

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 24 AA 19**
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 February 6, 2024, 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 21, 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 31, 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.

I. Disqualification Based on False Statements or Omissions and/or Failure to Cooperate in the Application Process

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 to requests for information in a timely manner; failure to respond to requests for interviews in a timely manner; 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.

Applicant was disqualified by OPSA for his criminal conduct and false statements and omissions and/or failure to cooperate in the application process based on his 2014 arrest for Deceptive Practices. Applicant was also disqualified for his failure to disclose the arrest during his polygraph examination, Personal History Questionnaire (“PHQ”) or Kentech interview.

Appeal and Response

Applicant appeals the decision, stating that there has been a “misunderstanding,” as the charge was dismissed and “never made it to the judge.” He claims that he was never arrested, and voluntarily went to speak with officers at the Joliet Police Department (“JPD”) after they contacted him.

Applicant stresses that the allegations were made ten years ago, and following this

incident, he served in the Marine Corp. He states that he takes the “charges brought” against him very seriously, and emphasized that he has always strived to act with “honesty and integrity” in all aspects of his life. Applicant says that he is confident that he would be a valuable asset to the CPD, and is “fully committed to serving with fairness, compassion, and respect for all individuals.”

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 and False Statements or Omissions and/or Failure to Cooperate in the Application Process). 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 asserts that Applicant was in fact arrested, mirandized and charged with Deceptive Practices, and his fingerprints confirmed the arrest and misdemeanor charges. OPSA notes that despite this confirmation, Applicant asserted, and continues to assert that he was not arrested. OPSA adds that Applicant’s history and refusal to answer certain questions is extremely troubling and serves as grounds for disqualification.

Findings of Fact

Filings were timely.

OPSA provided the factual basis for its decision to disqualify the Applicant and remove his name from the eligibility list. It determined that Applicant’s criminal conduct and false statements and omissions and/or failure to cooperate in the application process 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

According to the police report, on May 13, 2014, Applicant and a friend entered a Walgreens in Joliet, IL. Applicant went to pick up a prescription at the pharmacy and attempted to pay for it with a counterfeit \$20 bill. The pharmacist looked at the bill, determined it was fake, and denied the transaction. Applicant replied, "Just keep it then," and paid for the medication with other currency. JPD officers arrived at Walgreens and reviewed the surveillance footage with the store manager. Applicant was positively identified and the JPD contacted him to come to the station for questioning. After the investigating officer asked Applicant to voluntarily show him the money in his pocket, Applicant pulled out two \$20 bills, one of which had the same serial number as the counterfeit bill used by his friend at a different register in the same Walgreens that day. Although Applicant admitted to giving the pharmacist a \$20 bill, he denied making copies of the money, denied that anyone he knew copied the money, and could not explain how it came into his possession.

As a result, Applicant was placed under arrest for forgery. After consulting with the State's Attorney, Applicant was charged with the lesser charge of Deceptive Practices, a Class A Misdemeanor.

Applicant denies that he was arrested, and states that he voluntarily spoke to officers from the JPD. He explains that the case was dismissed and "never made it to the judge." A copy of the case disposition was included in the Appeal.

False Statements or Omissions and/or Failure to Cooperate in the Application Process

Applicant failed to disclose his arrest for Deceptive Practices in his PHQ, polygraph examination, and Kentech interview. In addition, when given an opportunity to review his PHQ, Applicant failed to note any changes and/or updates verbally to the Investigator and failed to write any changes on the printed PHQ. In fact, Applicant answered "No" when asked, "Have you ever had to appear in any court for any reason?" He also answered "No" in his updated PHQ when asked, "Have you ever been questioned by the police regarding a criminal investigation?"

Furthermore, Question 94 of the PHQ, labeled "Additional Information," states: "Include anything significant in your background that has not already been addressed in this questionnaire and should be disclosed in your background." Despite this specific question, Applicant failed to disclose his arrest and misdemeanor charge for Deceptive Practices.

Applicant maintains throughout his Appeal that he was never arrested and went to the station when called by the police because morally, "it was the right thing to do."

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.

Criminal Conduct

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." Although Applicant stresses that the matter was dismissed by the "Secretary of State" and never made it to the judge, it is the *conduct*, not a conviction, that serves as the basis for disqualification.

Section B(2) states: "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.” Applicant admitted to the investigating officer that he handed what turned out to be a counterfeit \$20 bill to the pharmacist, then gave him a different bill when it was rejected.

Section B(4) states: “In describing examples of disqualifying conduct, these Standards may refer to the Illinois Compiled Statutes.” Applicant attempted to purchase medication with a counterfeit \$20 bill and had another counterfeit \$20 bill in his possession when questioned by the investigating officer. Applicant does not deny being in possession of the counterfeit bills, and when advised by the pharmacist that the bill was fake, told him “Just keep it then,” without arguing or questioning the pharmacist. Therefore, it is probable that Applicant knew that the bill was counterfeit when he gave it to the pharmacist.

Applicant could also be considered an accomplice to his friend, who successfully passed a counterfeit \$20 bill at Walgreens with the exact same serial number as a bill that Applicant had in his possession. Based on his investigation, the JPD’s investigating officer concluded that Applicant’s conduct constituted Forgery-a felony. As a result, Applicant’s criminal conduct could be considered grounds for disqualification based on Section B(4) of the Standards.

False Statements or Omissions and/or Failure to Cooperate in the Application Process

Section I(1) of the Standards states: “Honest and complete answers to background questions asked of applicants during the application process, as well as full cooperation with the application process, are thus extremely important to the maintenance of the Chicago Police Department's force and the integrity of its hiring process.” Furthermore, “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.” A failure to cooperate can include **“failure to fully disclose all known information requested, whether it is beneficial or prejudicial to the applicant” and/or “making false or misleading statements in connection with any part of the application process.”** (Emphasis added.)

Applicant failed to disclose his arrest in his PHQ, polygraph examination, or Kentech interview. Even after being allowed to make changes to his answers, Applicant failed to disclose his arrest. Assuming arguendo that Applicant truly believes that he was not arrested, he does not deny being questioned by the JPD. However, Applicant answered “No” when asked whether he had ever been questioned by the police regarding a criminal investigation. Applicant also answered “No” when asked whether there was anything significant in his background that had not already been addressed in his PHQ.

It should be clear that when applying to be a police officer, a prior request to come to another police department for questioning regarding counterfeit bills is “significant,” and should be disclosed. Therefore, this omission (along with Applicant’s other false statements and omissions) could be considered grounds for disqualification based on Section I(1) of the Standards.

No additional facts, evidence or arguments were submitted in Applicant’s Appeal that support his contention that Department erred in disqualifying Applicant based upon his criminal conduct and false statements or omissions and/or failure to cooperate in the application process. In considering and weighing the 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: July 12, 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 8 in favor (Kyle Cooper, Paula Wolff, Steven Block, Mareilé Cusack, Nanette Doorley, Kathryn Liss, 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, Steven Block, Mareilé Cusack, Nanette Doorley, Kathryn Liss, Andreas Safakas, and Justin Terry.

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

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director