

**BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO**

<b>IN THE MATTER OF THE APPEAL BY</b>	)	
<b>[NAME REDACTED],</b>	)	<b>No. 24 AA 40</b>
<b>APPLICANT FOR THE POSITION OF</b>	)	
<b>POLICE OFFICER,</b>	)	<b>(Taleo No. [redacted])</b>
<b>CITY OF CHICAGO.</b>	)	

**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 June 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 June 9, 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 17, 2024, OPSA filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). On July 19, 2024, Applicant filed with the Police Board a reply to the Response (“Reply”). Police Board 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**

##### **c) Conduct Indicating Violent Tendencies<sup>1</sup>**

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.

##### **d) Conduct Involving the Unlawful Use of Weapons<sup>2</sup>**

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 any 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 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.

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<sup>1</sup> "Conduct Indicating Violent Tendencies" is found under Section B(7)(c) of the Pre-Employment Investigation Standards.

<sup>2</sup> "Conduct Involving the Unlawful Use of Weapons" is found under Section B(7)(d) of the Pre-Employment Investigation Standards.

D. Disqualification Based on Prior Employment History

2. A poor employment history may 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, excessive absenteeism or tardiness, or failure to follow regulations may be found unsuitable for employment.

E. Disqualification Based on Military History

Police officers are required to follow workplace rules and obey orders in a high-pressure and often dangerous environment. An applicant who has received a Dishonorable Discharge or Bad Conduct Discharge from the United States Armed Forces or the National Guard or State Militia has demonstrated his or her inability to work in such a setting and therefore will be found unsuitable for employment. An applicant who has received a discharge with other characterizations may be found unsuitable for employment based on the nature of the underlying offense.

a) Conduct Involving Drugs<sup>3</sup>

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.

**Rule 2**

Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

**Rule 3**

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<sup>3</sup> "Conduct Involving Drugs" is found under Section B(7)(a) of the Pre-Employment Investigation Standards.

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Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

**Rule 8**

Disrespect to or maltreatment of any person, while on or off duty.

**Rule 11**

Incompetency or inefficiency in the performance of duty.

Applicant was disqualified by OPSA based on his conduct indicating violent tendencies, conduct involving the unlawful use of weapons, prior employment history, military history, and conduct involving drugs. OPSA asserts that while working for Brinks, Applicant pointed a weapon at a civilian without provocation and failed to properly scan documents, which lead to his termination. He also received two reprimands for refusing to follow a supervisor's orders while working at Heartland Security, was terminated from INCOMM for storing the wrong information in a customer's file, and court-martialed by the United States Marine Corps for misconduct involving drugs.

**Appeal, Response, and Reply**

Applicant appeals the decision, stating that the facts alleged in the Notice were taken out of context. Applicant explains that his work at Brinks was dangerous and fast-paced, and his decision to pull his weapon was aligned with the training that he received. He claims that the second incident with Brinks was due to technical issues that were not his fault, and although he was terminated, he was reinstated but decided not to return.

Applicant states that during his time at Heartland, he refused to follow instructions of an "incompetent supervisor" who tried to put him and colleagues in harm's way, then wrote him up twice. He states that he refused to acknowledge the write-ups, then resigned to take another position.

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Applicant admits that during his time in the military, he was court-martialed and discharged for bringing marijuana on the base. However, he claims that he did not use it – he was trying to get rid of it. As a result, he lost rank and pay, had base restrictions, and was discharged “General-Other Than Dishonorable.”

Applicant shares that he lives and works in Texas and is familiar with Chicago. He states that in the past 10-15 years, he has been “very apprehensive” to travel to Chicago, as the “laws and etiquette” are vastly different in Texas. However, Applicant declares that he will not allow his fear to dictate his actions “when an opportunity to be a shield is on the horizon.”

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, Conduct Indicating Violent Tendencies, Conduct Involving the Unlawful Use of Weapons, Prior Employment History, Military History, and Conduct Involving Drugs). 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 (1<sup>st</sup>) 173084; ¶¶ 24, 31 and *Johnson v. O’Connor*, 2018 IL App (1<sup>st</sup>) 171930, ¶¶ 16-17, 20.

OPSA notes that Applicant’s history has demonstrated that he would not be able to fulfill the Chicago Police Department's mission to "strive to attain the highest degree of ethical behavior and professional conduct at all times.” OPSA adds that Applicant’s history is “extremely troubling,” serves as grounds for disqualification.

In his Reply, Applicant states that he understands OPSA’s Response, but does not agree. He says that OPSA’s assertion that his background is extremely troubling is “a

reach,” as he was reinstated to his position at Brinks and voluntarily left his position at Heartland. Applicant stresses that he has been honest and straightforward during the CPD application process, and will continue to do so.

### **Findings of Fact**

Filings were timely.

OPSA provided the factual basis for its decision to disqualify Applicant and remove his name from the eligibility list. It determined that Applicant’s conduct indicating violent tendencies, conduct involving the unlawful use of weapons, prior employment history, military history, and conduct involving drugs 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.

### **Conduct Indicating Violent Tendencies**

While working as an armored car driver for Brinks, Applicant drew his weapon and pointed it at a civilian who was watching Applicant load an ATM with large sums of money. Applicant assumed that the Black male civilian was a threat, as he allegedly told Applicant “Hurry up or you know what time it is,” and walked toward Applicant. After Applicant pointed his weapon, the civilian turned, walked back to his car, and drove away. Applicant received a one-day suspension for drawing his weapon without provocation or justification.

### **Prior Employment History**

#### **Brinks**

Shortly after his suspension, Applicant was assigned to deliver documents to a client and scan them into the system. The documents were important to the client, and Applicant was required to fully execute the delivery. Applicant stated that he completed the task, but the client

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never received the documents. In fact, the documents were delivered to the wrong client. Applicant later retrieved and scanned the documents, then placed them in a vault at his work location. These actions did not align with the company's retrieval policy, and Applicant was terminated as a result.

Applicant shares that his work at Brinks was dangerous, fast-paced, and rewarding. He explains that due to the fast-paced environment, you have to think on your feet. He says that this is especially difficult when there is "physical provocation threatening your position while handling a large amount of cash." Applicant stated that he was trained not to hesitate in this position, as the driver is unable to leave the vehicle, and he had no other backup. Applicant adds that per Brinks' policy, he was unable to carry any non-lethal weapons. Applicant admits that he received a one-day suspension, however, he disputes that it was a reprimand.

Applicant also states that the scanners did not work properly, so he defaulted to the traditional way of paper-signing, which he was trained to do. Applicant admits that he was terminated as a result, but claims that he was reinstated days later after Brinks determined that he did not violate their policies. Applicant says that he chose not to return to Brinks after he was reinstated.

Heartland Security

Applicant was employed by Heartland Security from 2016-2017 but resigned after receiving two reprimands for failure to follow directions and insubordination. Applicant stated that he had conflicts with his supervisors over the policies and practices of the company. He claims that the supervisor was new to the company, and "did not know what he was doing." He says that the supervisor requested that he complete a task that was not safe. The supervisor made an initial request, and Applicant refused. The supervisor then *ordered* Applicant to complete the

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task as directed, and Applicant again refused. Applicant was given two written reprimands for his actions and refused to acknowledge the reprimands. Following the disciplinary action, Applicant resigned from his position.

INCOMM

On May, 2011 Applicant was terminated from INCOMM for placing the wrong information in a customer's file. Applicant was required to store contact information for clients who purchased pre-paid Visa gift cards. Applicant failed to use a customer's home address as instructed, and instead entered the customer's P.O. Box. Applicant was terminated as a result.

U.S. Marine Corps

In 2006-2007, Applicant was court-martialed while serving in the Marine Corps. After marijuana was discovered during a search, Applicant denied using it on the base. He also denied observing another marine in possession of marijuana. Applicant was charged with bringing marijuana to a base and not being truthful when questioned by a superior officer. The court-martial hearing resulted in a loss of rank, loss of half month's pay, base restrictions, and discharge from the Marine Corps. This was confirmed by Applicant's DD214, PHQ, and admissions to the R/I.

Applicant admits to having marijuana on the Marine Corps base and being dishonest with his superior. However, he denies using it, and maintains that he was going to "throw it out." Applicant states that he was given a urinalysis test, and it was negative. Applicant asserts that although he was discharged with a "General-Other Than Honorable Discharge," he is still "eligible." He states that the discharge has not hindered his employment with state or federal agencies.



New Orleans Police Department

Applicant applied for a position with the New Orleans Police Department but was disqualified based on his military record and dishonesty during the testing process. In addition, Applicant advised the R/I that he was disqualified by another police department in Texas, but “could not recall the name of the city.”

**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 his conduct indicating violent tendencies, conduct involving the unlawful use of weapons, prior employment history, military history, and conduct involving drugs. Although Applicant’s disqualification based on the unlawful use of weapons and conduct involving drugs is questionable, his past conduct contains numerous other grounds for disqualification based on OPSA’s 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.”

While working for Brinks, Applicant pulled his weapon on a civilian without attempting to deescalate the situation as trained and failed to call for help. Following an investigation,

Brinks determined that Applicant pulled his weapon without provocation or justification. As a result, Applicant's conduct indicating violent tendencies could be considered grounds for disqualification based on Section B(7)(c) of the Standards.

**Disqualification Based on Prior Employment History**

Section D(2) of the Standards states: "A poor employment history may 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, excessive absenteeism or tardiness, or failure to follow regulations may be found unsuitable for employment."

Applicant was terminated from Brinks and Heartland Security and was reprimanded for refusing to follow his supervisor's directions while working at INCOMM. In addition, Applicant was discharged from the Marine Corps after bringing drugs on the base and making false statements to his superior. Based on the above, Applicant's prior employment history could be considered grounds for disqualification based on Section D(2) of the Standards.

**Disqualification Based on Military History**

Section E of the Standards states: "Police officers are required to follow workplace rules and obey orders in a high-pressure and often dangerous environment... An applicant who has received a discharge with other characterizations may be found unsuitable for employment based on the nature of the underlying offense."

Applicant was court-martialed for bringing drugs on the base and dishonesty. As a result, he lost rank and pay, had base restrictions, and was discharged due to misconduct. Based on the above, Applicant's military history could be considered grounds for disqualification based on Section E of the Standards.

Furthermore, Applicant's conduct violated at least four of CPD's Rules and Regulations:

**Rule #2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department; **Rule #3:** Any failure to promote the department's efforts to implement its policy or accomplish its goals; **Rule #8:** Disrespect to or maltreatment of any person, while on or off duty, and **Rule #11:** Incompetency or Inefficiency in the Performance of Duty, respectively.

No additional facts, evidence or arguments were submitted in Applicant's Appeal that support his contention that OPSA erred in disqualifying Applicant based upon his conduct indicating violent tendencies, prior employment history, and military 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 him from the Eligibility List was erroneous.

### **Recommendation**

Based on my findings and conclusions set forth above, I recommend that the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer be **affirmed**.

Respectfully submitted,

/s/ Mamie A. Alexander \_\_\_\_\_

Mamie Alexander  
Appeals Officer

Date: October 10, 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 17<sup>th</sup> DAY OF OCTOBER 2024.

Attested by:

/s/ KYLE COOPER  
President

/s/ MAX A. CAPRONI  
Executive Director