

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

**IN THE MATTER OF THE APPEAL BY** )  
**[NAME REDACTED],** ) **No. 24 AA 52**  
**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 June 10, 2024, the Office of Public Safety Administration gave Applicant written notice of its decision to remove Applicant from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reason(s) for the disqualification decision and the process for appeal. In support of its decision, Department attached the Candidate Background Investigation Report (“Background Investigation Report”) in which Department cited conduct it alleged formed the bases of Disqualifications Based on Criminal Conduct and Unlawful Use of Weapons under its Pre-Employment Disqualification Standards for Applicants for the Position of Police Officer (“Disqualification Standards”) and Department Rules violations (Collectively, “Notice”).

In an email dated August 8, 2024, Applicant appealed the disqualification decision to the Police 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 Human Resources Board’s (“Board”) 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 September 19, 2024.

Police Board Appeals Officer Laura Parry reviewed the Notice, Appeal and Response.

## **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

...

“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.” (Background Investigation Report, p. 2)

...

“4. In describing examples of disqualifying conduct, these Standards may refer to the Illinois Compiled Statutes. The references to the Illinois Compiled Statu[t]es are descriptive only. Any similar federal offense, military offense or offense in any other jurisdiction within the1 [United States (state or local) or any foreign jurisdiction may serve as a basis for disqualification.” (Background Investigation Report, p. 2)

...

“6. Felonies

An applicant who has engaged in any conduct which would constitute a felony is not eligible for employment[.]” (Background Investigation Report, p. 2)

Department cited the following conduct, in summary:

Department alleged Applicant illegally sold and used cocaine, a controlled substance, which Applicant admitted. Department alleged Applicant gave two different versions of his involvement. It is reported Applicant first said that he used cocaine only once in 2019, and then later he recalled he gave his friends cocaine but could not recall if he used it with them but that if he did, he did not feel any effects from it. It was also reported Applicant admitted to selling cocaine

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1 The Background Investigation Report stopped mid-sentence. The remainder of the standard was added for completeness from IV-B-4 of the Disqualification Standards (effective 15 August 2021).

six-to-eight (6-8) times but claimed that he never purchased the cocaine he sold. It was reported Applicant admitted to selling marijuana that he did not purchase, but later changed his explanation saying that he did purchase marijuana once that he then sold, with the last sale in 2022. Applicant was said to have disclosed he made profits on the sales to cover his rent.

It was alleged Applicant did not disclose on his Personal History Questionnaire (“PHQ”) that he discharged his firearm twice. One incident was discovered in a police report, according to the Investigator. It was also reported that during the polygraph exam, Applicant admitted to discharging his firearm into the ground on two separate occasions – in January and June of 2022 – and that one of the times he did so while he was tinting windows. Applicant is reported to have a Concealed Carry Permit and is a firearms instructor and aware that that the conduct was reckless.

Per the Department, the above conduct regarding illegal drugs and unlawful use of weapons constitute felonies under the following state statutes:

720 ILCS 570/401 – Illegal sale/distribution of controlled substance.

720 ILCS 550/1 – Illegal sale of marijuana.

720 ILCS 5/24-1.5 – Illegal discharge of firearm.

## **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)<sup>2</sup> [has, if falling into any of the

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<sup>2</sup> The Background Investigation Report stopped mid-sentence. The remainder of the standard was added for

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.]” (Background Investigation Report, p.1)

...  
“(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.” (Background Investigation Report, p. 2)

Department cited the following conduct, in summary:

The conduct regarding illegal use, purchase and sale of cocaine and/or marijuana described in Basis #1 above.

**Basis #3**

IV-B. Disqualification Based on Criminal Conduct

...  
7. Other Criminal Conduct

...  
“d. Conduct Involving Unlawful Use of Weapons

"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;<sup>3</sup> [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.]” (Background Investigation Report, p. 3-4)

Department cited the following conduct, in summary:

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completeness from IV-B-7a of the Disqualification Standards (effective 15 August 2021).

<sup>3</sup> The Background Investigation Report stopped mid-sentence. The remainder of the standard was added for completeness from IV-B-7d of the Disqualification Standards (effective 15 August 2021).

The conduct regarding the discharge of a firearm described in Basis #1 above.

**Basis #4**

Department Rules, as cited by Department

“Rule 2

Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.” (Background Investigation Report, p. 4)

“Rule 3

Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.” (Background Investigation Report, p. 4)

“Rule 11

Incompetency or inefficiency in the performance of duty.” (Background Investigation Report, p. 5)

Department cited the following conduct, in summary:

The conduct described in Basis #1 above.

Applicant’s PHQ was submitted February 23, 2023. He was born in May 1998. (Background Investigation Report, p. 1)

**Appeal and Response**

The following is a summary.

**Appeal.** Applicant began his appeal with a description of his background, dreams and work ethic. Applicant provided three letters of support from a high school where he was employed during the 2023-2024 school year. Two were from Associate Principals and one was from an unnamed individual, which Applicant identified in his appeal as a previous supervisor at the school. Letters did not address the specifics of the past conduct described by Department, but extolled Applicant’s attention to detail, de-escalation abilities, fostering trust with students and staff and displaying “excellent judgment” among other attributes. Applicant wrote that he has 10-15 more references who can “show the person [he] actually [is],” including family, friends, Department and other police department officers.

**Cocaine Purchase, Use, Sale.** As to cocaine purchase, use and sale, Applicant wrote that

he wasn't sure if he actually used it and that he knows that sounds confusing. He thought the polygraph exam came back "inclusive" as to his veracity regarding illegal drugs. Applicant explained that he told the Kentech (background interviewer) that he had been offered cocaine multiple times and just gave in so that his friends would stop asking him to try it. Applicant wrote that he put it in his nose but didn't "fully ingest it." When asked if it was a "line" or a "bump," Applicant told the interviewer that he wasn't sure, and that the interviewer then asked if he did it with a key, to which he said he wasn't sure and then may have said it was a "bump" just to "throw an answer out there so [the interviewer] gets an answer from me." Applicant wrote that he then told the interview that he blew it out of his nose once the friends left, which he stated happened less than two minutes later, and that when asked if he felt anything from the substance Applicant said, "no I blew it out" which is what the interviewer reported as Applicant saying he did not feel the effects. Applicant explained that he was embarrassed about selling cocaine and that he was not raised that way, but that he was "under stress, survival and desperation" and struggling in college even though he always had one or more jobs during the semesters, including his own window tinting business, and he thought it could help him pay his bills. He disputed that he told the Background Interviewer that he did it to "pay his rent." Applicant wrote that he said, "I thought it would help me with bills but it didn't." He wrote that he no longer sells and will never do it again even if he struggles in the future.

**Illegal Discharge of a Firearm.** Applicant wrote that the Investigator was incorrect when he reported Applicant did not disclose that he discharged a firearm on his PHQ. Applicant asserted that on his PHQ at Q#90 when asked if he has ever discharged his firearm, he wrote: "Yes. I tint windows and was set up, someone messaged my business Instagram wanting to get a few windows tinted, where I fired a single shot, but no one was hit." Applicant wrote that during the polygraph

exam when asked about reckless discharge of a firearm, Applicant initially answered, “no,” but that when the examiner asked if he’d ever discharged the firearm on the 4<sup>th</sup> of July, Applicant answered, “yes” and that it was fired into the ground. Applicant wrote that when the examiner asked Applicant if he understood that it was illegal to do that, Applicant replied, “Now I do.” Applicant asserted he did not know that at the time he fired the weapon. That is also why Applicant answered on the PHQ that he had never been involved in a violent incident where someone was or could have been killed, hospitalized or seriously injured. Applicant wrote that he has been a Concealed Carry instructor since March 2022. Applicant argued that the statute cited by Department under felonies (720 ILCS 5/24-1.5) reads, “A person commits reckless discharge of a firearm by discharging a firearm in a reckless manner which endangers the bodily safety to an individual,” and that Applicant did not think his conduct was reckless because he did not believe anyone was endangered because it was shot into the dirt and grass and it was not done in public.

(Appeal and attachments)

**Response.** In summary, Department iterated it stands on the reasons and bases set forth in the disqualification letter, and cited caselaw supporting its rights to disqualify. Department characterized the conduct as extremely troubling.

(Response)

### **FINDINGS OF FACT**

All filings were timely.

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 specifying why the Department erred in the factual determinations underlying the Department's decision *and/or* provide additional facts directly related to the bases for

disqualification.

720 ILCS 550/1, listed as the citation for Illegal sale of marijuana by Department is the introductory paragraph to the Cannabis Control Act, and does not specifically address the sale of marijuana. Additionally, there is no indication how much marijuana was sold.

720 ILCS 570/401 makes it a felony to sell any amount of cocaine.

720 ILCS 5/24-1.5 makes it a felony to discharge a firearm in a reckless manner which endangers the bodily safety of an individual.

Per the Disqualification Standards, an admission will be prima facie evidence that the applicant engaged in criminal conduct.

The Rule Violations cited by Department appear to come from the Disqualification Standards section on Disqualification Based on Prior Employment History (IV.D.3) which, in summary, makes conduct disqualifying if **during previous employment** the conduct would have violated Department's Rules and Regulations. Applicant had his own window tinting business and was not an employee when he discharged the firearm, the other discharge of a firearm was on Independence Day, and it was not alleged that any of the illegal drug purchase, use or sale conduct was during the course of employment. By a preponderance of the evidence Applicant **DID** provide sufficient additional facts directly related to and/or did adequately specify why Department **erred** in its factual determinations as to this Department Rule Violations.

Applicant illegally purchased, used and sold cocaine. An applicant who has sold any illegal drug, **other than marijuana**, at any time will be found unsuitable for employment, therefore the conduct as related to marijuana was not considered under this disqualification standard. Unlike with marijuana and illegal drug *usage*, time since the last occurrence is not a consideration for disqualification based on the conduct of *purchase* or *sale* of illegal drugs. Selling cocaine is felony



conduct. As to the use of cocaine in 2019, it was within the last five years of the date of the PHQ submission which was 2023, and is also disqualifying conduct. Applicant **DID NOT** provide sufficient additional facts directly related to and/or did not adequately specify why Department erred in its factual determinations as to **Disqualification Based on Criminal Conduct – Other Criminal Conduct – Conduct Involving Drugs and Felonies** as it relates to the purchase, use and sale of cocaine. Per the Disqualification Standards, an applicant who has engaged in any conduct which would constitute a felony **is not eligible** for employment and an applicant who has sold, distributed, possessed or manufactured any illegal drug, other than marijuana, at any time **will be found unsuitable** for employment.

Though Applicant presented himself as a Concealed Carry instructor, he twice discharged his firearm into the ground while others were present – once in apparent celebration of Independence Day and once while he was tinting windows and during what he described as a “setup,” apparently meant to send a warning to (an)other individual(s). There was no indication he it was in defense of anyone or on his own property. He should have known better. It was reckless even if it was not done “in public.” This amounted to felony conduct. Applicant **DID NOT** provide sufficient additional facts directly related to and/or did not adequately specify why Department erred in its factual determinations as to **Disqualification Based on Conduct Involving Unlawful Use of Weapons and Criminal Conduct – Felonies**. Per the Disqualification Standards, an applicant who has engaged in any conduct which would constitute a felony **is not eligible** for employment. Any conduct involving the unlawful use of weapons **will be grounds for disqualification**, the discharge of any weapon in a prohibited manner that constitutes a felony **will be found unsuitable** for employment, and if unlawful use of weapon conduct occurred more than one time in the applicant’s life, whether felony or misdemeanor, the applicant **will be found unsuitable** for

employment.

### 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)).

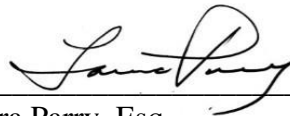
It is within the Department’s discretion to remove applicants from the eligibility list where applicants’ conduct is in violation of the hiring standards where the standards indicate the Department “may” disqualify, and it is a mandatory disqualification where the standards indicate conduct “will be grounds for disqualification,” “will be found unsuitable for employment,” and applicant “is not eligible for employment.”

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,



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Laura Parry, Esq.  
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 21<sup>st</sup> DAY OF NOVEMBER 2024.

Attested by:

/s/ KYLE COOPER  
President

/s/ MAX A. CAPRONI  
Executive Director