



Community Support Program Legal and Privacy Considerations

Is this legal, can it be used in court and
how do you protect people privacy



CSP as Evidence

- **Types of Information CSP provides**
 - Raw Imagery Data
 - Tracks of Vehicles and People
 - Track Reports Include Actions of Vehicles and People
 - Investigation Briefings
 - Analysts Observations and Tracks
 - Expert testimony as to process and observations
- **Discussed Later**
 - Training of Analysts / Experts
 - Anti-Tamper
 - Data Security
 - Data Access



CSP Investigation and Review Process

Call For Service

Find Event

Tag vehicles and people at or near event

Get info from investigating officer

Investigation Lead Analyst

Track Vehicles and people to and from event – Look for suspect behavior

Review of Event and Tracks with Lead and Senior Analyst

Build Track Briefs for Primary Vehicles

Multiple Analysts

Build Investigation Brief

Investigation Lead Analyst

Review by Senior Analyst

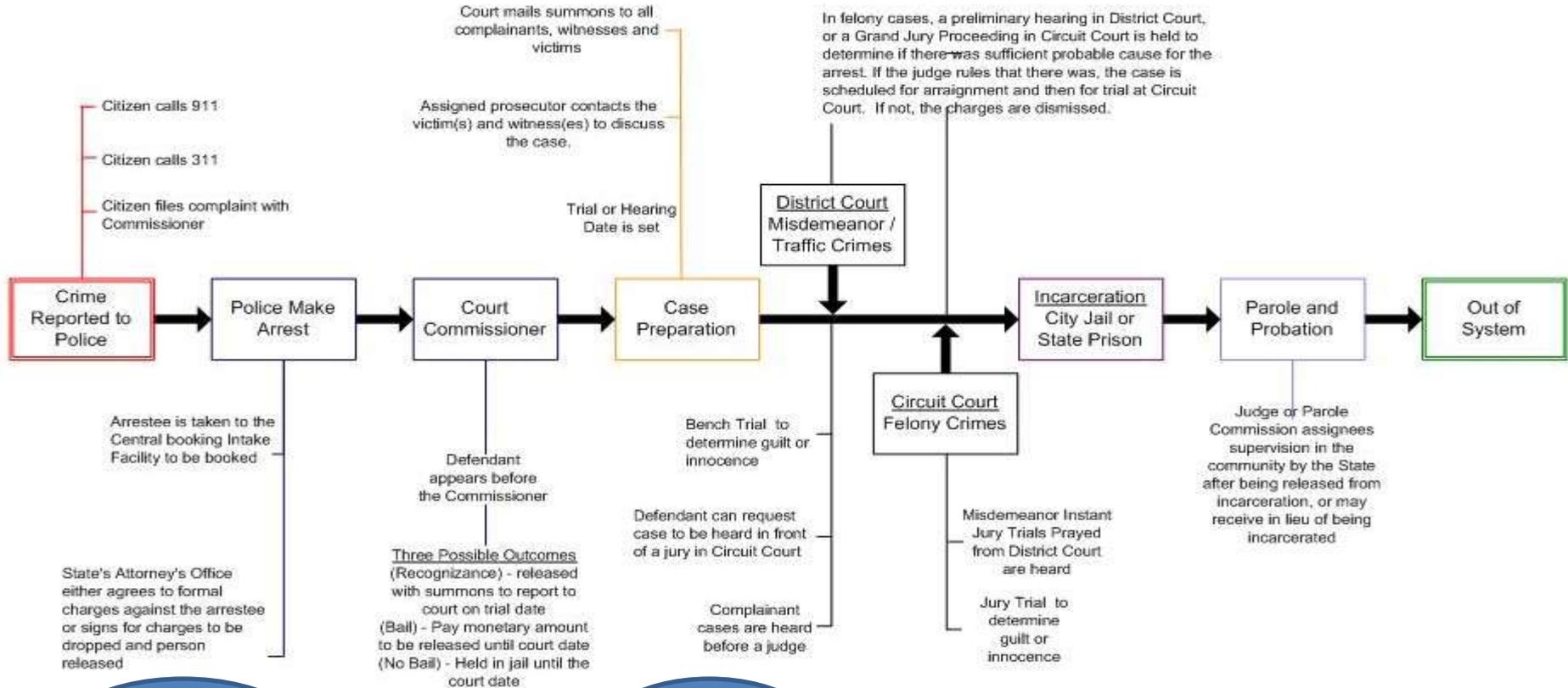
Brief by Lead and Senior Analyst to Officers

Senior Analyst



CSP Support

Basic Criminal Justice Flow



CSP Leads and Investigation Support

CSP Support and Testimony

Citizens who have any questions about the criminal justice process should contact our office at mail@stattoemey.org



Briefed DSAO - Major Crimes

12 August 2016

ANTONIO GIOIA, DEPUTY STATE'S ATTORNEY OF MAJOR CRIMES



Antonio Gioia
Deputy State's Attorney of Major Crimes

Antonio Gioia, the current Chief of the Conviction Integrity Unit, was promoted to Deputy State's Attorney of Major Crimes. In his new role Gioia will supervise the following units: Major Investigations, Homicide, Special Victims, Conviction Integrity, and Felony Trial.

Gioia's legal career began in 1984 as a staff attorney for the Baltimore City Office of the Public Defender. In 1991 Gioia went into private practice and opened the Law Office of Antonio Gioia, where he handled general practice cases and criminal defense.

After nearly a decade in private practice, Gioia joined the Baltimore City State's Attorney's Office as an Assistant State's Attorney. His increasing responsibilities over 15 years of public service include: prosecution of gun offenders and violent offenders, prosecution of major drug trafficking organizations, former Chief of the SAO's Training Division, and former Chief of the SAO's Narcotics Division. Gioia is a graduate of the University of Baltimore's School of Law. He earned his undergraduate degree from the University of Baltimore, where he studied Business Jurisprudence.

Approved BPD use of BCSP Provided Information
as Primary Evidence in Cases and Court
Recommended using BPD 1014 Policy



Use of CSP Data In Investigations

- PD investigators want to use the information in their investigations
 - To identify and follow leads
 - Stop and identify cars
 - Obtain search warrants
 - Support arrests
 - Support convictions
 - Identify potential witnesses
 - Verify witness accounts
- Investigating Officers and Leadership want to ensure they can use CSP information and data in cases
- Do not want to ruin cases
 - “Exclusionary rule” and “Fruit of a Poisonous Tree” concerns
- PD officers have asked for explicit review and approval to use CSP information prior to use.



Investigators Concerns

Want SAO verification they can use
the information provided by CSP analysts

Exclusionary Rule

The exclusionary rule prevents the government from using most evidence gathered in violation of the United States Constitution. The exclusionary rule applies to evidence gained from an unreasonable search or seizure in violation of the Fourth Amendment, see [Mapp v. Ohio](#), 367 U.S. 643 (1961), ... to improperly elicited self-incriminatory statements gathered in violation of the [Fifth Amendment](#), see [Miranda v. Arizona](#), 384 U.S. 439 (1966), and to [evidence](#) gained in situations where the government violated defendants' [Sixth Amendment](#) right to counsel, see [Miranda](#). The rule does not apply in civil cases, including deportation hearings. See [INS v. Lopez-Mendoza](#), 468 U.S. 1032.

Fruit of the Poisonous Tree

The "Fruit of the poisonous tree" doctrine is an extension of the **exclusionary rule**, which, subject to some exceptions, prevents evidence obtained **in violation of the Fourth Amendment** from being admitted in a criminal trial. Like the exclusionary rule, the fruit of the poisonous tree doctrine is intended to deter police from using illegal means to obtain evidence.



Legal and Privacy Issues

- **Not a new or novel legal issue**
 - Reviewed by multiple city attorneys
 - 4 Supreme Court Ruling Supporting Use
 - Usable in Court - Legal Bench Brief Available (Attached)
- **Same rules as other Airborne Law Enforcement**
 - 210 Law enforcement agencies use airborne law enforcement
 - Baltimore has used helicopters FoxTrot since 1970
- **Strict Privacy Policy**
 - Developed in conjunction with many departments
 - On contract with BPD (Attached)
- **No Expectation of Privacy**
 - Following people to and from crime scenes over sidewalks and roads in public spaces
 - No expectation of privacy in public spaces
 - Always start with a reported crime or ongoing investigation

Legal aspects they are the same –
CSP imagery is just using new larger cameras.



Review of Relevant Laws, Ordinances, and Policies

- Federal Laws
 - 4 Supreme Court Level Rulings
 - Directly supports effort
- State Laws and Regulations
 - Subtitle 9 - SURVEILLANCE AND OTHER CRIMES AGAINST PRIVACY
 - Do not apply to this situation
- County Ordinances
 - No relevant ordinances
- City Ordinances
 - No relevant ordinances
- Baltimore PD General Order Policy 1014 1 Aug 2016
 - Consistent with BPD video surveillance general order



Legal Analysis

US Supreme Court Decisions

- ***United States v Karo*, 468 U.S. 705, 730 (1984).**
 - 4th Amendment and The Expectation of Privacy
- ***California v Ciraolo*, 476 U.S. at 209(1986)**
 - Aerial observation to be found permissible by law enforcement
- ***Dow Chemical Co. v. United States*, 476 U.S. 227 (1986).**
 - Aerial photography - Found to be permissible
- ***Florida v. Riley*, 488 U.S. 445 (1989).**
 - Aerial Viewing and Search Warrants
 - Found to be permissible



Legal Precedence

4th Amendment/Expectation of Privacy

US Supreme Court - *United States v Karo*

- The United States Supreme Court has developed a “relatively straightforward” test for determining what expectations of privacy are protected by the Fourth Amendment. *United States v Karo*, 468 U.S. 705, 730 (1984).
- **“What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection.”** *United States v Karo*, 468 U.S. 705, 730 (1984) (quoting *Katz v. United States*, 389 U.S. 347, 351 (1967)).
- **Under the familiar *Katz* test, the defendant’s ability to challenge a search turns on two inquires:**
 - (1) whether he had an actual, subjective expectation of privacy in the premises searched; and
 - (2) whether this subjective expectation is one that society is prepared to recognize as reasonable. *Katz*, 389 U.S. at 361 (Harlan, J., concurring).
- **“The touchstone of search and seizure analysis is whether a person has a constitutionally recognized expectation of privacy.”**



Legal Precedence

US Supreme Court – California v Ciraolo

- In *California v Ciraolo*, the Supreme Court considered whether a naked eye aerial observation of the defendant's backyard was a Fourth Amendment violation. The police had received an anonymous tip that defendant was growing marijuana in his backyard, but the police were unable to confirm this tip from driving by his residence. *Ciraolo*, 476 U.S. at 209. The officers secured a private plane and flew over the area at 1,000 feet within navigable airspace. From that height the officers, who were trained in marijuana identification, could readily identify marijuana growing in the yard. *Id.* They subsequently secured a warrant and seized marijuana plants. *Id.*
- There was no dispute that the defendant had manifested a subjective intent to maintain the privacy of his backyard from any street-level views because the defendant erected a 6-foot outer fence and a 10 foot inner fence completely enclosing his yard. *Id.* at 209, 211. Thus, the case turned on whether or not society was prepared to recognize this expectation as reasonable. The Court concluded that the intrusion was not unconstitutional:
- The observations by [the officers] in this case took place within **public navigable airspace . . . in a physically nonintrusive manner**; from this point they were able to observe plants readily discernible to the naked eye as marijuana. That the observations from aircraft were directed at identifying the plants and the officers were trained to recognize marijuana is irrelevant. Such observation is precisely what a judicial officer needs to provide a basis for a warrant. **Any member of the public flying in this airspace who glanced down could have seen everything that these officers observed.** On this record, we readily conclude that **respondent's expectation that his garden was protected from such observation is unreasonable and is not an expectation that society is prepared to honor.** *Id.* at 213-14 (emphasis added).
- Further, “[i]n an age where private and commercial flight in the public airways is routine, **it is unreasonable for respondent to expect that his marijuana plants were constitutionally protected from being observed with the naked eye from an altitude of 1,000 feet.**” *Id.* at 215. **“The Fourth Amendment simply does not require the police traveling in the public airways at this altitude to obtain a warrant to order to observe what is visible to the naked eye.”**



Legal Precedence

US Supreme Court – Dow Chemical Co. v. United States

- The same conclusion was reached in *Dow Chemical Co. v. United States*, 476 U.S. 227 (1986).
- In that case, the EPA contracted with a commercial aerial photographer to provide images of the Dow Chemical manufacturing facility from altitudes of 1200, 3000, and 12,000 feet. *Id.* at 229.
- Dow Chemical filed suit, alleging the surveillance amounted to a search in violation of the Fourth Amendment. The district court found in favor of Dow Chemical, but the Sixth Circuit disagreed, concluding the aerial images did not constitute a Fourth Amendment search. *Id.* at 230.
- The United States Supreme Court accepted certiorari, and affirmed the Sixth Circuit's decision. *Id.* at 239. **The Court held that “the taking of aerial photographs of an industrial plant complex from navigable airspace is not a search prohibited by the Fourth Amendment.”** *Id.* In so holding, the Court reasoned, “any person with an airplane and an aerial camera could readily duplicate” the photographs at issue. *Id.* at 231.



Legal Precedence

US Supreme Court – Florida v. Riley

- In 1989 the Court decided *Florida v. Riley*, 488 U.S. 445 (1989).
- In *Riley*, the sheriff's office received an anonymous tip that marijuana was being grown on the respondent's property. The respondent lived in a mobile home on five acres of rural property. *Id.* at 448. A greenhouse was located ten to twenty feet behind the home and two sides of it were enclosed. The other two sides were not enclosed but were obscured from view by surrounding trees and shrubs. The roof of the greenhouse was covered with corrugated panels, some of which were translucent and some which were opaque. Two of these panels, comprising approximately ten percent of the roof were missing.
- The respondent had a wire fence enclosing his property with a "DO NOT ENTER" sign posted. *Id.* The investigating officer realized he could not confirm the anonymous tip from the road and twice circled the property in a helicopter at the height of 400 feet. *Id.* With his naked eye, he was able to see through the openings in the greenhouse and observe what he thought was marijuana growing inside. He sought and procured a search warrant based on these observations and marijuana plants were seized. *Id.* at 449.
- The Court found that respondent's actions evinced his intent that his property would not be open to public inspection from the road. However, because the greenhouse roof was partially exposed, its contents were subject to aerial viewing. *Id.* at 450. Thus, under *Ciraolo*, the respondents **"could not reasonably have expected the contents of his greenhouse to be immune from examination by an officer seated in a fixed-wing aircraft flying in navigable airspace at an altitude of 1,000 feet or, as the Florida Supreme Court seemed to recognize, at an altitude of 500 feet, the lower limit of the navigable airspace for such an aircraft."** *Id.* The fact that the helicopter was flying at 400 feet did not change the analysis because "helicopters are not bound by the lower limits of the navigable airspace allowed to other craft" and any member of the public could have legally flown over the property at that altitude and observed the marijuana. *Id.* at 451. **Moreover, there was no indication that "intimate details" of respondent's property or curtilage were observed or that there was "undue" noise, dust, or threat of injury.** *Id.* at 452.



Use of CSP Imagery for Law Enforcement is Constitutional

- Like in *Ciraolo, Dow Chemical, and Riley*, the photographs taken from a manned aircraft flying within publicly navigable airspace do not constitute a search, and do not run afoul of the Constitution.
- Particularly, the photographs are obtained by wide area airborne surveillance by manned aircraft operating in publicly navigable airspace at 3,000 to 12,000 feet altitude.
- The cameras are available to, and routinely used by members of the public. The cameras capture images visible to the naked eye. No infrared, telephoto, or zoom lenses are utilized. The photographs do not reveal intimate details of private life.
- Thus, in utilizing the photographs, law enforcement does not violate any reasonable expectations of privacy. They are simply observing what can be seen from public space.
- **Like in *Ciraolo, Dow Chemical, and Riley*, the photographic surveillance is constitutionally permissible.**



Maryland Privacy Laws

Visual Surveillance

2015 Maryland Code - CRIMINAL LAW

Title 3 - OTHER CRIMES AGAINST THE PERSON

Subtitle 9 - SURVEILLANCE AND OTHER CRIMES AGAINST PRIVACY

3-901 - Visual Surveillance

- Bathrooms and Dressing Rooms

3-902 - Visual Surveillance with Prurient Intent

- Sexual in nature in private or public spaces

3-903 - Camera Surveillance

- In private homes

10-402 - Interception of communications generally; divulging contents of communications; violations of subtitle

- Deals with audio recordings and electronic surveillance

None deal with (non-sexual) photographs in public places



2015 Maryland Code - CRIMINAL LAW
Title 3 - OTHER CRIMES AGAINST THE PERSON

Subtitle 9 - SURVEILLANCE AND OTHER CRIMES AGAINST PRIVACY

§ 3-901 - Visual Surveillance

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Private place" means a dressing room or rest room in a retail store.

(3) "Visual surveillance" means surveillance by:

(i) direct sight;

(ii) the use of mirrors;

(iii) the use of cameras; or

(iv) the use of an electronic device that can be used surreptitiously to observe an individual.

(b) Scope of section. -- **This section does not apply to any otherwise lawful surveillance conducted by a law enforcement officer while performing official duties.**

(c) Prohibited -- A person may not conduct or procure another to conduct visual surveillance of an individual in a private place without the consent of that individual.

(d) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding \$ 1,000 or both.

(e) Prohibited defense. -- It is not a defense to a prosecution under this section that the defendant owns the premises where the private place is located.

(f) Civil action. --

(1) An individual who was under visual surveillance in violation of this section has a civil cause of action against any person who conducted or procured a person to conduct the visual surveillance.

(2) In an action under this subsection, the court may award actual damages and reasonable attorney's fees.



2015 Maryland Code - CRIMINAL LAW
Title 3 - OTHER CRIMES AGAINST THE PERSON
Subtitle 9 - SURVEILLANCE AND OTHER CRIMES AGAINST PRIVACY
§ 3-902 - Visual Surveillance with Prurient Intent

(a) Definitions. --

- (1) In this section the following words have the meanings indicated.
- (2) "Camera" includes any electronic device that can be used surreptitiously to observe an individual.
- (3) "Female breast" means a portion of the female breast below the top of the areola.
- (4) "Private area of an individual" means the naked or undergarment-clad genitals, pubic area, buttocks, or female breast of an individual.
- (5) (i) "Private place" means a room in which a person can reasonably be expected to fully or partially disrobe and has a reasonable expectation of privacy, in:
 1. an office, business, or store; 2. a recreational facility; 3. a restaurant or tavern; 4. a hotel, motel, or other lodging facility;
 5. a theater or sports arena; 6. a school or other educational institution; 7. a bank or other financial institution;
 8. any part of a family child care home used for the care and custody of a child; or 9. another place of public use or accommodation.
- (ii) "Private place" includes a tanning room, dressing room, bedroom, or restroom.
- (6) (i) "Visual surveillance" means the deliberate, surreptitious observation of an individual by any means.
- (ii) "Visual surveillance" includes surveillance by:
 1. direct sight; 2. the use of mirrors; or 3. the use of cameras.
- (iii) "Visual surveillance" does not include a casual, momentary, or unintentional observation of an individual.

(b) Scope of section. -- This section does not apply to a person who without prurient intent:

- (1) conducts filming by or for the print or broadcast media;
- (2) conducts or procures another to conduct visual surveillance of an individual to protect property or public safety or prevent crime; or
- (3) conducts visual surveillance and:
 - (i) holds a license issued under Title 13 or Title 19 of the Business Occupations and Professions Article; and
 - (ii) is acting within the scope of the person's occupation.

(c) Prohibited. -- A person may not with prurient intent conduct or procure another to conduct visual surveillance of:

- (1) an individual in a private place without the consent of that individual; or**
- (2) the private area of an individual by use of a camera without the consent of the individual under circumstances in which a reasonable person would believe that the private area of the individual would not be visible to the public, regardless of whether the individual is in a public or private place.**

(d) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 2,500 or both.

(e) Civil action. --

- (1) An individual who was under visual surveillance in violation of this section has a civil cause of action against any person who conducted or procured another to conduct the visual surveillance.
- (2) In an action under this subsection, the court may award actual damages and reasonable attorney's fees.

(f) Other remedies. -- This section does not affect any legal or equitable right or remedy otherwise provided by law.

(g) Effect of section. -- This section does not affect the application of § 3-901 of this subtitle.



2015 Maryland Code CRIMINAL LAW
Title 3 - OTHER CRIMES AGAINST THE PERSON
Subtitle 9 - SURVEILLANCE AND OTHER CRIMES AGAINST PRIVACY
§ 3-903 - Camera Surveillance

- (a) "Camera" defined. -- In this section, "camera" includes any electronic device that can be used surreptitiously to observe an individual.
- (b) Scope of section. -- **This section does not apply to:**
- (1) an adult resident of the private residence where a camera is placed;
 - (2) a person who places or procures another to place a camera on real property without the intent to conduct deliberate surreptitious observation of an individual inside the private residence;**
 - (3) a person who has obtained the consent of an adult resident, or the adult resident's legal guardian, to place a camera on real property to conduct deliberate surreptitious observation of an individual inside the private residence;
 - (4) any otherwise lawful observation with a camera conducted by a law enforcement officer while performing official duties;**
 - (5) filming conducted by a person by or for the print or broadcast media through use of a camera that is not secreted from view;
 - (6) any part of a private residence used for business purposes, including any part of a private residence used as a family child care home for the care and custody of a child;
 - (7) filming of a private residence by a person through use of a camera that is not located on the real property where the private residence is located; or**
 - (8) any otherwise lawful observation with a camera of the common area of multiunit family dwellings by a person that holds a license under Title 13 or Title 19 of the Business Occupations and Professions Article, acting within the scope of the person's occupation.
- (c) Prohibited. -- A person may not place or procure another to place a camera on real property where a private residence is located to conduct deliberate surreptitious observation of an individual inside the private residence.**
- (d) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 2,500 or both.
- (e) Prohibited defense. -- Subject to subsection (b)(1) of this section, it is not a defense to a prosecution under this section that the defendant owns the private residence.
- (f) Available defense. -- A good faith reliance on a court order is a complete defense to a civil or criminal action brought under this section.
- (g) Civil action. --
- (1) An individual who was observed through the use of a camera in violation of this section has a civil cause of action against any person who placed or procured another to place the camera on the real property.
 - (2) In an action under this subsection, the court may award damages and reasonable attorney's fees.
- (h) Other remedies. -- This section does not affect any legal or equitable right or remedy otherwise provided by law.



2015 Maryland Code
COURTS AND JUDICIAL PROCEEDINGS
Title 10 - EVIDENCE

Subtitle 4 - WIRETAPPING AND ELECTRONIC SURVEILLANCE

§ 10-402 - Interception of communications generally; divulging contents of communications; violations of subtitle

- (a) Unlawful acts. -- Except as otherwise specifically provided in this subtitle it is unlawful for any person to:
- (1) Willfully intercept, endeavor to intercept, or procure any other person to intercept or endeavor to intercept, **any wire, oral, or electronic communication;**
 - (2) Willfully disclose, or endeavor to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subtitle; or
 - (3) Willfully use, or endeavor to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subtitle.
- (b) Penalty. -- Any person who violates subsection (a) of this section is guilty of a felony and is subject to imprisonment for not more than 5 years or a fine of not more than \$ 10,000, or both.

Does not apply to photographs



Baltimore County Code Associated with Surveillance

TITLE 4. - SURVEILLANCE DEVICES

§ 17-4-102. - SURVEILLANCE DEVICES.

- (a) Required. The owner, manager or operator of a shopping center shall maintain surveillance devices in a manner to provide coverage of at least 75% of the square footage of the parking areas that are owned, leased or operated by the shopping center for the use of the general public.
- (b) Location. Surveillance devices shall, at a minimum, be placed in such a manner as to provide passive recorded *video* surveillance during operating hours of the shopping center.
- (c) Maintenance of surveillance *video*. The owner, manager, or operator shall maintain security surveillance *video* for a minimum of three days and, upon request, shall provide copies to the Baltimore County Police Department.
- (d) Police assistance. If requested, the Police Department shall assist the owner, manager or operator of a shopping center in performing a security study or reviewing a security plan to implement the provisions of this title.

(Bill No. 21-05, 1, 4-4-2005)

**People who own shopping malls have to have cameras for parking lots
Does Not Apply to Our Situation**



Baltimore City Ordinances

This is Article 19 of the Baltimore City Code, titled “Police Ordinances.” It contains 354 laws divided across 55 structures.

- [1 Advertising Circulars](#)
- [2 Assaults on Elderly](#)
- [3 Body Armor](#)
- [4 Body Studios](#)
- [5 Burglar Alarms - False Alarms](#)
- [6 Burglar Alarms - Public Nuisance Alarms](#)
- [7 Burglar Alarms - Vehicle Alarms](#)
- [8 Burglar Alarms - Registration and Regulation](#)
- [9 Chemically Treated Paper](#)
- [10 Criminal Street Gangs](#)
- [11 Criminal Tools](#)
- [13 Disorderly Drinking](#)
- [14 Drinking in Public Places](#)
- [15 Drugs - Codeine and Opium Derivatives](#)
- [16 Drugs - LSD](#)
- [17 Drugs - Paraphernalia](#)
- [19 Fraud - Against Restaurant](#)
- [20 Fraud - Identification Cards](#)
- [21 Fraud - Impersonations and False Representations](#)
- [22 Fraud - Professional Baseball](#)
- [23 Hate Crimes](#)
- [25 Loitering - General](#)
- [26 Loitering -Drug-Free Zones](#)
- [27 Loitering - Prostitution](#)
- [29 Mass Transit Vehicles](#)
- [30 Merchandise Carts](#)
- [32 Minors - Sales in Proximity to Liquor Store](#)
- [33 Minors - Alcoholic Beverages](#)
- [34 Minors - Daytime and Nighttime Curfews](#)
- [35 Minors - Harmful Substances](#)
- [36 Minors - Indecent Materials](#)
- [37 Minors - Misappropriations and Neglect](#)
- [38 Minors - Miscellaneous](#)
- [40 Unregistered Motorcycles and Similar Vehicles](#)
- [41 Outdoor Telephones](#)
- [42 Press Cards for News Media](#)
- [43 Public Nuisances](#)
- [43A Neighborhood Nuisances – Abatement](#)
- [44 Scavenging Recyclable Materials](#)
- [45 Signs - On or Affecting Public Property](#)
- [46 Signs - Campaign Signs in Residential Areas](#)
- [47 Soliciting and Aggressive Soliciting](#)
- [48 Sporting Events](#)
- [49 Star-Spangled Banner](#)
- [50 Street Regulations](#)
- [51 Park Rules](#)
- [52 Taxicabs](#)
- [53 Telephone Harassment](#)
- [54 Theatrical Exhibitions](#)
- [57 Vandalism](#)
- [59 Weapons](#)
- [60 Gun Offender Registration](#)
- [71 Special Enforcement Officers](#)
- [72 Special Traffic Enforcement Officers](#)
- [73 Special Parking Enforcement Officers](#)

No Baltimore City Ordinances deal with video taping, photographing, or surveillance



BPD Policy 1014 - 1 Aug 2016

Video Surveillance Procedures

Policy – It is the policy of the Baltimore Police Department to utilize surveillance cameras for the purposes of deterring crime, aiding in apprehending suspects, and protecting homeland security

Definition - Video Surveillance – Non-consensual interception of a CCTV broadcast which requires a court order.

- 1. Does not require a court order unless there is no-consensual interception of oral communication.**
- 2. Use of video cameras to monitor an area open to the public view does not require a warrant or court order.**

Required Action - Members

1. Responds to reports of crimes/incidents, reported by members of CitiWatch at the discretion of the Shift Commander
2. Information provided by active sworn members, who have viewed crimes/incidents at CitiWatch, might constitute probable cause for arrest.
3. Information provided by personnel other than active sworn members who have viewed crimes/ Incidents might constitute reasonable articulable suspicion to justify an investigatory stop of an individual.
 - 3.1 Such investigatory stops may lead to an arrest only if:
 - 3.1.1 Observation/information obtained by the officers at the scene of the investigatory stop furnish probable cause; or
 - 3.1.2 An active sworn member views the video footage seen by the CitiWatch personnel and that footage is sufficient to establish probable cause.

Use of BCSP imagery is consistent w/ BPD Policy 1014 Video Surveillance



BPD Already Uses Airborne Systems for Law Enforcement

- BPD has used airborne surveillance since October 1970 with the use of police helicopters
- Foxtrot uses both aerial observation, camera, infrared cameras to support real time operations and ongoing investigations.
- Foxtrot camera data is streamed to the ground and recorded.
- This information has been used repeatedly to support warrants and prosecutions
- **Legally use of BCSP data is no different then Foxtrot**



Investigation Briefings

- CSP will provide written and verbal briefings, analysis support, and data and tracks to any of the following upon request and under the guidance and oversight of BPD:
 - Investigators
 - Prosecutors
 - Defense Attorneys
 - Courts
- Need to be told who controls access, timing, and content of information and briefings.
- Who is authorized to see and have information



CSP Support to Public Defenders / Defense Attorneys

- Present and explain data collected and presented to Police.
- CSP can provide confidential analysis of imagery for defense
 - Use separate analysts for confidentiality
 - Prepare reports and analysis for defense team use
 - Defense team support analysis is not shared with law enforcement or prosecution
- All analysis must follow community agreed to and contracted privacy policies
 - Related to a reported crime or legal defense effort
- Largely just need to know what to look for
- Require a release from defendant to look at related locations not directly related to the crime.
- **Briefed 10 Public Defenders on program and support we provide.**
- **Provided detailed analysis to defense team in a federal firearms case which was not previously reported through a crime report**



Chain of Custody

- Imagery Chain

- Imagery is captured on the aircraft and processed into orthorectified image files. The processed files are stored onboard on SSD drives.
- New image files are created every second and saved – 28,000+ image files per day.;
- Image files are transferred to the ground in real time and stored on our ground control computer and served to users.
- Once the plane lands the SSD drives are removed and copied onto our Image Server raid.
- Analysts are served requested portions of the image files by our image server program but do not have the ability to change the image files.
- Similar to Google Earth where as a user you can not change the Google Earth imagery.
- Imagery is also copied to second disk drives and stored in classified safes for safe keeping and back up.



Analysis Chain

- Analysis Chain
 - Analysts track cars and people to and from crime scenes
 - Potential Suspects, Potential Witnesses, Potential Accomplishes
 - Track data is stored and shared on a site server computer.
 - All tracks are recorded on the server.
 - Changes to the tracks are annotated as the analysts who did them automatically.
 - Tracks are a work product
 - Investigative briefing are the product



Data Security

Anti -Tamper –

- Our imagery and file structure has built in characteristics that would make that extremely difficult to change the imagery.
- First of all our images are in the hundreds of megapixel size.
- A typical track of a suspect would cover an hour or more of imagery with over 3600 images.
- To change a single image would be difficult and would be detectable through video editing detection techniques.
- BCSP also has specific aspects of its image files that would be detectable.
- Our images are automatically saved at multiple levels of resolution so to make a change in a single image would require changing 6 levels of the imagery.
- Any change in the imagery would result in a change in the compressed size of tiles we use and would make the image file corrupt and unusable.
- Further more changes to one level of the imagery would have to be duplicated across all levels.
- That would have to be accomplished across the 28,000 images over the course of a day.
- We also maintain an original copy of the imagery in a safe for evidence purposes.

Data Access – Access to data is limited to CSP trained analysts. User names and passwords are required for access to CSP data on a closed secure network.



Expert Witnesses

- Ross McNutt, Ph.D.
 - Original designer of system for USAF
 - Technical aspects, design, image quality,...
 - Expert Analyst – 14 years image analyst experience
 - Designed system, wrote code, run 10 years of operations
- Alex Blasingame
 - 7 years image analyst experience
 - Multiple operations
 - Supervises other analysts
 - Quality control of briefings and analysis