

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)	
[NAME REDACTED],)	No. 24 AA 13
APPLICANT FOR THE POSITION OF)	
POLICE OFFICER,)	(Candidate No. [redacted])
CITY OF CHICAGO.)	

FINDINGS AND DECISION

[Name redacted] (hereinafter referred to as “Applicant”) applied for a police officer position with the City of Chicago. In a letter dated December 10, 2023, the Office of Public Safety Administration (“OPSA”) 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 (“Notice”).

On February 6, 2024, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why OPSA erred in the factual determinations underlying the disqualification decision and 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”).

On March 26, 2024, OPSA filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). Applicant did not file a Reply. Police Board Appeals Officer Mamie Alexander has reviewed the Notice, Appeal, and Response.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Mamie Alexander, 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

Applicant filed a timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago, and the Response was filed within the time period allowed by the Police Board Rules of Procedure.

According to the Notice, Applicant was removed from the Eligibility List for the following reasons:

- IV. Pre-employment Investigation Standards for Applicants to the Position of Police Officer

B. Disqualification Based on Criminal Conduct

1. One purpose of the pre-employment investigation is to determine whether the applicant has engaged in criminal conduct. This is important because the police hold a unique position of public trust and are tasked with protecting the public and enforcing the law. Even more than other City employees, Chicago Police Department officers are specifically tasked with and sworn to uphold the law. Therefore, an applicant may be disqualified from consideration for a police officer position if there is evidence that the applicant has engaged in criminal conduct, even if the applicant was never convicted of any criminal offense. Applicants with a history of criminal conduct that falls within the Department's disqualification standards are deemed unable to protect the public and its trust in the police. It is the conduct itself, not the fact that the applicant was convicted, that makes the applicant unsuitable for employment.
2. There are various types of proof which indicate criminal conduct, including a record of conviction or an admission that indicates the applicant engaged in criminal activities. A record of conviction or an admission will be prima facie evidence that the applicant engaged in criminal conduct.
3. Unlike a record of conviction or an admission, an arrest record merely indicates an allegation of criminal conduct and must be investigated further in order to be the basis for disqualification. When investigating an arrest record, the Investigator must, to the extent reasonably possible, secure evidence, including but not limited to statements obtained from interviews with police officers, victims and witnesses, which will be used to determine whether the applicant engaged in disqualifying criminal conduct.
4. In describing examples of disqualifying conduct, these Standards may refer to the Illinois Compiled Statutes. The references to the Illinois Compiled Statutes are descriptive only. Any similar federal offense, military offense or offense in any other jurisdiction within the United States (state or local) or any foreign jurisdiction may

serve as a basis for disqualification.

5. The Standards are as comprehensive as possible; however as noted above, they cannot encompass every possible scenario. Failure to enumerate any particular offense does not exclude such offense from being the basis for disqualification. Commission of any criminal or quasi-criminal act may result in disqualification from employment as a Police Officer if it is determined that the acts or omissions of the application make him or her unsuitable for the position of Police Officer.

6. Felonies

An applicant who has engaged in any conduct which would constitute a felony is not eligible for employment.

7. Other Criminal Conduct

(d) Conduct Involving the Unlawful Use of Weapons

Police officers are generally required to possess and occasionally use weapons in the exercise of their duties. An applicant's prior unlawful use of a weapon demonstrates his or her inability to handle weapons judiciously, a vital requirement necessary to protect the public and its trust in the police. Therefore, any conduct involving the unlawful use of weapons will be grounds for disqualification. Conduct involving the unlawful use of weapons includes but is not limited to, conduct which would constitute the knowing sale, manufacture, purchase possession, carrying or use of a prohibited weapon, ammunition, enhancements, or projectiles; the discharge of any weapon in a prohibited manner; or gunrunning. 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 3 years (from the date of PHQ Submission), or more than (1) time in his or her life, will be found unsuitable for employment.

H. Disqualification Based on Other Conduct

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.

V. Rules of Conduct

CPD Rules and Regulations: Rule #1: Violation of any law or ordinance.

CPD Rules and Regulations: Rule #2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

In addition to each of the above violations, OPSA also alleges that Applicant violated the following sections of the Illinois Compiled Statutes:

(720 ILCS 5/16-1) Sec. 16-1 Possession of Stolen Property
(720 ILCS 5/24-1) Sec. 24-1 Unlawful Use of Weapons

Applicant was disqualified by OPSA for criminal conduct and conduct involving the unlawful use of weapons based on his 2011 arrest for UUW and possession of a stolen firearm, along with his admission that he purchased a handgun “on the street” for protection.

Applicant was also disqualified for “other conduct” based on his admission that in February, 2023, he left three firearms in his vehicle overnight in a parking lot at his apartment complex, and they were stolen from the vehicle.

Appeal and Response

Applicant appeals the decision, stating that an old arrest on his record should not overshadow his qualifications and commitment to serving and protecting the community. He states that he is a “dedicated and driven individual,” and has long aspired to serve the community as a member of the “esteemed” Chicago Police Department (“CPD”). Applicant says that his unwavering commitment to public safety has motivated him to pursue becoming a police officer “with the utmost dedication and integrity.”

Applicant believes that his 2011 arrest does not reflect his character and values, as he has “undergone significant growth” since then. Applicant shares that he has taken steps to enhance

his qualifications and has sought guidance from seasoned law enforcement professionals to gain firsthand knowledge of the field.

Applicant claims that he was unaware that the firearm that he was carrying was stolen, and states that the charges were reduced to a misdemeanor, then dismissed. Applicant states that he is now a responsible gun owner with a CCL, and is eager to contribute his skills, passion and dedication to the CPD.

OPSA's Response states that the appeal was reviewed, and OPSA relies upon the facts and evidence relating to the disqualification contained in Applicant's file. OPSA maintains that the pre-employment disqualification standards under which Applicant's disqualification decision were based upon are clear (namely, Disqualification based on Criminal Conduct, Conduct Involving the Unlawful Use of Weapons, and Other Conduct). OPSA states that the evidence in Applicant's file supports its decision to disqualify Applicant from hiring, and OPSA is within its right to do so, citing *Apostolov v. Johnson*, 2018 IL App (1st) 173084; ¶¶ 24, 31 and *Johnson v. O'Connor*, 2018 IL App (1st) 171930, ¶¶ 16-17, 20.

OPSA also states that had Applicant been in their employ, he would have been in violation of multiple CPD rule violations, "each of which would serve by themselves as grounds for disqualification." OPSA adds that Applicant's history is extremely troubling and demonstrates that Applicant would be unable to fulfill the CPD's mission to "strive to attain the highest degree of ethical behavior and professional conduct at all times."

Findings of Fact

Filings were timely.

OPSA provided the factual basis for its decision to disqualify Applicant and remove his name from the eligibility list. OPSA determined that Applicant's criminal conduct, conduct

involving the unlawful use of weapons, and other conduct were grounds for disqualification. OPSA articulated the Standards by which the conduct was assessed by section and paragraph, and articulation of the Standard gives reasonable notice as to the basis for disqualification.

Criminal Conduct Involving the Unlawful Use of Weapons

According to the case report, on May 12, 2011, CPD officers initiated a traffic stop of Applicant's vehicle. During the course of the stop, when asked for proof of insurance, Applicant replied that it was "in the glove box." While searching the glove compartment, officers recovered a 9mm semi-automatic handgun which was loaded with one live round in the chamber, and thirteen live rounds in the magazine. Applicant was arrested and charged with U UW, a Class 4 felony. Applicant later admitted to the arresting officers that the recovered handgun was his, and further investigation revealed that the firearm had previously been reported stolen. When questioned further about the handgun, Applicant advised the CPD detective that he purchased the handgun on the street for protection from an unknown person. Applicant denied having any involvement in the theft of the handgun.

Applicant explains that although he was initially arrested and charged with felony U UW and possession of a stolen firearm, the case was eventually reduced to a misdemeanor, then dismissed in court. He maintains that he was unaware that the firearm was reported stolen and had no intention of possessing stolen property or engaging in any unlawful activities. Applicant states that he understands the importance of ensuring that firearms are not in the hands of people who should not possess them, and cooperated fully with the CPD investigation.

Other Conduct

During his pre-employment investigation, Applicant disclosed that on February 27, 2023

he went to Eagle Sports Range with three firearms “to go shooting.” Applicant states that because he did not have his FOID card with him, he was not allowed to shoot. He says that he left the range and parked his vehicle in the parking lot of his apartment complex for the night.

Applicant stated that he left three firearms in the vehicle-one Glock 23, one Canik TP9SF, and one Kimber 1911. Applicant says that when he returned to the vehicle the next day, his vehicle was broken into, and the firearms were missing. Applicant also claimed that due to a problem with his key fob, the vehicle does not always lock. Applicant states that he reported the theft to the Richton Park Police Department, and a report was made.

Applicant shares that he has completed training courses in conflict resolution, community engagement, and de-escalation techniques, all of which are essential skills for a successful career in law enforcement. He states that although he made mistakes in the past, he has grown since then, and has been on a “professional and academic journey” where he has consistently demonstrated the necessary qualities to excel as a probationary police officer. This includes strong leadership skills, effective communication abilities, and a “steadfast commitment to upholding the principles of justice and fairness.” Applicant declares that he is eager to contribute his skills, passion and dedication to the CPD.

Conclusions of Law

Section IV. of OPSA’s Special Order 21-01 contains the Pre-Employment Investigation Standards for Applicants to the Position of Police Officer (“Standards”) that are applicable to this Appeal.

OPSA alleges that Applicant’s arrest for U UW and possession of a stolen handgun in 2011 constituted disqualifying criminal conduct under Section B of the Standards. Section B(1) states: “an applicant may be disqualified from consideration for a police officer position if there

is evidence that the applicant has engaged in criminal conduct, even if the applicant was never convicted of any criminal offense.” Section B (2) states: “a record of conviction or an admission will be prima facie evidence that the applicant engaged in criminal conduct,” and Section B(6) states: “An applicant who has engaged in any conduct which would constitute a felony is not eligible for employment.”

Applicant admitted that he had a loaded handgun in his glove compartment at the time of his arrest but stated that he was not aware that it was stolen. Regardless of whether it was stolen, Applicant knowingly kept a loaded handgun in the glove compartment of his vehicle without the requisite CCL, which is a Class 4 felony under Illinois law.

Conduct Involving the Unlawful Use of Weapons

Furthermore, Section B(7)(d) specifically states: “...An applicant's prior unlawful use of a weapon demonstrates his or her inability to handle weapons judiciously, a vital requirement necessary to protect the public and its trust in the police. Therefore, any conduct involving the unlawful use of weapons **will** be grounds for disqualification.” (Emphasis Added). Applicant was arrested and charged with UUW, and admits that he had the firearm in his glove compartment without a valid CCL. Applicant also admits that he purchased the firearm on the “street” for protection.

Applicant argues that the charge was reduced from a felony to a misdemeanor, and later dismissed. However, Section B focuses on Applicants *conduct*, not the ultimate conclusion of the criminal case. Therefore, the act of possessing a stolen, loaded firearm in his vehicle could constitute grounds for disqualification based on Section B of the Standards.

Other Conduct

Applicant admitted to the R/I that in 2023, he failed to properly secure three firearms by

leaving them in his vehicle overnight. As a result, they were stolen. Applicant also states that there was no damage to his vehicle, and claims that the key fob on his vehicle does not always lock the doors. This conduct could be grounds for disqualification based on Section H of the Standards.

In addition to Sections B and H of the Standards, Applicant's conduct also violated numerous sections of the CPD Rules of Conduct and the Illinois Compiled Statutes. No additional facts, evidence or arguments were submitted in Applicant's Appeal that support his contention that OPSA erred in disqualifying Applicant based on his criminal conduct, conduct involving the unlawful use of weapons, and other conduct.

In considering and weighing the numerous grounds for disqualification that were presented, Applicant has failed to show, by a preponderance of the evidence, that the decision to remove him from the Eligibility List was erroneous.

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,

/s/ Mamie A. Alexander

Mamie Alexander
Appeals Officer

Date: June 13, 2024

POLICE BOARD DECISION

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

The Police Board hereby adopts the Appeals Officer's findings, conclusions, and recommendation by a vote of 7 in favor (Kyle Cooper, Paula Wolff, Claudia Badillo, Mareil  Cusack, Nanette Doorley, Andreas Safakas, and Justin Terry) 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, Claudia Badillo, Mareil  Cusack, Nanette Doorley, Andreas Safakas, and Justin Terry.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20th DAY OF JUNE 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director