



**NATASHA DARTIGUE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**  
CHIEF OF EXTERNAL AFFAIRS

**ELIZABETH HILLIARD**  
DIRECTOR OF GOVERNMENT RELATIONS

**INFORMATIONAL ONLY**

**BILL: Senate Bill 61– Wiretapping and Electronic Surveillance – Authorized Interception of Oral and Security Cameras**

**FROM: Maryland Office of the Public Defender**

**POSITION: Informational**

**DATE: January 16, 2025**

---

The Maryland Office of the Public Defender (“OPD”) submits this letter of information regarding SB61, Senator West’s legislation creating two exceptions to Maryland’s all-party consent requirement for recording conversation audio.

Senate Bill 61 makes it lawful for a person to use a cellular telephone or other device to intercept oral communications in public if the speaker should reasonably anticipate that the oral communication would be overheard or intercepted; and establishes that it’s lawful for a person to use a security camera or other device installed on real property to intercept and record oral communication.

While OPD generally supports decriminalization efforts and SB 61 arguably meets that test, it bears remembering that if this legislation passes Marylanders will, once again, be subject to the types of persistent surveillance successfully challenged on constitutional grounds in *Leaders of the Beautiful Struggle v. Baltimore Police Dept.*, 2 F.4th 330 (4th Cir. 2021) (en banc). In that case, a divided en banc Fourth Circuit held that “grassroots community advocates in Baltimore” were likely to succeed on the merits of their Fourth Amendment unreasonable search claim. *Id.* at 334. Put simply, the en banc majority held that “[b]ecause the [Aerial Investigation Research] program enables police to deduce from the whole of individuals’ movements, we hold that accessing its data is a search, and its warrantless operation violates the Fourth Amendment.” *Id.* at 346.

So, too, here SB 61 legalizes the collection of audio and video footage of individuals who appear on real property equipped with cameras. If the resulting footage is provided to law enforcement without a warrant, its provenance may prove constitutionally suspect. That conclusion is beyond the scope of this informational-only testimony. However, it bears remembering the pitfalls of constant surveillance lest we be relegated to dwell in a world where that is the reality.

OPD remains committed to advocating for the rights of individuals to be free from uninhibited and persistent surveillance. We appreciate the opportunity to provide this perspective and welcome any further discussion to refine SB 61.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Hannibal Kemerer (hannibal.kemerer1@maryland.gov).