data for later use, the government has erected the ultimate suspect society. In such an environment, there is no such thing as ‘innocent until proven guilty.’”

Concerned over rising crime rates within the city, in 2016, the Baltimore Police Department began secretly implementing an Aerial Investigative Research (AIR) program that deployed three planes equipped with cameras to record activities and the movements of persons throughout the entire city during daytime hours. When news reports revealed the existence of the AIR program, it was shut down due to strong public opposition. But the program was revived when a new police chief was appointed and its implementation was approved by the city council. Under the reimplemented program, airborne cameras continuously capture video of 90% of the city during daylight hours. The captured images can detect individuals and track their movements. Although individuals appear as a pixelated dot on the AIR images and cannot be identified from those images, the AIR system is also integrated with other surveillance systems, including over 800 surveillance cameras using facial recognition technology and automated license

plate readers that can track the movements of vehicles. In April 2020, a coalition of community organizers and activists sued the city, asserting that AIR's pervasive surveillance violates the Fourth Amendment's prohibition on unreasonable searches and seizures. After the district court refused to order that the AIR program be stopped, the coalition appealed to a panel of circuit court judges, which determined that the aerial surveillance was no more extensive than other systems used by the government. In the [appeal](#), The Rutherford Institute and its coalition partners argue that the AIR program's capacity to track individuals is just as objectionable as the government's use of cell phone location information, which the Supreme Court found violates the Fourth Amendment.

The Rutherford Institute, a nonprofit civil liberties organization, provides legal assistance at no charge to individuals whose constitutional rights have been threatened or violated and educates the public on a wide spectrum of issues affecting their freedoms.