

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)	
[NAME REDACTED],)	No. 24 AA37
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 3, 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 February 9, 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, Felonies and Conduct Involving Drugs (Collectively, “Notice”).

An appearance on behalf of Applicant was sent May 7, 2024. Appeal was sent June 3, 2024, in which 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 15, 2024. Reply was

filed August 15, 2024.

Police Board Appeals Officer Laura Parry reviewed the Notice, Appeal, Response, Reply and any relevant 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:

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. Applicant 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."

...

6. "Felonies

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

(Background Investigation Report, p. 1-2)

Department cited the alleged following conduct, in summary:

Background Investigator indicated that Applicant’s arrest report for an arrest on January 24, 2017 for Aggravated UUV/Loaded/No Foid (a violation of Illinois law

under 720 ILCS 5.0/24-1.6-A-1 Agg UUV/Veh/Fir Loaded/No Foid) could not be obtained to provide a more detailed summary of events, but that the summary of the arrest information was obtained through CLEAR and Applicant's Criminal History Report.

(Background Investigation Report, p. 2)

Basis #2

IV-B. Disqualification Based on 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 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.

...

'(3) An applicant who has sold, distributed[, possessed] or manufactured any illegal drug[, other than marijuana,] at any time will be found unsuitable for employment.

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

unsuitable.]”¹

...
(Background Investigation Report, p. 2-3)

Department cited the alleged following conduct, in summary:

On the Personal History Questionnaire ("PHQ") at Q#84, Applicant marked, "yes," to the question of whether he had ever possessed, sold, furnished and/or manufactured any drug, narcotic, controlled or illegal substance. Additionally, Applicant was reported to have stated during the polygraph exam that from his teen years until he was about 24 years old, he sold marijuana. The Background Investigation Report quoted of the polygraph disclosure, "he did not make much money from it as he was really small time." During an interview with a Kentech background investigator held virtually, it was reported Applicant disclosed he possessed and sold marijuana approximately 50 times from October 2006 to July 2012 -- unlawfully purchasing small amounts which he would then possess and sell at a marked up price -- and that at the time Applicant knew it was unlawful but that he was trying to make some money, explaining that he did this outside of his membership in a named street gang².

(Background Investigation Report, p. 3)

Applicant was born in September 1990. (Background Investigation Report, p. 1)

Appeal and Response

The following is a summary.

Appeal. Applicant opened with general statements of his background, accomplishments, certifications and "community endorsements" of Applicant's character, and the standard of review provided in Rules of Procedure Appeals by Applicants to the Chicago Police Department, Established pursuant to §2-84-035 of the Municipal Code of Chicago, dated 18 February 2021

¹ This is the correct text of the Standards, effective 15 August 2021.

² The name intentionally omitted in this Findings and Recommendation, the Appeals Officer finding it irrelevant.

("Rules"). The Appeal went on to address standards of review for Illinois state courts. Applicant then cited evidentiary rules from the 20063 revised Administrative Hearing Procedures Human Resources Board. (Appeal, p. 1-4, Exhs. A-B). Applicant also provided the Background Investigation Update to Kentech Report, dtd. 09 February 2024 (Exh. C).

Arrest for loaded firearm in a vehicle without a Firearm Owner Identification. Applicant explained that he was charged with a misdemeanor and paid a fine, and that he did have a valid FOID card at the time of the stop. Applicant then made arguments that the Investigator preparing the Background Investigation Report did not interview the Kentech investigator who originally noted the arrest from an interview that was conducted July 13, 2023, not on July 6, 2023 as stated in the report, and that the "disqualification appears to be based upon a report that is not in evidence." Applicant further noted that the Investigator found no arrest records or narratives through Department, Illinois State Police and FBI databases, including LEADS (Law Enforcement Agencies Data Systems) and NCIC (National Crime Information Center). Applicant also noted that while the Background Investigation Report relied upon information from a polygraph exam report, no such report was given to Applicant when records were supplied by the Department per this appeals process. Applicant further noted that the Background Investigation Report received by Applicant was not approved by signature of a supervisor. (Appeal, p. 5)

Drug History. Applicant argued that he "has not participated in any drug activities for twelve years," and was never convicted of any criminal activities related to drugs. Applicant argued the disqualification once again relied upon information obtained during the polygraph exam which was not produced to Applicant as requested through this process; relied on the report of the Kentech investigator summarizing Applicant's virtual interview but who the Background

3 For reference, the Administrative Hearing Rules were revised in 2022 and are available at the Human Resources Board web page.

Investigator who recommended disqualification did not interview (which Applicant appears to assert should have occurred); and also relied on answers given by the Applicant on the PHQ that Applicant submitted. Applicant noted that Department in its Standards recognizes that people make mistakes that are not indicative of future performance or current abilities and that proof of criminal conduct can be by record of conviction or an admission. (Appeal, p. 6)

Alleged Gang Affiliation. Applicant argued that any alleged gang affiliation is speculation, and that there was evidence to the contrary and "does not rise to the level of substantial evidence to disqualify a candidate." (Appeal, p. 6)

Applicant's Policy Arguments. Applicant referenced City of Chicago Policy on Background Checks requiring notice be given to Candidates if they may be excluded because of past criminal conduct or failure to disclose, arguing Applicant never was given notice. Applicant also argued he was entitled to give a written statement explaining any discrepancies between a disclosure form and a background check and details of what should be included and what the Department of Human Resources should then consider. Applicant also cited caselaw to support the proposition that it is the Applicant's actual conduct that should be considered along with the circumstances, and not necessarily just criminal convictions. Applicant also made arguments related to the Illinois Human Rights Act and EEOC and prohibitions against discriminatory hiring practices. (Appeal, p. 6-9).

Hearsay Evidence. Applicant argued that the information to disqualify Applicant was based on unreliable hearsay, and that each level of hearsay within hearsay "must conform to either a hearsay exception or to an exception to the definition of hearsay," citing treatise and caselaw. (Appeal, p. 9).

Admissions and Honesty. Applicant argued that he was disqualified based on his honesty

and that "[t]his fact alone should warrant reversal of his disqualification because it sends the wrong message" that applicants should hide their past criminal conduct to avoid "automatic disqualification," penalizing those who are honest about their past and rewarding those who hide theirs, which would encourage dishonesty. Applicant cited caselaw to support the proposition and the proposition that honesty, integrity, overall moral character, dependability, integrity, emotional stability, respect for authority and rights of others and good judgment are important for corrections officers and those involved in legal proceedings. (Appeal, p. 10)

Past Reversals of Disqualifications with Similar Facts. Applicant argued Department has historically disqualified applicants arbitrarily in a flawed process and is subject to a Consent Decree (Exh. D) because of its "numerous" failures which it argued requires officers be hired in a manner that reflects a broad cross section of the community and that Office of Inspector General ("OIG") in 2021 (Exh. E) concluded "that Black applicants, like [Applicant], were disproportionately disqualified in the hiring process" and that Department needed to evaluate its hiring process for bias toward African American applicants. Applicant included news articles to support the argument (Exh. F). Applicant also presented information regarding a Florida jurisdiction's consent decree's constitutionality. (Appeal, p. 11-13)

Response. Department clarified its Disqualification Based on Criminal Conduct regarding the loaded firearm in a vehicle alleged conduct. It clarified Applicant was arrested and charged with several counts in January 2017 -- disregarding a stop sign; expired registration (vehicle); driving without insurance; and driving on a suspended license; in addition to the aggravated unlawful use of weapon/loaded firearm in vehicle/no FOID card. It attached the Criminal History Report which showed Applicant pleaded guilty, was convicted and sentenced to one year of probation with special conditions to an amended charge of misdemeanor unlawful use of weapons under 720 ILCS

5/24-1-A-4. All other counts were not prosecuted. As to Applicant's history of illegal drug sales, Department iterated that Applicant admitted to years of illegal drug sales to three different individuals in the hiring process, the Office of Public Safety Administration ("OPSA") Background investigator, the Kentech Investigator and the polygraph examiner. Department also pointed out that Appeal arguments as to the City's general policy on background checks is not relevant because it does not apply to police officer hirings. As to the Appeal's assertion that the Background Investigation Report was not approved: Department asserted that the report was approved by the exiting director, and the new director gave final approval but because it was submitted during transition, the old director's name remained on the original report even though it was sent out after the old director left. Department noted that the appropriate supervisor approved the Background Investigation Report as noted on page 4. Department asserted its rights to disqualify Applicant and presented the evidence to do so, citing caselaw in support.

(Response)

Reply. In the Reply, Applicant argued the Response demonstrated how arbitrary the disqualification was and that it was based on unsubstantiated and speculative evidence and that the background investigation was not thorough, that it was based on vague statements allegedly made by Applicant, and that the Response sought to add new evidence that was not part of the record considered at the time of disqualification which showed an admission that there was not a thorough investigation and that Applicant was disqualified for improper reasons. Applicant argued that "no new or additional evidence in support of or in opposition to any finding, order, determination, or decision of the administrative agency shall be heard by the court," under 735 ILCS 5/3-110. Applicant also asserted that Department failed to respond in any meaningful way to the Appeal and "thus waived argument on [Applicant's] petition."

Applicant argued that Department's claim that Applicant admitted to years of illegal drug sales is based on unconfirmed statements made by Applicant, that the polygraph results were not produced, that it was undisputed investigator did not speak to the polygraph examiner and that the Board can draw a negative inference from the failure to disclose. As to the Kentech investigator, Applicant argued the Superintendent never interviewed the investigator. Applicant argued that the Director of Human Resources did not sign the disqualification as required by statute, but Applicant did not cite the statute to which he referred. Applicant also argued that the Superintendent admitted that "it failed to consider the mitigating factor that the alleged criminal conduct and drug sales occurred long ago." Applicant argued that statutes emphasize the importance of considering mitigating factors and evidence of rehabilitation when reviewing prior criminal convictions and that statutes require that hiring "decisions should not be based solely on prior convictions without a thorough investigation and consideration of the applicant's current fitness and ability to perform the duties of the position sought." Applicant cited 20 ILCS 2105/2105-1314.

Applicant argued that his case was like a case in which the court ruled a municipality's use of an arrest report to terminate a janitor's employment was in violation of 775 ILCS 5/2-103-A because it did not indicate the janitor committed the offense, only the fact that the arrest occurred⁵.

(Reply)

FINDINGS OF FACT

Appeal was filed 61 calendar days from the date of Notice. According to Police Board Rule, VII. B the Appeal should have been filed within 60 calendar days of the date on the Notice

⁴ This is known as the Department of Professional Regulation Law, having to do with licensed, registered, certified and other authorizations under which the Illinois Department of Professional under the Illinois Department of Financial and Professional Regulation.

⁵ 775 ILCS 5/2-103-A begins with "Unless otherwise authorized by law, it is a civil rights violation for any employer... to use an arrest record to refuse to hire..." 103-B exempts using arrest reports under regulations that require criminal background checks in evaluating the qualifications and character of an employee or prospective employee.

(by June 2, 2024). However, as June 2, 2024 was a Sunday and not a day on which a filing could have been accepted, the Administrative Law Judge finds that the filing was timely.

Department's Response was timely filed. The Appeals Officer understood the additional offenses noted in the January 2017 arrest as further clarification as to the circumstances, and not as additional bases for disqualification. The attached Criminal History Report was also considered as clarification of the conduct that formed the basis for disqualification and such report was not in the exclusive control and possession of the Department such that Applicant did not know or could not discover the details of that report.

The Appeals Officer finds the Reply was not timely filed and should not be considered. Applicant's Reply was filed 31 calendar days from the date of the Response with no indication that date of receipt indicated. It should have been filed within 30 days (by August 14, 2024) as required under the Rules at Section VII. F. Unlike the finding made as to the timeliness of the Appeal above in which the due date fell on a Sunday, August 14th, 2024 was a business day in which the Police Board could have received such a filing.

General background information, certifications and community endorsements did not directly relate to the conduct alleged as the basis for disqualification and were not considered by the Appeals Officer.

Contrary to assertions made by Applicant, he was not disqualified for being honest. Honesty is expected throughout the process. Applicant was disqualified for the conduct alleged in the Background Investigation Report.

No findings are made as the gang affiliation as it was not cited as a basis for disqualification, nor was it relevant to conduct cited.

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.

Aggravated possession of a loaded firearm in a vehicle without a FOID card on January 24, 2017. The Criminal History for Applicant showed that the felony charge was reduced to a misdemeanor Unlawful Use of Weapons charge under 720 ILC 5/24-1(A)(4) to which Applicant pleaded guilty and served one year of probation, and for which he paid a fine. There was not a trial in which a trier of fact determined the conduct of Aggravated Unlawful Possession of a Weapon did not occur. It appears to have been a reduced charge in exchange for a plea. As to an explanation of the details of the conduct, Applicant had two opportunities to explain and/or deny the conduct – one in the Appeal and one in the Reply (if it is deemed timely by the Board). Applicant did NOT deny the conduct. He chose only to state that he had a valid FOID, with no evidence other than the assertion. Even if Applicant did have a valid FOID card at the time, Applicant chose not to present evidence of whether he had a Concealed Carry License in order to possess a loaded firearm in a vehicle. Nor did Applicant choose to present evidence that the firearm was not loaded and enclosed in a case separate from ammunition, or whether it was immediately accessible. Illinois law provides:

"Sec. 24-1.6. Aggravated unlawful possession of a weapon.

(a) A person commits the offense of aggravated unlawful use of a weapon when he or she knowingly:

(1) Carries on or about his or her person or in any vehicle... any pistol, revolver, stun gun or taser or other firearm...

...and...

(3) One of the following factors is present:

(A) the firearm, other than a pistol, revolver, or handgun, possessed was uncased, loaded, and immediately accessible at the time of the offense; or

(A-5) the pistol, revolver, or handgun possessed was uncased, loaded, and immediately accessible at the time of the offense and the person possessing the pistol, revolver, or handgun has not been issued a currently valid license under the Firearm Concealed Carry Act; or

(B) the firearm, other than a pistol, revolver, or handgun, possessed was

- uncased, unloaded, and the ammunition for the weapon was immediately accessible at the time of the offense; or
 - (B-5) the pistol, revolver, or handgun possessed was uncased, unloaded, and the ammunition for the weapon was immediately accessible at the time of the offense and the person possessing the pistol, revolver, or handgun has not been issued a currently valid license under the Firearm Concealed Carry Act; or
 - (C) the person possessing the firearm has not been issued a currently valid Firearm Owner's Identification Card...
- ...
- (d) Sentence.
- (1) Aggravated unlawful use of a weapon is a Class 4 felony..." (720 ILCS 5/24-1.6)

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 -- that Applicant possessed a loaded firearm in a vehicle, in violation of Illinois law, and that the conduct is a felony. "It is the conduct itself, not the fact that the applicant was convicted, that makes the applicant unsuitable for employment." (Standards, Section IV.B.1.). Applicant did not deny the conduct, although he denied that he did not have his FOID card. The undenied conduct amounted to felony conduct even though a plea agreement was entered on a reduced charge.

Conduct as to illegal sale of marijuana. Applicant admitted to possessing, selling, furnishing and/or manufacturing any drug, narcotic, controlled or illegal substance. During the polygraph exam, it was reported that from his teen years until he was about 24 years old, Applicant sold marijuana. To another investigator during a virtual interview with Applicant, it was reported Applicant told the investigator that Applicant sold marijuana approximately 50 times from October 2006 to July 2012. Applicant was given an opportunity to deny this conduct, yet did not do so at any point. Instead, Applicant argued that he was never convicted of a drug crime. Applicant also argued that he was honest, and that he had not participated in drug activities for 12 years (which

is not consistent with any argument that the polygraph examiner or background investigator misreported Applicant's admission to them about selling marijuana). He also argued that past mistakes are not indicative of future performance or current abilities. While the Standards indicate that Department recognizes that may be the case in certain circumstance, they are also very clear that an applicant, who knowingly and illegally sold, distributed, manufactured or delivered, with intent to deliver marijuana/cannabis will be found unsuitable. There is no exception based upon how many years it has been since that conduct occurred. Applicant knowingly illegally sold marijuana a number of times. 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.

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.

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)). Therefore, according to the law and procedures, findings and recommendations are based upon whether Applicant's Appeal shows by a preponderance of the evidence that Department erred in removing Applicant's name from the Eligibility List, based upon Department's employment standards.

The Appeals Officer declined to address constitutional, policy, civil rights, human rights,

diversity and inclusion and/or equal opportunity arguments made by Applicant within the Appeal as it is found these exceed the scope of this appeals process.

Applicant misrepresented the applicability of Administrative Hearing Procedures Human Resources "Administrative Hearing Procedures." They are not applicable to these appeals, and even if they were, Applicant did not reference or provide the most recent version in effect. The applicable procedural rules are set out in Rules of Procedure Appeals by Applicants to the Chicago Police Department ("Rules"), Established pursuant to §2-84-035 of the Municipal Code of Chicago, dtd 18, February 2021. Ironically, Applicant cites to the Rules on page 3 of the Appeal.

Applicant misrepresented the applicability of the City of Chicago Policy on Background Checks. The policy SPECIFICALLY states it is not applicable to the Chicago Police Department for new hires. "This Policy applies to new hires except for Candidates being considered for positions with the Chicago Police Department..." (City of Chicago Policy on Background Checks, Section II.). The Policy is not applicable, and any arguments based upon the Policy are not considered.

Arguments to procedures under Illinois' Department of Professional Regulation Law, having to do with licensed, registered, certified and other authorizations under which the Illinois Department of Professional under the Illinois Department of Financial and Professional Regulation have jurisdiction are not applicable to procedures of this appeal and are not considered.

The Appeals Officer declined to consider or comment on any arguments made as to hiring principles set out by the Office of Inspector General and Consent Decree as it is outside of the scope of the appeal as set forth by this forum's procedures and the Municipal Code.

Department disqualified Applicant with written approval of the Superintendent, or one of his or her designees, including but not limited to the Director of Human Resources Division, as

shown on page 4 of the Background Investigation Report.

If Applicant's argument as to the inadmissibility of hearsay evidence (Applicant's statements within his PHQ, and the summations within the polygraph and/or investigator reports) is not persuasive. It is well settled that hearsay evidence may be admissible in administrative proceedings, leaving the weight of the evidence to be determined. Unless precluded by statute or rules, evidence may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. (Administrative Procedures Act, 5 ILCS 100/10-40 (a)).

Applicant cited nothing to support the position that the Board has steadily reversed disqualifications with similar facts, or that it should in this case. Quite to the contrary, the Illinois Appellate Court in *MJ Ontario, Inc., v. Daley* made clear that different conclusions can reasonably be reached in separate instances (“... we do not address the point at any length, but note only that a similar argument (for comparison of disciplinary cases) was rejected by our supreme court (Launius, 151 Ill.2d at 440-42, 177 Ill.Dec. 407, 603 N.E.2d 477)”). (*MJ Ontario, Inc. v. Daley*, 861 NE2d 1161, 1171). The Illinois Supreme Court in the *Launius* case cited 2 F. Cooper, State Law 762 (1965), noting “... administrative actions ‘in which the epithet capricious may properly be applied are those where an agency has given different treatment to two respondents in **identical** circumstances.’” (*Launius v. Board of Fire and Police Com'rs of City of Des Plaines*, 603 N.E.2d 477, 487 (1992)). (Emphasis added). A ruling articulated in one specific case with its own particular facts and circumstances and in its own time in history, does not dictate how future cases, even if similar, will be determined, unless and until that directive is set out by rule, law or a reviewing court directive. Thus, unnamed rulings and unnamed facts in prior cases in which Applicant alleges the Police Board “has steadily reversed disqualifications with similar facts” do not determine the ruling in this matter and this general proposition was not considered. Additionally, if the Reply is considered, the case cited to with “similar” facts is quite dissimilar in

that a police officer has a position that requires a higher level of public trust and authority than a maintenance person who works in a police station.

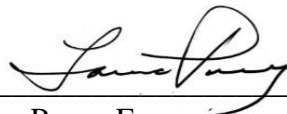
In the event the Board considers the Reply, which the Appeals Officer finds untimely, Applicant misrepresented the applicability of 735 ILCS 5/3-110 to this appeals process. Applicant asserted that it “explicitly states that no new or additional evidence in support of or in opposition to any finding, order, determination, or decision of the administrative agency shall be heard by the court,” but failed to note that it applies to JUDICIAL REVIEW of an administrative agency decision, not to consideration during an administrative agency’s proceedings. “Scope of Article. This Article III shall apply to and govern every action to review judicially a final decision of any administrative agency, where the Act creating or conferring power on such an agency, by express reference, adopts the provisions of this Article III or its predecessor, the Administrative Review Act...” (735 ILCS 5/3-102). Arguments to ban consideration of the Criminal History Report provided in the Response on this basis, should be disregarded.

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,



Laura Parry, Esq.
Appeals Officer

Date: October 10th, 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 17th DAY OF OCTOBER 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director