

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

**IN THE MATTER OF THE APPEAL BY** )  
**[NAME REDACTED],** ) **No. 22 AA 10**  
**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 13, 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”).

On November 29, 2022, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why the Department of Police (“Department”) erred in the factual determinations underlying the disqualification decision and 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”).

On December 15, 2022, the Office of Public Safety Administration filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). On or about January 15, 2023, Applicant filed an untitled document with the Police Board that replied to the Response (“Reply”). Police Board Appeals Officer Mamie Alexander has reviewed the Notice, Appeal, Response, and Reply.

**APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION**

Appeals Officer Mamie Alexander, 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 filed a timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago. The Response and Reply were filed within the time period allowed by the Police Board Rules of Procedure.

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

#### **C. Conduct Indicating Violent Tendencies**

Per the Chicago Police Department's pre-employment standards, 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 these requirements. Therefore, any conduct demonstrating a propensity for violence will be grounds for disqualification.

#### **D. Disqualification Based on Prior Employment History**

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.

Applicant was disqualified by Department for using unnecessary force and failing to de-escalate a situation with an inmate while employed at the Cook County Sheriff's Office ("CCSO"). These actions violated the Cook County Department of Corrections' ("CCDOC") policies, and Applicant was terminated as a result.

Applicant was also disqualified for disobeying mandated overtime on two occasions

while working for CCSO, both of which resulted in his suspension.

Appeal, Response and Reply

Applicant appeals the decision, stating, in summary, that he did not use unreasonable force, and did not disobey the mandated overtime as alleged. Applicant states that he was spit on by an irate inmate, and reverted to his training to execute an emergency takedown. He asserts that his actions were within CCDOC policy, and were necessary to prevent further battery to himself and other officers.

Applicant also asserts that his suspensions for failure to work mandated overtime were ultimately overturned, and he “never received any disciplinary actions such as suspension from either incident.”

Department’s Response states that the appeal was reviewed, and Department relies upon the facts and evidence relating to the disqualification contained in Applicant’s file. Department maintains that the pre-employment disqualification standards under which Applicant’s disqualification decision was based upon are clear (namely, conduct indicating violent tendencies and prior employment history). Department also states that the evidence in Applicant’s file supports its decision to disqualify Applicant from hiring, and the Department is within its right to do so, citing *Apostolov v. Johnson*, 2018 IL App (1<sup>st</sup>) 173084; ¶¶ 24, 31 and *Johnson v. O’Connor*, 2018 IL App (1<sup>st</sup>) 171930, ¶¶ 16-17, 20.

Applicant’s Reply asserts that he is a man of integrity determined to work as a police officer. Applicant states that he has taken additional courses to increase his skills and is currently enrolled in the police academy in Robbins, IL. He believes that the additional training and courses have increased his knowledge and prepared him to serve as a member of the Chicago Police Department.

Several letters of recommendation were also included in Applicant’s Appeal.

### **Findings of Fact**

Filings were timely.

Department provided the factual basis for its decision to disqualify Applicant and remove his name from the eligibility list. Department determined that that Applicant's use of force against an inmate while employed at CCSO, along with his failure to work mandated overtime, were grounds for disqualification. Department articulated the standard by which the conduct was assessed by section and paragraph, and articulation of the standard gives reasonable notice as to the basis for disqualification.

#### Conduct Indicating Violent Tendencies

Applicant was terminated from CCSO after an inmate submitted a complaint to the Cook County Sheriff's Office of Professional Review (OPR) alleging that Applicant used excessive force against him. An investigation was conducted, and it was determined that on December 28, 2021, the inmate yelled at Applicant and called him names after an issue with the phone. Applicant called for backup, and alleges that while he and another officer were escorting the inmate to the living unit, the inmate spit on Applicant. As a result, Applicant pushed the inmate into a wall, tried to control his head, then tackled the inmate to the ground. After the use of force ceased, the inmate was "stood up and taken to his holding cell."

CCSO determined that the force used was not necessary, as the inmate was handcuffed and cooperative when Applicant pushed him into the wall. In addition, the inmate was wearing a mask, and no one saw the inmate spit on Applicant. Applicant did not attempt to adjust the inmate's mask to prevent further spitting, and did not attempt to de-escalate the situation or distance himself from the inmate. CCSO determined that Applicant's conduct violated CCDOC policy. The case against Applicant was sustained, and he was subsequently terminated.

Applicant denies that he used unreasonable force or violated CCDOC policy. He states

that the incident occurred because the inmate became irate and spit in his face. Applicant states that upon being spit on, he “reverted” to his training and conducted an emergency takedown in order to prevent further battery to himself or other officers. He states that his actions were in accordance with CCDOC policy, and a copy of the policy is included in the Appeal.

Applicant states that after the takedown, the inmate was immediately aided to his feet and escorted to his holding unit by on duty supervisors. Applicant maintains that at no time during the incident did he lose control of his emotions, and no further force was used on the inmate after he was placed on his feet.

Applicant states that he could not initially distance himself, as he could not leave his partner alone with the inmate. However, after his supervisor arrived, Applicant “allowed” his fellow officers to escort the inmate back to his holding unit while he was being “decontaminated” by the nursing staff.

Applicant states that despite being decontaminated shortly after the incident, he was diagnosed with COVID-19 the following day. Applicant provided a copy of the results in his Appeal.

Applicant maintains that he acted in accordance with CCDOC policy, and used only the amount of force necessary to protect himself and fellow officers. Applicant states that it’s unfortunate that the circumstances of this incident have “tarnished” his opportunity to work for the Chicago Police Department.

### **Prior Employment History**

In addition to the records related to Applicant’s termination for violating CCDOC policy, Department obtained disciplinary records from CCSO which showed that on two occasions, Applicant failed to work mandated overtime, and was disciplined as a result. Applicant was issued a one-day suspension for the first incident, and a two-day suspension for the second

incident.

Applicant asserts that he had valid reasons for failing to work the mandated overtime, and the suspensions were ultimately overturned. He states that he had a medical procedure scheduled the day after the first incident, and the Union filed a grievance on his behalf for the second incident. Applicant alleges that as a result, he never received a suspension for either incident.

#### Applicant's Background

Applicant presents evidence regarding his background and character, noting that he has always displayed the “highest level of integrity” and willingness to assist those who were in need. Applicant states that he grew up in Chicago, and was able to see and admire the hard work of the officers serving the community. He has always had a passion to be a police officer, and has obtained numerous licenses and certificates related to officer training.

Applicant states that he has high standards and would be an “exemplary police officer.” He believes that his recent training with the Robbins police academy, as well as the courses that he has taken in procedural justice and police community relations have strengthened his “foundation to de-escalate or mitigate situations at hand.”

Applicant presents letters of recommendation from several of his former employers and instructors, along with his mother and alderman. He is described as personable, compassionate, professional, and motivated. He is also described as a hard-working leader who is active in the community.

### **Conclusions of Law**

#### **Conduct Indicating Violent Tendencies**

Section IV. of the Bureau of Support Services Special Order contains the Pre-Employment Investigation Standards for Applicants to the Position of Police Officer (“Standards”) that are applicable to this Appeal.

Section B (7)(c) states: “Police officers are required to act reasonably and professionally at all times and to maintain control of 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.”

While working at CCSO, Applicant used physical force to push an inmate against the wall, control his head, and tackle him to the ground. The actions were taken while the inmate was handcuffed and wearing a mask. OPR conducted a thorough investigation, and a determination was made that Applicant violated the following sections of CCDOC Policy 102-Use of Force:

102.2-Failure to Follow Policy

102.3.1-Failure to De-Escalate

102.3.4-Unnecessary Force

The Appeal contains numerous OPR reports containing interviews with officers who were on the scene, and none of them report seeing the inmate spit in Applicant’s face. In addition, nothing in the reports indicate that Applicant tried other methods (i.e., adjusting the inmate’s mask) prior to using force. In addition to using force, Applicant failed to de-escalate the situation or distance himself from the inmate.

Section B (7)(c) further states: “Any conduct demonstrating a propensity for violence will be grounds for disqualification.”

Based on the OPR investigation, which included interviews with Applicant and other officers in the area, along with a review of reports and video, CCSO concluded that Applicant used unreasonable force, and failed to de-escalate the situation or distance himself from the inmate. As a result, the case against him was sustained, and Applicant was subsequently terminated.

Applicant does not deny using force against the inmate. In fact, he admits executing an “emergency takedown.” Applicant asserts that his actions were justified based on the inmate allegedly spitting on him (while wearing a mask). Applicant also alleges that he was unable to de-escalate the situation or distance himself from the inmate, as it would have “created unnecessary risk” to his colleagues.

It is undisputed that Applicant used physical force to push the inmate against the wall, control his head, and tackle him to the ground. It is also undisputed that the inmate was handcuffed and wearing a mask at the time.

The facts, evidence, and arguments submitted in Applicant’s Appeal fail to support his contention that Department erred in its determination that he has a propensity for violence.

### **Prior Employment History**

Section D (2) states: “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.”

Applicant’s disciplinary records from OPR revealed that on two occasions, Applicant was suspended for failure to work mandated overtime. Applicant was issued a one-day suspension for the first incident, and a two-day suspension for the second incident.

Applicant asserts that his suspensions were ultimately overturned, as he had a medical excuse for the first incident, and the second incident was grieved by the Union. Despite Applicant’s assertions, the disciplinary records were still contained in his file. Applicant did not provide documentation confirming the overturned suspensions, and did not provide an explanation for the second incident.

Regardless of whether the suspensions were overturned as Applicant alleged, he failed to



work mandated overtime, and was suspended as a result.

Section D (1) states: “Per the Chicago Police Departments pre-employment standards, police officers are required to work well with other officers, 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...”

Applicant does not deny that he failed to work the mandated overtime, or that CCSO initially issued discipline as a result. No additional facts, evidence or arguments submitted in Applicant’s Appeal support his contention that Department erred in disqualifying Applicant based on his prior employment history.

Applicant has failed to show, by a preponderance of the evidence, that the decision to remove him from the Eligibility List was erroneous.

### **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,

*/s/ Mamie A. Alexander*

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Mamie Alexander  
Appeals Officer

Date: February 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 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**.

Police Board Case No. 22 AA 10  
Findings and Decision

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 16<sup>th</sup> DAY  
OF MARCH, 2023.

Attested by:

/s/ GHIAN FOREMAN  
President

/s/ MAX A. CAPRONI  
Executive Director