

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

**IN THE MATTER OF THE APPEAL BY )  
[NAME REDACTED], ) No. 23 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 February 15, 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”), the conduct alleged. The reasons have been divided into five (5) bases for purposes of this report.

In an undated, unsigned letter, 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 April 10, 2023. No Reply was filed.

Police Board Appeals Officer Laura Parry has 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**

The Appeal was filed as permitted by Section 2-84-035(b) of the Municipal Code of Chicago. Department filed its Response in a letter dated April 10, 2023, in addition to the original Notice. No Reply was filed.

According to the Notice and Response, 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**

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." ("Applicant Background Investigation Report" within the Notice and herein after referred to as "Background Investigation Report," p. 1)
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.

...

##### **6. Felonies**

An applicant who has engaged in any conduct which would constitute a felony is not eligible for employment..."

(Background Investigation Report, p. 3)

...

##### **7.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." (Background Investigation Report, p. 5-6)

Department cited the following, in summary:

In November 2008, Applicant was charged with violations of state criminal laws including 720 ILCS 5/18-1-A (Robbery), 720 ILCS 5/12-3-A-1 (Battery-Cause Bodily Harm) and 720 ILCS 5/10-3 (Unlawful Restraint) along with six other offenders who were alleged self-admitted street gang members. It was reported in summary from reports, witness and Applicant accounts during the initial investigation and to a background Investigator by Applicant in November 2022, that Applicant was in a van with the other alleged offenders looking for members of another street gang, purportedly to do physical bodily harm. They found three individuals gang slogans were yelled, the three individuals fled, but one fell. A witness was said to have reported the van made a u-turn and headed back toward the downed individual ("victim") and Applicant is reported to have said she remained in the van while co-offenders "started stomping the guy." Reportedly they returned to the van, the driver attempted to run over the victim but missed. A witness reported the van started to drive away, made another u-turn driving toward the victim but fled as a crowd began to gather. Police stopped the van shortly thereafter, occupants were returned to the scene and "all were positively as the persons who caused great bodily harm, and robbed the victim of his wallet, cell phone and seven dollars." Applicant denied participating in touching the victim or knowledge of the items taken or by whom.

Applicant did not attempt to stop any of the conduct. Officers found the items in the van. Injuries to victim were documented and photographed and the victim was hospitalized. After the charges were reviewed by the state attorney's office, felony charges were approved against Applicant and the three other adult offenders for crimes of robbery, battery and unlawful restraint. Charges against the three juveniles were not disclosed. Applicant's Personal History Questionnaire ("PHQ") was submitted April 2022. (Background Investigation Report, p. 1-3)

**Basis #2**

IV-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.
5. Any applicant who engages in conduct which could constitute an aggravated offense, including but not limited to, deception involving certification of disadvantaged business enterprises; contributing to the delinquency of a minor; conduct involving public contracts or other conduct will be found unsuitable for employment."

(Background Investigation Report, p. 3-4)

Department cited the following, in summary:

The conduct listed in Basis #1 above.

**Basis #3**

IV-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 a street gang, will therefore be found unsuitable for employment.

(Background Investigation Report, p. 7)

Department cited the following conduct, in summary:

According to the Investigator, Applicant “freely admitted” that she was with six gang members from a particular street gang during the conduct described in Basis #1 above. Additionally, the report indicated she never said she was being held against her will or that she did not want to be with the individuals, she knew they were looking for rival street gang members at the time for the purpose of inflicting bodily harm on those they found, and she never stated she told the other offenders to stop the conduct or suggest the victim needed first responder help. (Background Investigation Report, p. 7)

**Basis #4**

Firearms Owners Identification Card

Department cited the following, in summary:

Applicant did not have a FOID card nor was she eligible to possess one at the time of the Background Investigation Report. (Background Investigation Report, p. 7)

**Basis #5**

IV.D.3. Disqualification Based on Prior Employment

"Rules of Conduct

In addition to the positive requirements of all the foregoing sections, the following rules of conduct set forth expressly prohibited acts. Prohibited acts include:

“Rule 1 (Rules and Regulations)

Violation of any law or ordinance.” (Background Investigation Report, p. 7)

“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. 9)

“Rule 8

Disrespect to or maltreatment of any person, while on or off duty.” (Background Investigation Report, p. 10)

Rule (Unspecified)

“Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.” (Background Investigation Report, p. 11)

“Rule 47

Associating or fraternizing with any person known to have been convicted of any felony or misdemeanor, either State or Federal, excluding traffic and municipal ordinance violations.” (Background Investigation Report, p. 12)

Department cited the following conduct, in summary:

The conduct listed in Basis #1 above.

### **Appeal, Response and Reply**

The following is a summary of Applicant’s Appeal.

Applicant explained she grew up with her siblings and single mother and the conduct alleged occurred when she was 18 years old, about 15 years ago, when she was “a feeble-minded teenager” and was trying to survive a gang-infested and under-privileged neighborhood. Applicant explained that at the time of the incident she was with a boy whose attention she sought. She stated that once the attack occurred, she was afraid of what the others would do to her if she went against them. After the incident she discontinued association with the others who were there, who she described as “neighborhood kids.” She went to school, entered the workforce and is now a mother herself. She stated she has replayed the incident in her mind over and over and gave assurances that she is no longer scared to speak up or intervene when someone is doing something wrong or someone is being treated with excessive force. She argued that not intervening to stop others from beating the victim does not mean that she has a propensity for violence, but rather shows she exercised poor judgment which she attributed to youth and a “feeble mind.” Applicant further explained that she has been truthful and transparent through this application process. She learned that the records can be expunged and has taken the steps to do so. She stated that she’s worked hard to create a life for herself and children in which the “mistake” she made on the day she was arrested does not “haunt” her or “overshadow” her.

Applicant further stated that she has pursued undergraduate studies in Criminal Justice, initially in pursuit of social work. She considers herself to be a contributor to the community. She opined that her history makes her valuable as a police officer because she can relate to the youth and guide them away from the choices she made that got her into trouble as a teenager. Applicant also provided expungement records for the charges – the robbery and unlawful restraint were not prosecuted, but she was convicted and sentenced to serve time on the battery charge.

(Appeal and Expungement Records)

Department filed its Response on April 10, 2023, in summary, standing on the reasons and bases set forth in its disqualification letter, clarifying certain disqualification standard citations. It noted that some of the conduct would also have violated a number of Department rules had Applicant been an employee, each of which in and of itself would be disqualifying. It also noted that Applicant not meeting the minimum eligibility requirements because she is not eligible to possess a FOID card alone is disqualifying. Department further asserted that Applicant's history is "extremely troubling" and is disqualifying. Department iterated its right to disqualify the applicant under caselaw. (Response)

### **FINDINGS OF FACT**

Filings were timely.

Department provided the 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.

**Basis #1-2. IV-B Disqualification Based on Criminal Conduct, IV-H Other Conduct**

**Basis #1-2 Findings Summary:** By a preponderance of evidence, **Applicant DID NOT** provide additional facts directly related to and/or specify why the Department erred in the factual determinations underlying the disqualification decision as to **Basis #1 IV.B. Disqualification Based on Criminal Conduct and Basis #2 IV.H. Other Conduct**

Applicant denied she got out of the van to do physical harm that caused the victim to be hospitalized, HOWEVER, it was also reported that the offenders who caused the physical bodily harm and stole things from the victim were positively identified. Applicant was one of the individuals identified. The identification was shortly after the incident when the offenders were returned to the scene by police. After felony review, charges against the Applicant were approved for prosecution by the state attorney's office. She was convicted on the battery charge. The other charges were not prosecuted. During the incident Applicant chose to stay with the offenders. She chose to be in the vehicle when the driver attempted to run over the already beaten victim. It is more likely than not that Applicant engaged in criminal conduct. There were both juvenile and adult offenders. Applicant was one of the adults. That this occurred 15 years ago, does not mean that the conduct did not occur. The standards cited state, in essence, that ANY act or conduct that falls under prohibited conduct, such as felony battery, would suffice to disqualify an applicant:

(IV-B.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..."; IV.B. 4. "any conduct which would constitute a felony is not eligible for employment..."; IV.B.7.c. "...conduct demonstrating a propensity for violence includes but is not limited to, conduct which would constitute ... battery; aggravated battery; offenses against property; robbery.... 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..."; IV.H.1. "... any applicant who has engaged in conduct that exhibits... 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... IV.H.4. "Any applicant who has engaged in conduct affecting public health, safety and decency... may be found unsuitable..." IV.H.5. "... conduct which could constitute an aggravated offense... including but not limited to... contributing to the delinquency of a minor").

**Basis #3. IV-F. Disqualification Based on Membership or Association with Criminal Organizations**

**Basis #3 Findings Summary:** By a preponderance of evidence **Applicant DID** provide sufficient additional facts directly related to and/or adequately specified why the Department **erred** in the factual determinations underlying the disqualification decision as to **Basis #3 IV-F. Disqualification Based on Membership or Association with Criminal Organizations.**

Applicant stated that she stopped her association with the offenders after the incident occurred in 2008. The PHQ (application) was submitted April 2022. There is another provision under IV-F. that should be considered:

“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 (from the date of PHQ submission) or more prior to the date of application, and that applicant has no current membership or affiliation with any criminal organization at the time of processing or hire.

Applicant ended her contacts with those alleged gang members some 14 years earlier than her PHQ submission and this should no longer be a basis for her disqualification.

**Basis #4. Firearms Owners Identification Card**

**Basis #4 Findings Summary:** By a preponderance of evidence, **Applicant DID NOT** provide sufficient additional facts directly related to and/or adequately specify why Department erred in

the factual determination underlying the disqualification decision as to **Basis #3. Firearms Owners Identification Card.**

Applicant did not dispute that she does not possess a FOID card. She did not dispute that she is not eligible to possess one.

**Basis #5. IV.D.3. Disqualification Based on Prior Employment**

**Basis #5 Findings Summary:** Applicant **DID** provide additional facts and/or adequately specified why the Department **erred** in the factual determinations underlying the disqualification decision as to **Basis #5. IV-I.1. Disqualification Based on Prior Employment.**

Nowhere in the evidence does it suggest that Applicant's conduct in the 2008 incident was related to her employment, at her place of business or during her work hours.

**CONCLUSIONS OF LAW**

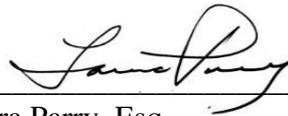
Pursuant to the Municipal Code of Chicago ("MCC") 2-84-030 the standard of review for appeals of disqualification and removal of an applicant's name from the Eligibility List is that Applicant shall show by a preponderance of evidence that Department's decision to remove the applicant from the Eligibility 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 NOT** show by a preponderance of the evidence for all the bases presented 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 **affirmed**.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Laura Parry", is written over a horizontal line.

Laura Parry, Esq.  
Appeals Officer

Date: June 7, 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, Jorge Montes, 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, Jorge Montes, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 15<sup>th</sup> DAY OF JUNE, 2023.

Attested by:

/s/ GHIAN FOREMAN  
President

/s/ MAX A. CAPRONI  
Executive Director