

1 DEPARTMENT OF POLICE ACCOUNTABILITY

2 DPA CASE NO.: 00042748 / 0081-19

3

4 INTERVIEW OF: OFFICER NICOLAS NAGAI, #2017

5 DATE OF INTERVIEW: 07/31/2019

6

7

8 INVESTIGATOR ELLEN DOLESE: This interview is regarding DPA
9 case number 0081-19. And under the new case management system
10 inside the new number is 0004274 and is taking place at the
11 Department of Police Accountability on July 31st of 2019. The
12 time now is approximately 3:30 p.m. Conducting this interview is
13 DPA Investigator Ellen Dolese. I work for the Department of
14 Police Accountability and I have been designated by the Police
15 Commission to conduct this investigation. The member being
16 interviewed is Officer Nicolas Nagai, star number 2017, who is a
17 named officer in this matter. And representing Officer Nagai is
18 POA representative Kevin Martin. And Officer Nagai, have you
19 read the DPA form, the 293 Complaint form and the Allegation
20 form regarding the allegations of misconduct in this matter?

21 OFFICER NICOLAS NAGAI: Yes.

22 DOLESE: Okay. And I have provided you with a DPA
23 Administrative Interview Advisements form, which you and your
24 representative have signed and dated. And this will remain and
25 be stored in the DPA file for this case. And then with these
26 Advisements in mind, is there any reason you cannot go forward
27 with the interview right now?

28 NAGAI: No.

1 DOLESE: Okay. Kevin, do you have anything for the record?

2 KEVIN MARTIN: I do, thank you. Because this is a
3 compelled interview insofar as Officer Nagai, star number 2017,
4 of the San Francisco Police Department has been ordered to
5 appear or face disciplinary actions, the statements he is about
6 to give during the course of this interview cannot necessarily
7 be used against him in a court of law or legal proceeding
8 pursuant to the California Supreme Court's Instruction in it's
9 Lybarger Decision. Additionally, no statement offered by the
10 officer can necessarily be used against him in a civil
11 proceeding pursuant to California State Government Code 3303,
12 subsection (e) which in part encompasses the California Peace
13 Officer Bill of Rights. Thank you.

14 DOLESE: You're welcome. Officer Nagai, how long have you
15 been a member of the SFPD?

16 NAGAI: Four years.

17 DOLESE: And what's your current rank?

18 NAGAI: Police Officer

19 DOLESE: Are you a Q2?

20 NAGAI: Yes. Ah, Q3.

21 DOLESE: Q3. Okay. And what is your current assignment?

22 NAGAI: Mission Station.

23 DOLESE: And who do you report to currently?

24 NAGAI: Lieutenant Newbeck or Lieutenant Tiffe.

25 DOLESE: Did you review any materials before coming here
26 today?

27 NAGAI: Yes.

28 DOLESE: And which materials did you review?

1 NAGAI: The CAD report, the police incident report and the
2 surveillance from- the video surveillance from the Jane Warner
3 Plaza area.

4 DOLESE: Okay. And was that the footage from- that was
5 obtained from [REDACTED] ?

6 NAGAI: Yeah. Yes.

7 DOLESE: Okay. And did you review any Body Worn Camera
8 footage?

9 NAGAI: Ah, I didn't watch my Body Worn Camera just because
10 it- it got knocked off during the incident which wasn't very
11 helpful.

12 DOLESE: Okay. So, we're going to be discussing events
13 that occurred on February 14, 2019. This involved the arrest of
14 the Co-Complainant, [REDACTED], and use of force during the
15 arrest and this occurred at Jane Warner Plaza at Castro and
16 Market Streets at approximately 17:50 hours. Does that sound
17 familiar?

18 NAGAI: Yeah.

19 DOLESE: Okay. Do you know is [REDACTED] known by any
20 other name?

21 NAGAI: [REDACTED].

22 DOLESE: Okay. And is that just- that's his street name?

23 NAGAI: Correct.

24 DOLESE: Okay. And on February 14, 2019, do you recall
25 what your unit identifier was?

26 NAGAI: Yes. It was 3-David-41-David.

27 DOLESE: Thank you. And your unit was the primary unit?
28 Is that correct?

1 NAGAI: Correct.

2 DOLESE: All right. And who was your partner that day?

3 NAGAI: Officer Bryan Santana.

4 DOLESE: And were you and Officer Santana in uniform that
5 day?

6 NAGAI: We were.

7 DOLESE: Okay. And who was your supervisor on that date if
8 you recall?

9 NAGAI: Ah, immediate supervisor would be Sergeant Russell.

10 DOLESE: Okay. And you prepared the incident report,
11 correct?

12 NAGAI: I did.

13 DOLESE: And for the record, the incident report number is
14 [REDACTED]

15 NAGAI: Yes.

16 DOLESE: And do you know who approved the report?

17 NAGAI: The midnight Sergeant Lee. Yeah, Sergeant Lee.

18 DOLESE: Okay. He's Star 4285? Does that sound-

19 NAGAI: 4285, yes.

20 DOLESE: Okay. And- just because we have a number they use
21 in that department.

22 NAGAI: Sure.

23 DOLESE: And can you just describe just basically in your
24 own words what led up to your contact with [REDACTED] that
25 day?

26 NAGAI: Yeah. So, we were working as uniformed patrol in
27 the area of Market and Castro specifically at Jane Warner Plaza.
28 We're the foot beat officers in the area so we're well aware of

1 the different transients and the different people that have
2 outstanding warrants. Um, we hadn't seen [REDACTED] in quite
3 some time but uh, Officer Santana initially spotted him and then
4 he believed that he had an outstanding parole-parole warrant.
5 So, before making contact, [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED] So, we pretty much just uh, parked the vehicle. Officer
11 Santana made initial contact. Called out- called out- he had
12 his- he was congregated in a group of known transients in the
13 area in the Plaza.
14 DOLESE: Is that the triangular corner there?
15 NAGAI: Yeah. So, there is the F-line Muni turnaround.
16 DOLESE: Right.
17 NAGAI: And then it's right across the street from Orphan
18 Andy's. And then there's a few tables and then some planter at
19 the corner of Market and Castro. So, [REDACTED] is having- he
20 had his face- his back toward us so as soon as my partner,
21 Officer Santana, taps him on the shoulder and says, you know,
22 [REDACTED]. He turns around and as soon as he notices our
23 police presence because we're walking up in uniform, he- I see
24 his face turn from, you know, flat affect to shock and then he
25 pushed uh, Bryan away and then he started running away from him
26 as an F-line train is actively moving to, you know, go inbound
27 toward downtown. So, there was very little ah- little time for
28 anything to really, I guess de-escalate because we hadn't even-

1 other than him calling out his name and turning around and
2 seeing us, that was the only pretty much words prior to us, ah,
3 you know, start wrestling.

4 DOLESE: Okay. And then- then what happened? After you-
5 you said you got into a-

6 NAGAI: So, yeah, so after that, after he started running,
7 ah, we grabbed him- I grabbed ahold of his right arm and I
8 believe Bryan grabbed, you know, another part of his body and
9 we're trying to, you know, get ahold of him but he's- he's
10 flexing his limbs which most people do when they're trying to
11 resist arrest. And ah, you know, just trying, you know, get out
12 of our grasps. As the F-line is- we're feet away from the
13 moving like train. I remember looking to my left and I see like
14 the huge metal wheels kinda just spinning like this is not good.
15 So, but we're able to get him away from the train and then we
16 kind of all trip over like this ah, push-truck filled with ah,
17 transient debris and trash, soiled blankets. By that time, I
18 believe our Body Worn Cameras had been knocked off our uniforms.
19 I think on the ground they were somehow activated but they were
20 already in the buffering mode prior to our contact with [REDACTED]
21 And then I remember that my mic was dangling so it was hard for
22 me to initially grab it and you know, yell out 148, which is
23 someone's actively resisting arrest as did Bryan's. So, I
24 remember [REDACTED] at one point- after we had all been, you know,
25 on the ground, I actually just grabbed Bryan's mic and called
26 out for the 148 and that's when other Mission units arrives on
27 scene. I was able to grab ahold of- think it was [REDACTED]
28 right wrist, handcuffed it, and then by the time other Mission

1 units showed up, I was pretty exhausted and out of gas and then
2 that's when other Mission units took over to completely handcuff
3 him. So, that was pretty much the short and sweet of it.

4 DOLESE: Okay. All right. Thank you. Did- so, did - so,
5 you indicated that you ran a query on [REDACTED] before you got
6 out of the patrol car-

7 NAGAI: Yeah.

8 DOLESE: Because Officer Santana spotted him first on the
9 street?

10 NAGAI: Yeah. [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 NAGAI: Yeah.
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 DOLESE: Okay. Um, and so aside from [REDACTED]
26 [REDACTED] um, what did you know about [REDACTED]? Have you had
27 prior contact with him? I don't think you're aware of who he
28 is, so.

1 NAGAI: We - we had one other incident where- and also, he
2 decided it was a good idea to run. Someone reported- I forget
3 how the call initially went but someone reported him like
4 breaking into a car but after we had made contact with him- we
5 were just gonna initially detain him but then as he- we were
6 calling out for him to, you know, stop, he decided to run in the
7 middle of the street down the 400 block of Castro. So, by doing
8 that obviously we thought something was wrong or he committed a
9 crime. So, after we detain him and then ah, have this wrestling
10 match in the middle of the street with incoming and outgoing
11 traffic, um, the guy whose car that was actually gave him
12 permission to- I don't know- just to be hangin' out in his car
13 or whatever. So, it looked weird and this was called in by a
14 third party but, yeah, we had a prior incident with him and
15 that's how we learned who [REDACTED] was.

16 DOLESE: Okay. And so, based on your prior- this prior
17 experience with [REDACTED] also known as [REDACTED], um, you
18 would tend to think that he had- you believe he has a history of
19 possibly being resistive?

20 NAGAI: Correct.

21 DOLESE: Resisting arrest.

22 NAGAI: Yeah.

23 DOLESE: Okay. And so, was this- this case any different?

24 NAGAI: Ah, no. I mean as soon as we made contact with
25 him, he decided to run. I guess from prior contact, uh, I guess
26 we should have known but we didn't come in hot, you know. I
27 think we came in very- what's- you know, it was just have a
28 chat. We didn't say like, stop, you're under arrest. He just

1 called out to his name then as soon as he saw us then he ran.

2 DOLESE: So, when you and Officer Santana decided to
3 approach him, was it your intent at that time to arrest [REDACTED]

4 [REDACTED]

5 NAGAI: [REDACTED]

6 [REDACTED] We weren't intending to have a full-on
7 wrestling match with him.

8 DOLESE: Okay.

9 NAGAI: We were just like, hey look, you know let's just
10 get this- you know, it's how we usually come if we do have, you
11 know. A lot of the transients in the Castro, they do have
12 warrants here and there after running them so many times. And
13 usually we just go up to them and hey, look. You got a warrant.
14 Let's just go get it taken care of and usually that's that. Um,
15 it might be a little bit tough getting someone into cuffs but
16 not like a full kinda melee of what happened during this
17 incident.

18 DOLESE: Okay. Do you happen to know if [REDACTED] name
19 showed there's a list that they- I think they post at the
20 station or if they keep some sort of a list of [REDACTED]

21 [REDACTED] I know there's- usually, there's somebody at the
22 station that sort of coordinates the- I think the Lieutenants
23 get a list with the names of the [REDACTED] in the
24 district.

25 NAGAI: We do have different boards of different people at
26 our station but not like a wanted [REDACTED].

27 DOLESE: Okay.

28 NAGAI: We- we just ran him because I think a week or two

1 prior, we saw him walking in the area but by the time we could
2 circle back around we had lost him. So, that's what sparked our
3 interest to initially run him. So, we had the knowledge that he
4 was wanted for this parole hit.

5 DOLESE: Okay.

6 NAGAI: So, when we saw him on this particular day, okay,
7 let's just- there he is. Let's just reconfirm it. It was still
8 good so that's when we made contact.

9 DOLESE: Got it. Thank you. So, in your report in the
10 narrative you mentioned that Officer Santana called out to
11 [REDACTED] by his street name, [REDACTED] when you were
12 approaching him. Is that - is that what he said? He called him
13 by [REDACTED]? Did you ever hear Officer Santana call him
14 [REDACTED]?

15 NAGAI: Um, I don't recall. I believe he called him

16 [REDACTED]
17 DOLESE: Okay. I just thought because you took the time to
18 document that so I thought was a note that he called him by his
19 street name and not-

20 NAGAI: Yeah, I think I wrote down, "called out to [REDACTED]
21 by his street name [REDACTED]."

22 DOLESE: Right. That's what I'm referring to.

23 NAGAI: Yeah, yeah.

24 DOLESE: Okay. And um, did you say that you- did you never
25 had an opportunity to identify yourselves as police officers
26 although you were in uniform, correct?

27 NAGAI: Yeah. Other than, you know, being in full uniform,
28 we didn't- we didn't say it like, stop. Police. We didn't

1 | really have time to even- we weren't even going that route
2 | because doing, you know- stop, Police, he's already got his back
3 | towards us. He doesn't know- might not know who, you know, that
4 | we're trying to really draw his attention.

5 | DOLESE: Okay.

6 | NAGAI: And we weren't trying to come in hot because once
7 | we're up here, then it brings people to a heightened- it's hard
8 | to bring people back down so, no. We were just trying to come
9 | in very, you know, even keeled and you know, just- let's just
10 | take you in and get this taken care and then that's when he
11 | started to run so.

12 | DOLESE: Okay. And did you have time to give him any
13 | commands?

14 | NAGAI: No.

15 | DOLESE: Like as soon as he- -he just ran. So, his
16 | response would you say was almost immediate?

17 | NAGAI: Exactly.

18 | DOLESE: Okay and that was when the Officer Santana touched
19 | him on the shoulder?

20 | NAGAI: Yeah.

21 | DOLESE: Okay. And was it more of a touch or did he grab
22 | his shoulder or do you recall?

23 | NAGAI: I think it was probably just like- like-

24 | DOLESE: Like hey.

25 | NAGAI: Hey. Yeah.

26 | DOLESE: And um, and then what about after [REDACTED] pushed
27 | Officer Santana? Did you have an opportunity to- we know he
28 | turned and he ran, did you have any opportunity to give him any

1 | commands at that point?

2 | NAGAI: No. I was actually shocked that he just started
3 | taking off too. I was like, whoa.

4 | DOLESE: Okay. So, you just basically had to go after him
5 | at that point?

6 | NAGAI: Yeah, exactly.

7 | DOLESE: Okay. And can you describe [REDACTED] actions
8 | when he was- was he actively resisting?

9 | NAGAI: Yes. Yes. I mean the fact that he's running away
10 | from us, uh, that he's not allowing an easy route for us to
11 | handcuff him or place him under arrest. What a lot of people do
12 | when they are resisting, is tensing their limbs and their body.
13 | They try to bring everything to their core. So, as we're trying
14 | to, you know, grab ahold of an arm, he's trying to you know,
15 | like rip it away from us. It was hard too because I think Bryan
16 | was trying to pull one way and I was trying to pull another way
17 | to like gain a- so, that also made it a little bit of a hard
18 | time. If you're not moving, Muni rail is not gonna stop ah, so
19 | it doesn't allow for a lot of easy egress from the situation.
20 | And then, you know, a volatile situation with a bunch of his
21 | homeless buddies that we kinda have our backs to, you know, I
22 | don't know if they're gonna jump in and help [REDACTED] or if
23 | they're just gonna- luckily, they just kinda just sat back and
24 | then- but.

25 | DOLESE: Can you um, at the time- so, when [REDACTED] um,
26 | he's- you're basically wrangling with him, now both of you-
27 | Officer Santana and yourself are both like full-on with him.

28 | NAGAI: Yeah.

1 DOLESE: Based on what I saw on the Body Worn Camera and
2 the surveillance video. Um, did you- could you recall did
3 [REDACTED] ever say anything at that point? Could you remember
4 him saying anything and if so, what did he say?

5 NAGAI: Not from my individual recollection. As we
6 reconvened at the station after everything was all over and done
7 with, um, Santana did say that [REDACTED] yelled at him, like, go
8 with me. Don't make me hurt you. I'll hurt you. And he's not
9 a- he's not like, a small- I mean Officer Santana and I, we're
10 not like the biggest cops in the Department for sure. And he's
11 not really a small guy either. He's five-nine, one-eighty. I'm
12 five-seven, one-fifty. He's got kind of a muscular kind of a
13 build. He's not- he's not a small, small dude.

14 DOLESE: Do you think- I'm sorry. Didn't mean to
15 interrupt.

16 NAGAI: No, go ahead.

17 DOLESE: Okay. Did you have any reason to believe that he
18 might be under the influence of something?

19 NAGAI: He does appear like- I mean I- I didn't see him
20 using any narcotic that day; however, that particular area of
21 Market and Castro, there is a lot of drug dealing, um,
22 specifically heroin and methamphetamines. So, I mean we see it
23 all the time. So, during that time I don't know if he was on
24 any sort of narcotic, but it could be a high likely possibility.

25 DOLESE: Okay. And the reason I ask is because in some of
26 the Body Worn Camera footage you can hear in the audio- and I
27 can't tell whose making the comments, but it sounds like it was
28 one or more officers making reference to meth and then I think

1 somebody mentioned something about tweaking or really- that he
2 was pretty amped up or something.

3 NAGAI: Yeah. I mean we-

4 DOLESE: I just wanted to try to confirm.

5 NAGAI: Yeah. I mean we- in the street we call it, you
6 know a tweaker's dream for lack of a better term, I guess.

7 DOLESE: Right. So, from your perspective, I mean is it
8 usually when people are using narcotics such as meth-

9 NAGAI: Yeah, or especially amphetamines. In this case,
10 ah, he did- 'cause usually when people are on heroin, it's more
11 of a downer and they're just more mellowed out but when you're
12 on amphetamines, it's more you get a lot of heightened
13 sensitivity and more like super hero type strength so it makes
14 up for uh, part of the fight, I guess.

15 DOLESE: Okay. Which I was just trying to- wondering- but
16 that would explain why he was reacting the way that he did.

17 NAGAI: Possibly, yeah.

18 DOLESE: Okay. So.

19 MARTIN: But I mean-

20 DOLESE: Go ahead Kevin.

21 MARTIN: I don't mean to interrupt but to that end, there
22 was no charge for a 647(f)-drugs.

23 DOLESE: Correct.

24 MARTIN: Or alcohol.

25 DOLESE: Right, yeah. Understood.

26 MARTIN: Thank you.

27 DOLESE: Yeah, I just was asking because I just wondered if
28 there was anything about, you know, that would explain why he

1 reacted the way that he did. And why he put up such a fight.

2 NAGAI: Yeah. I mean quite possibly but-

3 DOLESE: Yeah, because it seemed like initially it was
4 gonna just be a pretty kind of typical encounter and it just
5 sort of escalated-

6 NAGAI: Exactly.

7 DOLESE: Very quickly. And so, it did become necessary at
8 some point for you to use um, some force options or to deploy
9 some force options during your contact with him. So, can you
10 explain um, what you- what you did in response to Mr. [REDACTED]
11 actions?

12 NAGAI: Yes. So, I grabbed ahold of his right arm
13 initially and then as- when I saw to my left that the train was,
14 you know, peeling around us, I'm like God, it didn't make me
15 feel good so, I did use a closed right and left fist-strikes to
16 the head. It's not something that's necessarily taught in the
17 Academy, but you know, when we're fighting with someone then,
18 you know, you're throwing a train in the middle of it, we're- I
19 want myself and my partner to go home safely. So, we were able
20 to wrestle him away from the train. Um, but then we were- we
21 got- we tripped over this- this stroller type thing and then uh,
22 he was able to gain access to his feet again and I was trying to
23 use an Arm Bar take down. But I think he built kind of a wide
24 base so it was kind of tough to get him to the ground. Santana
25 used some sort of uh, take down to where he was finally able to
26 get him to the ground.

27 DOLESE: Okay. So, Mr. [REDACTED] because once you made
28 initial contact-I know it looked like the three of you basically

1 | tripped over the stroller that was there.

2 | NAGAI: Yeah. Yeah.

3 | DOLESE: And then you all went on the ground.

4 | NAGAI: Exactly.

5 | DOLESE: And then I see him get back up so he was able to

6 | actually get back up on his feet?

7 | NAGAI: Yes.

8 | DOLESE: Okay. And then he still continued to resist

9 | during that time and so then you- like you said, I think you

10 | said Officer Santana basically used a different type of take

11 | down and was able to get him back onto the ground?

12 | NAGAI: Yeah.

13 | DOLESE: So that would have been the second time you had to

14 | take him to the ground.

15 | NAGAI: Correct.

16 | DOLESE: Okay. And um, it looded like Santana was sort of

17 | on top of him and-

18 | NAGAI: Somehow, I think Bryan ended up being on his back

19 | at one point.

20 | DOLESE: Okay. It was a little chaotic.

21 | NAGAI: I think it was during the initial we tripped and

22 | then [REDACTED] was like on top of him and I was trying to yank

23 | him off.

24 | DOLESE: Okay. And so, you were attempting to handcuff him

25 | at that point? Is that correct?

26 | NAGAI: The second time he was on the ground, he was more-

27 | I believe he was in a prone position face-down.

28 | DOLESE: Yeah.

1 NAGAI: And I just grabbed ahold of his uh, right wrist and
2 handcuffed him. By that time, I was completely huffing and
3 puffing and that's when another unit was able to take over.

4 DOLESE: So, did- did Officer Santana assist you in
5 handcuffing [REDACTED] or was it the other officers that had
6 arrived? I know there were three officers that jumped out of an
7 SUV.

8 NAGAI: It was a patrol unit that ah, showed up and just
9 kind of took over for me and then completed the handcuffing.

10 DOLESE: Okay.

11 NAGAI: Yeah.

12 DOLESE: And do you recall how many officers it took to
13 handcuff [REDACTED] If you know.

14 NAGAI: I don't recall.

15 DOLESE: Okay. I don't want you to guess. Just only if
16 you remember. And so, do you feel that the force that you had
17 to use with Mr. [REDACTED] was reasonable under the circumstances?

18 NAGAI: Yes.

19 DOLESE: Okay. And can you just tell me why you think so?

20 NAGAI: I mean we weren't- we weren't anticipating any type
21 of use of force to begin with. But when he's trying to flee
22 from being captured or to be in custody, then we have to use
23 some sort of physical force at that point to get him into
24 handcuffs and get him into custody. Just because it was very
25 little time to- I had no time to de-escalate the situation
26 because of his volatile nature and behavior, uh, the environment
27 of the incident, of a moving Muni train and other bystanders
28 that we have arrested before and have been volatile in the past,

1 with our backs-fighting with our backs toward them, hoping that
2 they don't jump in and help [REDACTED] and basically lynch him
3 from custody. I think the physical force used was appropriate
4 in this particular incident.

5 DOLESE: Okay. So, do you feel the force- do you feel in
6 any way that it was unnecessary or that it was necessary?

7 NAGAI: I- I believe that it was necessary.

8 DOLESE: Okay. And you believe it was objectively
9 reasonable under the circumstances?

10 NAGAI: Correct, yes.

11 DOLESE: Did you ever take [REDACTED] by the back of his head
12 and slam his head on the concrete?

13 NAGAI: Negative.

14 DOLESE: And did you ever see Officer Santana slam
15 [REDACTED] head on the concrete?

16 NAGAI: No.

17 DOLESE: And did you see a third officer try to slam his
18 head on the concrete?

19 NAGAI: No.

20 DOLESE: And do you have any recollection did you ever yank
21 hard on his arm? I know you said you grabbed him by his right
22 arm in order to handcuff him.

23 NAGAI: I mean my purpose wasn't to like damage his arm.
24 Um, control holds and taking someone into custody, it's not a
25 pretty thing so I mean using physical force to apprehend
26 someone, there is a possibility that someone is gonna get hurt-
27 either the custody or us as well. So, but later on- on scene,
28 [REDACTED] didn't have any complaints of pain. When we were at

1 the station, he was complaining of, you know, arm pain and he
2 had a fractured pinkie from I think previous incident or
3 something.

4 DOLESE: Was that a pinkie or elbow? I think he commented
5 about his elbow.

6 NAGAI: Fractured elbow I think from a previous injury that
7 he had.

8 DOLESE: That was pre-existing, yeah.

9 NAGAI: So, we did order the ambulance. And then doctors
10 confirmed that GH said he did have some injures.

11 DOLESE: Okay. And I'll ask about that in just a second.

12 NAGAI: Right.

13 DOLESE: Did you ever have to put [REDACTED] in a chokehold?

14 NAGAI: No.

15 DOLESE: And was a chokehold ever used by any officer
16 against [REDACTED]

17 NAGAI: No.

18 DOLESE: And do you recall when Officer Santana was sort of
19 on top of [REDACTED], you said [REDACTED] may have been on top of
20 Santana, do you ever recall Officer Santana having [REDACTED]
21 neck in the crook of his arm and squeezing it?

22 NAGAI: No.

23 DOLESE: And did you ever recall hearing [REDACTED] ever say,
24 you're hurting me?

25 NAGAI: I don't recall that.

26 DOLESE: And did you recall [REDACTED] ever saying you're
27 choking me?

28 NAGAI: No.

1 DOLESE: And did you- so, after this was all done and he
2 was once in custody, did you observe any physical injuries to
3 [REDACTED] Anything that was obvious?

4 NAGAI: I think I did document it, but you know, he had
5 minor um-

6 DOLESE: Yeah, and please feel free to refer to your report
7 if that helps refresh your recollection.

8 NAGAI: Yeah, he had small abrasions to the left side of
9 his face, small abrasions to his left hand and abrasions to his
10 left elbow. And a complaint of pain- oh, so, yeah, he did have
11 a complaint to his left pinkie I guess on scene.

12 DOLESE: That was on scene? Okay.

13 NAGAI: Or maybe- maybe it was at the station, but I don't
14 recall- we would have ordered him an ambulance on the scene if
15 he was complaining of pain but-

16 DOLESE: And did a supervisor respond to the scene?

17 NAGAI: Yes.

18 DOLESE: And was that Sergeant Russell?

19 NAGAI: Yes. Correct.

20 DOLESE: Okay. And was the use of force reported to
21 Sergeant Russell?

22 NAGAI: It was, yes.

23 DOLESE: Okay. And do you know if Sergeant Russell
24 conducted a supervisory use of force evaluation?

25 NAGAI: Yes.

26 DOLESE: Okay. And do you know if an entry was made in the
27 use of force log by Sergeant Russell?

28 NAGAI: I would believe so. I didn't particularly see any.

1 DOLESE: Okay. And do you know if the use of force was
2 determined to be within Department policy?

3 NAGAI: Yes.

4 DOLESE: And did you sustain any injuries during the
5 incident?

6 NAGAI: Complaint of pain to my left wrist. It was
7 difficult to open and close my left hand and bend my wrist.
8 Santana sustained abrasions to his left elbow, left knee and a
9 complaint of pain to his left knee and neck.

10 DOLESE: Okay. And did you require any medical treatment
11 for the injury to your left wrist?

12 NAGAI: No.

13 DOLESE: So, it resolved.

14 NAGAI: Yeah, it resolved.

15 DOLESE: Okay. And then what about- did Officer Santana
16 have to obtain any medical treatment for his injuries if you
17 remember?

18 NAGAI: I don't think- I don't believe so.

19 DOLESE: And do you know who transported [REDACTED] to
20 Mission Station?

21 NAGAI: Ah, I think it was the 3-David-11-David, Officers
22 Lee, star 469 and Hoang, 308.

23 DOLESE: Okay. So, it was not you and Officer Santana that
24 transported him?

25 NAGAI: No.

26 DOLESE: Okay. And then did you return to Mission Station
27 at that point?

28 NAGAI: We did. Yeah.

1 DOLESE: And then at some point, um, a medic and ambulance
2 were called for him and that was called at the station?
3 NAGAI: Yes.
4 DOLESE: And do you know who called the medics and
5 requested the ambulance?
6 NAGAI: I don't.
7 DOLESE: And that- but you're saying that's because he
8 complained of pain at the station to his-
9 NAGAI: Yes. The most likely whoever was keeper that day.
10 Because whenever we bring a body in, we have to- they have to
11 answer x-amount of medical questions, so.
12 DOLESE: When they do the medical prescreen?
13 NAGAI: Yeah.
14 DOLESE: At the station.
15 NAGAI: Correct.
16 DOLESE: Got it. Um, and do you believe that you complied
17 with DGO 5.01?
18 NAGAI: Yes.
19 DOLESE: And while you were at the station with [REDACTED],
20 did you have to employ any force or physical control to [REDACTED]
21 at the station or did he calm down by that point?
22 NAGAI: No. He was really calm by that point.
23 DOLESE: And um, and at some point, did you learn that
24 [REDACTED] did have a fractured pinkie and I think the report
25 indicated it was the left but I actually think it's the right
26 pinkie that was fractured. Um, and that he had a bone chip in
27 the left elbow from a previous injury. Do you recall how you
28 learned that information?

1 NAGAI: Probably- I think it was from whoever was sitting
2 on him at the hospital.

3 DOLESE: Okay. Did you go to the hospital?

4 NAGAI: No.

5 DOLESE: Okay. So, you didn't have any involvement with
6 him at the hospital.

7 NAGAI: No. Yeah.

8 DOLESE: Okay. And then were the other officers, Officer
9 Lee-

10 NAGAI: Yes.

11 DOLESE: Who might have gone?

12 NAGAI: Yeah.

13 DOLESE: Okay. And um, do you know at what point [REDACTED]
14 sustained the injury to his pinkie? At what point during- I
15 mean do you even know if it happened during the struggle or you
16 don't know?

17 NAGAI: I- I don't know if it happened during the- during
18 our particular incident.

19 DOLESE: Okay. But you do acknowledge that you did grab
20 his right arm and obviously, when we look at the footage you can
21 see there is definitely a struggle going on.

22 NAGAI: Yeah.

23 DOLESE: Okay, but you're not exactly sure when that injury
24 occurred.

25 NAGAI: Correct.

26 DOLESE: Okay. And do you know what [REDACTED] was charged
27 with?

28 NAGAI: So, we did take him in [REDACTED] [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED] Let's see. He was also charged- let's see-69 PC
4 which is force or threats against an officer, 290.001(a) which I
5 believe is a failure to register as a sex offender within 30
6 days because he is a transient. It's one of the regulations as
7 a sex offender. You have to do if you're homeless. 243(b) and
8 148. So, battery on a police officer and then 148 would be
9 resisting arrest.

10 DOLESE: Okay. And did Sergeant Russell approve the
11 charges?

12 NAGAI: Correct.

13 DOLESE: Okay. And at some point, [REDACTED] was transported
14 to CJ- CJ1?

15 NAGAI: He was. Yes.

16 DOLESE: Okay. But you did not- did you transport him to
17 the jail?

18 NAGAI: No. No.

19 DOLESE: Okay. And that was after he was released from San
20 Francisco General?

21 NAGAI: Correct, yes.

22 DOLESE: We talked about that. And have you had any
23 contacts with [REDACTED] since you arrested him on February 14th?

24 NAGAI: No.

25 DOLESE: Okay. And have you seen him around or-?

26 NAGAI: I haven't- I haven't seen him since.

27 DOLESE: Okay. Okay. Now we'll talk about the Body Worn
28 Camera. So, are you familiar with DGO 10.11, Body Worn Cameras?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NAGAI: Yes.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

| | |
|----|------------|
| 1 | [Redacted] |
| 2 | [Redacted] |
| 3 | [Redacted] |
| 4 | [Redacted] |
| 5 | [Redacted] |
| 6 | [Redacted] |
| 7 | [Redacted] |
| 8 | [Redacted] |
| 9 | [Redacted] |
| 10 | [Redacted] |
| 11 | [Redacted] |
| 12 | [Redacted] |
| 13 | [Redacted] |
| 14 | [Redacted] |
| 15 | [Redacted] |
| 16 | [Redacted] |
| 17 | [Redacted] |
| 18 | [Redacted] |
| 19 | [Redacted] |
| 20 | [Redacted] |
| 21 | [Redacted] |
| 22 | [Redacted] |
| 23 | [Redacted] |
| 24 | [Redacted] |
| 25 | [Redacted] |
| 26 | [Redacted] |
| 27 | [Redacted] |
| 28 | [Redacted] |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[REDACTED]

DOLESE: Okay. And the last question. In the incident report you wrote that [REDACTED] was a known transgender transient. Is that relevant for any particular reason?

NAGAI: I mean not other- anything other than, you know, he wanted to be addressed as a female, so.

DOLESE: Okay. Thank you. Okay, Kevin? You have some follow- up questions?

MARTIN: In regards to the use of force to effect the arrest. Did you deviate from any training you received while in the Academy and any additional training to effect the arrest?

NAGAI: No.

MARTIN: And you never had the opportunity to go through the use of force continuing in terms of verbal commands. Correct?

NAGAI: Correct.

MARTIN: His immediate response upon seeing the police officers was to commit a battery against a police officer and then attempt to flee the scene.

NAGAI: Correct.

MARTIN: You described the area where the contact occurred. It's an area that is frequented by transients and other individuals that like to hang around the area. We were able to see some of the video from that incident and there may have been at least five or six other individual congregated in that area. Correct?

NAGAI: Correct.

MARTIN: And you also stated that during the contact and

1 while attempting to take Mr. [REDACTED] into custody, um, there
2 was obstacles in the way and at one point you tripped over and
3 fell to the ground with Mr. [REDACTED] and Officer Santana.

4 Correct?

5 NAGAI: Correct.

6 MARTIN: Very good. And that environment made it
7 considerably more difficult to work and in order to operate and
8 take the subject into custody. Correct?

9 NAGAI: Correct.

10 MARTIN: Very good. In relation to the use of force. You
11 advised Sergeant Russell of the use of force, correct?

12 NAGAI: Correct.

13 MARTIN: When you explained to Sergeant Russell the type of
14 force and the way you implemented the force to take Mr. [REDACTED]
15 into custody, you fully explained your actions to the Sergeant,
16 correct?

17 NAGAI: Yes.

18 MARTIN: Did you leave anything out?

19 NAGAI: No.

20 MARTIN: Very good. And as a result of the use of force
21 investigation, have you been counseled, admonished or otherwise
22 disciplined by any member of authority of the San Francisco
23 Police Department for violating Department General Order 5.01?

24 NAGAI: No.

25 MARTIN: But there was certainly the opportunity to do so
26 since this occurred quite a while ago. Correct?

27 NAGAI: Correct.

28 MARTIN: Very good. [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

| | |
|----|--------------|
| 1 | [REDACTED] |
| 2 | [REDACTED] |
| 3 | [REDACTED] |
| 4 | [REDACTED] |
| 5 | [REDACTED] |
| 6 | [REDACTED] |
| 7 | [REDACTED] |
| 8 | [REDACTED] |
| 9 | [REDACTED] |
| 10 | [REDACTED] |
| 11 | [REDACTED] |
| 12 | [REDACTED] |
| 13 | [REDACTED] |
| 14 | [REDACTED] |
| 15 | [REDACTED] |
| 16 | - [REDACTED] |
| 17 | [REDACTED] |
| 18 | [REDACTED] |
| 19 | [REDACTED] |
| 20 | [REDACTED] |
| 21 | [REDACTED] |
| 22 | [REDACTED] |
| 23 | [REDACTED] |
| 24 | [REDACTED] |
| 25 | [REDACTED] |
| 26 | [REDACTED] |
| 27 | [REDACTED] |
| 28 | [REDACTED] |

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 MARTIN: Very good. I have no further questions of the
11 officer. Certainly, the allegations of excessive force, we
12 don't believe that there's any basis or foundation for that.
13 The report is very clear. It's very articulate. The actions of
14 Mr. [REDACTED] were very immediate and very violent as a response.
15 The officers acted accordingly. They took immediate actions of
16 reasonable force to control and take Mr. [REDACTED] into custody.
17 I think it's also very, very important to note that Mr. [REDACTED]
18 did not originally look to make a complaint against the
19 officers. It was once the DPA went to interview Mr. [REDACTED].
20 But certainly, Mr. [REDACTED] had earlier opportunities to voice
21 any complaints or file any allegations of misconduct against the
22 officers; certainly, at the station or at the hospital. There
23 was a Sergeant who responded to the scene and that certainly
24 could have been done. It's also important to note that the
25 initial complaint in this matter was a third-party individual
26 well-known to both the DPA and the Mission Station Police
27 officers as a [REDACTED] Um, I would think it would be
28 fair to say that the police officers contact and experience with

1 [REDACTED] is very similar to that of his contacts and
2 communications with DPA and in those terms I mean rather
3 volatile, very unpleasant individual to have to deal with. And
4 I'm sure that the DPA will confirm that through their
5 experiences with him as well. The point being that Mr. [REDACTED]
6 is an opportunist. He's made several complaints against the
7 officers. Several of these complaints he has not had any
8 involvement but is in a position to view police actions and take
9 immediate action against the police officers. We believe that
10 there is no basis or foundation for the allegations of excessive
11 force [REDACTED]

12 [REDACTED]
13 [REDACTED] No further comments at this particular time.

14 DOLESE: Okay. Officer Nagai, I think I asked you at the
15 beginning, but I don't remember if I asked this specifically.
16 Did you review the surveillance video?

17 NAGAI: Yeah.

18 DOLESE: You did. Okay. Before coming here today?

19 NAGAI: Yes.

20 DOLESE: Okay. So, I don't need to show it to you again.

21 NAGAI: No, no.

22 DOLESE: And our computer doesn't seem to be functioning
23 right now so just as well. I just thought if it helped to kinda
24 just-

25 NAGAI: No, it's- yeah.

26 DOLESE: Tie it all together for you, I would show it for
27 you. Okay. Claire, do you have any further to ask?

28 INV. CLAIRE LAVAUTE: Ah, no.

1 DOLESE: Okay. And I just want to add for the record, I
2 think I neglected to note that Investigator Claire LaVaute is
3 sitting in on the interview for training and observation
4 purposes so let the record reflect that. So, I don't have
5 anymore questions. At this time, we're closing. Officer Nagai,
6 is there any other statement relevant to this incident you wish
7 to make at this time?

8 NAGAI: No.

9 DOLESE: Are there any witnesses or other evidence relevant
10 to this case you intend to submit on your behalf?

11 NAGAI: No.

12 DOLESE: And you may submit material to the DPA before an
13 initial decision is made about whether or not to sustain any of
14 the allegations in this case and what discipline to impose, if
15 any. DPA requests that you submit any further material within
16 two weeks of this interview if possible. And if there's
17 anything else you would like us to- is there anything else you'd
18 like us to consider in that regard?

19 NAGAI: No.

20 DOLESE: All right. Thank you. All right. The time now
21 is approximately 4:17 p.m. and we are off the record.

22 **END OF DOCUMENT**

23

24

25

26

27

28