

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

LEADERS OF A BEAUTIFUL  
STRUGGLE, et al.,

Plaintiffs,

BALTIMORE POLICE DEPARTMENT,  
et al.

Defendants.

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Civil No. RDB-20-0929

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MEMORANDUM ORDER GRANTING  
PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Presently pending before this Court is the Motion for Preliminary Injunction (ECF#58).

For the reasons set forth in this Memorandum Order said Motion is GRANTED.

1. On April, 24, 2020, this Honorable Court denied Plaintiffs' first motion seeking to preliminarily enjoin the Aerial Investigative Research (AIR) pilot program before it ever began, finding that Plaintiffs had failed to meet the high bar for this extraordinary relief. ECF No. 32.
2. The AIR pilot program then ran its planned six-month course, concluding in late 2020, since which time, no plane has flown, no data has been analyzed, and the contract with the vendor has been terminated.
3. On June 24, 2021, the U.S. Court of Appeals for the Fourth Circuit, sitting en banc, issued an opinion reversing and remanding the instant case for proceedings consistent with its opinion. Judgment was entered on June 24, 2021. ECF No. 52. The mandate was issued on July 16, 2021. ECF No. 53.

4. Defendants were entitled to file with the United States Supreme Court, on or before Monday, November 22, 2021, a Petition for Writ of Certiorari seeking review of the Fourth Circuit's decision. No such Petition was filed.

Accordingly, consistent with the Order of the United States Court of Appeals for the Fourth Circuit IT IS HEREBY ORDERED this 29<sup>th</sup> day of November, 2021 that Plaintiff's Motion for Preliminary Injunctions (ECF#58) is GRANTED;

And it is FUTHER HEREBY ORDERED that until a final disposition of this lawsuit:

5. Defendants Baltimore Police Department ("BPD") and Baltimore Police Commissioner Michael Harrison (together, "Defendants") and their agents, employees, successors in office, and all others acting in active concert with them, including but not limited to Persistent Surveillance Systems, LLC, are enjoined from operating the Aerial Investigation Research ("AIR") program in Baltimore City.

6. Defendants and their agents, employees, successors in office, and all others acting in active concert with them, including but not limited to Persistent Surveillance Systems, LLC, shall not access any data generated by the operation of the AIR program ("AIR program data") for any reason, subject to the exceptions in paragraphs 3 through 9 below.

7. Defendants, their employees, and their successors in office may access AIR program data in the reports that Persistent Surveillance Systems, LLC generated for Defendants prior to 2 June 24, 2021, for the purpose of sharing those reports with government prosecutors in existing criminal prosecutions or with defendants in criminal prosecutions.

8. Persistent Surveillance Systems, LLC shall maintain sole possession of all other AIR program data consistent with the continuing confidentiality obligations and use limitations contained in the Professional Services Agreement (ECF No. 3-2). Such data shall not be accessed

for any purpose, by any person or entity, subject to the exceptions in paragraphs 5 through 9 below.

9. Nothing in this preliminary injunction shall be construed to preclude criminal defendants and their attorneys, experts, investigators, and other members of the defense team from accessing AIR program data via the discovery process while assisting in the preparation of a criminal defense of an accused, and nothing in this preliminary injunction shall alter a criminal defendant's right to discovery of such data or ability to access such data.

10. Defendants and their agents, employees, successors in office, and all others acting in active concert with them, including but not limited to Persistent Surveillance Systems, LLC, shall release AIR program data to government prosecutors only in connection with prosecutions already existing on June 24, 2021. Defendants shall not be in violation of this preliminary injunction for sharing with prosecutors, prior to the entry of this preliminary injunction, AIR program data in cases that the prosecution ultimately charged after June 24, 2021.

11. Nothing in this preliminary injunction shall be construed as directing Defendants to remove, redact, or destroy any AIR program data currently in their possession. 8. Nothing in this preliminary injunction shall be construed to prevent Defendants from accessing, or requesting another person or entity to access, AIR program data for the purpose of disseminating the data to Plaintiffs in accordance with their discovery obligations in this case.

12. AIR program data that has already been disseminated to the New York University Law School Policing Project, the RAND Corporation, the University of Baltimore, or the public as of the date of this Order shall not be subject to paragraph 4.

13. This Order shall remain in full force and effect pending further proceedings in this Court.

SO ORDERED.

DATED: November 29, 2021

/s/  
The Honorable Richard D. Bennett  
United States District Judge