

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 23 AA 24**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Applicant 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 May 24, 2023, 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”) and the process for appeal. In support of its decision, Department cited conduct it alleged formed the bases of Disqualifications Based on Criminal Conduct, Prior Employment History, and False Statements or Omissions and/or Failure to Cooperate in the Application Process.

In an email letter from her attorneys dated July 13, 2023, Applicant appealed the disqualification decision to the Police Board by 1) filing a written request specifying why the Department of Police (hereinafter referred to as “Department”) erred in the factual determinations underlying the disqualification decision *and/or* 2) 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”). Department filed a Response August 23, 2023. Applicant filed a Reply September 15, 2023.

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

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 the Parties

According to the Notice, which includes the Candidate Background Investigation Update dated January 13, 2022 (hereinafter "Background Investigation Report"), 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, in relevant part as cited by Department

1. "... 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." (Background Investigation Report, p. 2)

Department cited the following conduct, in summary:

Physical altercation October 15-16, 2021. Applicant was reported by the listed victim, the Applicant's girlfriend, as having engaged in a verbal altercation with the victim in Applicant's vehicle after a music concert. The individual reported the altercation turned physical when Applicant struck her about the body with a closed fist, pulled the individual out of the vehicle and drove away. It was alleged that Applicant kept the individual's purse containing credit cards and identification and refused to give it back. The report was made to (a) Responding Officer(s) ("R/O(s)") at the Applicant's residence. The incident was said to have occurred in a parking lot outside a music venue. R/O(s) reported Applicant then arrived on scene where R/O(s) were speaking to the alleged victim (Applicant's residence). Applicant related to

the R/O(s) that the individual was highly intoxicated and became irate after Applicant told her she was intoxicated and needed to go home and was also irate because Applicant had driven another woman home. Applicant explained to R/O(s) the individual threw her own purse in an unknown direction while they were in the parking lot and while Applicant was driving the vehicle the individual, who was in the back seat, began striking Applicant with a closed fist while Applicant was driving. Applicant explained she pulled the car over and demanded the individual exit the vehicle. When she refused, Applicant tried to pull her out. R/O(s) noted in the report: "Due to conflicting stories, victim being the aggressor, both the victim and offender being mutual combatants, and no visible signs of injuries to either party, no arrest was made."

Basis #2

IV-D. Disqualification Based on Prior Employment History, in relevant part as cited by Department:

1. "Police officers are required to work well with others, 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. A steady employment history is an indication that, among other things, an applicant has the ability to work well with others; follow workplace rules; perform his or her work to acceptable standards; and come to work on time and on a regular basis."

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

(Background Investigation Report, p. 3)

Department cited the following conduct, in summary:

December 4, 2017, Termination for insubordination. Background Investigator noted the company was contacted but they were not able to comment.

July 23, 2020, Termination "due to improper duties." Background Investigator noted the company was contacted and reported Applicant was graded "excellent" in all work categories and that Applicant resigned. Background Investigator noted that this conflicted with what the

“Kentech” report (i.e., report of preliminary background check) indicated.

(Background Investigation Report, p. 3)

Basis #3

IV-I. Disqualification Based on False Statements or Omissions and/or Failure to Cooperate in the Application Process, in relevant part as cited by Department:

“... Honest and complete answers to background questions asked of applicant[s] during the application process, as well as full cooperation with the application process, are thus extremely important to the maintenance of the Chicago Police Department’s force and the integrity of its hiring process... [Prohibited conduct includes, but is not limited to]...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...” (Background Investigation Report, p. 3)

Department cited the following conduct, in summary:

Applicant failed to disclose she was a victim of a crime at Q68 of her Personal History Questionnaire (“PHQ”) submitted July 5, 2021, and reviewed and updated by Applicant November 9, 2021. Case reports found by the Background Investigator showed Applicant did not disclose the October 16, 2021 altercation and what was listed as Criminal Damage – to Vehicle/ Domestic Related on September 23, 2020. In a follow-up phone interview Background Investigator reported Applicant said she knew of the two case reports but didn’t think she answer she was a “victim” because there were no arrests. (Background Investigation Report, p. 4)

Appeal, Response and Reply

The following is a summary.

Appeal. Applicant argued that she never engaged in criminal conduct, and that it was the conduct of her then-girlfriend. Applicant points to the language of the R/O(s): “victim being the aggressor” where the ex-girlfriend was listed as a “victim” on the case report.

As to prior employment, Applicant argued she does not have a poor employment history. Applicant explained the 2017 termination was from her first job as a cashier at a retail store

when she was in high school. No offer of why she was discharged was made. As to the 2017 “termination,” Applicant mistakenly used the word “terminated” in reference to her departure from the company during the pandemic. She was employed there during college, left employment there during the pandemic and moved back to Chicago after graduation. She noted that her supervisor indicated she was an exemplary employee.

Applicant argued that the disqualification for omissions on her PHQ as to whether she was a victim of a crime is without merit in that Applicant did not consider herself a “victim of a crime” when she answered that question. Applicant argued it is unreasonable for someone to know what rises to the level of a crime in every situation they’ve encountered. Applicant felt she clarified herself in the follow-up phone interview. Finally, Applicant argued that there is no negative implication that could be attributed to Applicant not thinking she’d been a victim of a crime and the attempt to classify the omission as “false statements or omissions and/or failure to cooperate” is “galling,” as described by her attorney. (Appeal)

Response. In summary, Department iterated it stands on the reasons and bases set forth in the disqualification letter. (Response)

Reply. In her Reply, Applicant noted Department did not respond to the specifics of Applicant’s Appeal and iterated the arguments in her Response. Applicant also added that as to termination from her first job in high school: “The facts in this case simply do not support the CPD’s purported goal of abiding by the OIG’s recommendation that ‘as far as possible under applicable law, a background investigation should eliminate candidates only on grounds relevant to predicting job performance,’” further noting she’s been an “exemplary employee” thereafter. (Reply)

Findings of Fact

Filings were timely.

Department provided its factual basis for its 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.

Applicant did not engage in criminal conduct on October 15, 2021. It appears she was not the aggressor and acted to remove an intoxicated and violent person from her vehicle after trying to take the person home.

Based on the totality of circumstances, it is unclear what conduct occurred that led to Applicant's termination from the first job she had in high school. This Appeals Officer finds it is too vague and isolated to be of much substance in determining that the first job held by a teenager should be indicative of anything. It also appears that Applicant resigned from the job she had in college and was not terminated.

Applicant's follow-up phone interview in which she explained why she didn't answer she was a "victim of a crime" on her PHQ and her argument on appeal is persuasive as to when does a person know they've been a victim of a crime? and are they expected to recall every incident?

By a preponderance of the evidence, **Applicant DID** provide sufficient additional facts directly related to and adequately specify why the Department erred in its factual determinations.

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

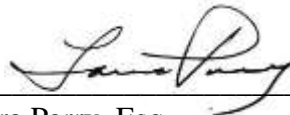
Applicant shall show by a preponderance of evidence that Department's decision to remove the applicant from the Eligibility List was erroneous (MCC 2-84-035(c)). Therefore, according to the law and procedures, findings and recommendations are based upon whether Applicant's Appeal shows by a preponderance of the evidence that Department erred in removing Applicant's name from the Eligibility List, based upon the employment standards established by the Department.

Applicant **DID** show by a preponderance of the evidence that Department erred in the exercise of its decision to remove Applicant's name from the Eligibility List for the reasons stated herein.

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**, and Applicant's name be returned to the eligibility list.

Respectfully submitted,



Laura Parry, Esq.
Appeals Officer

Date: October 13, 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 **reversed**, and he is **reinstated to the eligibility list**.

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