

VIA EMAIL

July 2, 2020

James Bentley
Office of the Mayor
100 N. Holliday St.
Room 223
Baltimore, MD 21202
Phone: (410) 545-3406
Email: James.Bentley2@baltimorecity.gov
Attn: PIA Request

Dear Mr. Bentley:

This letter constitutes a request under the Maryland Public Information Act (“PIA”), Md. Code Ann., Gen. Prov. (“GP”) § 4-101 et seq, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the Office of Mayor Bernard C. “Jack” Young.

EPIC seeks records related to the Baltimore Police Department (“BPD”) and Persistent Surveillance Systems (“PSS”) Aerial Investigation Research (“AIR”) pilot program.

Requested Documents

1. Emails, communications, and memoranda regarding the AIR pilot program, from August 1, 2019 to present, including but not limited to the following individuals and search terms:
 - a. Persistent Surveillance Systems or PSS;
 - b. Community Support Program or CSP;
 - c. Ross McNutt;
 - d. John Dorobiala;
 - e. Aerial Investigation Research or AIR;
 - f. Wide-area motion imagery or WAMI;
 - g. Hawkeye II;
 - h. Arnold Ventures;
 - i. Third parties with an email address ending in “pss-1.com,” “arnoldfoundation.org,” “arnoldventures.org,” “gbc.org,” and “abell.org”;
 - j. Baltimore Community Foundation or BCF;
 - k. Police Foundation Special Grants Fund;
 - l. Community With Solutions;

- m. Greater Baltimore Committee or GBC;
- n. Consent decree or *United States v. Baltimore Police Dept., et al.*;
- 2. Any plans regarding “community engagement” with and external auditing of the pilot program;¹
- 3. Emails, communications, and memoranda between the Office of the Mayor and PSS, as well as its AIR pilot program funders, regarding the April 2020 mayoral primary election, including but not limited to the following individuals and search terms:
 - a. Ross McNutt;
 - b. Jack and Laura Arnold;
 - c. Arnold Ventures;
 - d. Third parties with an email address ending in “pss-1.com,” “arnoldfoundation.org,” and “arnoldventures.org;”
- 4. Any PSS marketing materials, including records from Ross McNutt’s August 2019 proposal to city officials.²

Background

On April 1, 2020, the *Baltimore Sun* reported on the Board of Estimates’ 3-2 vote approving a six-month pilot program wherein three surveillance planes will to capture aerial images that will help BPD investigate serious crime, using Persistent Surveillance Systems camera technology.³ The technology is “capable of capturing images of 32 square miles of the city for a minimum of 40 hours a week.⁴ The American Civil Liberties Union (“ACLU”) of Maryland opposed the agreement, citing concerns about privacy and racial impact.⁵

The agreement between BPD and PSS notes that all “imagery data shall be owned and controlled” by PSS “and not BPD,” and that PSS “will retain the AIR imagery data for forty-five (45) days.”⁶ But, publicly available records do not contain further details regarding surveillance limitations and privacy protections. For example, publicly available records do not indicate what kind of training analysts will receive or whether data owned by PSS will include data obtained through integration with BPD’s Computer Aided Dispatch system, CitiWatch CCTV cameras, Shot Spotter system, or license plate readers data.⁷ Additionally, the public has not been informed whether BPD has “identif[ied] an appropriate [external] audit organization” to perform independent

¹ Justin Fenton & Talia Richman, *Baltimore Police Back Pilot Program for Surveillance Planes, Reviving Controversial Operations*, Wash. Post (Jan. 4, 2020), https://www.washingtonpost.com/local/public-safety/baltimore-police-back-pilot-program-for-surveillance-planes-reviving-controversial-operation/2020/01/04/d99a4ca4-238b-11ea-bed5-880264cc91a9_story.html.

² *Id.*

³ Emily Opilo, *Baltimore Spending Board Approves Surveillance Plane Pilot Program to Capture Images from City Streets*, Balt. Sun (Apr. 1, 2020), <https://www.baltimoresun.com/news/crime/bs-md-ci-baltimore-surveillance-plane-approved-20200401-sskjob7dgrevpjfygrlgitnqi-story.html>.

⁴ *Baltimore Board Oks Surveillance Planes Amid Opposition*, Assoc. Press (Apr. 2, 2020), <https://apnews.com/a273d71c3c6d609e33501be837435e5b>.

⁵ *Id.*

⁶ Professional Services Agreement between BPD and PSS 21-22 (Mar. 17, 2020), <https://assets.documentcloud.org/documents/6823584/PSSagreement.pdf>.

⁷ *Id.* at 19.

verification and validation of the AIR system,⁸ or about BPD's plans for community engagement and educational meetings. Disclosure of the requested records will therefore help inform the public about the technology and internal operations of the AIR program and “improve[e] police community relations.”⁹

Fee Waiver

EPIC requests a fee waiver pursuant to GP § 4-206(e)(1). A fee waiver “would be in the public interest,” GP § 4-206(e)(2)(ii), because EPIC’s record request does not involve a commercial interest. EPIC is a nonprofit organization committed to privacy and civil liberties.¹⁰ EPIC is a “representative of the news media,” *EPIC v. DOD*, 241 F. Supp. 2d 5 (D.D.C. 2003), and as such, routinely posts and interprets the information it obtains through public records requests on its website. The release of this information will reach a large audience and disclosure of the requested information will broaden the public’s understanding of a unique and important municipal government operation while also encouraging transparency and accountability.

Conclusion

Thank you for your consideration of this request. EPIC anticipates your determination on its request within thirty (30) calendar days. GP § 4-203. For questions regarding this request contact Enid Zhou at 202-483-1140 x104 or zhou@epic.org, cc: FOIA@epic.org.

Respectfully Submitted,

/s/ Margaret Foster

Margaret Foster

EPIC Clerk

/s/ Enid Zhou

Enid Zhou

EPIC Open Government Counsel

⁸ *Id.* at 23.

⁹ *Id.* at 18.

¹⁰ EPIC, *About EPIC*, <https://epic.org/epic/about.html>.