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1 GENEVIÈVE L. JONES-WRIGHT, ESQ. (SBN 235168)
Community Advocates for Just and Moral Governance (MoGo)
2 6549 Mission Gorge Road, Suite 379
San Diego, CA 92120
3 Telephone: 619-736-0179
Email: Director@moralgovernance.org

Clerk of the Superior Court
By A. Villasenor ,Deputy Clerk

4 BRIGGS LAW CORPORATION [File: 2001.07]
5 Cory J. Briggs (SBN 176284)
99 East "C" Street, Suite 203
6 Upland, CA 91786
Telephone: 909-949-7115
7 E-mail: cory@briggslawcorp.com

8 Attorneys for Plaintiffs and Petitioners Lilly Irani,
Seth Hall, and Mat Wahlstrom
9

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN DIEGO – CENTRAL DIVISION
13

14 LILLY IRANI; SETH HALL; MAT
WAHLSTROM; and DOES 101 through 999,999

CASE NO. 24CU028734C

15 Plaintiffs and Petitioners,
16

**VERIFIED COMPLAINT FOR DAMAGES
AND DECLARATORY AND
INJUNCTIVE RELIEF; PETITION FOR
WRIT OF MANDATE**

17 vs.

18 CITY OF SAN DIEGO; and DOES 1 through 100,

19 Defendants and Respondents.

20 Plaintiffs and Petitioners LILLY IRANI, SETH HALL, and MAT WAHLSTROM (collectively,
21 "PLAINTIFFS") allege as follows:

22 **Introductory Statement**

23 1. PLAINTIFFS bring this lawsuit under The Transparent and Responsible Use of
24 Surveillance Technology ("TRUST") Ordinance of Defendant and Respondent CITY OF SAN DIEGO
25 ("CITY"), San Diego Municipal Code ("SDMC") Section 210.0101 *et seq.* The TRUST Ordinance
26 "requires an informed public and transparent discussion related to the City's acquisition and use of
27 *surveillance technology*, as defined by" the Ordinance. Unfortunately, CITY has been using
28 surveillance technology in violation of the TRUST Ordinance's pre-use disclosure requirements.

1 **Parties**

2 2. PLAINTIFFS each reside, pay taxes within CITY’s geographical boundaries, and are
3 natural persons.

4 3. Defendant and Respondent CITY is a charter city organized and operating under the laws
5 of the State of California, the San Diego City Charter, and the San Diego Municipal Code (“SDMC”),
6 among other legal authorities. Under the TRUST Ordinance, “City means any department, division,
7 office, unit, or program of the City of San Diego.”

8 4. The true names and capacities of the parties identified as DOES 1 through 999,999 are
9 unknown to PLAINTIFFS, who will seek the Court’s permission to amend this pleading in order to
10 allege the true names and capacities as soon as they are ascertained. PLAINTIFFS are informed and
11 believe and on that basis allege that each of the fictitiously named Defendants/Respondents 1 through
12 100 has some liability for the wrongdoing alleged in, has jurisdiction by law over one or more aspects
13 of the subject matter of, or has some other cognizable interest in the subject matter of this lawsuit

14 5. PLAINTIFFS are informed and believe and on that basis allege that, at all times stated
15 in this pleading, each Defendant/Respondent was the agent, servant, or employee of every other
16 Defendant/Respondent and was, in doing the things alleged in this pleading, acting within the scope of
17 said agency, servitude, or employment and with the full knowledge or subsequent ratification of
18 his/her/its principals, masters, and employers. Alternatively, in doing the things alleged in this pleading,
19 each Defendant/Respondent was acting alone and solely to further his/her/its own interests.

20 **Jurisdiction and Venue**

21 6. The Court has jurisdiction over this lawsuit pursuant to Code of Civil Procedure Sections
22 526a, 1060 *et seq.*, and 1084 *et seq.* and under SDMC Section 210.0109, among other provisions of law.

23 7. Venue in this Court is proper because the obligations, liabilities, and violations of law
24 alleged in this pleading occurred in San Diego County in the State of California.

25 **Background Allegations**

26 8. At all times relevant to this lawsuit:

27 A. SDMC Section 210.0102(d) has provided as follows: “City staff means personnel
28 employed by the City to engage in activities on behalf of any City department, division, office, unit, or

1 program. *City* personnel assigned to *federal task force* activities by the Chief of Police or designee are
2 exempt from the requirements of this Division related to the acquisition, procurement, use, reporting,
3 and contractual obligations, solely to the extent of their duties and work related to their assignment to
4 the *federal task force*.”

5 B. SDMC Section 210.0102(g) has provided as follows: “*Existing surveillance*
6 *technology* means technology that the *City* possessed, used, or had a contract in force and effect for its
7 use before September 9, 2022.”

8 C. SDMC Section 210.0102(h) has provided as follows: “*Facial recognition*
9 *technology* means an automated or semi-automated process that assists in identifying or verifying an
10 *individual* based on an *individual’s* face.”

11 D. SDMC Section 210.0102(j) has provided as follows: “*Individual* means a natural
12 person.”

13 E. SDMC Section 210.0102(k) has provided as follows: “*New surveillance*
14 *technology* means technology that the *City* did not possess, use, or have a contract in force and effect
15 for its use before September 9, 2022.”

16 F. SDMC Section 210.0102(o) has provided as follows (which precedes several
17 exceptions not applicable to this lawsuit): “*Surveillance technology* means any software (for example,
18 scripts, code, or Application Programming Interfaces), electronic device, system utilizing an electronic
19 device, or similar device, which is used, designed, or primarily intended to observe, collect, retain,
20 analyze, process, or share audio, electronic, visual, location, thermal, olfactory, biometric, or similar
21 information specifically associated with, or capable of being associated with, any *individual* or group.
22 It also includes the product (for example, audiovisual recording, data, analysis, or report) of the
23 *surveillance technology*. Examples of *surveillance technology* include the following: cell site simulators
24 (Stingrays); automatic license plate readers; gunshot detectors (ShotSpotter); drone-mounted data
25 collection; *facial recognition technology*; thermal imaging systems; body-worn cameras; social media
26 analytics software; gait analysis software; and video cameras that record audio or video and transmit
27 or can be remotely accessed. It also includes software designed to monitor social media services or
28 forecast criminal activity or criminality, and biometric identification hardware or software.”

1 G. SDMC Section 210.0102(q) has provided as follows: “*Surveillance Use Policy*
2 means a publicly released and legally enforceable policy for the use of specific *surveillance technology*
3 that includes all of the following elements: (1) Purpose: The specific purposes that the *surveillance*
4 *technology* is intended to advance. (2) Use: The specific uses that are authorized and the rules and
5 processes required prior to the use, except that no confidential or sensitive information should be
6 disclosed that would violate any applicable law or would undermine the legitimate security interests of
7 the *City*. (3) Data Collection: The information that can be collected, captured, recorded, intercepted, or
8 retained by the *surveillance technology*, data that may be inadvertently collected during the authorized
9 uses of the *surveillance technology* and what measures will be taken to minimize and delete the data,
10 and any data sources the *surveillance technology* will rely upon, as applicable, except that no
11 confidential or sensitive information should be disclosed that would violate any applicable law or would
12 undermine the legitimate security interests of the *City*. (4) Data Access: The job classification of
13 *individuals* who can access or use the collected information, and the rules and processes required prior
14 to access or use of the information, except that no confidential or sensitive information should be
15 disclosed that would violate any applicable law or would undermine the legitimate security interests of
16 the *City*. (5) Data Protection: The safeguards that protect information from unauthorized access,
17 including system logging, encryption, and access control mechanisms, except that no confidential or
18 sensitive information should be disclosed that would violate any applicable law or would undermine
19 the legitimate security interests of the *City*. (6) Data Retention: The time period, if any, for which
20 information collected by the *surveillance technology* will be routinely retained, the reason the retention
21 period is appropriate to further the purposes, the process by which the information is regularly deleted
22 after that period lapses, and the specific conditions that must be met to retain information beyond that
23 period. (7) Public Access: A description of how collected information can be accessed or used by
24 members of the public, including criminal defendants. (8) Third Party Data Sharing: If and how
25 information obtained from the *surveillance technology* can be accessed or used, including any required
26 justification or legal standard necessary to do so and any obligations imposed on the recipient of the
27 information. (9) Training: The training required for any individual authorized to use the *surveillance*
28 *technology* or to access information collected by the *surveillance technology*. (10) Auditing and

1 Oversight: The procedures used to ensure that the *Surveillance Use Policy* is followed, including
2 identification of internal personnel assigned to ensure compliance with the policy, internal
3 recordkeeping of the use of the *surveillance technology* and access to information collected by the
4 *surveillance technology*, technical measures to monitor for misuse, identification of any independent
5 person or entity with oversight authority, and the legally enforceable sanctions for violations of the
6 policy. (11) Maintenance: The procedures used to ensure that the security and integrity of the
7 *surveillance technology* and collected information will be maintained.”

8 H. SDMC Section 210.0106(a) has provided as follows: “*City staff* shall obtain City
9 Council approval prior to any of the following: (1) accepting or using local, state, or federal funds or
10 in-kind or other donations to acquire *surveillance technology*; (2) acquiring *new surveillance*
11 *technology*, including procuring it without the exchange of consideration; or (3) using *new surveillance*
12 *technology* or *existing surveillance technology*, for a purpose, in a manner, or in a location not
13 previously described in an approved *Surveillance Use Policy* by the City Council in accordance with
14 the requirements of this Division.”

15 I. SDMC Section 210.0109(a) has provided as follows: “Violations of this Division
16 are subject to the following remedies: (1) Any person who has been subjected to the use of *surveillance*
17 *technology* in material violation of this Division or an approved *Surveillance Use Policy*, or about
18 whom information has been obtained, retained, accessed, shared, or used in material violation of this
19 Division or an approved *Surveillance Use Policy*, may institute proceedings in the Superior Court of
20 the State of California against the *City* and shall be entitled to recover actual damages (but not less than
21 liquidated damages of \$1,000 or \$100 per day for each day of violation, whichever is greater). Before
22 filing a lawsuit against the *City* for damages from an alleged violation of this Division or an approved
23 *Surveillance Use Policy*, a claimant shall provide a written claim, including written notice, to the *City*
24 that provides details of the alleged violation. The *City* shall have 30 days from receipt of that written
25 claim in which it may cure any alleged violation, which would act as an affirmative defense in litigation,
26 or otherwise negotiate and resolve any claim with the claimant. (2) A court may award costs and
27 reasonable attorney’s fees to a prevailing party plaintiff in an action brought under this Division. An
28 award of attorney’s fees to a prevailing party plaintiff is limited to an amount not to exceed \$15,000.”

1 9. Prior to the filing of this lawsuit:

2 A. PLAINTIFFS caused a written claim and notice of certain alleged violations of
3 the TRUST Ordinance to be provided to Defendants/Respondents. Attached hereto as Exhibit "A" is
4 a true and correct copy of the claim and notice.

5 B. Defendants/Respondents acknowledged receipt of PLAINTIFFS' written claim
6 and notice but denied the violations alleged therein. Attached hereto as Exhibit "B" is a true and correct
7 copy of the acknowledgment and denial.

8 **FIRST CAUSE OF ACTION:**
9 **Recovery of Statutory Damages under SDMC Section 210.0109**
(Against All Defendants/Respondents)

10 10. The preceding allegations in this pleading are fully incorporated into this paragraph.

11 11. At all times relevant to this lawsuit, Defendants/Respondents have been using at least
12 one surveillance technology at one or more locations that were not disclosed in a Surveillance Use
13 Policy approved by the San Diego City Council prior to the commencement of the use. PLAINTIFFS
14 are informed and believe and on that basis allege (by way of example and not limitation):

15 A. Defendants/Respondents used at least one surveillance technology at the 2024
16 Pride Parade at one or more locations that were not disclosed in a Surveillance Use Policy approved by
17 the San Diego City Council prior to the commencement of the use.

18 B. Defendants/Respondents used at least one surveillance technology at the 2024
19 Comic-Con at one or more locations that were not disclosed in a Surveillance Use Policy approved by
20 the San Diego City Council prior to the commencement of the use.

21 12. PLAINTIFFS have each been damaged as a result of the failure of
22 Defendants/Respondents to comply with all applicable laws. By way of example and not limitation,
23 each of the PLAINTIFFS has been subjected to the use of surveillance technology at one or more
24 locations that were not disclosed in a Surveillance Use Policy approved by the San Diego City Council
25 prior to the commencement of the use.

26 **SECOND CAUSE OF ACTION:**
27 **Declaratory Relief under Code of Civil Procedure Section 1060 et seq.**
(Against All Defendants/Respondents)

28 13. The preceding allegations in this pleading are fully incorporated into this paragraph.

1 B. *On the Second Cause of Action:*

2 1. An order determining and declaring that the Defendants/Respondents did not
3 comply with all laws applicable to the use of at least one surveillance technology to which PLAINTIFFS
4 have been subjected.

5 C. *On All Causes of Action:*

6 1. An order providing for the Court's continuing jurisdiction over this lawsuit in
7 order to ensure that Defendants/Respondents fully comply with all laws applicable to the use of
8 surveillance technology to which PLAINTIFFS may be subjected;

9 2. All attorney fees and other legal expenses incurred by PLAINTIFFS in
10 connection with this lawsuit; and

11 3. Any further relief that this Court may deem appropriate.¹

12 Date: December 12, 2024.

Respectfully submitted,

13 COMMUNITY ADVOCATES FOR JUST AND
14 MORAL GOVERNANCE

15 By: s/ Geneviève L. Jones-Wright, Esq.

16 BRIGGS LAW CORPORATION

17
18 By: Cory J. Briggs
19 Cory J. Briggs

20 Attorneys for Plaintiffs and Petitioners Lilly Irani, Seth
21 Hall, and Mat Wahlstrom

22
23
24
25
26 ¹ To the extent that Exhibit "A" does not satisfy the claim-presentation requirement of Government
27 Code Section 905 and/or the Government Claims Act, nothing in this pleading should be construed as
28 asserting a claim that is subject thereto. In addition to providing the claim and notice set forth in
Exhibit "A," PLAINTIFFS have separately presented written claims to Defendants/Respondents under
the Government Claims Act but have not yet received a final determination on those claims and the
period of time that Defendants/Respondents have to take action thereon has not yet lapsed. If the claims
under the Government Claims Act are not satisfactorily resolved, PLAINTIFFS will amend this lawsuit
to add such claims.

**COMPLAINT FOR DAMAGES AND DECLARATORY AND INJUNCTIVE RELIEF;
PETITION FOR WRIT OF MANDATE**

Exhibit "A"



**COMMUNITY ADVOCATES FOR JUST AND
MORAL GOVERNANCE**
HOLDING GOVERNMENT ACCOUNTABLE TO ALL PEOPLE

6549 Mission Gorge Road
Suite #379
San Diego, CA 92120
Phone (619) 500-7720
MoGo@moralgovernance.org

July 31, 2024
(via electronic mail)

To: Chief Wahl, SDPD Chief of Police
Hon. Mara W. Elliott, San Diego City Attorney
Hon. Sean Elo-Rivera, San Diego City Council President
Hon. Todd Gloria, San Diego Mayor
San Diego City Councilmembers

CC: Risk Management Department (riskmanagement@sandiego.gov)

Re: **Notice of Violations of TRUST Ordinance - Smart Streetlights and
Automated License Plate Readers**

Dear Chief Wahl *et al.*:

On behalf of Seth Hall, Lilly Irani, Mat Wahlstrom, Does 1-999,999, and all persons similarly situated, and pursuant to Section 210.0109(a) of the San Diego Municipal Code (“SDMC”), we write to inform you of our intent to pursue legal action due to multiple violations of the TRUST Ordinance, SDMC 210.0101 *et seq.*

Background

On August 1, 2023, the San Diego Police Department (“SDPD”) received approval from the San Diego City Council (“City Council”) for the use of Smart Streetlights (“SSL”) and Automated License Plate Readers (“ALPR”) per their respective Surveillance Use Policies.

On May 23, 2024, SDPD submitted an amended impact statement for SSL/ALPR to the Privacy Advisory Board (“PAB”) for its review, seeking approval to relocate the SSL/ALPR equipment.



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On July 8, 2024, SDPD publicly stated its intent to place SSL/ALPR at the Pride parade on July 20, 2024. SDPD claimed authority to do so under the exigent-circumstances provision of the TRUST Ordinance, based on no known facts presenting an imminent or emergency threat but rather several incidents that had occurred in the past.

On July 10, 2024, SDPD submitted the SSL/ALPR impact statements to the Public Safety Committee for review.

On July 24, 2024, SDPD again used the same exigent-circumstances reasoning to place SSL/ALPR at Comic-Con, without identifying any evidence of an imminent or emergency threat.

Violations

As SDPD acknowledges throughout its submitted documents, the TRUST ordinance requires that SDPD obtain City Council approval prior to using surveillance technology “for a purpose, in a manner, or in a location not previously described in an approved Surveillance Use Policy...” SDMC 210.0106(a)(3) (in relevant part). Prior to obtaining City Council approval, SDPD must first hold a public meeting (SDMC 210.0103), and then proceed to submit both an impact statement and a use policy to the PAB for its review. SDMC 210.0104. City Council cannot approve any request without first considering the recommendation of the PAB. SDMC 210.0106(b)(2).

On May 23, 2024, SDPD submitted an amended impact statement for SSL/ALPR but no corresponding use policies as required. Furthermore, the PAB has a 90-day review



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window before SDPD can proceed to the City Council for approval. SDMC 210.0104(e). Prior to August 21, 2024 (*i.e.*, 90 days after May 23), SDPD could not proceed to the City Council unless the PAB had made a recommendation prior to such date. As the PAB did not make a recommendation prior to such date, SDPD has violated the ordinance by submitting the proposal first to the Public Safety Committee on July 10, 2024. In addition, the failure to submit the required use policy to the PAB means that their 90-day review window has not yet begun. Any City Council “approval” under these facts is void.

Moreover, the two approved use policies fail to specify the locations where SSL and ALPR technologies will be deployed. By way of example and not limitation, neither use policy describes the Pride parade or Comic-Con locations (or anywhere else the technologies have been deployed). Consequently, these surveillance technologies have been deployed in areas not mentioned in approved plans, in violation of the TRUST Ordinance.

In neither of SDPD’s July 8 (Pride) or July 24 (Comic-Con) memos regarding the new locations, or in any of SDPD’s public statements, have any “known facts” sufficient to satisfy the “exigent circumstances” definition been identified. Indeed, Chief Wahl has stated in writing to at least one of our clients that “[t]here is no specific threat,” only a “general threat.” Using the exigent-circumstances exception as a basis for each surveillance technology amounts to separate violations.

Each of the above distinct violations of the TRUST Ordinance constitutes a separate violation, and our clients intend to seek court relief to address them, including damages for each day on which a violation occurred. Since the SSL and ALPR technologies’ use policies were approved for use since August 1, 2023, without any location description, our



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clients will be seeking damages for every separate violation on every day since August 1, 2023, that such violation has occurred. Based on the number of people who are reported to have attended Pride and Comic-Con alone – not to mention the number of individuals subject to either or both technologies within the last year apart from Pride and Comic-Con, any such civil action would fall within the Superior Court’s unlimited jurisdiction.

Sincerely,

Geneviève L. Jones-Wright, Esq., LL.M.

Cory J. Briggs
Cory J. Briggs, Esq.
Briggs Law Corporation

**COMPLAINT FOR DAMAGES AND DECLARATORY AND INJUNCTIVE RELIEF;
PETITION FOR WRIT OF MANDATE**

Exhibit "B"



Chief Operating Officer

August 29, 2024
(via electronic mail)

Genevieve L. Jones-Wright., LL.M.
Community Advocates for Just and Moral Governance
6549 Mission Gorge Road Suite #379
San Diego, CA 92120
MoGo@moralgovernance.org

Corey J. Briggs, Esq.
Briggs Law Corporation
4891 Pacific Highway Suite 104
San Diego, CA 92110

Re: City of San Diego - Notice of Violations of TRUST Ordinance - Smart Streetlights and Automated License Plate Readers

Dear Ms. Jones-Wright and Mr. Briggs,

The City of San Diego has received and reviewed your letter dated July 31, 2024, regarding alleged Notice of Violations of the TRUST Ordinance, also known as the Transparent and Responsible Use of Surveillance Technology Ordinance.

The City of San Diego denies all alleged violations of the TRUST Ordinance described within the letter, and considers this response complete under San Diego Municipal Code section 210.0109.

Nothing in this response under the TRUST Ordinance shall be construed to waive any applicable notice requirements, defenses, immunities, or other requirements under California law, including the Government Claims Act, codified in California Government Code section 810, *et seq.*

Respectfully,

A handwritten signature in black ink that reads "Eric Dargan".

Eric K. Dargan
Chief Operating Officer
City of San Diego

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF San Diego

I have read the foregoing COMPLAINT FOR DAMAGES AND DECLARATORY AND INJUNCTIVE RELIEF; PETITION FOR WRIT OF MANDATE and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner a of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on December 12, 20 24, at San Diego, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Mat Wahlstrom
Type or Print Name

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of State of California. I am over the age of 18 and not a party to the within action; my business address is,

On , 20 , I served the foregoing document described as

on in this action
by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:
by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

BY MAIL
I deposited such envelope in the mail at , California.
The envelope was mailed with postage thereon fully prepaid.
As follows I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on , 20 , at , California.
(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.
Executed on , 20 , at , California.
(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
(Federal) declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

(By MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)
(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)