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STELLA CZIMENT
ACTING INDEPENDENT POLICE MONITOR

January 26, 2022

Superintendent Shaun Ferguson
New Orleans Police Department
715 South Broad Street
New Orleans, LA 70119

RE: Oversight Concerns regarding the Possibility of the Royal Street Patrol

Dear Chief Ferguson:

Recently, there have been high level discussions regarding the possibility of resurrecting the Royal Street Patrol – a privately funded patrol of non-NOPD officers managed by the French Quarter Management District. This patrol would be separate from the New Orleans Police Department (NOPD) in operation and management. While the Office of the Independent Police Monitor (OIPM) understands the worries expressed regarding crime in the French Quarter and the impact that crime may have on tourism, both of which were used as the justification for the Royal Street Patrol, the OIPM is extremely concerned about the possibility of armed officers patrolling the French Quarter that are separate from the NOPD. The OIPM would like to bring these logistical, public safety, and liability concerns to your attention for your consideration in any future discussions on the creation and any parameters of the Royal Street Patrol.

Background on the OIPM and the Basis for these Recommendations

The OIPM is the police oversight agency for the NOPD and is an independent branch of city government. The OIPM was created by voter referendum and operates under the Memorandum of Understanding with the NOPD entered November 2010. The OIPM is tasked with providing the NOPD with recommendations regarding resource allocation, liability (including civil claims and lawsuits), risk management, training, and NOPD policy including partnership development. The OIPM is responsible for providing assessments to the Superintendent of Police to ensure the NOPD remains in compliance with the Federal Consent Decree, NOPD policies, and all city, state, and federal laws. The goal in these assessments is to ensure that the NOPD is operating effectively and safely for both the officers and the community.

The OIPM is also tasked with amplifying the concerns and questions of the community about policing and bringing those concerns to the attention of the NOPD for them to be considered and addressed. In response to the concerns received by the OIPM of street performers, musicians, and those in the French Quarter and the City of New Orleans, the OIPM now puts forth the following points.

Lack of Clarity regarding What Policing Actions or Powers the Royal Street Patrol Will Possess

Under the Home Charter Rule, it is the responsibility of the Superintendent of Police, and by extension the NOPD, to provide policing services to Orleans Parish. The proposed Royal Street Patrol will assume some policing responsibility that ordinarily would fall under that jurisdiction. The OIPM seeks clarity on what policing responsibilities the Royal Street Patrol may assume, how that arrangement may be completed (would a Memorandum of Understanding be executed?) and the expectations and training that will be implemented as part of that partnership. The OIPM is unable to provide an accurate and comprehensive assessment without understanding the type of policing the Royal Street Patrol will be permitted to complete. The OIPM requests that this information be shared with the OIPM and the public for review and comment.

Public Safety When Engaging with the Royal Street Patrol

The OIPM is concerned about public safety when engaging with this patrol. These officers may be P.O.S.T. certified; however, this certification is not the same as the extensive training received by NOPD officers at the NOPD Academy. All NOPD officers are trained on de-escalation, appropriate weapon tactics and use, appropriate hands-on engagement and use of force, lawful pursuits, and other necessary skills for constitutional policing under the Federal Consent Decree.

The position of the OIPM is that the caliber of training for the NOPD is high. The training curriculum and training conducted by the NOPD Academy was approved by a federal Judge, the Department of Justice, and two oversight agencies: the Office of the Consent Decree Monitors (OCDM) and the OIPM. This curriculum is reviewed and updated every year to ensure it is relevant and incorporates the latest trends in safety and de-escalation. As a result of this extensive and comprehensive training, the expectations on NOPD officers to police constitutionally and safely is also high. The OIPM is concerned about the Royal Street Patrol not receiving this same level of training and the lack of training causing public harm.

For example, in the fall 2019, a Tulane University Police Department officer shot into a car of a former employee during an encounter on campus. There was a child in the backseat of the car at the time of the shooting. The amount of threat the officers faced at the time of the shooting is in dispute. Similarly, in 2020, an Orleans Levee District officer shot two individuals inside of a car and again, the threat level of the officer who fired the weapon is also in dispute (currently being addressed in a lawsuit).

In the French Quarter, in the fall of 2019, a Probation and Parole officer and an Orleans Levee Board officer were working a private security detail at Saks 5th Avenue and one officer shot a man who was waiting in what was believed to be the “getaway car” in a theft incident.

In the Royal Street Patrol there will be similar officers, officers from the Orleans Levee Board and the Louisiana Probation and Parole, who will be providing security on Royal Street. These officers will be armed and making assessments whether to fire their guns in the French Quarter like the assessments outlined above. The OIPM highlights these examples because these officers who fired their weapons were not NOPD officers or trained by the NOPD and made assessments that may have been different than those made by NOPD trained officers. These examples speak to public safety concerns for the individuals in these encounters.

Confusion Regarding Officer Misconduct and Disciplinary Standards and Reporting Procedures

Connected to the concern of public safety above, is the concern the OIPM has as an oversight agency regarding the inconsistency and lack of clarity regarding: (1) how the public should or can report officer misconduct; and (2) the standards of accountability and discipline.

On January 24, 2022, the French Quarter Management District Security and Enforcement Committee stated that they intended for officers to report use of force to the hiring agency: the Public Safety Services. Public Safety Services is a business owned by Matthew Pincus and the OIPM believes it was registered as a business on December 13, 2021.

When there are negative encounters with the Royal Street Patrol or incidents of use of force, it is unknown if there will be consistent standards of accountability and if this system of accountability will match the policies and system within the NOPD. It is unknown how misconduct will be reported, documented, or investigated. Will the standards of misconduct and force be consistent among the Royal Street Patrol officers, or will each officer be held to the standards of their individual agencies? Most importantly, how will the public know how to proceed when there is a negative encounter?

Though the ability of the NOPD to require such standards may be limited, the OIPM presents this concern to the attention of the NOPD because if the NOPD is permitting the Royal Street Patrol to take policing actions then the NOPD should require standards of accountability for when those actions are not taken or done improperly.

Liability for the NOPD

The OIPM is responsible for providing recommendations regarding liability of the NOPD including lawsuits, civil and criminal claims, and risk management. This requires the OIPM to ask whether a strategy, partnership, tactic, training or lack of training, policy or lack of policy clarity may result in NOPD liability. The OIPM is concerned about the liability of the NOPD, and by extension, the City of New Orleans, if the Royal Street Patrol officers are to be deputized or are permitted to execute policing responsibilities without the training and supervision of the NOPD. Under the Home Rule Charter, it is the Superintendent of Police who is responsible for policing in the Orleans Parish and if the Superintendent of Police was to deputize the patrol or permit the patrol to complete the policing activities that should be under the jurisdiction of the NOPD, the NOPD could potentially be liable for the actions taken by the Royal Street Patrol. As demonstrated in the examples of officer involved shootings above, the OIPM is concerned about this additional liability the NOPD may assume by the resurrection of the Royal Street Patrol.

Resource Management

The OIPM is responsible for providing recommendations regarding resource management. The OIPM is to assess how the NOPD uses resources, staff, and time effectively. The Royal Street Patrol may demand NOPD time, resources, and staff and cause an undue burden on an already understaffed department. It will demand NOPD time and staff for the NOPD to properly train the Royal Street Patrol to police at the same standard of constitutional policing required under the Federal Consent Decree and the nationally recognized norms that the NOPD has championed.

In the case of the officer involved shootings listed above, the NOPD's Force Investigation Team was responsible for conducting the investigations into these incidents even though it was not NOPD officers that fired their guns. Though the OIPM does not know the expectations on the NOPD to provide similar services for the Royal Street Patrol, the OIPM can envision the expectation that the Force Investigation Team is responsible for conducting any relevant use of force investigations and that will be an added burden on NOPD staff.

Community Involvement and Input

Finally, the NOPD, particularly the Eighth District and the Field Operations Bureau, does extensive work to connect with the community in the French Quarter and hear their concerns regarding how their neighborhood is policed. For example, Captains of the Eighth District and community liaisons hold townhalls within the French Quarter to hear from the residents about what they need, what to improve, and what is working with patrols and policing. This community engagement is vital in any successful policing strategy and is outlined in the NOPD's Community Engagement Plan for the Eighth District. Included below is a photo of one such event that the OIPM attended and monitored where the former Captain Walls met with the residents of the French Quarter to discuss patrol and crime reduction efforts in the French Quarter.



Now, with the introduction of another patrol, there is a concern that the voice of the community will not be incorporated or considered in the Royal Street Patrol tactics or policies as they are for the NOPD. Where will the residents and the community voice fit in the Royal Street Patrol? Will the Eighth District field those concerns? Is it fair to expect the NOPD to complete community engagement for a private patrol separate from the NOPD? The community is necessary in successful policing strategy, but here, where is the community input in the creation of the Royal Street Patrol and the way it operates?

Chief Shaun Ferguson
Superintendent of Police
January 26, 2022
Page 4

The leadership and liaison team at the Eighth District and in the Field, Operations Bureau meet regularly with the Music and Culture Coalition of New Orleans (MaCCNO) and street performers and musicians to hear their concerns regarding how officers interact with musicians and street performers in the French Quarter. The OIPM monitors these regular meetings and can report with confidence that these meetings are productive dialogs. Both sides listen to one another, hear each other's point of view, and as a result there are real changes in the way that musicians and performers are policed and the way that these performers operate in the French Quarter since they now have a greater understanding of relevant ordinances and sound requirements. This is just one example of the trust built and the work done by the NOPD and the community to collaborate. This community engagement ensures that policing is both effective but still respectful to the vibrant culture and unique character of the French Quarter. The introduction of a new patrol could potentially damage this hard-won progress.

Not only could this patrol potentially bring contradicting or confusing information to the community, residents, businesses, and performers and musicians in the French Quarter, but could undermine the effort being made for all these entities to effectively work, live, and exist together.

Moving Forward

The Office of the Independent Police Monitor requests to be included in any future conversations regarding the possibility of the Royal Street Patrol and the role it will play in policing strategy to continue to provide input and feedback.

Attached to this letter is an additional letter prepared by the Music and Culture Coalition of New Orleans (MaCCNO).

The Office of the Independent Police Monitor thanks you and the NOPD leadership team for considering these oversight concerns and the concerns expressed by the community. I am available to answer any questions you may have or meet to discuss anything included in this letter.

Sincerely,



Stella Cziment
Acting Independent Police Monitor

January 24, 2022

To Whom it May Concern:

I am writing to express the Music and Culture Coalition of New Orleans' (MaCCNO) strong opposition to and significant concerns regarding the French Quarter Management District (FQMD) and New Orleans and Company's proposal to expand the Royal Street Patrol.

MaCCNO has been attending meetings of the French Quarter Management District's Security and Enforcement Committee since late 2015. We began attending these meetings due to an effort spearheaded by Christian Pendleton (who was until recently the Chair of the French Quarter Management District and is currently the Vice-Chair) to permanently rescind the Royal Street Pedestrian Mall, which was created by ordinance in the early 1970's and has served as a crucial platform for street musicians to make an income—as well as a significant source of tourism marketing for the City of New Orleans. Ultimately, Mr. Pendleton's efforts to rescind the pedestrian mall were unsuccessful.

In 2017, we became aware of the establishment of the 'Royal Street Patrol', which, to our understanding, was privately funded by businesses located on Royal Street and operated by Matthew Pincus, who is the son of the Ronald Pincus, the COO of the Hotel Monteleone—one of the businesses who both funds and benefits from the patrol. Originally, this patrol operated between 11AM and 5PM Monday through Thursday and 11AM and 7PM Friday through Sunday, which roughly matches the hours that the Pedestrian Mall is in effect (which were established via city ordinance). We were immediately concerned that this lend credence to our suspicion that the patrol was created specifically to stop street performers from performing on Royal Street. Lending further support to these concerns, over the past few years we have heard a number of complaints from performers about harassment from Levee Board officers, who we believe were hired by Mr. Pincus as a part of his patrol. Recently, we were able to confirm through documents obtained via a public records request that, in fact, this patrol WAS specifically targeting street musicians. A document dated May 18th, 2017, describes the duties of the patrol as follows: to “monitor violations from loud bands and amplified street music, keep all sidewalks and promenades free of drunks, aggressive beggars and undesirables which have seemingly taken over the area...” and also touts that “Tremendous progress has been made as evidenced by the dramatic decrease of vagrants, obstructed sidewalks, disruptive street performer and excessively loud musicians aided by powerful amplifiers.” Both FQMD Executive Director Karley Frankic

and former Board President Christian Pendleton received this document outlining the purpose of the patrol in August 2021, which was sent by Mr. Pincus.

Of course, this raises serious concerns that this patrol was created to stop activity protected by the First Amendment. In addition, other records confirm that this initiative was specifically designed to avoid public bid and public oversight. In an email dated Sept 14, 2021, Frankic writes *“Please see below the follow-up from my meeting with the FQMD's commissioners representing GNOHLA and New Orleans & Company regarding the possibility of utilizing funds from the hotel self-assessment to expand patrols in the French Quarter. We are awaiting confirmation from the State Office of Procurement that this would qualify as a professional services contract exempt from competitive bid as it would be an expansion of an existing program utilizing private funds.”* Based on these public records, FQMD and New Orleans and Company leadership seem to be aware of the constitutionally dubious nature of this patrol and are clearly intent on ensuring that it is exempt from public bid—and therefore, potentially, public oversight.

On December 9, 2021 I met with Ms. Frankic and Mr. Pendleton to discuss my concerns about the Patrol. This meeting was at their request and was in response to a December 3, 2021 article in The Lens in which I was quoted several times expressing my opposition to the Patrol and its proposed expansion. In this meeting I raised the same issues I am outlining in this letter. In addition, I asked about the possibility of officer misconduct and/or use of force incidents, as I am deeply concerned that the agencies that would be contracted by FQMD would be outside of the NOPD's command and accountability structure and would therefore be acting with little oversight. I was told by Mr. Pendleton that these issues would be handled by the agencies that are contracted. My interpretation of this is that if a Levee District officer, for example, used excessive force then the investigation, potential disciplinary action, and redress would all be exclusively carried out by the same agency that committed the infraction. I found this response to be extremely troubling, particularly as every agency contracted would have their own oversight structure, which could make accountability extremely difficult. In this meeting I was also once again reassured that the patrol did not focus and will not be focused on the activities of street performers (repeatedly referred to by Mr. Pendleton as “my people”), however the documents I obtained after this meeting show that, at least in the past, this is untrue.

It also must be noted that the FQMD is profoundly unrepresentative of both New Orleans and those that live, work in, and visit the French Quarter. It is my understanding that currently, all but one of FQMD's commissioners and committee members are white. Over the years I have been attending meetings, I have heard a

former representative from French Quarter Citizens referred to Latinx workers as “illegal Mexicans” and mock the idea of poor people using Blue Bikes; heard a current Board member refer to the chronically homeless as “trash people”; and heard disdain about the need to respect civil liberties from several Board members, including current Security and Enforcement Committee member Gail Cavett. In 2020, a former commissioner, Juliet Laughlin, repeatedly made defamatory and disparaging statements attacking the Black Lives Matter movement, refusing to even say the words “Black Lives Matter” and then used social and other media to amplify her claims and disparage elected officials. These are not isolated incidents, but rather seem to be an issue that is endemic to the FQMD. Both Ms. Frankic and Mr. Pendleton are aware of my concerns surrounding all of these statements and the lack of representation within FQMD leadership.

Based on my experiences with the French Quarter Management District and the documents that I have received, it is my strong suspicion that the organization, in coordination with New Orleans and Company, are attempting to establish a private security force that is solely under their control and intentionally outside of public oversight. I strongly believe that private businesses will use this patrol to target street performers and anyone else they deem ‘undesirable’—and that there is a strong likelihood that some of the actions undertaken by the patrol will violate the civil and constitutional rights of those that visit and work within the patrol area. I will happily discuss this both publicly or privately and can share any and all documents I have regarding the Royal Street Patrol with interested parties. Please feel free to contact me at 504-327-7713 or at director@maccno.com. Thank you for your time and attention to this serious matter.

Sincerely,



Ethan Ellestad
Executive Director
Music and Culture Coalition of New Orleans