

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

**IN THE MATTER OF THE APPEAL BY** )  
**[NAME REDACTED],** ) **NO. 23 AA 13**  
**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 (the “Office”) gave Applicant written notice of its decision to remove him from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reasons for the disqualification decision (“Notice”).

Applicant appealed this decision to the Police Board by filing a written request specifying why the Chicago Police Department (the “Department”) erred in the factual determinations underlying the disqualification decision and bringing to the Police Board’s attention additional facts directly related to the reasons for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (the “Appeal”).

The record does not indicate that the Department filed a response to Applicant’s Appeal.

Appeals Officer Cooper has reviewed the Notice and Appeal.

## **APPEALS OFFICER'S FINDINGS, CONCLUSIONS, AND RECOMMENDATION**

Appeals Officer Cooper, 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 timely appealed his removal from the Eligibility List, as authorized by Section 2-84-035(b) of the Municipal Code of Chicago.

The Notice indicates that Applicant was removed from the Eligibility List by the Department for a variety of reasons, including battery, domestic violence and operating a motor vehicle while impaired. (Notice, pp. 1-33.)

In his Appeal, Applicant does not deny or dispute any of the criminal charges referenced in the Notice. (Appeal, pp. 1-3.) Instead, Applicant takes responsibility for his prior criminal behavior, ascribes it to his age at the time of the incidents and maintains that he is a changed man who has dedicated himself to educational attainment and community giving. (*Id.*)

### **Findings of Relevant Facts**

#### *Biographical Information*

Applicant is a 37-year-old African American male who lives on the southside of Chicago. (Notice, p. 2.) According to his Appeal, Applicant attended college for several semesters after high school but was unable to complete the degree due to the challenges of balancing coursework with the responsibility of caring for a child. (Appeal, pp. 1-3.) At the age of twenty-nine, Applicant re-enrolled in school and enrolled in the Occupational Therapy Assistant Program at Milwaukee Area Technical College. (*Id.*) Applicant recently graduated with a bachelor's degree in human services from Purdue University Global, earning Cum Laude honors with a GPA of 3.7. (*Id.*)

Prior to graduating from Purdue University Global, Applicant gained worked in various transportation roles, such as spending a decade with Dairyland Bus Lines. (*Id.*) Applicant has also worked as a security guard and owned and operated a community-based hand car wash. (*Id.*)

*History of Domestic Violence*

The record reveals three troubling incidents of domestic violence involving Applicant. The first incident occurred on January 19, 2008. (*See e.g.*, Notice, p. 3.) In this incident, the mother of one of Applicant's children reported to the police that Applicant pushed her down and struck her in the face six times. (*Id.*) According to the police report, the victim believed that Applicant assaulted her because she had gone out the previous night and failed to contact him. (*Id.*) Additionally, the police report for this incident states that Applicant took the dress the victim had worn the night before the incident and poured ketchup all over it. (*Id.*) Moreover, during this incident, the victim mentioned to the investigating officer that similar incidents had occurred in the past, but she did not involve the police. (*Id.*) The victim's mother, who was present during this incident, claimed to have heard yelling and screaming from her bedroom and witnessed Applicant punching the victim in the face. (*Id.*)

The second incident took place on April 1, 2012, and involved the mother of another one of Applicant's children. (*See e.g.*, Notice, pp. 3-4.) According to the victim of this incident, Applicant arrived at her residence and attempted to enter her apartment despite being informed that he was not allowed inside due to the presence of another male companion. (*Id.*) The victim further told police that Applicant then broke her bedroom window, forcibly entered the apartment and proceeded to repeatedly strike her in face with a closed fist, causing her pain and swelling. (*Id.*) Applicant fled the scene before the police arrived. (*Id.*) Applicant was subsequently arrested two months later. (*Id.*) Applicant claimed that, after appearing in domestic violence court, this case

was eventually dismissed. (*Id.*, p. 5)

The third incident occurred on October 18, 2015, and involved yet another mother of Applicant's children. (*Id.*, p. 2) This incident took place at a nightclub. (*Id.*) According to the police report, Applicant and the victim engaged in a verbal altercation that escalated into physical violence. (*Id.*) The altercation resulted in Applicant pushing the victim into the men's bathroom door at the club, causing her to hit her head. (*Id.*) Applicant also claimed to be a victim in this encounter, stating to the police that several pieces of his jewelry and clothing were either broken or ripped in the altercation. While an assistant district attorney reviewed this incident, it was not pursued due to insufficient evidence. (*Id.*)

#### *Driving Record*

Applicant's background investigation revealed an arrest for several traffic violations on February 26, 2017. (*Id.*, pp. 10-11.) These violations included operating a vehicle while intoxicated, operating a vehicle intoxicated causing endangerment and motor vehicle reckless driving. (*Id.*) This incident occurred after Applicant admitted to speeding after having drinks and a blood alcohol content of .15. (*Id.*) As a result of this incident, Applicant's license was suspended for approximately two months. (*Id.*)

### **Conclusions of Law**

#### *Standard of Review*

Pursuant to Section 2-84-035(c) of the Municipal Code of Chicago, an applicant challenging the decision to remove him or her from the Eligibility List has the burden of showing, by a preponderance of the evidence, that the decision was erroneous.

***Disqualification Based on Conduct Indicating Violent Tendencies, Prior Employment History and Other Conduct***

The relevant Special Order (the “Special Order”) contains the “Pre-Employment Disqualification Standards for Applicants for the Position of Police Officer.” The relevant sections and language from the Special Order are as follows:

<b><u>Section</u></b>	<b><u>Language</u></b>
Section IV(B)(7)(c) - Conduct indicating violent tendencies	“...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....”
Section IV(D)(3) - Disqualification based on Prior Employment History	“... 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 .... ”
Section IV(H)(1) - Disqualification based on Other Conduct	“...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.”

<u>Section</u>	<u>Language</u>
Section IV(H)(4) - Disqualification based on Other Conduct	“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.”

The Department’s decision to remove Applicant from the Eligibility List based upon the above sections from the Special Order stems from several domestic violence incidents where Applicant physically assaulted the mothers of his children. In two of these instances, Applicant punched his victims in the face with a closed fist. While it is true that these incidents occurred as far back as 2015, the violent nature of these incidents has not diminished with the passage of time. Therefore, while it is certainly laudable that Applicant has appeared to turn his life around and has found ways to further his education and career opportunities, the Department was well within its rights and did not err when it found Applicant’s prior violent behavior disqualifying.

***Disqualification Based on Driving Record***

The relevant section of the Special Order, Section IV(C)(1), states that “Police officers are regularly required to operate motor vehicles in dangerous situations. They are thus required, to the extent reasonable, to operate vehicles in a careful manner protective of the public. Applicants with a poor driving history are deemed unable to meet this requirement. Further applicants with more than one DUI or reckless driving incident, regardless of the date of the incident, or any driving-related incidents which resulted in the suspension or revocation of a driver's license, may be found unsuitable for employment.”

The Department's decision to remove Applicant from the Eligibility List based off of this section of the Special Order stems from a February 26, 2017, incident where Applicant was pulled

over for speeding and was found to have a blood alcohol content level of .15, which is over the legal limit. As a result of the speed he was going at the time of the incident and the fact that he was under the influence of alcohol, Applicant was charged with a series of traffic violations, including operating a vehicle while intoxicated, operating a vehicle while intoxicated causing endangerment and reckless driving. While Applicant's behavior during this incident was no doubt dangerous, inexcusable and criminal, to this Appeals Officer, this single incident does not rise to the level of establishing that Applicant has a disqualifying driving record to become a Chicago Police Officer. Accordingly, it is the belief of this Appeals Officer that the Department erred when it removed the Applicant from the Eligibility List based on his driving record.

**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** on every ground stated by the Department except for his driving record.

Respectfully submitted,

/s/ Kyle A. Cooper

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Appeals Officer

Date: July 12, 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 9 in favor (Ghian Foreman, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, 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, Michael Eaddy, Jorge Montes, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20<sup>th</sup> DAY OF JULY, 2023.

Attested by:

/s/ GHIAN FOREMAN  
President

/s/ MAX A. CAPRONI  
Executive Director