

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 24 AA 33**
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 March 18, 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 May 17, 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 July 3, 2024, OPSA filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). On August 7, 2024, Applicant filed with the Police Board her reply to OPSA’s Response (“Reply”). Appeals Officer Mamie Alexander has reviewed the Notice, Appeal, Response and Reply.

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. The Response and Reply were 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 will 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

a) Conduct Involving Drugs

The City of Chicago has an obligation to maintain a safe, healthy and productive work environment for its employees. An employee under the influence of drugs or alcohol while at work can be a serious safety risk to himself or herself, to other employees, and in certain instances, to the general public. The abuse of drugs or alcohol also has a negative impact on the

productivity and health of City employees. In order to maintain a safe and healthy work environment, the City of Chicago has established a zero-tolerance policy regarding the unlawful use of drugs for its employees. This policy also prohibits the illegal sale, delivery, receipt, possession or use of any controlled substance. Further, any applicant who has illegally sold, delivered, received, possessed or used any controlled substance (under state or federal law and regardless of geographical location) has, if falling into any of the five categories listed below, demonstrated that they present a safety risk to themselves and others. The City defines an illegal drug as any drug that is not legally obtainable in the United States, any drug used in a manner or for a purpose other than prescribed, or any prescription drug that was sold, delivered, received, possessed or used by or to a person to whom it was not prescribed.

While the Chicago Police Department does not condone prior unlawful drug use by its applicants, we recognize that some otherwise qualified candidates may have engaged in limited drug use at some time in their past. The following standards set forth the criteria for determining whether prior drug use makes an applicant unsuitable for employment. These standards balance the Chicago Police Department's need to maintain a drug-free environment and foster the public integrity needed to enforce applicable drug laws with the understanding that people sometimes have made mistakes that are not indicative of future performance or current abilities.

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

(6) An applicant who has used any illegal drug, other than marijuana, within the last (5) years (from the date of PHQ submission), or has engaged in more than minimal experimentation at any point in his or her life may be found unsuitable for employment.

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.

D. Disqualification Based on Prior Employment History

1. Police officers are required to work well with other officers, public officials, and members of the public, as well as maintain a professional work ethic. Further, a police officer's ability and willingness to obey orders is critical to the proper functioning and administration of the Chicago Police Department, which in turn is vital to the Chicago Police Department's ability to protect the public. A steady employment history is an indication that, among other things, an applicant has the ability to work well with others; follow workplace rules; perform his or her work to acceptable standards; and come to work on time and on a regular basis.
2. A poor employment history will result in disqualification for the position of Police Officer. An applicant who has been discharged or disciplined for offenses which include any act of dishonesty, incompetence, insubordination, absenteeism, tardiness, or failure to follow regulations will be found unsuitable for employment.

Applicant was disqualified by OPSA based on criminal conduct, other criminal conduct involving drugs, conduct indicating violent tendencies, and prior employment history. OPSA asserts that Applicant admitted to stealing from a department store, exchanged drugs for money, and used cocaine. She was also involved in numerous domestic incidents with her ex-husband, and voluntarily resigned from her position as a probationary officer with the Berwyn Police Department (“BPD”) in lieu of termination.

Appeal, Response, and Reply

Applicant appeals the decision, stating that she was only eighteen at the time of the shoplifting charge and was upfront and honest in her application. She states that this incident changed the trajectory of her life, as it motivated her to enlist in the Marine Corps, where she

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served honorably from 2009-2016.

Applicant asserts that her ex-husband, [Name redacted] (“[Name redacted]”) was the aggressor in their relationship and has consistently tried to tarnish her character and career. She states that she does not have violent tendencies and was actually awarded an order of protection against [Name redacted]. Applicant says that due to the stress of [Name redacted] constantly contacting her superiors at the BPD, she found it difficult to focus, and was ultimately forced to resign.

Applicant argues that she should not have been disqualified for conduct involving drugs. She states that she innocently exchanged marijuana when she was sixteen and trying to help a friend. Applicant says that she last used cocaine in 2019 and was close to the “five-year mark of last drug usage” when her CPD application was completed.

Applicant’s Appeal includes numerous exhibits, including photos, court documents, orders, military documentation, police reports, BPD investigative findings, and letters of recommendation.

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, Criminal Conduct, Other Criminal Conduct Involving Drugs, Conduct Indicating Violent Tendencies, and Prior Employment History). 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.

In her Reply, Applicant states that OPSA’s Response listed “disqualification remarks”

that were not included in the initial Disqualification letter. She reiterates the arguments contained in her Appeal, stating that she was a minor when the marijuana exchange took place, and she did not keep any of the money for herself. She also adds that she did not keep in contact with the friend that she exchanged marijuana for.

Applicant explains that [Name redacted] was abusive to her, and their marriage ended abruptly after he battered her. Applicant moved herself and her children from Georgia to Chicago to distance herself from [Name redacted].

Applicant states that [Name redacted] fabricated stories about her, and when he found out that she was working with the BPD, he began harassing her on social media. He also contacted the BPD alleging that Applicant was harassing him. [Name redacted] advised the BPD that he would not stop contacting them until Applicant was fired. Applicant's Appeal included two memos from the BPD Deputy Chief stating that following an investigation, [Name redacted]'s allegations were unfounded. Applicant states that she was advised by her BPD superiors that she had potential. However, [Name redacted]'s constant harassment caused Applicant to be distracted, and she ultimately resigned.

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, other criminal conduct involving drugs, conduct indicating violent tendencies, and prior employment history 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

Applicant admitted in her polygraph examination that in October, 2008 she took \$200 - \$300 worth of clothing from a Kohls Department Store in Milwaukee, Wisconsin. Applicant was detained by loss prevention employees and ticketed by the Milwaukee Police Department. Applicant appeared in court, pled no contest, and paid a \$500 fine. No police report or court case was found.

Applicant states that she was eighteen years old when this incident took place, and it was the most humiliating experience of her life. She states that it shifted the trajectory of her life, as she realized that she had to take her future more seriously. Applicant states that she made a conscious effort to turn her life around, and shortly after appearing in court, enlisted in the Marine Corps.

Conduct Involving Drugs

Applicant admitted in her polygraph that in 2006 her friend left a "stash" of marijuana at her house. Applicant's friend asked her to exchange marijuana from the "stash" for money when a different friend stopped by. Applicant participated in the exchange twice that day, and when her friend returned, she gave him the remainder of the marijuana and the money that she had collected. Applicant did not keep any of the proceeds. Applicant notes that she was a minor at the time and did not have the full mental capacity to think about her actions and the consequences that would follow.

Applicant admitted in her PHQ that she used cocaine in 2007 when she was a minor. She also admitted in her polygraph that she used cocaine again in 2019. Applicant states that it was a decision that she immediately regretted, as she holds herself to a higher standard. Applicant says

that she advised the R/I that she was concerned about the date of her last usage, but he assured her that it would not be a disqualifying factor because it was “close enough” to the 5-year mark.

Conduct Indicating Violent Tendencies

During a cursory Google name search, the R/I discovered a blog post on Tumblr written by [Name redacted] which names Applicant as the aggressor in their relationship. The post indicates that Applicant's family reached out to [Name redacted] stating that she has mental issues, including “manic bipolar and multiple personality disorder.” The post also states that Applicant punched [Name redacted] in the face on their wedding day, leaving a bruise. [Name redacted] claims that he has gone to court three times to get a restraining order against Applicant, but due to the living distance between them, they do not meet requirements.

Applicant asserts that she had no knowledge of the Tumblr blog post authored by [Name redacted] until it was mentioned in the disqualification letter, and she and her family have no contact with him. Applicant insists that [Name redacted] is the aggressor and fabricated stories in an attempt to harass her. Applicant provides photos from their wedding day and court documentation in support.

Prior Employment History

Applicant resigned from the BPD in lieu of termination in February, 2023 following two incidents in which she was reprimanded. In the first incident, Applicant was observed by her supervisor texting on the phone with her mother during a training session, and was written up. In the second incident, while Applicant and other BPD officers were chasing a fleeing vehicle, she was commanded to remove herself from the pursuit and allow the initial officers to continue. Applicant failed to do so in a timely manner, disobeying a direct order.

Applicant states that she avoided slowing down because she did not want to get hit from

behind and was “thinking and looking” for the safest way to remove her unit from the pursuit. While Applicant was still “thinking,” the supervisor called for all units to terminate the pursuit. Applicant states that her supervisor was not happy that she “did not remove us at the exact moment he told me to.”

On December 6, 2023, the R/I spoke with BPD Deputy Chief [Name redacted], who stated that Applicant started her field training strong, but fizzled out at the end. He stated that Applicant was dealing with some “family issues” relating to [Name redacted] that she needed to get taken care of before she could focus on a law enforcement career.

Applicant asserts that [Name redacted] continuously harassed her, and repeatedly made false claims to the BPD while she was working there with the sole intent to have her fired. Applicant states that even though she was cleared by BPD of [Name redacted]’s harassment claims, her job performance suffered.

Applicant shares that although the situation with [Name redacted] ultimately caused her to resign, her experience with BPD was filled with valuable personal and professional lessons, and she is grateful for her time there.

Applicant declares that her passion for law enforcement still stands. She states that since her departure from the BPD, she has dedicated her free time to self-reflection and improvement, and has implemented self-care routines to mitigate stress. Applicant says that she is a firm believer in “positive redemption,” and has worked toward it. She states that she is meant to be of service to her community and looks forward to doing so.

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. Applicant was disqualified by OPSA based on criminal conduct, other criminal conduct involving drugs, conduct indicating violent tendencies, and prior employment history. Based on the details provided in the Notice and Response, Applicant’s past conduct contains numerous grounds for disqualification based on OPSA’s Standards.

Disqualification Based on Criminal Conduct

Section B(1) of the Standards states: “...an applicant will 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...It is the conduct itself, not the fact that the applicant was convicted, that makes the applicant unsuitable for employment.”

Applicant admitted during a polygraph examination that she attempted to steal \$200-300 worth of clothing from a Kohl’s in Milwaukee, Wisconsin, in 2008. She was detained by loss prevention and ticketed by the Milwaukee Police Department. Applicant pled no contest and paid a \$500 fine. As a result, Applicant’s criminal conduct could be considered grounds for disqualification based on Section B(1) of the Standards.

Other Criminal Conduct Involving Drugs

Section B(7)(a)(4) of the Standards states: “An applicant, who knowingly and illegally sold, distributed, manufactured or delivered, with intent to deliver marijuana/cannabis will be found unsuitable.” Applicant was sixteen years old when she exchanged marijuana for money for a friend. Due to her age and the fact that she did not consume the marijuana or profit from the exchange, this incident alone may not constitute sufficient grounds for disqualification based on criminal conduct involving drugs.

However, Applicant also admitted to using cocaine in 2019 (and 12 years prior in 2007). Section B(7)(a)(6) states: “An applicant who has used any illegal drug, other than marijuana, within the last (5) years (from the date of PHQ submission), or has engaged in more than minimal experimentation at any point in his or her life may be found unsuitable for employment.” Applicant’s PHQ was submitted on May 4, 2023, and she last used cocaine in 2019. Therefore, Applicant’s criminal conduct involving drugs could be considered grounds for disqualification based on Section B(7)(a)(6) of the Standards.

Conduct Indicating Violent Tendencies

Section B(7)(c) of the Standards states: “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.”

[Name redacted] alleges that Applicant punched him in the face on their wedding day leaving a bruise. He also alleges that Applicant harassed him, and he has tried several times to get a restraining order. He claims that the court will not honor the order due to the distance already between them.

Applicant has denied harassing or abusing [Name redacted], and states that he is the perpetrator. She states that [Name redacted] physically battered her, which led to the end of their marriage. Applicant also obtained an order of protection against [Name redacted] and moved her family to Chicago. Applicant states that [Name redacted] has continued to harass her, and contacted the BPD with false complaints against her so often that an investigation was

conducted. The BPD found that [Name redacted]'s complaints of harassment and threats were unfounded.

Applicant provided photos of their wedding day, and no bruises are visible on [Name redacted]. She also provided copies of the BPD's findings, court documentation, and orders in support. Based on the documentation and other evidence presented, there is insufficient evidence to conclude that Applicant has violent tendencies.

Prior Employment History

Section D(1) of the Standards states: "Police officers are required to work well with other officers, public officials, and members of the public, as well as maintain a professional work ethic. Further, a police officer's ability and willingness to obey orders is critical to the proper functioning and administration of the Chicago Police Department, which in turn is vital to the Chicago Police Department's ability to protect the public. A steady employment history is an indication that, among other things, an applicant has the ability to work well with others; follow workplace rules; perform his or her work to acceptable standards; and come to work on time and on a regular basis."

Applicant resigned from the BPD in lieu of termination following two incidents in which she was reprimanded. Applicant was observed by her supervisor texting on her phone with her mother during a training session, and was written up. Even more disturbing, after being commanded to remove herself from a pursuit, Applicant failed to do so in a timely manner, disobeying a direct order.

Although Applicant asserts that [Name redacted] harassment caused her stress to the point where she was distracted and lost focus, Applicant's prior employment history with the BPD could be considered grounds for disqualification based on Section D(1) of the Standards.

No additional facts, evidence or arguments were submitted in Applicant's Appeal that support her contention that Department erred in disqualifying Applicant based upon her criminal conduct, other criminal conduct involving drugs, and prior employment history. 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 probationary police officer be **affirmed**.

Respectfully submitted,

/s/ Mamie A. Alexander

Mamie Alexander
Appeals Officer

Date: September 11, 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