

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 24 AA 32**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Applicant No. [redacted])**
CITY OF CHICAGO.)

FINDINGS AND DECISION

[Name redacted] (hereinafter “Applicant”) applied for a probationary police officer position with the City of Chicago. In a letter dated April 10, 2024, 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. In support of its decision, Department attached the March 6, 2024 Completed Background Investigation (“Background Investigation Report”) in which Department cited conduct it alleged formed the bases of Disqualification(s) under its Pre-Employment Disqualification Standards for Applicants for the Position of Police Officer (“Standards”) Based on Criminal Conduct, specifically the sections on Felonies, Conduct Involving Drugs, and Conduct Indicating Dishonesty, on Membership or Association with Criminal Organizations; on Other Conduct and False Statements or Admissions and/or Failure to Cooperate in the Application Process (Collectively, “Notice”).

In a letter dated May 15, 2024, Applicant sought to appeal the disqualification decision to the Police Board (“Board”) by filing a written request seeking to 1) specify why the Department of Police (hereinafter referred to as “Department”) erred in the factual determinations underlying the disqualification decision *and/or* 2) bring to the Police 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 July 6, 2024, which is 49 days after the date of the Appeal. No Reply was filed.

Police Board Appeals Officer Laura Parry reviewed the Notice, Appeal, and Response and any documentary evidence submitted with each.

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 PARTIES

According to the Notice, 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, as cited by Department:

6. Felonies

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

...

7. a. Conduct Involving Drugs

...

"4. An applicant who knowingly and illegally sold, distributed or manufactured or delivered with the intent to deliver marijuana/cannabis will be found unsuitable."

...

b. Conduct Indicating Dishonesty

"(1) Credibility, honesty and veracity are extremely important characteristics for a police officer to possess on and off duty. Honesty is required to ensure the integrity of police operations and investigations and to protect the public and maintain its trust in the police. The pre-employment investigation therefore looks for information that shows that the applicant has a reputation or propensity for truthfulness, is believable and has a person history free from deceit or fraud.

(2) Any conduct demonstrating a reputation or propensity for dishonesty may be grounds for disqualification. Conduct demonstrating a propensity for dishonesty includes but is not limited to conduct that would constitute theft; embezzlement; forgery; false impersonation; identity theft; bribery; eavesdropping; computer crimes; fraud; money laundering; deceptive practices; or perjury.

(3) 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 the section that constitutes a misdemeanor within the last three (3) years (from the date of the PHQ submission), or more than one (1) time in his or her life, may be found unsuitable for employment."

"Illinois Compiled Statutes: Theft (720 ILCS 5/16-1) (from Ch. 38, par. 1601). (1) Theft of property not from the person and not exceeding \$500 in value is a Class A misdemeanor; [...] (4) Theft of property from the person not exceeding \$500 in value, or theft of property exceeding \$500 and not exceeding \$10,000 in value, is a Class 3 felony."

(Background Investigation Report, p. 1-4.)

Department cited the alleged following conduct, in summary:

Applicant admitted to theft of four or five pairs of sneakers, a box of assorted liquor and a \$600 suitcase from retail and liquor stores during widespread looting in 2020.

Applicant wrote on his PHQ at Q45 that he was pressured by his then girlfriend to sell marijuana on the street that she obtained for one week in 2013 to about five people for \$20 per exchange. Investigator reported Applicant stated he stopped selling and "is deeply regretful for that time." During the polygraph exam process, Applicant reported he sold marijuana for a month or two, and that he thought he was going to make more money from selling it, but he didn't so he stopped.

It was reported that when asked about gang affiliations during the background interview, Applicant indicated that he does not and had not had an affiliation with gangs or gang members and did not know any gang members in his neighborhood, however during the polygraph exam Applicant was reported to have admitted to participating in criminal activity "breaking stuff" when he was in a named gang¹ in 2017-2018.

¹ The Appeals Officer did not name the specific gang as it is irrelevant and to avoid giving notoriety to a potentially criminal organization. However, that information is within the file.

(Background Investigation Report, p. 1-4)

Basis #2

IV-F. Disqualification Based on Membership or Association with Criminal Organizations

1. "Police Officers are charged with upholding the law and defending the public from criminal activity. An applicant who is a member or affiliate of any criminal organization, including but not limited to a street gang, will therefore be found unsuitable for employment.
2. Prior membership or affiliation in a criminal organization may be grounds for disqualification. An applicant who is a former member or affiliate of a criminal organization will be required to produce acceptable evidence to show that the membership in or affiliation with the criminal organization ceased for a period of five (5) years ([from] the date of the PHQ submission) or more prior to the date of application, and that the applicant has no current membership or affiliation with any criminal organization at the time of processing or hire."

(Background Investigation Report, p. 4-5)

Department cited the following conduct that Applicant admitted that he was in a named gang from 2017-2018 as described in Basis #1 above.

(Background Investigation Report, p. 5)

Basis #3

IV-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."

...

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. 5-7)

Department cited the following conduct, in summary:

It was learned during the polygraph exam, Applicant and his friends would get into fights

against other groups of boys when they were in high school, and that on three occasions he pushed his then girlfriend when she was hitting him at her mother's house. He also admitted "he had a few drinks and was high driving" in 2020 and then in 2023 "he had a few drinks" and then drove a short way home.

Investigator reported checking the social media accounts operated by Applicant as disclosed on PHQ at Q51 and as he stated on February 23, 2024. A search of those accounts led the Investigator to conclude Applicant posted gang-related videos and/or comments on several occasions:

2/2/21 - "I was never going to fall' and violent related comments"

1/27/21- "Chicago females be like"

4/3/20 - "As soon as I come through"

8/16/20 - "Spitting with lil sis"

8/18/20 - "Wtf is that" and "A little black girl that's about to Fight"

Department also cited the selling of marijuana, gang affiliation and theft described in Basis #1 above.

(Background Investigation Report, p. 5-7)

Basis #4

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

1. "Honesty and credibility are vital characteristics for a police officer to possess in order to ensure the integrity of police operations and investigations and to protect the public and maintain its trust in the police. 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. Therefore, applicants are [expected]²required 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

² Department incorrectly cited as "required" instead of the language of the Standards which is "expected."

processing his or her application for the position of Police Officer [could]³ 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."

(Background Investigation Report, p. 7-8)

Department cited the following conduct, in summary:

During the polygraph exam Applicant reported his membership in a named gang, but in the background interview said that he does not and had not any gang affiliations or any knowledge of gang members in his neighborhood as described in Basis #1 above.

(Background Investigation Report, p. 8)

Applicant was born in June 1994. PHQ was submitted October 2023. Polygraph exam was January 2023.

Appeal and Response

The following is a summary.

Appeal. Applicant opened with well wishes and the assertion that there may have been a misunderstanding or oversight in evaluating the facts and circumstances of what was reported in the background investigation.

Theft. Applicant explained that shoes, a suitcase and liquor was stolen, that Covid-19 impacted him, that he had completed a semester at college and his work hours were cut and he wasn't making enough money to cover his family's bills in his role as the eldest of seven (7) children and he sold the items he stole to help his mother. Applicant stated that he regretted his

³ Department incorrectly cited as "shall" instead of the language of the Standards which is "could."

conduct which he now realizes hurt small business and communities and would not do it again, but that at the time he thought it was a way to solve financial problems.

Gang involvement. Applicant asserted that Department's depiction of his involvement is not accurate, and that he associated with those "friends" in high school from 2011-2013 and that after that time he did not affiliate with any gangs, that he had started city college in 2017-2018 and "wasn't hanging around [his] old friends at that time."

Drug usage. Applicant stated that he only ever used marijuana recreationally a handful of times.

Pushing ex-girlfriend. Applicant explained it was in self defense.

Driving after drinking alcohol. Applicant explained that in 2020 he took "a puff or two" [of marijuana] and had two (2) shots [of alcohol], and that he was drove safely for the eight-minute ride home.

Social media. Applicant stated that he was not depicting real life situations and that he was imitating movie scenes, rap battles and sitcoms, and "would never intentionally disrespect or put [him]self in a situation to harm or offend anyone on the internet."

Applicant closed by stating he has demonstrated he is an asset to his community and that many can attest to his character and see him in a positive light, he has grown, and that being a police officer will allow him to be a positive influence on young men and would show that anyone can make a change and be successful. He expressed his gratitude for consideration of the appeal and belief in the fairness and integrity of the decision making process of the Department.

(Appeal)

Response. Response was filed 49 days after the Appeal. In summary, Department through its Human Resources Division Director iterated it stands on the reasons and bases set forth in the

disqualification letter, and cited caselaw supporting its rights to exercise its discretion to disqualify.

Department also noted that Applicant admitted to the conduct alleged.

Department emphasized that an applicant may be disqualified if there is evidence of criminal conduct, even if there was never a conviction, citing the Standards under Section IV.B.1. and that if the conduct had occurred had he been in the employ of Department he would have been in violation of multiple rules of conduct.

Department concluded, "The applicant's history is extremely troubling [and] serves as ground for disqualification."

(Response)

FINDINGS OF FACT

Appeal was timely filed. Response was not. Response was filed 49 days after the Appeal. It should have been filed within 45 days according to Police Board City of Chicago Rules of Procedure, dated 18 February 2021, VII. E. Therefore the Response was not considered.

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.

Applicant sold marijuana at the very least a handful of times, at most for a couple of months depending on which version of his account is accurate. The hiring Standards state that an applicant who has illegally sold marijuana will be found unsuitable for employment. It is a mandatory disqualification, not a discretionary one. 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 this conduct.

Applicant stole items in excess of \$500, even if it were just the \$600 suitcase. While

Applicant explained why he did it and that he would not do it again, it does not negate the conduct. Theft of items in excess of \$500 is a felony under Illinois law. 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 this conduct.

As it relates to Applicant's affiliation with criminal organizations, there are three different accounts -- one from the polygraph exam, one from the background interview and one from the Appeal. The information from the polygraph exam was very specific as to the name of the gang and Applicant's affiliation and seems the most credible. The explanation in the Appeal directly refutes the report Applicant denied knowing any gang members when asked in the background interview. Applicant was not truthful through the application process as to the nature and extent of his affiliation with a named gang. 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 the conduct described under failure to cooperate with the application process. That said, by a preponderance of the evidence, **Applicant DID** provide sufficient additional facts directly related to and/or did adequately specify why the Department erred in its factual determinations that the affiliation continued past 2018, which is five years prior to the application.

Applicant likely acted in self defense in physical altercations with an ex-girlfriend in high school. By a preponderance of the evidence, **Applicant DID** provide sufficient additional facts directly related to and/or did adequately specify why the Department erred in its factual determinations as to this conduct.

It is unclear how many times there were physical altercations in high school, although the conduct was not denied. 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 this conduct.

Applicant clarified consuming alcohol or marijuana before operating a motor vehicle, but it is unclear if he was doing so in violation of the law. By a preponderance of the evidence, **Applicant DID** provide sufficient additional facts directly related to and/or did adequately specify why the Department erred in its factual determinations as to this conduct.

Applicant clarified his use of social media. It is unclear how the posts and comments espoused violence or gang messaging. By a preponderance of the evidence, **Applicant DID** provide sufficient additional facts directly related to and/or did adequately specify why the Department erred in its factual determinations as to this conduct.

By a preponderance of the evidence and the totality of the circumstances where appropriately considered under the Standards cited, **Applicant DID NOT** provide sufficient additional facts directly related to and/or did not adequately specify why the Department erred in its factual determinations for the bases for disqualification presented, except as to Disqualification Based on Membership or Affiliation with Criminal Organizations.

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)).

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

RECOMMENDATION

Based on the findings and conclusions set forth above, it is recommended that the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer be **AFFIRMED**.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Laura Parry", is written over a horizontal line.

Laura Parry, Esq.
Appeals Officer

Date: September 11th, 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 9 in favor (Kyle Cooper, Paula Wolff, Claudia Badillo, 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, Claudia Badillo, Steven Block, Mareilé Cusack, Nanette Doorley, Kathryn Liss, Andreas Safakas, and Justin Terry.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 19th DAY OF SEPTEMBER 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director