



**For Immediate Release**  
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### **LDF Files Amicus Brief Supporting Rehearing En Banc in Lawsuit Challenging the Baltimore Police Department's Aerial Surveillance Program**

Last week, the NAACP Legal Defense and Educational Fund, Inc., (LDF) filed an amicus brief supporting rehearing en banc in *Leaders of a Beautiful Struggle v. Baltimore Police Department*, a lawsuit challenging the department's aerial surveillance program on constitutional grounds. Several organizations, including Casa de Maryland, Inc., Citizens Policing Project, and Equity Matters, as well as two Baltimore-based faith leaders — Rabbi Daniel Cotzin Burg of the Beth Am Synagogue and Reverend Grey Maggiano of the Memorial Episcopal Church — also signed onto the brief.

In April 2020, the Baltimore Police Department (BPD) — under the leadership of Police Commissioner Michael Harrison and in partnership with Persistent Surveillance Systems (PSS) — launched a first-of-its-kind aerial surveillance pilot program (the AIR Program) in response to the uptick in violent crime rates in the city. Over a six-month period, the untested program used three planes to surveil and record public movements of Baltimore residents across 90% of the city for 12 hours per day — and retained that data for 45 days. Although the surveillance program did not capture clear images of Baltimoreans as they engaged in daily activities, it nonetheless enabled BPD to track citizens' movements from the moment they left their homes to the moment they returned.

“The Baltimore Police Department has a history of engaging in discriminatory and unconstitutional policing practices in Black communities, readily infringing on their privacy interests and other Fourth Amendment rights,” said Mahogane Reed, LDF's John Payton Appellate and Supreme Court Advocacy Fellow. “This history is important context for the potential danger of surveillance under the AIR Program, which could catalyze future violations of Black Baltimoreans' privacy and other constitutional rights.”

Before BPD piloted the AIR Program, civil rights organizations, including LDF, as well as community members and faith leaders in Baltimore, objected to its launch. The ACLU of Maryland also sued BPD in federal district court and sought a preliminary injunction enjoining the pilot program, arguing that it violated the Fourth Amendment's reasonable expectation of privacy. The district court denied the injunction, and a split panel of the U.S. Court of Appeals for the Fourth Circuit affirmed the denial. The ACLU is seeking rehearing en banc before the full Fourth Circuit, which LDF's amicus brief supports.

“Our brief establishes that the appeals court incorrectly decided that the AIR Program could continue without judicial oversight, saying that there was a special law enforcement

need that allowed for an exception to a warrant requirement,” said Christopher Kemmitt, Senior Counsel at LDF.

“The Supreme Court has long recognized that general law enforcement does not constitute a ‘special need’ that justifies systematic warrantless searches without probable cause. Given the history of racially-biased and violent policing in Baltimore, this unprecedented expansion of the special needs doctrine risks additional violations of Baltimoreans’ Fourth Amendment rights,” Kemmitt continued. “This will only serve to deter the department’s community-based policing aims, further erode community trust in the BPD, and directly undermine the re-imagined notion of public safety desired by many Baltimoreans.”

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*Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation’s first civil and human rights law organization. LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF.*

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