

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 24 AA 25**
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 4, 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 April 5, 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 May 21, 2024, the Office of Public Safety Administration filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). 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 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.
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 (3) years (from the date of the PHQ submission), or more than (1) time in his or her life, will be found unsuitable for employment.

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.

Applicant was disqualified by OPSA for her criminal conduct, conduct indicating violent tendencies, and conduct involving the unlawful use of weapons. In 2017, Applicant was arrested and charged with U UW and aggravated assault following an altercation with her ex-wife and was sentenced to 300 days imprisonment. In addition, Applicant was the named suspect in police reports alleging harassment by electronic means, retail theft, domestic trouble, and disorderly conduct.

Appeal and Response

Applicant appeals the decision, stating that the disqualification decision was based on

“misunderstandings and misrepresentations.” Applicant stated that she has no knowledge of the charges and was never arrested for electronic harassment or theft. She says that since the October 2016 allegations of domestic trouble and disorderly conduct, she has not had any encounter with law enforcement “of any sorts.” She then offers that in 2017, she was arrested in Kankakee County for UUW and aggravated assault. Applicant states that the UUW charge was dismissed, and she was convicted and sentenced to 180 days for aggravated assault. Applicant claims that she has never had a physical altercation with her ex-wife, and stresses that all of these events happened “five plus years ago.” Applicant states that her record has been “sealed and expunged,” and she has since obtained her CCL. Applicant notes that she has tried to get information on her cases from Kankakee County and the Illinois State Police, but nothing comes up because her record is clear.

Applicant shares that she has always held a deep respect for law enforcement and has undergone extensive training and education to prepare herself for this role. She states that she is committed to upholding the highest standards of integrity and professionalism as a member of the Chicago Police Department.

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 Indicating Violent Tendencies, and Conduct Involving the Unlawful Use of Weapons). 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 adds that Applicant's history is extremely troubling, and had she been in their employ, she would have been in violation of multiple Rule violations, and at least one felony, "each of which would serve by themselves as grounds for disqualification."

Findings of Fact

Filings were timely.

OPSA provided the factual basis for its decision to disqualify Applicant and remove her name from the eligibility list. It determined that Applicant's criminal conduct, conduct indicating violent tendencies, and conduct involving the unlawful use of weapons 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.

According to the police report, on January 21, 2017, Applicant was arrested by the Kankakee Police Department ("KPD") for Aggravated UUW/ON Person, a Class 4 felony, and aggravated assault following a domestic dispute with her ex-wife, [Name redacted] ("[Name redacted]"). [Name redacted] alleges that after an argument ensued during a phone call, Applicant drove to her house, got out of her vehicle carrying a firearm, and began pounding on [Name redacted]'s front door. When [Name redacted] called out for help to a police squad car across the street, Applicant threw the weapon under a car in the driveway. [Name redacted] reported this to the police officer, who secured the weapon and placed Applicant under arrest. Applicant pled guilty to aggravated assault and was sentenced to 300 days imprisonment. The UUW charge was dismissed.

The R/I interviewed [Name redacted], and she confirmed the allegations contained in the initial police report. [Name redacted] shared that she has experienced both physical and emotional abuse from Applicant. She stated that there were several incidents of domestic violence in their relationship, and Applicant has considerable anger issues. [Name redacted] said that after their breakup, Applicant began stalking and threatening her. [Name redacted] added that she would “absolutely not” recommend Applicant for the position of police officer and wants no further contact with Applicant.

While Applicant admitted to pleading guilty to reduced charges and spending “180 days” in prison, she maintains that she has never had a physical altercation with [Name redacted]. Applicant states that the arrest has since been sealed and expunged, and she has a “clean record.”

In addition to the domestic incidents with [Name redacted], Applicant was the named suspect in a CPD police report dated March 14, 2016 for harassment by electronic means. According to the report, the victim, Applicant’s acquaintance, stated that she received a text message from Applicant stating: “I’m gonna bust out your car windows, put something in the gas tank, and beat up the body.” The victim confirmed the facts of the initial report when contacted by the detective and stated that she would consider seeking an order of protection. Applicant claims that she was not aware of the report, and was never arrested.

A CPD report dated September 26, 2014 names Applicant as the suspect of a retail theft. According to the report, the reporting officer was flagged down by a Subway clerk who claimed that Applicant came into the restaurant and created a disturbance over a sandwich. Applicant then began throwing tables and chairs around the restaurant and started drinking from a soda bottle without paying for it. The incident was captured on video, but Subway

declined to press charges when contacted by the detective for a follow-up. Applicant asserts that she was never arrested or charged for this incident.

Applicant stresses that these events happened over five years ago, and she is a different person now. She states that she knows she's made some mistakes in life, but she is not the same person that she was in 2014-2016. Applicant says that she has not gotten into any trouble since then and was able to obtain her FOID card and CCL in 2019. Applicant shares that she secured a full-time job, continued her education, and received her associate's degree in criminal justice in 2023. She believes that "one bad decision" should not prevent her from becoming a part of the Chicago Police Department. Applicant declares that she has always strived to conduct herself honestly and ethically, and is dedicated to serving and protecting the community with professionalism.

Conclusions of Law

Section IV. of the Bureau of Support Services Special Order contains the Pre-Employment Investigation Standards for Applicants to the Position of Police Officer ("Standards") that are applicable to this Appeal.

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(7)(c) states that "conduct demonstrating a propensity for violence" includes, but is not limited to assault and domestic violence. Applicant does not deny the conduct leading to her 2017 arrest for UUW and aggravated assault against [Name redacted]. In fact, Applicant pled **guilty** to aggravated assault and was sentenced to 300 days imprisonment. This conduct could be considered grounds for disqualification based on Sections B(2) and B(7)(c) of the Standards.

Applicant could also be disqualified based on the allegations of harassment by electronic means, theft, domestic trouble and disorderly conduct. Section B(1) specifically states: “It is the conduct itself, not the fact that the applicant was convicted, that makes the applicant unsuitable for employment.” Applicant does not deny the conduct, but rather states that she had no knowledge of the **charges** and was never arrested. Therefore, Applicant’s criminal conduct could be considered grounds for disqualification based on Section B(1) of the Standards.

Furthermore, Applicant does not deny possessing a firearm and threatening [Name redacted] prior to her 2017 arrest, and this conduct constitutes a felony. Section B(7)(d) states: “any conduct involving the unlawful use of weapons **will** be grounds for disqualification.” (Emphasis added.)

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 her 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 police officer be **affirmed**.

Respectfully Submitted,

/s/ Mamie A. Alexander

Mamie Alexander
Appeals Officer

Date: August 9, 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, Claudia Badillo, Steven Block, Mareilé Cusack, 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, Claudia Badillo, Steven Block, Mareilé Cusack, Kathryn Liss, Andreas Safakas, and Justin Terry.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 15th DAY OF AUGUST 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director