



for compliance with filing deadlines and as to the substance of the individual filings to the extent that a filing was timely.

### **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**

According to the Notice, Applicant was removed from the list of eligible applicants for the position of probationary police officer for the following reason(s):

#### **Basis #1**

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

...

“2. A poor employment history may 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 may be found unsuitable for employment.

3. Further, 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 Chicago Police Department employee, may be found unsuitable for employment. In addition, an applicant with a history or sporadic employment, evidenced by frequent changes in employment of short duration, may be found unsuitable for employment.” (Background Investigation Report, p. 1-2)

Department cited the following conduct, in summary:

Applicant resigned from his position as a Chicago Police Officer on February 24, 2022 while under investigation for two Department Rules violations:

- Rule 2. Impedes the Department’s efforts to achieve its policy and goals or brings discredit
- Rule 6. Disobedience of an order or directive

In his Personal History Questionnaire (“PHQ”), Applicant wrote, “I resigned from the Chicago Police Department because I refused to be vaccinated and was told by prior Mayor if I wasn’t by 02/22, I would face termination ruining any chance of a law enforcement career.”

For his refusal to comply with the City of Chicago’s Employee Vaccination Policy COVID

19, November 10, 2021, Applicant was suspended for two days and placed on a “no pay” status as of November 19, 2021. It was reported Applicant wrote “Refused” on the signature line of a written Direct Order provided by the Deputy Chief regarding completion of all steps of the registration with the City of Chicago’s Employee Vaccination Policy. The suspension was sustained for violations of Rules #2 and #6 as described above.

Applicant’s other employment history with the Department showed several incidents that were listed with dispositions of “Case Final – Closed” or “unfounded.” An additional incident was listed as “No affidavit – Case Final.” No other information, witness statements or investigation was provided other than a brief synopsis of each of the alleged incidents and the dispositions. The allegations are as follows:

April 25, 2015 (complaint made August 26, 2015) - A complaint by an arrestee that their wrist was sprained when Applicant handcuffed them.

July 4, 2017 (complaint made July 5, 2017) - A complaint that Applicant directed profanity at a motorist during a traffic stop.

September 28, 2017 - A complaint by an arrestee that Applicant was rude and disrespectful, saying he had better things to do than deal with arrestee’s problems.

October 5, 2017 (complaint made December 8, 2017) - A complaint that Applicant issued a ticket to complainant’s son while the son was in college.

October 10, 2017- Applicant attempted to make an arrest in open court against the judge’s wishes.

September 7, 2018 (complaint made September 17, 2018) – A complaint Applicant engaged in an unnecessary verbal altercation with an arrestee who was just tased.

(Background Investigation Report, p. 2-4)

**Basis #2**

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

1. “Honesty and credibility are vital characteristics for a police officer to possess in order to ensure the integrity of police operations and investigations and to protect

the public and maintain its trust in the police. Honest and complete answers to background questions asked of applicants during the application process, as well as full cooperation with the application process, are thus extremely important in the maintenance of the Chicago Police Department's force and the integrity of its hiring process. Therefore, 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." (Background Investigation Report, p. 4)

Department cited the following conduct, in summary:

The Investigator reported that Applicant did not respond to the Investigator's email request that Applicant keep Investigator informed of the polygraph exam date. As of the time of the submission of the Background Investigation Report (November 18, 2023), Applicant had not responded to the Investigator about the polygraph exam or submitted to the polygraph exam.

(Background Investigation Report, p. 4-5)

### **Appeal**

The following is a summary.

**Appeal.** Applicant's counsel opened with a summation of personal history, military background, and awards earned in service as a correctional and police officer which were also attached to the Appeal as Exhibits, along with training certificates and multiple Letters of Support.

It was explained Applicant did not have an easy decision to make when he resigned from his position as a police officer with the Department, and that he reluctantly resigned his position after he believed the Department would eventually force all its members to be vaccinated. Applicant

had “great reservations” about the [COVID 19] vaccine due in part to his religious beliefs. After leaving he served as Bailiff and Court Security Specialist with a sheriff’s department.

Applicant argued that if it were not for the vaccine mandate, Applicant would probably still be employed as a police officer with the Department, further arguing that he was qualified and working as such from 2012 until his resignation.

Applicant also argued that basing the disqualification on incidents or complaints that were determined to be unfounded is unreasonable and erroneous. Applicant addressed the incidents:

April 25, 2015 (complaint made August 26, 2015) - A complaint by an arrestee that their wrist was sprained when Applicant handcuffed them. Applicant explained that this was an “unfounded” allegation, further noting that the arrestee was aggressive with the officer, refusing to follow orders, making verbal threats and resisting arrest. Arrestee was involved in a domestic incident in which he was alleged to have punched the victim causing bleeding and other injuries.

July 4, 2017 (complaint made July 5, 2017) - A complaint that Applicant directed profanity at a motorist during a traffic stop. Applicant did not recall this complaint; the matter was closed.

September 28, 2017 - A complaint by an arrestee that Applicant was rude and disrespectful, saying he had better things to do than deal with arrestee’s problems. Applicant did not recall this complaint and the matter was closed.

October 5, 2017 (complaint made December 8, 2017) - A complaint that Applicant issued a ticket to complainant’s son while the son was in college. Applicant does not recall this complaint and asserted he has never given an unwarranted ticket. Matter was closed.

October 10, 2017- Applicant attempted to make an arrest in open court against the judge’s wishes. Applicant explained that a criminal defendant who he knew to be violent entered the courtroom, and paced back and forth in the center aisle of the courtroom with his fists clenched.

The individual approached Applicant and his female partner and sat behind them. The individual leaned over to Applicant twice and said in his ear “you a bitch” and then words to the effect that if he ever saw Applicant’s partner in public he would sodomize her (with worse language). Applicant asserted that he feared for himself and his partner at that point and attempted to arrest him. The individual had just been in the “lockup” a couple days prior on an unrelated matter. Applicant explained the judge “scolded” Applicant, and that Applicant then understood it was not proper for him to arrest the individual in open court. Applicant explained he did not mean to be disrespectful. He thought he was doing the right thing at the time to protect people from a serious threat in the courtroom. The matter was closed.

September 7, 2018 (complaint made September 17, 2018) – A complaint Applicant engaged in an unnecessary verbal altercation with an arrestee who was just tased. The case was “unfounded.”

As to the discipline levied regarding Applicant’s alleged refusal to comply with the COVID 19 vaccination policy, Applicant explained that he initially refused to comply with the reporting requirement on November 1, 2022, because he believed it was a violation of privacy rights under HIPPA (“Health Insurance Portability and Protection Act”). It was asserted that Applicant complied with reporting a few weeks later and after the two-day suspension he served for not initially complying. Further, as of May 2023, Applicant received a vaccination exemption from the Department.

As to failure to respond to the Investigator’s request to appear for the polygraph exam and keep Investigator apprised of the submission to the polygraph exam, Applicant asserted that Investigator told him to set up the polygraph exam, which Applicant did. Applicant asserted he sat for and passed the polygraph exam on November 17, 2023, adding that it was the fourth

polygraph exam he has taken for law enforcement positions since 2010.

(Appeal)

**Response.** The Response was not timely and therefore not considered by the Appeals Officer.

**Reply.** Because the Response was not timely, the Reply was not considered.

### **FINDINGS OF FACT**

Appeal was timely. The Appeal was dated February 8, 2024. The Response should have been filed within 45 days of the Appeal – March 24, 2024. It was not. It was dated March 28, 2024. The Response, therefore, was not timely filed and therefore not considered. Because the Response was not timely and not considered, neither was the Reply to the Response considered.

Department provided its factual basis for the 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 resigned over concerns with the COVID 19 vaccination policy instituted by the City of Chicago. Applicant was suspended in November 2023 for his initial failure to comply with the policy's reporting requirement. He served that suspension. Department did not show that Applicant was under another investigation for additional Department rule violations at the time of his resignation as alleged. Within a matter of weeks after the initial refusal, Applicant complied with the reporting requirement. While he initially refused the order, Applicant did so because of religious and privacy rights concerns. At that time, there was a balance to be struck between the privacy rights of those sworn to serve and protect the public and the health of those forced to interact with them. There was a virus that killed, and vaccines that were new and little was known

of their effects. In light of that situation, Applicant chose to honor both his privacy and, whether he realized it or not, the health of those forced to interact with him by resigning from the Department. Even though he initially refused an order, it was not because he disagreed with his superior on anything other than that singular citywide policy for which Applicant was ultimately given an exemption. It was because he held a religious belief and had concerns about privacy. It appears Applicant's actions were not meant out of disrespect when he initially refused that order. He complied weeks later. Eventually he gave up his police officer position because of his beliefs. Additionally, Applicant subsequently was granted a vaccination exemption, effective May 2023.

Letters of Support did not specify 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, and therefore were not considered. This is also the finding for the military records, training, award and recognition certificates.

Other than the failure to comply with the COVID 19 vaccination policy, all the other employment history only lists alleged incidents that were either unfounded or closed without further disposition and without further investigation or witness statements (other than Applicant's explanations in the Appeal) in the Background Investigation process. Applicant explained in more detail the incidents as he recalled. Applicant DID provide sufficient additional facts related to and/or did adequately specify why the Department erred in its factual determinations as to these alleged incidents.

As to the alleged failure to cooperate with the hiring process, Applicant appeared for and passed the polygraph examination. Applicant credibly asserted that the Investigator told him to set up the polygraph exam, which he did. The communication from the Investigator with the exact request was not included. Given that the point of the direction was to make sure Applicant

appeared for and passed the polygraph exam, Applicant did comply. Given that he has taken and passed multiple polygraph exams related to law enforcement jobs, there is no reason to believe he intended to avoid this one or not do so in a timely manner. He did so the day before the Background Investigation Report was authored.

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

### CONCLUSIONS OF LAW

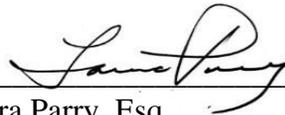
Pursuant to the Municipal Code of Chicago (“MCC”) 2-84-030 the standard of review for appeals of disqualification and removal of an applicant’s name from the Eligibility List is that Applicant shall show by a preponderance of evidence that Department’s decision to remove the applicant from the Eligibility List was erroneous (MCC 2-84-035(c)).

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

### RECOMMENDATION

Based on the findings and conclusions set forth above, it is recommended 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,



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Laura Parry, Esq.  
Appeals Officer

Date: June 18th, 2024

## **POLICE BOARD FINDINGS AND 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, by a vote of 7 in favor (Kyle Cooper, Paula Wolff, Steven Block, Mareil  Cusack, Kathryn Liss, Andreas Safakas, and Justin Terry) to 0 opposed, does not adopt the Appeals Officer's findings, conclusions, and recommendation. The Board finds that the Applicant has not met the burden of showing, by a preponderance of the evidence, that the decision to remove him from the Eligibility List was erroneous. Municipal Code of Chicago   2-84-035(c).

As detailed in the Appeals Officer's Findings, Conclusions and Recommendation, one of the reasons for which Applicant was removed from the Eligibility List was disqualification based on prior employment history. One of the disqualification standards cited in the background investigation report states in relevant part: "A poor employment history may 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 may be found unsuitable for employment." Background Investigation Report, p. 1-2 (emphasis added).

The Applicant does not dispute that he was suspended for two days for failing to comply with the City of Chicago's Employee Vaccination Policy, in violation of Rule 2 and Rule 6 of the Chicago Police Department Rules of Conduct. Notably, Rule 6 prohibits disobedience of an order or directive, whether written or oral. And despite Applicant's attempt to provide additional color regarding his initial refusal to comply with the vaccine reporting requirement, writing "refused" in the signature line of a written direct order provided by the Deputy Chief

nevertheless constitutes insubordination supporting Applicant's two-day suspension. Because the Board finds that Applicant was disciplined for an act of insubordination, an action which may render an applicant "unsuitable for employment," the Board concludes that the Department's decision to remove him from the Eligibility List was not erroneous.

**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: Kyle Cooper, Paula Wolff, Steven Block, Mareilé Cusack, Kathryn Liss, Andreas Safakas, and Justin Terry.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 15<sup>th</sup> DAY OF AUGUST 2024.

Attested by:

/s/ KYLE COOPER  
President

/s/ MAX A. CAPRONI  
Executive Director