



March 7th, 2023

Tina Skahill
Executive Director
Office of Constitutional Policing and Reform
Chicago Police Department
3510 South Michigan Avenue
Chicago, Illinois 60653

Re: Chicago Police Department Prohibition on Associations with Criminal Organizations Directive (G08-03)

Dear Executive Director Skahill,

COPA thanks CPD for an opportunity to consider its policy on prohibition on associations with criminal organizations (G08-03) and provide feedback on the draft version dated January 13th, 2023. COPA recognizes CPD is proposing some significant revisions to its previous policy from 1997. However, COPA believes there are remaining areas to elaborate on and clarify based on its reading of the current policy and its understanding of existing best practices and research. COPA suggests the following:

1. **Define the terms related to criminal organizations.** COPA suggests including a section in the directive defining the terms used throughout the policy, including but not limited to, affiliation, association, fraternizing, terrorism, and paraphernalia. Additionally, the directive should define what constitutes “promoting” or “advocating” for a criminal organization, so it is clear what the policy is specifically prohibiting. For example, the criminal organization policy developed by the Washington State Legislature includes definitions for an extensive list of terms used in their statutes on extremist organizations, activities, and affiliation.¹
2. **Expand on the types of criminal organizations included.** The directive states that criminal organizations include, but are not limited to, street gangs (e.g. Section II, Subsections A, B, and C). The Center for Policing Equity indicates that criminal organization policies for other law enforcement agencies refer to an array of criminal organizations that are prohibited and that should be abundantly clear in this policy.² Referencing other types of criminal organizations in addition to street gangs in the directive would establish at the outset that the policy is concerned with a variety of different criminal organizations. For example, the proposed policy by the Minnesota Department of Public Safety includes other types of criminal organizations,

¹ Washington State Legislature. (effective January 16, 2023 to present). *WAC 139-01-310*. <https://app.leg.wa.gov/WAC/default.aspx?cite=139-01-310>.

² Buchanan, K. S., Rau, H., Mulligan, K., Keese, T., Goff, P. A. (n.d.). *White Supremacy in Policing: How Law Enforcement Agencies Can Respond*. Center for Policing Equity. <https://policingequity.org/images/pdfs-doc/CPE-WhiteSupremacy.pdf>.

such as terrorist, hate, extremist, or white supremacist groups, or other groups that promote hatred, discrimination, or violence.³

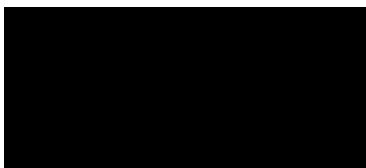
3. **Clarify the criminal organization identification process.**
 - a. Section III, Subsection B can be modified to absorb Subsection C and at the same time clarify that the Bureau of Counterterrorism identifies the existence of criminal organizations. For example, it could state “Criminal organizations will be identified *by the Bureau of Counterterrorism* on the basis of specific, documented, and reliable information, including but not limited to...” The language about the Bureau of Counterterrorism maintaining the list is already present in Section VI “Responsibilities” and can be better elaborated on there.
 - b. The process of identifying, updating, and making available the list of criminal organizations should be further explained in Section VI, Subsection B. Specifically, who within the Bureau of Counterterrorism makes the decision about what is a criminal organization and how often those decisions will be updated, should be specified. Additionally, a bare minimum standard “mechanism” by which the list and information about updates to the list will be made available to members, as well as the public, should be established in writing. It should be clear how to access the list, whether it is published publicly or obtained through a FOIA request. Finally, the form of the assistance provided to Department members in determining if the Department identifies an organization as criminal could be made clearer.
4. **Establish a timeframe for active participation and membership.** Section V explains how to determine if a Department member is active in a criminal organization. However, the timeframe is not specified for how far into the past an action is considered active. For example, if a Department member previously attended an criminal organization event, but now is no longer involved with the criminal organization’s activities, would they be considered active? The definition for active participation and membership should address if there is a cutoff for how long a Department member’s past actions in a criminal organization would still be considered active. Also, address if/how Department members can formally renunciate membership to a criminal organization, so they are no longer considered an active participant. This may be particularly relevant if the Bureau of Counterterrorism did not initially identify an organization that a member is a part of as criminal, but later adds that organization to their list of criminal organizations.
5. **Clarify who can identify a criminal association.** Section V, Subsection B, Paragraph 2 outlines how a criminal association is identified. Subparagraph b states the identification can be “by an individual who has provided reliable information to the Department in the past.” Clarify who is being referred to as individuals who have provided information in the past (e.g. are these supposed to be confidential informants?). Also, Paragraph 2 should include a Subparagraph stating that any community member can provide “reliable information” to the Department about a criminal association.

³ Peace Officer Standards and Training Board. (2022). *Proposed Permanent Rules Relating to Education and Licensing of Peace Officers*. Minnesota Department of Public Safety. <https://dps.mn.gov/entity/post/meetings/Documents/rd4641-5-12-22.pdf>.

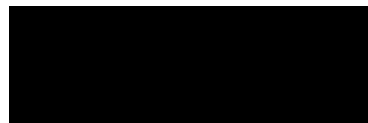
6. **Address unavoidable associations.** A Department member may have an association with a member of a criminal organization that cannot be avoided, such as a family member. In cases where contact with a criminal association is unavoidable, the directive should address how these situations should be handled. The International Association of Chiefs of Police recommends that the Department member should inform their supervisor of the association if regular household, physical, or telephone contact cannot be avoided with that person.⁴ This could be included in Section VI, Subsection A as an additional responsibility of Department members. Further, the directive should explain how to properly report and document an unavoidable association and if any additional actions need to be taken.
7. **Expand on social media use and prohibitions.** Department member prohibitions for social media use, on or off duty, is described Section IV, Subsection A, Paragraph 3. It is clear Department members are prohibited from “posting, displaying, transmitting, or otherwise disseminating” certain communication and content, but the directive does not address if members are prohibited from joining social media groups that promote prohibited content, regardless of their own posting.⁵ Joining a social media group with prohibited content would suggest the Department member is associating with members of a criminal organization.⁶
8. **Establish a notification process on policy updates for Department members.** Explain (or reference the policy on) how Department members are notified about the new prohibition on associations with criminal organizations policy after the directive is published, particularly because there are substantial changes to the policy. Also, establish how Department members are to confirm that they understand the new policy and if members will have to formally verify their compliance with the new directive.

Thank you for the opportunity to provide feedback on this important topic. Please do not hesitate to contact COPA if you wish to discuss this feedback further. COPA is open to meeting with CPD about capacity building and planning toward the goal of operationalizing the above recommendations. We look forward to further conversations as we continue to work toward the shared goal of improving Department policies.

Sincerely,



Justin Escamilla
Deputy Chief Administrator, COPA



Morgan McGuirk
Research Associate, COPA

⁴ IACP Law Enforcement Policy Center. (2019). *Standards of Conduct*. International Association of Chiefs of Police. <https://www.theiacp.org/resources/policy-center-resource/standards-of-conduct>.

⁵ IACP Law Enforcement Policy Center. (2019). *Social Media*. International Association of Chiefs of Police. <https://www.theiacp.org/resources/policy-center-resource/social-media>.

⁶ IACP Law Enforcement Policy Center. (2019). *Standards of Conduct*. International Association of Chiefs of Police. <https://www.theiacp.org/resources/policy-center-resource/standards-of-conduct>.

cc:

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