

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

**IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) No. 22 AA 08
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 October 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”).

In an undated letter referencing the Notice, 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”).

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

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

Although the letter was not dated or stamped “received,” there was no objection to the filing of the appeal. A Response was filed, standing on the bases cited in the Notice. Applicant filed a Reply. Taken in the light most favorable to Applicant and in the interests of considering the appeal on its merits, it is found that Applicant filed a timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago.

Notice

According to the Notice, Applicant was removed from the list of eligible applicants for the position of probationary police officer for the following reasons based upon Pre-employment Investigation Standards for Applicants to the Position of Police Officer (“disqualification standards” or “Standards”) Section(s) IV – B 1. Disqualification Based on Criminal Conduct; IV – B 7. c) Criminal Conduct - Other Conduct - Conduct Indicating Violent Tendencies; and IV – G.1. Disqualification Based on Indebtedness.

“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.”

“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; stalking; 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. 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 submissions), or more than one (1) time in his or her life, will be found unsuitable for employment.”

Department cited the following conduct for the bases above. In summary:

Department alleged six (6) instances of criminal conduct from August 2002 – August 2021.

Battery - Simple. In August 2002, according to an investigation summary of a police case report, Applicant struck another in the face and body with an open fist while another offender held the person, resulting in bruises on that person.

Criminal Damage to Vehicle. In November 2002, according to an investigation summary of a police case report, a person found his vehicle's driver side tire slashed after receiving a message from Applicant saying, “If you keep trying to fuck me over I'm going to slash the rest of your tires.”

Battery – Aggravated Battery. In September 2009, according to an investigation summary of a police case report, Applicant became angry after a verbal altercation with her boyfriend and hit him on the left side of his head with a hammer, causing a minor laceration and resulting in transport to the hospital.

Battery – Domestic Battery. In November 2009, according to an investigation summary

of a police case report, Applicant punched her sister about the face and body during a verbal altercation, after which Applicant fled the scene.

Offense Involving Children. In January 2011, according to an investigation summary of a police case report, Applicant failed to have her child at the scheduled place, time and date for the child's father to pick up for his visit and failed to provide father with a contact number. Investigation summary on the supplemental report, Applicant explained that at the scheduled time she was seeking medical attention at a hospital and that she did text the father of the child to let him know and that she would have the child ready for pick up later that day, which the Applicant reported was not acceptable to the father and that he would only accept the child at the scheduled time.

Battery – Domestic. In August 2021, according to an investigation summary of a police case report, Applicant and her sister were involved in verbal altercations over several months and on that particular day Applicant went to the location to pick up her mail. She started another verbal altercation with the sister, during which she grabbed a second sister by the hair while Applicant had a pair of scissors in her hand. Applicant was reported to have fled the scene.

“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 debts not related to a business, mortgage loans, student or auto loans, or medical bills the total of which is in excess of fifty percent (50%) of the annual starting salary of a Chicago Police Officer at the time of 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.”

Department cited the following conduct, in summary:

Applicant filed bankruptcy four (4) times.

May 12, 2014 (closed September 25, 2014; terminated December 4, 2014);
June 4, 2014 (closed August 27, 2014; terminated December 4, 2014);
September 8, 2014 (closed July 8, 2015; terminated October 7, 2015); and
July 24, 2015 (closed October 6, 2015; terminated January 7, 2016).

The background investigator reported Applicant explained she filed for bankruptcy due to a large number of unpaid City of Chicago parking tickets which put her vehicle at risk for booting and that she was unable to keep up with the payment plans because of lack of employment. Applicant further explained that most of her employment options could not be accessed by public transit, that her license had been suspended for unpaid parking tickets and that she couldn't afford an attorney, so she did all the filings herself, which sometimes led to dismissals for missing paperwork or other steps in the process. Additionally, the investigator reported Applicant had one delinquent credit account, three (3) accounts that had been charged off, and three (3) in collections, totaling \$9,659.00.

No other reports or interview summaries were provided.

Appeal

In summary, Applicant appeals the disqualification, explaining that as to all instances related to incident reports filed by one of her sisters, there was a dispute over real and personal property of their deceased mother (date of death January 6, 2021), and that particular sister had threatened to file false police reports in an attempt to obtain more of the beneficial interest in the property. Applicant explained that she was the sole contingent beneficiary and that there were some legal issues because there was no will or trustee named for the estate. Applicant explained that she and two of the other of the seven remaining living heirs agreed to split it equally, but that this particular sister and two others wanted more. (Applicant Appeal, pgs. 1-4 and Reply

received January 16, 2023). Applicant supplied a notarized letter from another sister who attested to the family turmoil as outlined by Applicant (Appeal Attachment 1, pg. 2).

As to the November 2009 and August 2021 Battery-Domestic incidences, with the familial background explained above, the conduct based on reports involving Applicant's sister will be addressed first from Applicant's appeal. On the date of the August 2021 Battery-Domestic incident, Applicant explained, she went to pick up mail at the property at issue in the estate where this and another sister lived, and though she wasn't allowed into the house by either of the two sisters, they discussed birthdays and family. When the conversation turned to Applicant helping to pay some of the bills for the estate property where she did not live, but these two sisters did live, a disagreement ensued. Applicant explained that as she turned to leave one sister grabbed Applicant from behind, ran on the front yard and challenged Applicant to fight. Applicant explained she waited in the doorway for the sister to calm down. When she did not, Applicant asserted that Applicant called 911 and was told to leave if able, which she did when she felt safe to do so. (Appeal, pgs. 1-2). Applicant supplied a notarized letter from an eyewitness to the incident that corroborates the extent of the physical interaction between the sisters on that date – that the eyewitness saw the whole incident from the time Applicant arrived, that Applicant was in the doorway the entire encounter, and that there was no physical contact between them before Applicant left the scene in her vehicle (Appeal Attachment 1, pgs. 4-5). Applicant also specifically denied hitting one of the sisters in the alleged November 2009 Battery-Domestic incident -- she admits a verbal altercation over hosting a holiday. Applicant explained that she was considering becoming a police officer at the time and her sister had threatened to call the police to try to hinder those efforts, so Applicant left. She denied hitting her sister. (Appeal, pg. 3).

As to the November 2002 Criminal Damage to Vehicle allegation, Applicant supplied a notarized letter (albeit notarized by her sister who also provided a statement notarized by another notary) from the alleged victim of the incident that denied any such incident occurred as was reported (Appeal Attachment 1, pg. 3).

As to the September 2009 Battery – Aggravated incident, Applicant supplied a printed copy of what appears to be an email from the alleged victim. A copy of a driver’s license was included on the email as an attachment (however, it was not legible on the email). Applicant supplied a more legible copy of the driver’s license in a separate attachment (Appeal Attachment 2). The alleged victim stated that while he was struck in the head after a heated discussion with Applicant, it occurred in a public place and that “some people that had nothing to do with the situation got involved and [that led] to me getting hit in the head.” The author offered to be contacted for further questions or concerns (Appeal Attachment 1, pg. 1). Applicant explained that she cut off all contact with the alleged victim after their romantic relationship ended in June. She explained, when he approached her at a gas station in November, he called her names and threatened her, she ignored him, and that angered him. According to Applicant, after she'd finished pumping fuel, the alleged victim grabbed Applicant by the hair, ripped her clothes and hit her in the face, causing a bruise. Applicant said then other men at the station pulled the alleged victim off Applicant and then "jumped" the alleged victim. Applicant said she was scared, she drove off and though she said she did not call them because she was afraid to identify anyone at the gas station, the police arrived at her home and took photos of her face and ripped clothes. (Appeal, pgs. 2-3).

A Reply appears to have been filed or received from Applicant in some manner, purportedly on January 16, 2023. In it, Applicant denied “ownership or accountability” for the

allegations related to criminal conduct (except the August 2002 incident) or propensity for violence, pointing out that no arrest, warrant or order of protection was ever issued in any of the alleged incidences. Applicant also argued that some the of incident reports regarding criminal conduct were from when she was a minor (including August 2002 incident). (Reply).

As to her indebtedness, Applicant did not deny the debt was incurred or the bankruptcies were filed. She explained as to the bankruptcies that every time she went to file something in the original case she filed, the clerk would give her a new case number, which is how she ended up with four bankruptcy cases filed in 13 months instead of the one that was originally filed in October 2014. Applicant explained that she needed to file the case because she needed to get her driver's license reinstated to be able to drive outside of the City for employment. Once granted bankruptcy protection, Applicant asserted she took advantage of a parking ticket amnesty program the City of Chicago offered at the time and paid off the debt in fewer than the allotted five years. (Appeal, pg. 4).

Applicant disputed that the listed car loan indebtedness was valid. She explained the car was "totaled" by the insurance company and claimed she showed proof to the investigator. As to the charged off accounts, Applicant asserted that due to income loss during the pandemic she was unable to keep up with payments; that she was current on repayment plans and was so at the time of the background investigation; that one of the charged off accounts was inaccurate; and that she showed proof to this to the Investigator. Applicant also asserted that all the accounts that were listed as "in collection" were paid or settled per the direction of the background investigator and that she had shown proof of that. (Appeal, pg. 4). No additional evidence in support of these assertions accompanied the Appeal.

In her Reply, Applicant expressed she experienced personal difficulty due to the end of a

relationship that she'd had all of her adult life until three years ago, the sudden loss of her mother, and loss of income due to the pandemic. She argued that all her debt is in repayment status and does not exceed 50 percent of the annual starting salary of a police officer, noting that the numbers cited in the Notice were incorrect (Applicant offered no other amounts) and the updated credit reports accessed during the investigation process were not considered. (Reply). No additional proof of this was offered in the Appeal.

Findings of Fact

Filings were timely.

As to IV.B.1. Disqualification Based on Criminal Conduct and IV.B.7.c) Disqualification Based on Criminal Conduct - Other Criminal Conduct - Conduct Indicating Violent Tendencies, the following findings are made.

Battery-Simple (August 2002). Applicant did not deny this conduct. She may have been a minor, but that does not excuse the conduct. Applicant did not provide sufficient and credible additional facts directly related to the reasons for the disqualification or specify why there was error in the factual determinations underlying the disqualification decision for this allegation. Official notice is taken that Illinois law classifies simple battery as a misdemeanor (ILCS 720 5/12-3).

Criminal Damage to Vehicle (November 2002). The summary of the case report provided by the background investigator noted that the victim himself related the information contained in the police case report. A notarized writing supplied by Applicant from the alleged victim denied that the incident occurred. Even if the originally reported information was correct, there was not enough information on the report to show that Applicant was the one who caused the damage to the vehicle. Applicant provided sufficient and credible additional facts directly related to the

reasons for the disqualification and/or specified why there was error in the factual determinations underlying the disqualification decision for this allegation.

Battery – Aggravated Battery (September 2009). While there was a letter with identification provided by the victim indicating that the incident occurred in a public place and noting “some people that had nothing to do with the situation got involved and [that led] to me getting hit in the head,” the author of the letter was indeed hit in the head and the statement did not specifically deny that Applicant was the one who hit him. Applicant did deny the conduct and provided a detailed description of the encounter in which the alleged victim instigated physical contact. She did not specifically deny hitting the alleged victim with the hammer, but in the explanation of how other individuals were involved in the scene from both the Applicant and alleged victim, neither mentioned Applicant having a hammer. Their accounts were similar. Applicant provided sufficient and credible additional facts directly related to the reasons for the disqualification and/or specified why there was error in the factual determinations underlying the disqualification decision for this allegation.

Battery – Domestic Battery (November 2009). Applicant was involved in a verbal altercation with her sister at their deceased mother's estate property where her sister lived. There were no additional statements from any witness or the alleged victim or any arrests. Applicant provided a detailed account of the encounter and credibly denied having hit her sister. There was no indication that the responding officer found any indications of physical injury to the alleged victim. Applicant provided sufficient and credible additional facts directly related to the reasons for the disqualification and/or specified why there was error in the factual determinations underlying the disqualification decision for this allegation.

Offense Involving Children (January 2011). Applicant was seeking medical attention at the

time she was supposed to have her child ready for pick up for visitation by the father and she indicated that she had contacted him and told him so. Without further information from the father or more evidence showing how this was a violation of the law, Applicant provided sufficient and credible additional facts directly related to the reasons for the disqualification and/or specified why there was error in the factual determinations underlying the disqualification decision for this allegation.

Battery – Domestic (August 2021). Applicant denied and an eyewitness disputed that Applicant ever entered the house or ever came into physical contact with either of the sisters; that the entire incident occurred outside the front of the house. No additional information outside of the Investigator's summary of the police incident report was provided. Applicant provided sufficient and credible additional facts directly related to the reasons for the disqualification and/or specified why there was error in the factual determinations underlying the disqualification decision for this allegation.

As to IV.G.1. Disqualification Based on Indebtedness the following findings are made.

Applicant filed for bankruptcy protection four times within 13 months with the intention of filing one case and making supplemental filings into one single case. Applicant accumulated unpaid parking tickets which she needed to pay to reinstate her driver's license. It appears that the tickets have been paid, the final bankruptcy terminating in January 2016. Applicant did not provide sufficient and credible additional facts directly related to the reasons for the disqualification or specify why there was error in the factual determinations underlying the disqualification decision as to the intended single bankruptcy.

Applicant also had one delinquent credit account, three (3) accounts that had been charged off, and three (3) in collections. As to the delinquent account, Applicant did not provide

evidence regarding her repayment or forgiveness of the car loan. As to the accounts that were charged off: a charged off account is one in which a creditor takes the amount it is owed on the account as a loss, indicating there is no further attempt to collect the debt¹. No evidence of any other arrangement was provided in the Appeal. Additionally, Applicant did not provide any evidence of payment of the accounts in collection in her Appeal. Applicant did not provide sufficient and credible additional facts directly related to the reasons for the disqualification or specify why there was error in the factual determinations underlying the disqualification decision for these allegations.

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, findings and recommendations are based upon whether Applicant’s appeal shows by a preponderance of the evidence that Department erred in removing her name from the Eligibility List.

Under the Department disqualification standards, IV.B.1. Disqualification Based on Criminal Conduct, "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" (emphasis added). Applicant successfully provided sufficient and credible additional facts directly related to the reasons for the disqualification and/or specified why there was error in the factual determinations underlying the disqualification decision in all but one of the alleged incidences of criminal conduct. Even

¹ A simple definition of "charge off" can be found in Merriam-Webster Dictionary

though she was not convicted of a criminal offense, she still engaged in an act of criminal conduct, Battery-Simple in 2002, and no matter her age at the time, according to this standard, is therefore ineligible based upon that one incident of criminal conduct. **Applicant failed to show by a preponderance of evidence that Department's decision to remove the applicant from the Eligibility List was erroneous under IV.B.1. - Disqualification Based on Criminal Conduct.**

As to IV.B.7c) Disqualification Based on Criminal Conduct - Other Criminal Conduct - Conduct Indicating Violent Tendencies, the standards are more specific. It notes that "any conduct demonstrating a propensity for violence will be grounds for disqualification," specifically mentions "battery," but also notes that an applicant will be found unsuitable for employment under this particular standard if the conduct "constitutes a misdemeanor within the last three (3) years (from the date of PHQ submissions), or more than one (1) time in his or her life..." It was found Applicant engaged in one misdemeanor act of battery in 2002, which is more than three years from the PHQ submission². **Applicant showed by a preponderance of evidence that Department's decision to remove the applicant from the Eligibility List was erroneous under IV.B.7 c) - Disqualification Based on Criminal Conduct - Other Criminal Conduct - Conduct Indicating Violent Tendencies.**

As to Disqualification Based on Indebtedness under Department standards IV.G.1., "an applicant who has defaulted on any loan or has an inconsistent payment pattern may be found unsuitable for employment." It is a discretionary standard under which Department "may" disqualify an Applicant. Applicant defaulted on several loans and had an inconsistent payment pattern as demonstrated by the bankruptcy, unpaid parking tickets, charged off accounts and

² While there is nothing in the record with the actual date of the PHQ submission, it appears that Applicant sat for the exam in May, 2019 ("Notice", p. 3)

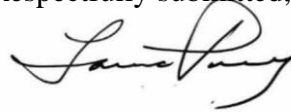
accounts in collection. Applicant failed to provide sufficient and credible additional facts directly related to the reasons for the disqualification and/or specified why there was error in the factual determinations underlying the disqualification decision. **Applicant has failed show by a preponderance of evidence that Department's decision to remove the applicant from the Eligibility List was erroneous under IV.G.1. - Disqualification Based on Indebtedness.**

While Applicant successfully rebutted some of the factual determinations for some of the allegations, Applicant did not successfully rebut all of the factual determinations. The remaining bases are sufficient for disqualification. Overall Applicant would have had to defeat all the bases. She did not. Applicant did not show by a preponderance of the evidence that Department erred in the exercise of its decision to remove her from the Eligibility List.

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,



Laura Parry, Esq.
Appeals Officer

Date: February 24, 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 6 in favor (Ghian Foreman, Paula Wolff, Steven A. Block, Mareilé B. Cusack, Nanette Doorley, and Jorge Montes) to 0 opposed.

NOW THEREFORE, IT IS HEREBY ORDERED that the decision to remove [Name redacted], Applicant No. [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 A. Block, Mareilé B. Cusack, Nanette Doorley, and Jorge Montes.

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

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director