

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 23 AA 23**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Candidate No. [redacted])**
CITY OF CHICAGO.)

FINDINGS AND DECISION

[Name redacted] (hereinafter referred to as “Applicant”) applied for a probationary police officer position with the City of Chicago. In a letter dated February 15, 2022, 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 (“Notice”).

On June 29, 2023, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why the Department of Police (“Department”) 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 August 17, 2023, the Office of Public Safety Administration filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). On September 22, 2023, 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.¹ 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

B. Disqualification Based on Criminal Conduct

7. Other Criminal Conduct

c) Conduct Indicating Violent Tendencies

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. Conduct demonstrating a propensity for violence includes but is not limited to, conduct which would constitute murder; kidnapping; sex offenses; assault; battery; aggravated battery; offenses against property; robbery; domestic violence; disorderly conduct; and mob action. 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.

¹ The Board granted Applicant an extension through June 30, 2023 to file his appeal, as Department's Disqualification Letter was dated February 15, 2022 instead of February 15, 2023. As a result, the Appeal, Response and Reply are deemed timely filed.

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.

F. Disqualification Based on Membership or Association with Criminal Organizations

1. Police Officers are charged with upholding the law and defending the public from criminal activity. An applicant who is a member or affiliate of any criminal organization, including but not limited to a street gang, will therefore be found unsuitable for employment.
2. Prior membership or affiliation in a criminal organization may be grounds for disqualification. An applicant who is a former member or affiliate of a criminal organization will be required to produce acceptable evidence to show that the membership in or affiliation with the criminal organization ceased for a period of five (5) years (for the date of the PHQ submission) or more prior to the date of application, and that the applicant has no current membership or affiliation with any criminal organization at the time of processing or hire.

G. Disqualification Based on Indebtedness

1. Police officers are occasionally required to handle significant amounts of currency in the execution of their duties. Further police officers with significant indebtedness are considered particularly susceptible to corruption and coercion. Therefore, any applicant who has current personal debt not related to a business, mortgage, loans, student or auto loans, or medical bills the total of which is in excess of fifty (50%) of the annual starting salary of a Chicago Police Officer at the time of the application, or at any point during the hiring process, will be found unsuitable for employment. Regardless of the source of debt, an applicant who has defaulted on any loan or has an inconsistent payment pattern may be found unsuitable for employment.

H. Disqualification Based on Other Conduct

1. Police officers are required to show respect for authority, uphold the law, and defend the dignity and rights of the public. Therefore, any applicant

who has engaged in conduct that exhibits a pattern of repeated abuse of authority; lack of respect for authority or law; lack of respect for the dignity and rights of others; or a combination of traits disclosed during the pre-employment investigation that would not by themselves lead to a finding that an applicant is unsuitable for employment, but when taken as a whole, exhibit that the applicant is not suited for employment as a police officer, will 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.

I. Disqualification Based on False Statements or Omissions and/or Failure to Cooperate in the Application Process

Applicants are required to cooperate with the City of Chicago and the Chicago Police Department in all matters relating to the processing of their applications for the position of Police Officer. Any applicant who fails to cooperate with the City of Chicago and its Police Department in processing his or her application for the position of Police Officer shall be disqualified. Prohibited conduct within this category includes, but is not limited to: failure to provide any required information; failure to respond to requests for information in a timely manner; failure to respond to requests for interviews in a timely manner; failure to fully disclose all known information requested, whether it is beneficial or prejudicial to the applicant; making false or misleading statements in connection with any part of the application process; failing to include any material or relevant information requested by the City of Chicago or the Chicago Police Department; or failing to appear for scheduled appointments or processing sessions as directed.

Applicant was disqualified by Department based on criminal conduct that included assault, loitering, disorderly conduct, flashing gang signs, yelling gang slogans, throwing bottles, and gang affiliation. This conduct resulted in Applicant's arrest on at least seven occasions.

Applicant was also disqualified for having three accounts in collections and failing to report several of his arrests to the Investigator.

Appeal, Response and Reply

Applicant (through an Appeal and Reply submitted by his Attorney)² appeals the decision, stating that he was disqualified based upon several incidents in which he was mistakenly classified as a gang member. Applicant states that he is not a gang member, does not affiliate with gangs, and does not participate in gang activities. He states that he was unfairly disqualified based on the conduct of others, and all of his arrests happened over a decade ago.

Applicant also states that his indebtedness does not warrant disqualification, as he had less than \$1000.00 in past due debts, and they have since been paid off. Applicant states that he is an ideal candidate to serve as a Chicago police officer, and references articles, press releases and reports related to the importance of police-community relationships.

Applicant notes that former mayors Lightfoot and Emmanuel have stated that Chicago police officers should reflect the diversity of the communities they serve, and CPD must be sure to “recruit in a way that reflects the diversity of our city.” Applicant states that he embodies the core values of the CPD (Professionalism, Integrity, Courage, Dedication and Respect), and would make an excellent police officer.

Department’s Response states that the appeal was reviewed, and Department relies upon the facts and evidence relating to the disqualification contained in Applicant’s file. Department maintains that the pre-employment disqualification standards under which Applicant’s disqualification decision was based upon are clear (namely, Disqualification Based on Criminal Conduct [Multiple Counts], Disqualification Based on Membership or Association with Criminal

² Applicant’s Appeal and Reply were drafted and submitted by his attorney and are written in third person. For purposes of this Appeal, all statements and arguments contained therein are attributed to Applicant.

Organizations, Disqualification Based on Indebtedness, Disqualification Based on Other Conduct [Multiple Counts], and Disqualification Based on False Statements or Omissions and/or Failure to Cooperate in the Application Process). Department states that the evidence in Applicant's file supports its decision to disqualify Applicant from hiring, and the Department 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.

Department also notes that Applicant's history is extremely troubling, and had he been in their employ, Applicant would have been in violation of multiple rule violations, "each of which would serve by themselves as grounds for disqualification."

In his Reply, Applicant states that Department's Response does not address the issues raised in his Appeal and instead relies on the prior record and two Appeals cases. Applicant reiterated that he is not, nor has he ever been a gang member, and states that that he was erroneously labeled because he lived in an area where gang activity occurred. He states that the OIG's review of the CPD has made it clear that CPD's Gang Database is flawed, as it does not require officers to provide evidence of gang affiliation. This leads to "squishy" gang designations and incorrect data.

Applicant states that he should not be branded with a "permanent scarlet letter" for growing up in the "wrong" place and occasionally socializing as a teenager with the wrong type of people.

Findings of Fact

Filings are deemed timely.

Department provided the factual basis for its decision to disqualify Applicant and remove

his name from the eligibility list. Department determined that Applicant's criminal conduct, membership or association with criminal organizations, indebtedness, false statements or omissions and/or failure to cooperate in the application process and other conduct were grounds for disqualification.

Department 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.

Criminal Conduct Indicating Violent Tendencies

Between 2006 and 2011, Applicant was arrested at least seven times for numerous criminal code violations, including Loitering (8/29/2011), Reckless Conduct-Public Peace Violation (9/20/2007), Assault (4/19/2007), Criminal Trespass to Land-"Gang Incident" (3/29/07), Disorderly Conduct (11/2/2006) & (3/3/2006), and Criminal Damage to Property (3/14/2006).

Applicant's conduct during these arrests included, but was not limited to the following:

- Flashing gang signs, yelling gang slogans, and throwing rocks at citizens who were walking down the parade route during the Mexican Independence Parade.
- Approaching and threatening a man, stating "If we see you again, we are gonna fuck you up, VLK (Vice Lord Killer)."
- Trespassing and yelling "King Love, Bitch" to a man who asked Applicant several times to leave his property.
- Kicking and throwing bottles at a man.
- Blocking a woman's path on the sidewalk and refusing to let her through while

flashing gang signs and yelling gang slogans at her and passing vehicles.

- Standing in the street and blocking traffic with ten other men while flashing gang signs and causing a disturbance.

In his Appeal, Applicant states that all but one of his arrests occurred over a decade ago when he was seventeen and eighteen years old. He stresses that all of his arrests were either stricken or dismissed, and he has never been convicted of a crime.

Membership or Association with Criminal Organizations

Nearly all of Applicant's arrests were related to gang activity, and he was designated in the CPD Gang Database as a Latin King gang member. In addition, four of Applicant's arrest reports state that he "self-reported" as a member of the Latin Kings.

Applicant claims that he is not and has never been a gang member, is not gang affiliated, and does not participate in gang activities. He states that he grew up in a neighborhood where several people were either members of or affiliated with a gang, and he went to school with them. He states that he did not choose the neighborhood that he grew up in, but stayed away from gangs and was never affiliated with one.

Applicant points to the OIG's Review of the CPD Gang Database, stating that it is known to be problematic, and does not require CPD members to provide evidence in support of a gang designation, which increases the number of unjustified designations. He states that this causes people such as himself to be erroneously labeled as gang members. He maintains that his arrests were simply the product of hanging out with other teenagers in a neighborhood where there was gang activity.

Indebtedness

Applicant's [name redacted] closing report showed that he had three accounts in collections 1. IC System (\$522.00) 2. The Bureaus (\$304.00) and 3. Caine Weiner (\$162.00). Applicant states that he was unaware of the debts until they were flagged, and has since paid them off.

Other Conduct-Lack of Respect for Authority and Disorderly Conduct

Several of Applicant's arrests were for conduct that included blocking the streets and sidewalks, trespassing, attacking citizens on a parade route, threatening violence, and loitering. He was also arrested several times for disorderly conduct.

False Statements or Omissions and/or Failure to Cooperate in the Application Process

Applicant failed to disclose his arrest during the Mexican Independence Parade, as well as his arrests for assault and trespassing. He also provided incorrect case numbers to the Investigator for several of his other arrests.

Gangs

Applicant advised the Investigator that he does not and has not had an affiliation with gangs or gang members, but CLEAR reported that Applicant is named as a Latin King Gang member in the database, and several of the police reports state that Applicant self-reported as a member of the Latin Kings.

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.

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Findings and Decision

Applicant was disqualified by Department based on his criminal conduct, conduct indicating violent tendencies, membership or association with criminal organizations, indebtedness, “other conduct,” false statements or omissions and/or failure to cooperate in the application process.

Based on the details provided in the Notice and Response, Applicant’s past conduct contains numerous violations that could be considered grounds for disqualification based on Department’s Standards.

Applicant was arrested for Disorderly Conduct, Reckless Conduct, Assault, Criminal Trespass to Land, and Criminal Damage to Property. Several of his arrests contained allegations of gang activity, and Applicant is designated in the CPD Gang Database as a Latin King.

Although Applicant consistently denies being in a gang or affiliating with gang members, **four** of his arrest reports state that Applicant **self-reported** as a Latin King, and he does not address or deny self-reporting in his Appeal.

Applicant also does not specifically address Department’s allegation that he has a propensity for violence. The conduct as described in the arrest reports constitutes assault, battery, offenses against property, disorderly conduct, and other crimes, and the conduct occurred on more than one occasion, making him unsuitable for employment based on Section (B)(7)(c) of the Standards. While Applicant argues that he has never been convicted of a crime, he does deny the conduct or provide an explanation.

While most of Applicant’s conduct could warrant disqualification, most disturbing is the conduct described in the CPD arrest reports which state that Applicant threw rocks at citizens in a parade route, kicked and threw bottles at a man, and blocked a woman from walking down the

street, all while flashing gang signs and yelling gang slogans.

Although Applicant states that he was unfairly and erroneously grouped with gang members (implying that he did not commit the acts alleged), the arresting officer at the parade **observed** Applicant's conduct and reported that "many citizens" walked across the street fearing for their safety. Likewise, an officer **observed** Applicant kicking and throwing bottles at a man, and several of Applicant's victims signed Complaints identifying **Applicant** as the offender. Therefore, it is highly unlikely that Applicant did not engage in at least some of the criminal acts alleged.

In addition to violent tendencies, Applicant's conduct exhibited a pattern of lack of respect for authority and law and lack of respect for the dignity of others, and he engaged in conduct affecting public health, safety and decency, including, but not limited to disorderly conduct. As a result, he could be found unsuitable for employment based on Sections H(1) and H (4) of the Standards.

Furthermore, Applicant had three accounts in collections, and failed to report three of his arrests to the Investigator. Therefore, Applicant could also be disqualified based on his indebtedness and failure to report arrests (omissions) based on Sections G and I.

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, conduct indicating violent tendencies, membership or association with criminal organizations, indebtedness, false statements or omissions and/or failure to cooperate in the application process.

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 16, 2023

POLICE BOARD DECISION

The members of the Police Board of the City of Chicago have reviewed the Appeals Officer's findings, conclusions, and recommendations.

The Police Board hereby adopts the Appeals Officer's findings, conclusions, and recommendation by a vote of 8 in favor (Ghian Foreman, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, and Andreas Safakas) 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: Ghian Foreman, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 16th DAY OF NOVEMBER, 2023.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director