

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 24 AA 51**
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 June 10, 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 August 7, 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 September 18, 2024, OPSA filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). Police Board Appeals Officer Mamie Alexander has reviewed the Notice, Appeal, and Response.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Mamie Alexander, as a result of a review of the above material, submits the following findings of fact, conclusions of law, and recommendation to the Police Board.

Filings by the Parties

Applicant filed a timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago, and the Response was filed within the time period allowed by the Police Board Rules of Procedure.

According to the Notice, Applicant was removed from the Eligibility List for the following reasons:

IV. Pre-employment Investigation Standards for Applicants to the Position of Police Officer

B. Disqualification Based on Criminal Conduct

1. One purpose of the pre-employment investigation is to determine whether the applicant has engaged in criminal conduct. This is important because the police hold a unique position of public trust and are tasked with protecting the public and enforcing the law. Even more than other City employees, Chicago Police 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.
3. Unlike a record of conviction or an admission, an arrest record merely indicates an allegation of criminal conduct and must be investigated further in order to be the basis for disqualification. When investigating an arrest record, the investigator must, to the extent reasonably possible, secure evidence, including but not limited to statements obtained from interviews with police officers, victims and witnesses, which will be used to determine whether the applicant engaged in disqualifying criminal conduct.
4. In describing examples of disqualifying conduct, these Standards may refer to the Illinois Compiled Statutes. The references to the Illinois Compiled Statutes are

descriptive only. Any similar federal offense, military offense or offense in any other jurisdiction within the United States (state or local) or any foreign jurisdiction may serve as a basis for disqualification.

5. The Standards are as comprehensive as possible; however as noted above, they cannot encompass every possible scenario. Failure to enumerate any particular offense does not exclude such offense from being the basis for disqualification. Commission of any criminal or quasi-criminal act may result in disqualification from employment as a Police Officer if it is determined that the acts or omissions of the applicant make him or her unsuitable for the position of Police Officer.

C. Disqualification Based on Driving Record

6. Police officers are regularly required to operate motor vehicles in dangerous situations. They are thus required, to the extent reasonable, to operate vehicles in a careful manner protective of the public. Applicants with a poor driving history are deemed unable to meet this requirement. Further, applicants with more than one DUI or reckless driving incident, regardless of the date of the incident, or any driving-related incidents which resulted in the suspension or revocation of a driver's license, may be found unsuitable for employment.¹

Applicant was disqualified by OPSA based on his criminal conduct and driving record. In 2021, Applicant pled guilty to driving under the influence, driving 15-20 mph over the limit, and improper lane usage, and received 12 months of supervision. Applicant's driver's license has also been suspended multiple times due to traffic violations, and in 2023, Applicant left a traffic crash without exchanging information with the other drivers.

Appeal and Response

In his Appeal, Applicant states that he has learned from his mistakes, and now takes his responsibilities as a licensed driver seriously. He states that he prioritizes his safety and the safety of others on the road, and that he was truthful, honest, and forthcoming regarding his past

¹ The correct section of the Standard cited is C(1).

driving record. Applicant says that while there is no excuse for his previous traffic offenses, he firmly believes that such infractions do not define him or his “professionalism.”

OPSA’s Response states that the appeal was reviewed, and OPSA relies upon the facts and evidence relating to the disqualification contained in Applicant’s file. OPSA maintains that the pre-employment disqualification standards under which Applicant’s disqualification decision were based upon are clear (namely, Disqualification Based on Criminal Conduct and Driving Record). OPSA states that the evidence in Applicant’s file supports its decision to disqualify Applicant from hiring, and OPSA is within its right to do so, citing *Apostolov v. Johnson*, 2018 IL App (1st) 173084; ¶¶ 24, 31 and *Johnson v. O’Connor*, 2018 IL App (1st) 171930, ¶¶ 16-17, 20. OPSA adds that Applicant’s past actions revealed that had he been in their employ, he would have been in violation of multiple CPD Rules, each of which would serve by themselves as grounds for disqualification.

Findings of Fact

Filings were timely.

OPSA provided the factual basis for its decision to disqualify Applicant and remove his name from the eligibility list. It determined that Applicant’s criminal conduct and driving record were grounds for disqualification. OPSA articulated the Standards by which the conduct was assessed by section and paragraph, and articulation of the Standard gives reasonable notice as to the basis for disqualification.

According to the Hoffman Estate Police Department’s (“HEPD”) case report, on January 16, 2021, Applicant was pulled over by Sgt. Giacone for speeding and improper lane usage. Sgt. Giacone detected an odor of alcohol emitting from Applicant’s breath and observed that

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Applicant had bloodshot and glassy eyes. Applicant told Sgt. Giacone that he was driving home from a party after having a few beers.

On June 3, 2021, Applicant plead guilty to Driving Under the Influence (DUI), driving 15-20 mph over the posted limit, and improper lane usage. Applicant was sentenced to twelve (12) Months of Supervision, and his license was suspended.

In addition to his suspension for DUI, Applicant's license has also been suspended for numerous moving violations. His driving abstract revealed the following:

DL Suspensions

28 Sep 2013 - 28 Dec 2013	Convicted of two or more moving violation within 24 months
16 Jan 2021	DUI/Alcohol Concentration Above Legal Limit
03 Mar 2021	Statutory Summary Suspension/Fail or Refuse Alcohol/Drug Test

Supervision

16 May 2014	Disregard Stop Sign
17 Feb 2018 - 06 Mar 2018	Speeding 15-25 mph over limit
25 Jul 2018 - 15 Aug 2018	Speeding 15-25 mph over limit
13 Oct 2022 - 03 Nov 2022	Speeding 15-25 mph over limit

Abstract

22 Oct 2011	Speeding 11-14mph above limit
22 Jun 2013	Speeding above 15 mph
03 Oct 2013	Driving During a Suspension

Citations

06 Feb 2022	Broken/Inoperable Lamps
20 Jul 2023	Light, Tail Lights required

Furthermore, according to the CPD case report, on August 27, 2023, Applicant was involved in a traffic accident where he rear-ended another vehicle that was stopped at a red light. As a result of the impact, that vehicle struck the vehicle in front of it. Applicant left the scene of the accident without exchanging information with the other driver(s).

Applicant states that he learned a valuable lesson from his DUI, and the incident does not reflect his character or ability to perform the duties of a Chicago Police Officer. Applicant asserts that he pled guilty, “owned up” to his mistake, and immediately served the conditions needed to satisfy the court. He states that he was transparent about his driving history during the application process and hopes that his “court records and current driving record demonstrate [his] honesty and integrity.” Applicant says that he used the experience to learn, grow, and improve. While he admits that there is no excuse for his past traffic offenses, Applicant believes that “these infractions do not define [his] professionalism.”

Applicant shares that over the past two years, he has worked as an Uber driver, consistently receiving favorable ratings from customers who value the safe transportation that he provides. Applicant states that he is more than willing to take any additional steps necessary to serve as a CPD officer and contribute to a cause “greater than himself.” Applicant says that he has the full support of his family and friends and provides a letter of recommendation from a CPD sergeant in support.

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 criminal conduct and driving record.

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 pled guilty to Driving Under the Influence (DUI) with a Blood Alcohol Concentration (BAC) of 0.08 or greater, driving 15-20 mph over the posted limit, and improper lane usage, and was sentenced to 12 months of supervision. As a result, Applicant’s criminal conduct could be considered grounds for disqualification based on Section B(1) of the Standards.

Section C(1) of the Standards states: “...applicants with more than one DUI or reckless driving incident, regardless of the date of the incident, or any driving-related incidents which resulted in the suspension or revocation of a driver's license, may be found unsuitable for employment.”

In addition to his guilty plea for driving under the influence, Applicant’s driving record contains multiple suspensions, supervisions, and speeding violations. Furthermore, in August, 2023 Applicant rear-ended a vehicle and left the scene without exchanging information with the other driver. As a result, Applicant’s driving record could be considered grounds for disqualification based on Section C(1) of the Standards.

No additional facts, evidence or arguments were submitted in Applicant’s Appeal that support his contention that Department erred in disqualifying Applicant based upon his criminal conduct and driving record. In considering and weighing the 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

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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: November 14, 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 7 in favor (Kyle Cooper, Paula Wolff, Claudia Badillo, Steven Block, Mareilé Cusack, Kathryn Liss, and Justin Terry) to 0 opposed.

NOW THEREFORE, IT IS HEREBY ORDERED that the decision to remove [**Name redacted**] from the list of eligible applicants for the position of probationary police officer is **affirmed**.

This decision and order are entered by a majority of the members of the Police Board: Kyle Cooper, Paula Wolff, Claudia Badillo, Steven Block, Mareilé Cusack, Kathryn Liss, and Justin Terry.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 21st DAY OF NOVEMBER 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director