

APRIL 2019

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## CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL

# THE CHICAGO POLICE DEPARTMENT'S COMPLIANCE WITH THE FIREARM OWNERS IDENTIFICATION CARD ACT FOLLOW-UP INQUIRY





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## TO THE MAYOR, MEMBERS OF THE CITY COUNCIL, THE CITY CLERK, THE CITY TREASURER, AND THE RESIDENTS OF THE CITY OF CHICAGO:

The City of Chicago Office of Inspector General (OIG) Public Safety Section (PS) has completed a follow-up to its April 2018 evaluation of the Chicago Police Department's (CPD or "the Department") compliance with the clear and present danger reporting requirements for law enforcement agencies under Illinois' Firearm Owners Identification (FOID) Card Act ("the Act"). Based on the Department's responses, OIG concludes that CPD has fully implemented corrective actions related to the evaluation findings.

The purpose of the April 2018 evaluation was to determine if CPD was in compliance with the clear and present danger reporting requirements for law enforcement agencies under the Act. OIG's evaluation identified a subset of situations in which it was highly probable that CPD members interacted with an individual that posed a clear and present danger, but that those situations were not reported to the Illinois State Police (ISP) via "Person Determined to Pose a Clear and Present Danger" forms. OIG determined that CPD had not been operating in compliance with the Act, as the Department only submitted two reported incidents between December 6, 2013, and April 7, 2017.

Based upon the results of the evaluation, OIG recommended that the Department:

1. institute agency directives that require CPD employees to complete and submit the "Person Determined to Pose a Clear and Present Danger" form to ISP within 24 hours after making the determination that an individual poses a clear and present danger;
2. ensure that all officers have ready access to the form during their shifts; and
3. create relevant curricula and provide adequate training for current CPD employees and new recruits that includes:
  - a. an introduction to the Act, with special attention paid to CPD's reporting duties and the importance of the information being provided to ISP;
  - b. guidance on what constitutes clear and present danger; and

- c. instruction on how to properly complete and submit the form and identification of other necessary documentation that should be submitted to ISP along with the form.

In its response to the evaluation, CPD concurred with OIG's recommendations and indicated that it would follow all corrective steps to bring the Department into compliance with the Act.

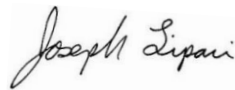
In March 2019, OIG inquired about the status of the corrective actions taken by CPD in response to the evaluation. Based on CPD's follow-up response, OIG concludes that CPD has fully implemented the corrective actions to which it committed in its response to the original evaluation.

Specifically, CPD has officially issued Special Order S06-05-04 "Person Determined to Pose a Clear and Present Danger," ensured that the "Person Determined to Pose a Clear and Present Danger" form is accessible electronically to all officers on all shifts through the Department Directives System, created relevant curricula, and provided adequate training on the Act for current CPD employees and new recruits.

While OIG did not evaluate the efficacy of the new policy as implemented, it bears mention that the Department submitted 47 forms to ISP in the 10 months following OIG's report, in contrast to only two forms having been submitted during the original evaluation's 40-month review window.

OIG commends CPD for bringing the Department into compliance with the FOID Card Act. We thank CPD for its cooperation during the evaluation and their responsiveness to our follow-up inquiries.

Respectfully,



Joseph Lipari  
Deputy Inspector General, Public Safety  
City of Chicago

cc: Joseph Ferguson, Inspector General, Office of Inspector General  
Edward Siskel, Corporation Counsel  
Dana O'Malley, Assistant General Counsel, Chicago Police Department  
Robert Boik, Chief of Staff, Chicago Police Department

## FOLLOW-UP RESULTS

In March 2019, OIG followed up on its April 2018 evaluation of CPD's compliance with the clear and present danger reporting requirements for law enforcement agencies under Illinois' FOID Card Act. Below, we summarize OIG's 2018 evaluation finding, its associated recommendations, and the status of the corrective actions taken by the Department. This follow-up report assesses only CPD's development and adoption of OIG's policy and training recommendations regarding the FOID Act. It did not observe or test implementation of the new procedures; thus we make no determination as to their effectiveness, which would require a new evaluation with full testing.

OIG uses four categories to describe the Status of Corrective Action:

- **IMPLEMENTED** - The department has implemented actions that may reasonably be expected to resolve the core findings noted in the original evaluation.
- **PARTIALLY IMPLEMENTED** - The department has implemented actions in response to the evaluation, but the actions do not fully address the findings raised in the original evaluation.
- **PENDING IMPLEMENTATION** - The department has initiated action plans that, if fully implemented, may reasonably be expected to resolve the core findings of the original evaluation. However, the department has not completed implementation.
- **NOT IMPLEMENTED** - The department has not initiated or implemented any actions responsive to OIG's findings.

**FINDING:**

**CPD has not operated in compliance with the clear and present danger reporting requirements for law enforcement agencies under Illinois' FOID Card Act.**

**OIG RECOMMENDATION #1**

OIG recommended that CPD institute agency directives that require employees to complete and submit the "Person Determined to Pose a Clear and Present Danger" form to ISP within 24 hours after making the determination that an individual poses a clear and present danger.

**STATUS OF CORRECTIVE ACTION: IMPLEMENTED**

In response to OIG's evaluation, on April 23, 2018, CPD issued Special Order S06-05-04 "Person Determined to Pose a Clear and Present Danger."<sup>1</sup> The purpose of the directive is to:

- A. provide guidelines to assist Department members in recognizing persons that pose a clear and present danger as defined by the Firearm Owners Identification Card Act [430 ILCS 65/8.1(d)(2)];
- B. introduce the Illinois State Police Person Determined to Pose a Clear and Present Danger form (ISP 2-649);
- C. provide procedures for completing the Illinois State Police Person Determined to Pose a Clear and Present Danger form (ISP 2-649); and
- D. state the immunity provision of the Firearm Owners Identification Card Act [430 ILCS 65/8.1(d)].

The directive further states the following:

The Chicago Police Department is committed to upholding the statutory requirement outlined in the Firearm Owners Identification Card Act [430 ILCS 65/8.1(d)(2)] which states, 'if a person is determined to pose a clear and present danger to himself, herself or to others by a law enforcement or school administrator, the law enforcement official or school administrator shall, within 24 hours of making the determination, notify the

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<sup>1</sup> See Appendix A.

Department of State Police that the person poses a clear and present danger.'

## OIG RECOMMENDATION #2

OIG recommended that CPD ensure that all officers have ready access to the "Person Determined to Pose a Clear and Present Danger" form during their shifts.

### STATUS OF CORRECTIVE ACTION: **IMPLEMENTED**

In response, CPD stated that the "Person Determined to Pose a Clear and Present Danger" form has been placed into the Xyleme system<sup>2</sup> and "the form is accessible and grouped with all other electronic non-CPD forms in the Department Directives System [which] is available at all times on Department computers."

## OIG RECOMMENDATION #3

OIG recommended that CPD create relevant curricula and provide adequate training for current employees and new recruits that includes:

1. an introduction to the FOID Card Act, with special attention paid to CPD's reporting duties and the importance of the information being provided to ISP;
2. guidance on what constitutes clear and present danger; and
3. instruction on how to properly complete and submit the "Person Determined to Pose a Clear and Present Danger" form and identification of other necessary documentation that should be submitted to ISP along with the form.

### STATUS OF CORRECTIVE ACTION: **IMPLEMENTED**

In response, CPD submitted digital copies of:

- an eLearning module entitled: "FOID Card Act – Clear and Present Danger Reporting";
- a lesson plan entitled "Legal Issues and Law Enforcement Response";



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<sup>2</sup> Xyleme is a Learning Content Management System (LCMS) which is a software tool that allows an organization, university, or company to create learning content and publish it in print and web formats.  
<https://www.xyleme.com/what-is-a-learning-content-management-system-lcms/>. Accessed March 25, 2019.

- a lesson plan entitled “Mental Illness and Non-Normative Behavior”; and
- Special Order S06-05-04 “Person Determined to Pose a Clear and Present Danger.

After a thorough review of this information, OIG determined that CPD has implemented the recommendation and each of its associated parts regarding the development of relevant curricula and adequate training for current CPD employees and new recruits.

## APPENDIX A: SPECIAL ORDER S06-05-04 "PERSON DETERMINED TO POSE A CLEAR AND PRESENT DANGER"

 Chicago Police Department		<b>Special Order S06-05-04</b>	
<b>PERSON DETERMINED TO POSE A CLEAR AND PRESENT DANGER</b>			
			
ISSUE DATE:	23 April 2018	EFFECTIVE DATE:	23 April 2018
RESCINDS:			
INDEX CATEGORY:	Processing Persons		

### I. PURPOSE

This directive:

- A. provides guidelines to assist Department members in recognizing persons that pose a clear and present danger as defined by the Firearm Owners Identification Card Act [430 ILCS 65/8.1(d)(2)].
- B. introduces the Illinois State Police Person Determined to Pose a Clear and Present Danger form ([ISP 2-649](#)).
- C. provides procedures for completing the Illinois State Police Person Determined to Pose a Clear and Present Danger form ([ISP 2-649](#)).
- D. states the immunity provision of the Firearm Owners Identification Card Act [\[430 ILCS 65/8.1\(d\)\]](#).

### II. POLICY

The Chicago Police Department is committed to upholding the statutory requirement outlined in the Firearm Owners Identification Card Act [430 ILCS 65/8.1(d)(2)] which states, "if a person is determined to pose a clear and present danger to himself, herself or to others by a law enforcement or school administrator, the law enforcement official or school administrator shall, within 24 hours of making the determination, notify the Department of State Police that the person poses a clear and present danger."

### III. STATEMENT OF LAW

The Firearm Owners Identification Act [430 ILCS 65/8.1 (d) ] states " the physician, clinical psychologist, qualified examiner, law enforcement official , or school administrator making the determination, and his or her employers shall not be held criminally, civilly, or professionally liable for making or not making the notification required under this subsection, except for willful or wanton misconduct.

### IV. PROCEDURES

- A. The Firearm Owner Identification Card Act ([430 ILCS 65.1.1](#)) defines a person who poses a clear and present danger as one who:
  - 1. communicates a serious threat of physical violence against a reasonably identifiable victim; or
  - 2. poses a clear and imminent risk of serious physical injury to himself, herself, or another person as determined by a physician, clinical psychologist, or qualified examiner; or
  - 3. demonstrates threatening physical or verbal behavior, such as violent, suicidal, or assaultive threats, actions, or other behavior, as determined by a physician, clinical psychologist, qualified examiner, school administrator, or law enforcement official.
- B. Any Department member who identifies an individual who poses a clear and present danger will:
  - 1. take actions consistent with the Department directive entitled "[Responding to Incidents Involving Persons in Need of Mental Health Treatment.](#)"
  - 2. complete any reports required.



3. complete the Illinois State Police Person Determined to Pose a Clear and Present Danger form ([ISP 2-649](#)).
  4. articulate the facts supporting the determination of "clear and present danger" in the narrative portion of the form. Specific behaviors and statements should be included as well as dates, times of occurrence, the names and contact information of any witnesses. Additional supporting documentation should be referenced in the narrative section.
  5. submit the completed Illinois State Police Person Determined to Pose a Clear and Present Danger form to a supervising sergeant for review and approval.
  6. fax the approved form and any supporting documentation to the Illinois State Police per the instructions on the form within 24 hours of making the determination that the person poses a clear and present danger.
  7. ensure a copy of the approved ISP form and any supporting documentation are forwarded to:
    - a. District of occurrence;
    - b. Firearms Investigation Team (FIT), Unit 193; and
    - c. Crisis Intervention Team Program, Unit 124.
  8. forward the original ISP form and any supporting documentation to the district review office for routing to the Record Division, Unit 162.
  9. complete any other necessary paperwork (e.g., case report, hospitalization report, etc).
- C. District Supervisors will:
1. review the ISP form for completeness, and approve by placing initials and star number on lower right-hand corner.
  2. ensure the approved ISP form and any supporting documentation is faxed to the Illinois State Police within 24 hour per the instructions on the form.
  3. ensure copies of the approved ISP form are forwarded as outlined in Item III-B-7 of this directive.
  4. ensure the original ISP form and any supporting documentation is forwarded to the district review office for routing to the Record Division, Unit 162.

Authenticated by: KC

Eddie T. Johnson  
Superintendent of Police

17-160 SDR

## MISSION

The City of Chicago Office of Inspector General (OIG) is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, effectiveness, and integrity in the administration of programs and operations of City government. OIG achieves this mission through,

- administrative and criminal investigations by its Investigations Section;
- performance audits of City programs and operations by its Audit and Program Review Section;
- inspections, evaluations and reviews of City police and police accountability programs, operations, and policies by its Public Safety Section; and
- compliance audit and monitoring of City hiring and employment activities by its Hiring Oversight Unit.

From these activities, OIG issues reports of findings and disciplinary and other recommendations to assure that City officials, employees, and vendors are held accountable for violations of laws and policies; to improve the efficiency, cost-effectiveness government operations and further to prevent, detect, identify, expose and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

## AUTHORITY

OIG's authority to produce reports of its findings and recommendations is established in the City of Chicago Municipal Code §§ 2-56-030(d), -035(c), -110, -230, and 240.

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### PUBLIC INQUIRIES:

NATALIE A. KURIATA: (773) 478-8417 | [NKURIATA@IGCHICAGO.ORG](mailto:NKURIATA@IGCHICAGO.ORG)

### TO SUGGEST WAYS TO IMPROVE CITY GOVERNMENT, VISIT:

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