

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)	
[NAME REDACTED],)	No. 24 AA 57
APPLICANT FOR THE POSITION OF)	
POLICE OFFICER,)	(Taleo No. [redacted])
CITY OF CHICAGO.)	

FINDINGS AND DECISION

[Name redacted] (hereinafter referred to as “Applicant”) applied for rehire as a police officer with the City of Chicago. In a letter dated July 8, 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”).

September 5, 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 October 15, 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.

7. Other Criminal Conduct

a) Conduct Involving Drugs

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

- (1) An applicant who has used any illegal drug: (a) while employed in any law enforcement or prosecutorial position; or (b) while employed in a position that carries with it a high level of responsibility; or (c) while employed in a position involving the public trust, will be found unsuitable for employment.

D. Disqualification Based on Prior Employment History

1. Police officers are required to work well with other officers, public officials, and members of the public, as well as maintain a professional work ethic. Further, a police officer's ability and willingness to obey orders is critical to the proper functioning and administration of the Chicago Police Department, which in turn is vital to the Chicago Police Department's ability to protect the public.
3. Further, an applicant who, during previous employment, has engaged in any conduct that would have violated the Chicago Police Department's Rules and Regulations had the applicant been a Chicago Police Department employee, may be found unsuitable for employment.
4. Any applicant who has engaged in conduct affecting public health, safety and decency, including but not limited to disorderly conduct, illegal gambling, child endangerment or other offenses may be found unsuitable for employment.¹

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.

Applicant was disqualified by OPSA based on criminal conduct, conduct involving drugs, and prior employment history. While working as a police officer with the Norridge Police Department, Applicant was involved in a property damage only squad car collision at the station

¹ The language cited is found in Section H(4) of the Standards-Disqualification Based on Other Conduct

while on duty. Applicant tested positive for a high level of THC, and she resigned in lieu of termination.

Appeal and Response

Applicant (through an Appeal submitted by her Counsel)² appeals the decision, explaining that she unknowingly ingested THC from CBD gummies provided to her by a friend who is a registered nurse. Applicant explains that after working for the CPD for five years, she made a lateral transfer to the Norridge Police Department in 2023, and her health insurance lapsed. Applicant states that she was prescribed Hydroxyzine to sleep but could not afford to purchase the medication. Therefore, she used CBD gummies to help her sleep during a difficult period of grief following her father's death.

Applicant notes that cannabis is legal in Illinois, and society has accepted the use of cannabis to resolve anxiety and sleep issues. However, Applicant maintains that she never would have taken the gummies had she known that they contained THC, as she would never do anything to jeopardize her career in law enforcement. Applicant says that she developed a passion for the citizens of Chicago while working in some of the CPD's most difficult districts, and hopes to be granted another chance to serve the community with the CPD.

Applicant's Appeal contains numerous documents "in support of rehire," including a personal statement, CPD Honorable Mentions, a CPD Crime Reduction Award, Performance Evaluations, recent negative drug test results, SPAR History Report, and several letters of recommendation from law enforcement officers and her fiancé.'

² Applicant's Appeal was drafted and submitted by her attorney and is written in third person. For purposes of this Appeal, all statements and arguments contained therein are attributed to Applicant.

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, Conduct Involving Drugs, and Prior Employment History). OPSA states that the evidence in Applicant's file supports its decision to disqualify Applicant from hiring, and OPSA is within its right to do so, citing *Apostolov v. Johnson*, 2018 IL App (1st) 173084; ¶¶ 24, 31 and *Johnson v. O'Connor*, 2018 IL App (1st) 171930, ¶¶ 16-17, 20. OPSA asserts that Applicant's past actions revealed that had she been employed by the CPD, she would have been in violation of multiple Rule violations, each of which would serve by themselves as grounds for disqualification. OPSA adds that Applicant's argument that THC is quasi-legal is not relevant, as she was on duty, over the legal limit, and caused damage to a police vehicle.

Findings of Fact

Filings were timely.

OPSA provided the factual basis for its decision to disqualify Applicant and remove her name from the eligibility list. It determined that Applicant's criminal conduct, conduct involving drugs, and prior employment history were grounds for disqualification. OPSA articulated the Standards by which the conduct was assessed by section and paragraph, and articulation of the Standard gives reasonable notice as to the basis for disqualification.

Applicant is a former Chicago Police Officer who accepted a lateral transfer to the Norridge Police Department in 2023 to be closer to home. Due to starting a new position, the loss of a friend, and the loss of her father to cancer, Applicant began to struggle with stress and insomnia. Applicant asserts that due to a combination of stress, grief, and lack of insurance for

medication, she accepted CBD gummies from her friend who is a nurse at Evanston Hospital. Applicant ingested the gummies for approximately a month and says that she was unaware that the gummies contained THC.

On November 16, 2023, Applicant was involved in a property damage only squad car accident at the Norridge Police Station. Applicant scraped the rear passenger door on a pole in the garage, causing \$1,331.00 in damage to the vehicle. Applicant immediately notified her sergeant, and was sent for a drug/alcohol test per department policy. Three days later, Applicant was notified by Quest Laboratories that she tested positive for THC. Applicant states that she was shocked by the results, as she never used the gummies recreationally, and never felt “high” at work after taking them the night before.

Applicant’s THC levels exceeded the legal impairment limit in Illinois, but because she had been using the gummies for about a month, the high levels were not surprising. After notifying her sergeant of her positive test result, Applicant resigned from her position at the Norridge Police Department in lieu of termination. The Norridge Police Department did not contact the nurse or pursue charges against Applicant for driving impaired.

Applicant’s Background

Applicant asserts that she has had a glowing career as a police officer and consistently received strong performance evaluations. After working for the TSA, Applicant passed the CPD exam in 2017, joined the police academy in 2018, and excelled in her training, earning top marks in shooting.

Applicant states that after starting her cycles in the Austin neighborhood, she “fell in love with being a police officer and working with people.” She states that being on the streets was completely different from being in the academy, as she was faced with new challenges to learn

Police Board Case No. 24 AA 57
Findings and Decision

and grow from every day. Applicant was later transferred to Englewood and says that she “loved the change in environment and people.” Applicant states that she made lifelong friendships with her peers and supervisors and has dedicated her life to upholding the law.

Applicant spent most of her five-and-a-half-year CPD career in the Austin and Englewood neighborhoods, and later became a Field Training Officer (FTO), where she enjoyed mentoring new recruits. Applicant provides copies of her 11 Chicago Police Awards, which include numerous Honorable Mentions and Crime Reduction Awards for her “fearless pursuit of justice.” She also provides copies of her performance evaluation summaries, which rate her performance in 2022 as “Exceeding Expectations.”

Applicant also provides letters of recommendation from a number of law enforcement officers, who describe Applicant as a very good police officer who is dependable, composed, disciplined, professional, and ethical. Many of the letters add that she is resilient, hardworking, and compassionate.

Applicant’s Appeal includes a letter of support from her fiancé, [Name redacted] (“[Name redacted]”), a paramedic/firefighter who has known Applicant since they were 18 years old. [Name redacted] states that Applicant “is not a recreational user of any narcotic.” He says that she barely consumes alcohol and is always concerned with the welfare of others. He describes Applicant as “one of the most levelheaded, kindhearted people that [he] has ever met,” but admits that he is a “little biased.” [Name redacted] states that Applicant has a commitment to public service that is “unmatched by just about any other first responder [that he] has come in contact with over [his] career,” and believes that she is an exemplary police officer.

[Name redacted] confirms Applicant’s assertion that she was prescribed Hydroxyzine to sleep but was unable to get the medication due to insurance issues. He states that Applicant was

given what she believed were CBD gummies by her nurse friend, and that they “helped her get restful sleep and reduced her stress levels” while dealing with her father’s terminal illness and subsequent death.

Applicant maintains that she never would have taken the gummies had she known there was THC in them and offers that she has not used cannabis since high school. Applicant asserts that the gummies were used solely for medical purposes at a time where there were lapses and delays with her medical insurance. She expresses regret and hopes for a second chance to return to the Chicago Police Department where she can continue to make a positive impact on the city.

Applicant voluntarily submitted to a drug test on November 11, 2023 and again to the Chicago Police Department on April 6, 2024. She tested negative for all narcotics, specifically marijuana or cannabis.

Applicant argues that the nation is faced with a new issue when it comes to cannabis and its acceptance for both recreational and medicinal purposes. She stresses that Illinois has “rightfully” legalized the drug and there is no longer shame in ingesting it. Applicant argues that she was not a habitual user, nor did she use cannabis recreationally. Applicant reports that she never received the euphoric high that one might expect from ingesting cannabis, but that it simply helped her sleep. She says that she made an honest mistake that will never happen again. Applicant believes that the Chicago Police Department is better off with her in its ranks, and she should be welcomed back to serve the citizens and department that she loves.

Conclusions of Law

Section IV. of the Bureau of Support Services Special Order contains the Pre-Employment Investigation Standards for Applicants to the Position of Police Officer (“Standards”) that are applicable to this Appeal. Applicant was disqualified by OPSA based on

criminal conduct, conduct involving drugs, and prior employment history.

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."

Section B(7)(a) of the Standards states: "...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."

Section D(3) of the Standards states: "... an applicant who, during previous employment, has engaged in any conduct that would have violated the Chicago Police Department's Rules and Regulations had the applicant been a Chicago Police Department employee, may be found unsuitable for employment."

OPSA maintains that Applicant was properly disqualified because she tested positive for a high level of THC while on duty at the Norridge Police Department, leading to an on-duty traffic crash that resulted in property damage. OPSA states that this accident could have resulted in injury to both Applicant and members of the public. As a result, Applicant's conduct violated sections B and D of the Standards, along with numerous CPD Rules and Regulations.

Applicant, however, maintains that she unknowingly took gummies containing THC to sleep after being unable to fill her prescription for Hydroxyzine due to insurance issues. Applicant stresses that the gummies were given to her by a friend who was a nurse, and she never would have taken them had she known that they contained THC. Applicant states that she

values her position as a law enforcement officer and would never do anything to jeopardize it.

OPSA's Response relies on the information contained in the Notice and fails to address the involuntary intoxication argument provided in Applicant's Appeal. Specifically, OPSA fails to address Applicant's assertion that she was given the gummies by a nurse friend and was unaware that they contained THC. OPSA's Response contains no evidence or arguments to counter Applicant's assertion that she was unaware that the gummies contained THC.

Because this incident was the sole basis for Applicant's disqualification, Applicant has shown, by a preponderance of the evidence, that the decision to remove her from the Eligibility List was erroneous.

Recommendation

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

Respectfully submitted,

/s/ Mamie A. Alexander

Mamie Alexander
Appeals Officer

Date: December 16, 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 **reversed** and she is **reinstated to the Eligibility List**.

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

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 19th DAY OF DECEMBER 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director