



Mass Aerial Surveillance a Growing Orwellian Concern in the United States

Thor Benson

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Cameras at intersections and in public parks have become commonplace, but are you aware that a plane flying overhead could be tracking your every move?

According to a [Bloomberg Businessweek report](#) in August, the city of Baltimore has been conducting surveillance over parts of the city with megapixel cameras attached to Cessna airplanes since at least January. This news comes after activists expressed concerns that mysterious Cessnas were seen [flying above Black Lives Matter protests](#) in 2015.

FBI [spy planes](#) equipped not just with cameras, but with [cellphone surveillance devices](#) as well, have become a new phenomenon in the United States. While the agency says that the planes are not designed for mass surveillance, that claim is getting shakier by the day, especially in light of evidence of what's happening in places like Baltimore.

The [Stingray](#) is a mobile cellphone surveillance device the size of a suitcase. Police departments across the country use it to collect cellphone data in specific areas of a town or city. The federal government has manned planes with these devices in the past, but how much they are in use federally and locally remains unclear.

The cameras used in Baltimore appear to provide fairly low-quality images, but that doesn't mean they aren't effective.

“They don't actually have to be able to make out anything about the little pixels that move around, because many times, the location of those pixels gives away everything else,” said Jay Stanley, senior policy analyst with the [American Civil Liberties Union's Speech, Privacy, and Technology Project](#). “In many cases, it's literally a one-pixel dot representing a pedestrian, and what house that one-pixel dot emerges from often tells you all you need to know.”

Those pixels can ascertain that someone is in motion, and then detailed footage can be pulled from ground cameras.

Even though the cameras being used in Baltimore don't provide fine details, that doesn't mean the government can't utilize some that do.

“Newer, more powerful surveillance equipment is constantly being developed for the military and intelligence services, and as old technology is replaced, it tends to find its way into domestic

law enforcement arsenals,” explained Adam Bates, a policy analyst at the Cato Institute’s Project on Criminal Justice. Three years ago, records show that the federal government’s ARGUS system—video surveillance developed by the U.S. military—was “capable of seeing details as small as six inches from 20,000 feet and [keeping] entire cities under constant surveillance.” One can only imagine what technological advances have been made in the meantime.

Theoretically, the government could equip planes or drones with thermal cameras or radar devices that can see what’s happening inside buildings. That would raise more serious Fourth Amendment concerns.

Drones already are being used to watch people inside our borders. U.S. Customs and Border Protection operates Predator drones, such as those used in war zones. One problem with that is that the federal government can define anything within 100 miles of a border or coast as a border zone, which means millions of Americans could be subject to border security surveillance.

At this time, there is no known widespread use of drones by local police departments. But they could use surveillance drones in cities in the future.

“That’s why we take very seriously this manned surveillance, because we know it’s going to switch to drones at some point,” Stanley said. He worries that the expansion of aerial surveillance could cause Americans “to internalize the fact that from the minute they walk out their front door to the minute they return home at night, all of their movements are being logged in a government database.”

These types of operations go beyond George Orwell’s worst nightmare.

“We’re not just talking about a [closed-circuit TV] camera on a street corner that can snap your picture passing by,” said Bates. “We’re talking about the ability of the government to identify and track you everywhere you go in public, potentially for days or weeks on end.”

Bates believes aerial surveillance is unavoidable, but he advocates transparency and accountability regarding its use. Limiting how long footage can be retained and when it can be accessed, and putting surveillance programs under independent oversight could lessen concerns about aerial surveillance.

But so far, the law hasn’t favored privacy when it comes to aerial surveillance. “The courts have been pretty clear in denying Fourth Amendment protection from aerial photography,” Stanley said.

He pointed to a 1986 Supreme Court case, California v. Ciraolo, in which police suspected a man of growing marijuana in his backyard. Officers couldn’t see past the fences surrounding the yard and couldn’t get a warrant to enter, so they flew a plane overhead and discovered the marijuana. The court ruled that that action was not in violation of the Fourth Amendment, because anyone in a plane could have seen the marijuana.

Still, there may be hope for privacy advocates.

“The courts, in most cases, did not contemplate continual surveillance, 24/7, over extended periods of time, and the court did sort of find in the Jones GPS case that that kind of constancy

matters,” Stanley said, referring to a 2012 Supreme Court case, United States v. Jones, in which it ruled that police putting a GPS tracker on someone’s car is a Fourth Amendment violation.

The issue is, how long can someone be monitored without a warrant before it becomes unconstitutional?

“It’s unclear how the courts will view, from a Fourth Amendment perspective, the long-term, widespread, wide-area surveillance like the kind we’re seeing in Baltimore,” Stanley said.

Privacy rights advocates hope that question gets answered soon.