SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 7, 2018
Time of Incident:	6:10 p.m.
Location of Incident:	9157 S. Aberdeen
Date of COPA Notification:	July 9, 2018
Time of COPA Notification:	8:45 a.m.

On July 7, 2018, [redacted] filed a complaint with the Chicago Police Department (CPD) alleging that Officers Dennis Huberts, Jr. (Huberts) and Alex Kirchof (Kirchof) entered her home, pointed their firearms, and arrested her nephew [redacted] without justification.[1]

COPA obtained and reviewed all available CPD documents and body-worn camera video footage related to this incident.[2] Additionally, COPA interviewed Ms. [redacted] and the accused officers. COPA's attempts to interview Mr. [redacted] were unsuccessful.

II. INVOLVED PARTIES

Involved Member #1:	Dennis Huberts, Jr. / Star # 9883/ Employee [redacted] / Date of Appointment: May 1, 2006 / Rank: PO / Unit of Assignment: 022 / DOB: [redacted]79 / Male / Black
Involved Member #2:	Alex Kirchof /Star# 7103 / Employee [redacted] / Date of Appointment: October 16, 2017 / Rank: PO / Unit of Assignment: 044 / DOB: [redacted]94 / Male / White
Involved Individual #1:	[redacted] DOB: [redacted] [redacted]61, Female, Black

[1] Alex Kirchof resigned from CPD effective December 1, 2018. See Att. 26
[2] Att. 4-5 and 23.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Alex Kirchof	The complainant alleged that on 07 July 2018, at approximately 1810 hours, in the vicinity of [redacted] you:	
	1. Entered her residence without justification.	Exonerated
	2. Entered her residence with your gun drawn.	Exonerated
	3. Arrested [redacted] for no reason.	Exonerated
Officer Dennis Huberts, Jr.	The complainant alleged that on 07 July 2018, at approximately 1810 hours, in the vicinity of [redacted], you:	
	1. Entered her residence without justification.	Exonerated
	2. Unnecessarily displayed your weapon.	Exonerated
	3. Arrested [redacted] without justification.	Exonerated

IV. INVESTIGATION

a. Interviews

[redacted]

During an **interview with COPA on July 13, 2018,** [redacted] stated that she and her daughters were at her home, in the kitchen when multiple police officers entered with guns drawn; some were holding flashlights and batons.[3] Ms. [redacted] also stated that the officers initially refused to explain why they were in her home, but eventually an officer explained that they were looking for a person that ran into her home with a gun. Ms. [redacted] further stated that her daughter reported seeing officers looking in drawers. After following the officers into the basement, Ms. [redacted] saw an Officer Hernandez looking in a toilet.

[3] Att. 9

Ms. [redacted] explained that she later learned that her grandson's friend, [redacted] was the person officers were looking for in her home.[4] Ms. [redacted] maintains that she never saw [redacted] run into her home. However, she stated that [redacted] told one of her grandsons that he needed help as he attempted to elude the officers. Ms. [redacted] stated that she did not consent to the search of her home.

Officer Alex Kirchof

During an **interview with COPA[5] on September 14, 2018, Officer Alex Kirchof** stated on the date and time of the incident, he and Officer Huberts observed [redacted] engaging in what they believed was a hand-to-hand narcotics transaction near [redacted] a home known for gang activity.[6] Officer Kirchof explained that he believed [redacted] was involved in a narcotics transaction due to his familiarity with the house and because he has observed hand-to-hand transactions in the past.[7]

When [redacted] saw the officers, he fled, and Officer Kirchof chased him. As Officer Kirchof pursued [redacted] he observed [redacted] holding his waistband, an indication that he was holding a weapon. While trying to distance himself from the officers, [redacted] ran into the backyard of [redacted]. Although he did not see [redacted] enter the backyard, Officer Kirchof did see [redacted] standing on the top of a staircase where a group of people were congregating. Officer Kirchof immediately followed [redacted] into the yard, because he believed [redacted] was in possession of a firearm and he was concerned about the safety of the people in the yard.[8]

Officer Kirchof explained that he did not hear [redacted] say anything to anyone in the group and nobody in the group referenced [redacted] by name.[9] Officer Kirchof acknowledged that when he entered Ms. [redacted] home, his firearm was out for safety reasons.[10]

Once inside the home, Officer Kirchof drew his firearm because he lost line of sight as he searched the home for [redacted][11] Officers eventually located [redacted] barricaded in a basement bathroom. When [redacted] exited the bathroom, he was placed in custody. The bathroom was searched, but a firearm was not found.

Officer Dennis Huberts, Jr.

During an interview with COPA[12] on February 20, 2020, Officer Dennis Huberts, Jr. explained that he and Officer Kirchof observed [redacted] at [redacted] conduct what they believed to be a hand-to hand narcotics transaction. When they approached [redacted] to conduct a field interview, he fled on foot. As [redacted] fled, he held his side, which is indicative of someone holding a weapon. Officer Kirchof pursued [redacted] on foot, as Officer Huberts followed in the vehicle. [redacted] ran into a house and Officer Kirchof followed. [redacted] was located in a basement bathroom, where he had barricaded himself. The mom or the owner of the house came to the

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[4] "[redacted]" refers to [redacted]
[5] Att. 17
[6] *Id*. at 8:18 – 8:44 and 23:06 – 24:45
[7] *Id*. at 24:21 - 24:45
[8] *Id.* at 22:51 - 22:59
[9] *Id*. at 48:09-48:35
[10] *Id*. at 47:07 -47:18
[11] *Id*. at 30:35
[12] Att. 20

basement and asked what was going on.[13] Someone explained to her that a person with a gun ran into her house. Eventually, the mom got [redacted] out of the bathroom.

Huberts explained that due to him being in hot pursuit of someone possibly in possession of a weapon, who ran into a crowd of people and into a house, to protect the sanctity of life, he did not ask for permission to search the home.[14]

Huberts acknowledged that he activated his body worn a few moments late because he forgot to turn it on as he was entering the home.[15] Officer Huberts further stated that no weapon was recovered.[16]

b. Digital Evidence

Body Warm Camera (BWC)[17]

Officer Kirchof's body-worn camera footage showed him running through a gangway and alley, but the subject of the pursuit was not depicted on camera. As Officer Kirchof pursued the subject, he provided information over the radio related to subject's path. Once Officer Kirchof exited the alley Officer Hubert's can be heard saying that "he" ran into "this house".[18] Officer Kirchof then opened the fence door to a backyard and asked the people in the yard "where did he go?" After the group in the yard asked who Officer Kirchof was referring to, Kirchof entered the home. As Officer Kirchof enters the home, he unholstered and pointed his firearm; simultaneously a young woman walked near his left side. The woman moved and yelled, "What the hell?" as Officer Kirchof began to make his way through the house.[19]

Officer Kirchof asked the woman for the subject's whereabouts and in response the woman asked "Who?"[20] Shortly thereafter, Officer Huberts entered the home and asked if "he" was in the house.[21] When the women asked who the officers were looking for, Officer Huberts informed the women that he was looking for the guy that ran into the house with a pistol. As Officer Huberts spoke with the women, both of his hands were empty.

After speaking with the women, Officer Huberts joined Officer Kirchof as they searched the second floor for the subject. While on the second floor, Officer Huberts firearm remained holstered; Officer Kirchof's was displayed and at times pointed in an upwards position; however, there were no civilians present. After clearing the second level, Officers Kirchof and Huberts went to the basement. Officer Kirchof's firearm was pointed at times. As Officer Huberts' searched

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[13] Att. 23 at 25:30 – 25:50. Officer Hubert is referring to [redacted]
[14] *Id.* at 18:56 – 19:29
[15] Att. 4-6 at 17:34 –17:50. COPA served Officer Huberts with allegations and interviewed him in 2018. At that time, COPA did not serve him with an allegation for late BWC activation. Due to the passage of time between his interview and the conclusion of this investigation, as well as COPA's limited resources, COPA has decided not to serve Officer Huberts with that allegation.
[16] Att. 20 at 17:57 – 18:00
[17] Att. 23 Officer Kirchof's BWC.
[18] *Id.* at 2:04
[19] *Id.* 23 at 2:11 – 2:18
[20] *Id*. at 2:21
[21] "He", is a reference to [redacted]

behind closed doors, he kept his unholstered firearm in a low ready position. After he completed the search, Officer Huberts holstered his firearm. When it was determined that the subject was in a basement bathroom, Officer Huberts instructed him to come out. A woman entered the basement and demanded that the officers leave her home. Once the subject exited the bathroom, he was placed in handcuffs and escorted from the home.

Officer Huberts' BWC captured footage of him and Officer Kirchof searching the basement. Huberts can be heard instructing a person to stay back. After repeatedly being asked to come out, the subject exited the bathroom. Officer Huberts performed a pat down before placing the subject in handcuffs. Officer Huberts searched the bathroom area, including the toilet, while a woman recorded directed verbal abuse at him. Once the bathroom search was completed, Officer Huberts exited the home. The footage captured the abusive and threatening language used towards Officer Huberts and other CPD members as they exited the home.

c. Documentary Evidence

Initiation Report[22]

On July 7, 2018, Sergeant Daniel Pulia documented that he arrived at [redacted] in response to a call for assistance from Beat 2222. Upon his arrival, Sergeant Pulia learned that Beat 2222 was in the basement of the residence, and [redacted] had been arrested. Sergeant Pulia met with the arresting officers, then instructed all officers to exit the residence, and clear the scene. Ms. [redacted] asked Sergeant Pulia why her nephew was arrested; he explained that he did not know why.

Sergeant Pulia returned to the scene in response to a request for a sergeant. Sergeant Pulia explained to Ms. [redacted] why her nephew had been arrested. After receiving the explanation, Ms. [redacted] asked to file a complaint.

Arrest Report[23]

The Arrest Report documented that Officers Huberts and Kirchof observed [redacted] approach a vehicle then conduct what appeared to be a hand-to-hand narcotics transaction. When the Officers approached [redacted] in a marked police vehicle, he fled. Officers pursued [redacted] on foot and in a vehicle. Officers observed [redacted] make movements indicative of possession of a firearm. When [redacted] reached [redacted] Officers observed him push past multiple people who were standing on a staircase and enter the home. Because the officers suspected [redacted] was in possession of a firearm, they followed him into the residence. [redacted] was located in a basement bathroom, where officers heard a toilet flush multiple time. Officers instructed [redacted] to exit the bathroom; when he did, he was taken into custody. [redacted] was charged with reckless conduct.

Original Case Incident Report[24]

The Original Case Incident Report narrative was similar to the Arrest Report, adding that it was Officer Huberts who saw [redacted] push through a crowd of people who were standing on a porch.

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[22] Att. 4
[23] Att. 5
[24] Att. 6

V. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;

2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;

3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or

4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.[25] If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense.[26] Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true."[27]

VI. ANALYSIS

Officer Huberts and Kirchof entered Ms. [redacted] home because they reasonably believed that an armed subject ran inside, posing a threat to her and her guest. Once the subject was apprehended and escorted from the home, Officer Huberts, Officer Kirchof, and other CPD members left. Because Officer Huberts and Officer Kirchof entered Ms. [redacted] home while in hot pursuit of who they believed to be an armed subject, an exception to the warrant requirement applies. Specially, their actions fall under the exigent circumstances exception to the warrant requirement, which allows officers in hot pursuit of a fleeing subject to enter a private home.[28] As such, COPA finds that **Allegation # 1,** that Officer Dennis Huberts, Jr. and Officer Alex Kirchof entered [redacted] home without justification, is **EXONERATED**.

There are instances when it is reasonable for officers to display or point a firearm while making entry into a home or other premises. It is without question that Officer Kirchof entered Ms.

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[25] *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not).
[26] *People v. Coan*, 2016 IL App (2d) 151036 (2016).
[27] *Id*. at ¶ 28.
[28] *United States v Santana,* 427 U.S. 38, 42-43, 96 S.Ct. 2406, 49 L.Ed.2d 300 (1976) and *White v. Hefel* 875 F.3d 350 (7th Cir.2017).

[redacted] home with his firearm displayed as he pursued [redacted] who attempted to escape arrest by fleeing and entering Ms. [redacted] home; an act that Officer Kirchof believed posed a threat to Ms. [redacted] and her guest. Given the totality of the circumstances, that the officer reasonably believed an armed subject ran into an occupied home and posed a threat to the safety of the occupants and the officer, Officer Kirchof's explanation for displaying his firearm was reasonable and therefore, COPA finds **Allegation # 2,** that Officer Alex Kirchof unnecessarily displayed his firearm is **EXONERATED**.[29]

Body worn camera footage showed Officer Huberts in Ms. [redacted] home with nothing in his hands, and his firearm holstered as he explained to the residents why he and other officers were in the home. After providing the explanation, BWC video footage captured Officer Hubert holding his firearm as he searched for a subject who was suspected of possessing a firearm. Officer Huberts' firearm was pointed in a downward, low-ready position, as he searched areas of the home that were absent of civilians. Once Officer Huberts determined that there was no threat, he re-holstered his firearm and continued to search for the subject.

Officer Huberts was involved in a situation in which he reasonably believed there was an armed suspect hiding in Ms. [redacted] house. Because of a potential encounter with the suspect, it was reasonable for Officer Huberts to display his firearm as he searched for him. Therefore, COPA finds that **Allegation # 2**, that Officer Dennis Huberts, Jr. unnecessarily displayed his firearm is **EXONERATED**.

COPA's investigation of the incident revealed that Officer Huberts and Officer Kirchof did not violate [redacted] protection from an unreasonable seizure. Officer Huberts and Officer Kirchof acted in good faith when they arrested [redacted] who fled the scene of an impending investigation, ran to an occupied home, and placed the officers and civilians in danger. Therefore, COPA finds that **Allegation # 3,** that Officer Dennis Huberts, Jr. and Officer Alex Kirchof arrested [redacted] without justification, is **EXONERATED.**

Approved:

[redacted]

7-13-2022

Angela Hearts-Glass
Deputy Chief Investigator

Date

[29] COPA also notes that CPD Policy requiring officers to notify OEMC of a weapon pointing incident (Department Notice D19-01) did not take effect until November 2019, more than one year after this incident. So, although Officer Kirchof did not notify OEMC that he pointed his weapon, he was not required to do so at that time.