

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 23 AA 27**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Applicant No. [redacted])**
CITY OF CHICAGO.)

FINDINGS AND DECISION

[Name redacted], (hereinafter referred to as “Applicant”) applied for a probationary police officer position with the City of Chicago. In a letter dated August 2, 2023, the Office of Public Safety Administration gave Applicant written notice of its decision to remove Applicant from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reason(s) for the disqualification decision and the process for appeal (“Notice”). In support of its decision, Department cited conduct it alleged formed the bases of Disqualifications Based on Criminal Conduct; Indebtedness; Other Conduct; and False Statements or Omissions and/or Failure to Cooperate in the Application Process.

In a letter also dated August 2, 2023, Applicant appealed the disqualification decision to the Police Board by 1) filing a written request specifying why the Department of Police (hereinafter referred to as “Department”) erred in the factual determinations underlying the disqualification decision *and/or* 2) bringing to the Board’s attention additional facts directly related to the reason(s) for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (“Appeal”). Department filed a Response September 5, 2023. No Reply was filed.

Police Board Appeals Officer Laura Parry has reviewed the Notice, Appeal and Response.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Laura Parry, as a result of a review of the above material, submits the following findings of fact, conclusions of law, and recommendation to the Police Board.

Filings by the Parties

According to the Notice, which includes the Candidate Background Investigation Summary dated June 1, 2022 (hereinafter “Background Investigation Report”), Applicant was removed from the list of eligible applicants for the position of probationary police officer for the following reason(s):

Basis #1

IV-B. Disqualification Based on Criminal Conduct, in relevant part as cited by Department:

7. Other Criminal Conduct

c. Conduct Indicating Violent Tendencies

"Police officers are required to act reasonably and professionally at all times and to maintain control over their emotions in the exercise of their duty. These qualities are vital to a police officer's ability to protect the public and its trust in the police. Applicants who have demonstrated a propensity for violence do not meet those requirements. Therefore, any conduct demonstrating a propensity for violence will be grounds for disqualification. Conduct demonstrating a propensity for violence includes but is not limited to, conduct which would constitute murder; kidnapping; sex offenses; assault; battery; aggravated battery; offenses against property; robbery domestic violence; stalking; disorderly conduct; and mob action. As noted above, an applicant who has engaged in any act falling within the scope of this section that constitutes a felony will be found unsuitable for employment. An applicant who has engaged in any act falling within the scope of this section that constitutes a misdemeanor within the last three (3) years (from the date of PHQ submission), or more than one (1) time in his or her life, will be found unsuitable for employment." (Background Investigation Report, p. 1-2)

Department cited the following conduct, in summary:

October 18, 2018. Reported as “Simple Battery-Family Violence,” Background Investigator reported receiving a case report that on the October 18th date Applicant was alleged to have been involved in a physical altercation with another in their shared residence but the responding officers (“R/O”s) were unable to determine who was the aggressor and whether

Applicant scratched the other as an act of aggression or in defense. No arrests were made. The domestic partner reported that Applicant put her hands on her and scratched her neck. R/Os observed marks on her neck. She reported that she was late coming home and that Applicant was upset because she needed to leave for work and was waiting for the domestic partner to come home to be with their two children. An argument ensued. She reported that she went to the bedroom for her phone charger when Applicant was coming out and they started arguing again and that the domestic partner told Applicant if they weren't sleeping in the same room anymore Applicant needed to get her things out of the bedroom and that's when the altercation became physical. R/Os reported that when they spoke with Applicant, she said she was upset because she'd been waiting for the domestic partner to come home to be with her children so she could leave for work, but that she ended up having to call off work because she couldn't leave her children. Applicant reported they argued, the domestic partner went downstairs and then Applicant went downstairs and the argument continued. Applicant reported she went upstairs again and locked the bedroom door, but that the domestic partner opened the lock and continued the argument, tossing the bedding off the bed and demanding Applicant leave the room so she could sleep. Applicant reported she was picking the bedding up but the domestic partner was trying to pull it out of her hands and that is when it became physical. R/Os reported Applicant packed up and left with the two children. In a follow-up interview with Background Investigator Applicant stated that the police were called because her cell phone was taken and she and the other person were wrestling over it. During the polygraph exam interview it was reported Applicant said police came to her residence once when she and her then and now ex-domestic partner had a physical altercation.

February 23, 2007. "Agg Assault/School Employee." The alleged victim, an Assistant

Principal at a high school, reported Applicant became angry during a conversation and threatened to “Fuck her up,” and that the alleged victim was in fear of receiving a battery and requested Applicant be arrested. Applicant was arrested and taken into custody. The case was Stricken with Leave to Reinstate. On her Personal History Questionnaire (“PHQ”) Applicant reported a 10-day suspension as the result of a verbal altercation with the dean of students over a change in lockers between students. Applicant said she tried to kick the dean, but security stopped her. She reported she was arrested but the case was dismissed. During polygraph exam questioning Applicant said she’d been arrested for aggravated assault of a school employee and that she’d threatened the dean of students by saying she’d kick her ass and that the case had been dismissed in court.

April 6, 2005. “Assault-Simple.” Alleged victim reported Applicant threatened to “kick his ass” when during the alleged victim’s hallway duty in the high school Applicant became disorderly and refused to follow direction. Applicant was arrested. No disposition was reported.

September 28, 2005. “Battery-Aggravated-Other Dangerous Weapons.” It was reported Applicant was not allowed into the school without a parent because Applicant had battered another student. Two witnesses broke up the fight. Applicant was then said to have thrown a tape dispenser at the other, who then picked up the dispenser and hit Applicant in the head causing her to bleed. Applicant then picked up scissors and attempted to strike the person who had hit her in the head. Both were arrested and Applicant went to the hospital. Applicant explained on her PHQ that she’d been arrested for fighting with another student and that she’d been given a suspension. During the polygraph exam she said she’d been in a fight at school and was taken to the police station and picked up by her mother.

In an undated incident when she was 22 years old. During her polygraph exam,

Applicant said that when she was 22 years old her ex's sister's car had been vandalized so "they retaliated in the same way to that person's car."

(Background Investigation Report, p. 1-4)

Basis #2

IV-G. Disqualification Based on Indebtedness, in relevant part as cited by Department:

2. "Any applicant who owes a debt to the City of Chicago at any time during the processing will be given a reasonable amount of time to clear those debts. Any applicant who owes a debt to the City of Chicago at the time of hire will be found unsuitable for employment." (Background Investigation Report, p. 5)

Department cited the following conduct, in summary:

As of April 2023, Applicant owed \$191.34 for an unpaid citation for failure to have a City sticker. (Background Investigation Report, p. 5-6)

Basis #3

IV-H. Disqualification Based on Other Conduct, in relevant part as cited by Department:

1. "Police officers are required to show respect for authority, uphold the law, and defend the dignity and rights of the public. Therefore, any applicant who has engaged in conduct that exhibits a pattern of repeated abuse of authority; lack of respect for authority or law; lack of respect for the dignity and rights of others; or a combination of traits disclosed during the pre-employment investigation that would not by themselves lead to a finding that an applicant is unsuitable for employment, but when taken as a whole, exhibit that the applicant is not suited for employment as a police officer, will be found unsuitable for employment." (Background Investigation Report, p. 6)

...

4. "Any applicant who has engaged in conduct affecting public health, safety and decency, including but not limited to disorderly conduct, illegal gambling, child endangerment or other offenses may be found unsuitable for employment." (Background Investigation Report, p. 10)

Department cited the following conduct, in summary:

The conduct described in Basis #1 above. Additionally, when Applicant was 18 years old her driver's license was suspended because while driving her mother's car, she was involved in an collision, did not have insurance and was cited for driving without insurance. She was ordered in court to obtain liability insurance and her license was reinstated after providing proof

of insurance. Applicant reported this on her PHQ. (Background Investigation Report, p. 6-14).

Basis #3

IV-H. Disqualification Based on False Statements or Omissions and/or Failure to Cooperate in the Application Process, in relevant part as cited by Department:

1. “Applicants are required to cooperate with the City of Chicago and the Chicago Police Department in all matters relating to the processing of their applications for the position of Police Officer. Any applicant who fails to cooperate with the City of Chicago and its Police Department in processing his or her application for the position of Police Officer shall be disqualified. Prohibited conduct within this category includes, but is not limited to: failure to provide any required information; failure to respond the requests for information in a timely manner; failure to respond to requests for interviews in a timely manner; failure to respond to requests; failure to fully disclose all known information requested, whether it is beneficial or prejudicial to the applicant; making false or misleading statements in connection with any part of the application process; failing to include any material or relevant information requested by the City of Chicago or the Chicago Police Department; or failing to appear for scheduled appointments or processing sessions as directed.

Department cited the following conduct, in summary:

The Background Investigation Report referenced PHQ Q19, Q63 and Q65 and the conduct complained of in Basis #1 above as it relates to the April 6, 2005; February 23, 2007 and the October 21, 2018 incidents. Department did not elaborate how this conduct violated the standards. Additionally, Department cited “Drug Usage” in that Applicant reported using marijuana on her PHQ four times in 2022, but that during her virtual interview she said she first used marijuana in 2004 and last used in October 2022 for a total of 10 times, and then during the polygraph exam reported she first used marijuana in high school and last used it in 2023 for a total of approximately 20 times.

(Background Investigation Report, p. 14-17)

Appeal, Response and Reply

The following is a summary.

Appeal. Applicant explained that the incidents in high school were when she was maturing and learning and that she’s since grown into a responsible and law-abiding person who

deeply respects authority and the principles of integrity, justice and public safety, and has actively worked to overcome past challenges. Applicant specifically addressed the following:

As to the September 28, 2005 “Battery-Aggravated-Other Dangerous Weapons,” Applicant explained she did not start the fight and that it was self-defense. She explained a group of females were targeting a close friend and they encountered her first. “I did not initiate the altercation, but rather defended myself and my friend from a potential threat” and that her actions did not come from a desire to break the law or be aggressive.

Regarding the October 18, 2018 “Simple Battery-Family Violence,” Applicant explained that she was not the aggressor, and no charges were brought and that she removed herself and her children at four in the morning to ensure their safety and to avoid any further confrontation.

As to the parking ticket, Applicant is on a payment plan and explained she will pay it fully.

Applicant also provided letters of Recommendation attesting to Applicant’s general good character, reliability and work ethic. One was from a correctional treatment officer and close friend of “several years” (a Licensed and Master of Social Work); a work colleague of three years; another co-worker from a state rehabilitation and education center; and another work colleague (also a Licensed and Master of Social Work). (Appeal Attachments) (Appeal)

Response. In summary, Department iterated it stands on the reasons and bases set forth in the disqualification letter, and cited caselaw supporting its rights to disqualify. (Response)

Findings of Fact

All filings were timely.

Department provided its factual basis for the decision to disqualify Applicant and remove Applicant's name from the eligibility list for which Applicant was given the opportunity to file a

written appeal specifying why the Department erred in the factual determinations underlying the Department's decision and/or provide additional facts directly related to the bases for disqualification.

Applicant did engage in conduct described in the three high school incidents. She was the aggressor in two of those incidents with the two employees, one of which was the dean of students. Those individuals were in authority at the time and Applicant was in high school. As to the physical altercation with the other student, it appears they were both aggressive. Applicant throwing a tape dispenser at someone and grabbing a scissors to attack them were actions meant to cause harm to another and were not in self-defense. Applicant is no longer in high school, and while they are somewhat remoted in time, they did lead to her arrest... three times... and they were all violent in nature.

Applicant did engage in the conduct of vandalizing a car as a 22-year-old person. This is also violent in nature, and she was an adult at the time.

Applicant did not engage in the conduct described in the domestic incident except to the extent she may have scratched the individual in a tussle over bedding. She removed herself and her children. It appears to have been in self-defense.

Applicant did engage in false statements and/or omissions during the application process in that she was inconsistent in her reported use of marijuana in different forms of inquiry albeit the differences were minimal, and she seemed not give complete answers on her PHQ when it came to her encounters with the law. She eventually answered fully, but it took prodding by the investigators.

Applicant did engage in driving a vehicle without insurance, which she then rectified after her court appearance.

Applicant did engage in the conduct of having a debt due and owing to the City. It has been a long time owed. Applicant asserts she is now on a payment plan, but there's no indication of when she entered into that plan and when it will be paid.

That Applicant enjoys a good reputation among those who wrote letters of recommendation and that Applicant has asserted she's grown up to be responsible and law abiding person now is commendable (although she was still using marijuana as an adult in Illinois while it was illegal). However, it does not erase what is in her background for this particular public safety role.

By a preponderance of the evidence, **Applicant DID NOT** provide sufficient additional facts directly related to and/or did not adequately specify why the Department erred in its factual determinations as to all bases presented. Conduct satisfying any one basis is enough to justify disqualification.

Conclusions of Law

Pursuant to the Municipal Code of Chicago ("MCC") 2-84-030 the standard of review for appeals of disqualification and removal of an applicant's name from the Eligibility List is that Applicant shall show by a preponderance of evidence that Department's decision to remove the applicant from the Eligibility List was erroneous (MCC 2-84-035(c)). Therefore, according to the law and procedures, findings and recommendations are based upon whether Applicant's Appeal shows by a preponderance of the evidence that Department erred in removing Applicant's name from the Eligibility List, based upon the employment standards established by the Department.

Applicant **DID NOT** show by a preponderance of the evidence that Department erred in the exercise of its decision to remove Applicant's name from the Eligibility List for the reasons stated herein.

Recommendation

Based on my findings and conclusions set forth above, I recommend that the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer be **affirmed**.

Respectfully submitted,



Laura Parry, Esq.
Appeals Officer

Date: December 17, 2023

POLICE BOARD DECISION

The members of the Police Board of the City of Chicago have reviewed the Appeals Officer’s findings, conclusions, and recommendations.

The Police Board hereby adopts the Appeals Officer’s findings, conclusions, and recommendation by a vote of 9 in favor (Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Ghian Foreman, and Andreas Safakas) to 0 opposed.

NOW THEREFORE, IT IS HEREBY ORDERED that the decision to remove [Name redacted], from the list of eligible applicants for the position of probationary police officer is **affirmed**.

This decision and order are entered by a majority of the members of the Police Board: Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Ghian Foreman, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF JANUARY, 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director