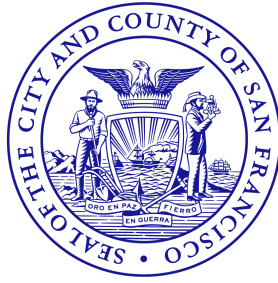


City and County
of San Francisco



Board of Supervisors
Member, District 6

MATT DORSEY

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NEWS RELEASE

Dorsey seeks to repeal Surveillance Ordinance's 'self-dealing' attorneys' fees and costs provision

The same privacy advocate who wrote the 2019 law now stands to benefit financially from it with his organization's lawsuit against City taxpayers

SAN FRANCISCO (Sept. 30, 2025) — Supervisor Matt Dorsey today announced legislation to repeal a municipal code provision that authorizes courts to award attorneys' fees and costs to any plaintiff who prevails in civil litigation against the City and its taxpayers for violating San Francisco's 2019 Surveillance Technology Ordinance.

"The prevailing plaintiff fee and cost provision that advocates wrote into our Surveillance Ordinance back in 2019 was irresponsible — incentivizing baseless but costly lawsuits that have already squandered hundreds of thousands of taxpayer dollars over bogus alleged violations of a law that has been an onerous mess since it was first enacted," said Dorsey. "But this latest lawsuit by Secure Justice exposes just how cynically self-dealing this 'legislate-and-litigate' shakedown is, with claims that could reap significant financial rewards for the same advocates who devised the law's arcane mandates in the first place."

Attorneys' fees provisions for plaintiffs who prevail in civil actions are rare in the United States, and generally limited to causes of action involving only the most serious federal civil rights and constitutional violations by government entities. The longstanding principle known as the "American Rule" holds that parties to civil litigation are generally responsible to bear

their own attorney's fees and costs, regardless of whether they win or lose — a practice that contrasts with the English “loser pays” rule, which has historically hampered access to the civil justice system.

Prevailing plaintiffs' attorneys' fees and costs provisions like the one written into San Francisco's 2019 Surveillance Ordinance are known to incentivize lawsuits by the plaintiffs' bar, in part because they generally also raise prospective settlement price points for defense counsel charged with protecting taxpayer dollars to reflect heightened financial risks.

Litigation history involving the Surveillance Ordinance

On July 16, 2024, Secure Justice, Inc. filed suit¹ against the City and County of San Francisco, alleging multiple violations of the same law — S.F. Admin. Code Ch. 19B, “Acquisition of Surveillance Technology” — that its executive director and board chair, Brian Hofer, has publicly acknowledged co-authoring.

Most of the causes of action detailed in the 64-page complaint allege paperwork deficiencies, which include failure to submit use policies, failure to submit annual reports, and failure to provide required information in annual reports. An additional claim alleges a violation of the ordinance's ban on facial recognition technology. The city formally denied the allegations in its Sept. 24, 2024 answer,² and the litigation remains ongoing.

A failed prior lawsuit brought by the Electronic Frontier Foundation and American Civil Liberties Union, or ACLU, filed on Oct. 7, 2020 alleged that the San Francisco Police Department violated Chapter 19B during protests over the murder of George Floyd.³ Plaintiffs' allegations followed rioting and the looting of commercial businesses in Union Square on May 30, 2020, when SFPD requested and received access to a network of surveillance cameras

¹ Petition for Writ of Mandate and Prohibition, *Secure Justice, Inc. v. City and County of San Francisco*, Superior Court of the State of California, State of California Case No. Case No. CPF-24-518631, filed July 16, 2024, <https://acrobat.adobe.com/id/urn:aaid:sc:US:9db62b4c-aafb-4520-8462-158f07bdd47e>.

² Respondent's Answer to Petition, *Secure Justice, Inc. v. City and County of San Francisco*, Superior Court of the State of California, State of California Case No. Case No. CPF-24-518631, filed Sept. 24, 2024, <https://acrobat.adobe.com/id/urn:aaid:sc:US:e95e744b-fb58-47b4-a97d-bf0b161e71ea>.

³ Complaint for Declaratory and Injunctive Relief, *Hope Williams, et al v. City and County of San Francisco*, Superior Court of the State of California, State of California Case No. CPF-20-587008, filed Oct. 7, 2020, <https://acrobat.adobe.com/id/urn:aaid:sc:US:012a6b50-7bc0-4297-a382-51eb2b1560db>.

owned and operated by the Union Square Business Improvement District.⁴ Plaintiffs lost that case to the City on summary judgment, which was later upheld on appeal.

Although the San Francisco City Attorney's Office prevailed in the EFF/ACLU litigation, the cost to San Francisco taxpayers to defend the case was approximately \$165,000 in attorney time alone — with an estimated tens of thousands more in SFPD and COIT staff time.

Background on the Surveillance Ordinance

Originally enacted in June of 2019, the 12,500-word, 22-page Surveillance Ordinance⁵ prescribed an absurdly detailed and onerous process requiring city departments to submit an inventory of surveillance technologies to the Committee on Information Technology, or COIT — and its four-person workforce — within 60 days of the law's effective date.

The ordinance's labyrinthine approval process included an initial review by a COIT subcommittee, a review by COIT itself, and then a review by the Board of Supervisors within legally prescribed standards.⁶ For each surveillance technology, departments were required to submit a "Surveillance Impact Report," a "Surveillance Policy" and "Annual Surveillance Reports."

Quickly achieving a near-universal noncompliance rate among relevant departments citywide, missteps rooted in overbroad legal definitions of surveillance technologies initially forced the inclusion of social media management tools as TweetDeck, Hootsuite and Meltwater, and the online survey platform SurveyMonkey. Its sweeping prohibition on facial

⁴ Memorandum of Points and Authorities in Support of Defendant City and County of San Francisco's Motion for Summary Judgment, *Hope Williams, et al v. City and County of San Francisco*, Superior Court of the State of California, State of California Case No. CPF-20-587008, filed Sept. 16, 2021, <https://acrobat.adobe.com/id/urn:aaid:sc:US:8ce2e267-4811-49e4-bab6-5a810ad9e61e>.

⁵ City and County of San Francisco Board of Supervisors, File 190568, Ordinance 107-19, enacted June 14, 2019, <https://acrobat.adobe.com/id/urn:aaid:sc:US:074b1fff-431d-4dc2-ac81-3101ea435562>

⁶ "Are S.F.'s surveillance laws unnecessary red tape? Or a case study in our leaders' failure to govern?" by Emily Hoeven, San Francisco Chronicle, Nov. 25, 2023, <https://www.sfchronicle.com/opinion/article/sf-surveillance-law-breed-peskin-18468325.php>.

recognition technologies unintentionally banned city employees' use of iPhones, before subsequent legislation relaxed and clarified the provision.⁷

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⁷ "San Francisco is changing its facial recognition ban after it accidentally made the iPhones it gave to city employees illegal" by Bani Sapro, Business Insider, Dec. 19, 2019, <https://www.businessinsider.com/san-francisco-amended-its-facial-recognition-ban-2019-12>.

[Administrative Code - Recovery of Attorney's Fees and Costs – Surveillance Technology]

Ordinance amending the Administrative Code to delete the provision authorizing a court to award costs and attorney's fees to a plaintiff who is a prevailing party in an action alleging a violation Administrative Code Chapter 19B, governing the acquisition of Surveillance Technology.

NOTE: **Unchanged Code text and uncoded text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Administrative Code is hereby amended by revising Section 19B.8, to read as follows:

SEC. 19B.8. ENFORCEMENT.

(a) If a Department alleged to have violated this Chapter 19B takes corrective measures in response to such allegation, the Department shall post a notice on the Department's website that generally describes any corrective measure taken to address such allegation.

(b) Any alleged violation of this Chapter 19B for which the City received notice under subsection (c) and that is not corrected by the Department within 30 days of receipt of the notice, constitutes a legally cognizable basis for relief,,1 and any person affected thereby may institute proceedings for injunctive relief, declaratory relief, or writ of mandate to remedy the violation, in any court of competent jurisdiction to enforce this Chapter 19B. An action

1 instituted under this subsection (b) shall be brought against the City.

2 (c) Prior to the initiation of any legal proceeding under subsection (b), the City must be
3 given written notice of the alleged violation(s) and an opportunity to correct such alleged
4 violation(s) within 30 days of receipt of the notice.

5 (d) If the alleged violation(s) is substantiated and subsequently corrected, a notice
6 shall be posted in a conspicuous space on the City's website that describes the corrective
7 measure(s) taken to address the violation(s).

8 ~~(e) A court shall award costs and reasonable attorney's fees to a plaintiff who is a prevailing~~
9 ~~party in any action brought under subsection (b).~~

10
11 Section 2. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the "Note" that appears under
16 the official title of the ordinance.

17 Section 3. Effective Date. This ordinance shall become effective 30 days after
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
20 of Supervisors overrides the Mayor's veto of the ordinance.

21 APPROVED AS TO FORM:
22 DAVID CHIU, City Attorney

23 By: /s/Jana Clark
24 JANA CLARK
25 Deputy City Attorney

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