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October 31, 2023

CF # 20-1074-S4

The Honorable City Council
City of Los Angeles, Room 395
c/o City Clerk's Office
Los Angeles, CA 90012

RE: COMMISSION INVESTIGATION DIVISION'S RESPONSE TO CITY COUNCIL FILE 20-1074-S4 (AL FRESCO ORDINANCE) PROPOSED ENFORCEMENT AND RESPONSE STRATEGIES

Dear Honorable Members:

On October 24, 2023, Commission Investigation Division (CID) was asked to propose enforcement and response strategies that may be needed for noise complaints associated with the City's Al Fresco ordinance.

BACKGROUND:

The "Al Fresco" ordinance allows businesses the opportunity to provide outdoor dining on either private property or a public right-of-way (such as a sidewalk) through the easing of zoning regulations. By easing these restrictions additional noise will be created by both outdoor ambient music or sound, as well as noise generated from the gathering of people who are dining and socializing. This additional noise will generate complaints from neighbors which will generate the need for regulation, service, and enforcement.

SCOPE OF THE PROBLEM:

The Los Angeles Police Department (Department) does not maintain specific data on calls for service (CFS) regarding noise emitting from Al Fresco dining establishments. Instead, such calls generally fall within three CFS types: loud radio, loud party, and business disputes (herein identified as "related CFS"). In 2022, of the total 1.54 million CFS, the Department handled 51,964 related CFS (3.4%).

CID explored the top four most relevant response dispositions of the 51,964 related CFS:

<i>Response and Enforcement</i>	<i>Related CFS</i>	<i>Percentage</i>
Officers responded and took no action ¹	42,905	82.5%
Officers' response was canceled	4,924	9.5%
Officers gave a warning or took a report	1,782	3.4%
Officers issued a citation or made an arrest ²	145	< 0.3%

ENFORCEMENT AND RESPONSE:

Although noise pollution and the disturbance of the peace are critically important matters within the City of Los Angeles, it should be recognized that service efforts by the Department are significantly strained due to personnel and resource shortages.

CID does not have the operational capabilities to respond to active Al Fresco dining complaints and therefore should not be used as a response mechanism for complaints by the public. It is the recommendation of CID that a centralized intake be established. Such proposals include a Los Angeles Department of Building and Safety (LADBS) hotline or city "311" operator. It is further proposed that the ordinance require that authorized Al Fresco businesses must post a sign, including a quick reference (QR) code, phone number, and email address of the selected intake mechanism for concerned private persons to file a formal complaint about noise emitting from the business during hours of operation.³

Once the intake agent (LADBS personnel, operator, web form, etc.) determines that a business has ongoing or chronic noise concerns (at least two identifiable and unique complainants on at least two separate dates) at an Al Fresco establishment, an administrative noise complaint may be filed with CID's Noise Enforcement Team (NET) for intervention and enforcement efforts. Such complaints can be forwarded to the NET by email at Noise@lapd.online or by telephone at (213) 996-1250.

Since it is not possible to determine the total anticipated complaints and availability of resources, since no additional resources are being deployed to CID under this ordinance, NET will implement a screen-down process. The screen-down process will consider, at a minimum, the severity of the noise nuisance and the number of complaints received. When appropriate, NET will implement progressive enforcement efforts against violators, which may consist of some or all of the following techniques:

1. *Verbal warnings* – Either telephonically or in person by a police officer.
2. *Written warning* – CID may issue a letter formally advising the business that they have received public complaints or NET has made an official determination that they are in violation of a noise ordinance based upon their observations or utilization of a noise meter. The letter will direct the business to promptly remedy the issue or otherwise discontinue Al Fresco dining.

¹ Possible dispositions of these types of calls indicated that the situation resolved prior to the officers' response or upon the presence and/or advice of officers without the need for a formal warning or citation.

² Arrests and citations were not necessarily linked to a violation of a noise ordinance.

³ There is no anticipated change to traditional law enforcement response mechanisms. Persons calling "911" or the Department's non-emergency dispatch telephone number will still result in the response of patrol officers.

3. *Administrative Citation Enforcement (ACE) Program* – The Department may issue a violator a citation for a noise ordinance violation or other violation of the Los Angeles Municipal Code. Such citations will be forwarded to the Los Angeles City Attorney.
4. *Administrative Abatement Recommendation* – Upon determination by the Department that a business has knowingly and willfully failed to adequately control noise emitting from an Al Fresco dining environment, CID will generate a formal request recommending modification, discontinuance, or revocation of the business' permission to engage in Al Fresco dining to the proper zoning authorities pursuant to the LAMC section 12.27.1.

CID retains the discretion to utilize some or all of the above remedies or may utilize other regulatory compliance and enforcement techniques to resolve complaints.

A noted challenge that must be considered in the drafting of the ordinance is that businesses must be accountable for the noise emitted by their guests. It is not practical for law enforcement, as an ongoing effort, to identify specific individuals that emit loud noise from the establishment on any particular night.

Absent additional noise ordinances with prescribed punishments, NET will utilize existing laws within the LAMC.

RECOMMENDATIONS:

It is recommended that the ordinance consider the handling of active CFS regarding Al Fresco violations be considered by the Office of Unarmed Response upon its implementation.

If you have any questions regarding this letter, please contact me at (213) 996-1230.

Respectfully,



SCOTT MOFFITT, Lieutenant
Commanding Officer
Commission Investigation Division