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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO



MICHAELLA LYNN SURAT, Civil Action No.  
19-cv-00901-WJM-NRN

Plaintiff,

vs.

RANDALL KLAMSER, in his individual capacity,  
and CITY OF FORT COLLINS, a municipality,  
Defendants.

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VIDEOCONFERENCED DEPOSITION OF GARRETT PASTOR

May 11, 2020

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1 excessive force; is that correct?

2 A. Yes.

3 Q. And what is your understanding of the  
4 concept of excessive force?

5 A. Force that is out of law, policy, and  
6 ethics within the Fort Collins Police Department.

7 Q. Okay. Meaning what?

8 A. Meaning?

9 Q. Meaning, I mean --

10 A. Do you want an example of excessive  
11 force?

12 Q. Well, no. I mean, we can all come up  
13 with good examples of excessive force. But my  
14 question to you is: Do you have an overarching  
15 definition that you personally work with about what  
16 level of force is appropriate and when do you go too  
17 far, or is it based just sort of on instinct, I mean  
18 you know it when you see it?

19 A. Absolutely. I think anyone would kind  
20 of know it when they see it.

21 Q. Okay. You look at the Klamser/Surat  
22 video, do you see excessive force?

23 A. I do not.

24 Q. You do not?

25 A. No.

1 Q. Why not?

2 A. Just due to, again, it meets the  
3 trainings that we go through within the Fort Collins  
4 Police Department, our policies. And by law, it  
5 doesn't equal excessive force.

6 Q. Okay. You've covered a couple of  
7 grounds there. First and foremost, let me ask you  
8 this: You viewed that video, and you were right  
9 there viewing the whole scene, right?

10 A. Yes, sir.

11 Q. And what you saw with your own eyes and  
12 in watching -- have you watched the Klamser body cam  
13 video?

14 A. I don't think I watched Klamser's body  
15 video, no.

16 Q. You watched your video, right?

17 A. Yes, sir.

18 Q. And the throw-down really doesn't show  
19 up very well on your video, does it?

20 MR. RATNER: Object to form.

21 A. No.

22 Q. (BY MR. LANE) But in watching all of  
23 these videos, you have concluded after almost seven  
24 years as a police officer in Fort Collins that what  
25 you witnessed on that video and with your own eyes

1 was perfectly consistent with the customs, practices,  
2 and policies of the use of force for the Fort Collins  
3 Police Department, correct?

4 MR. RATNER: Form and foundation.

5 A. Can you reask that question. I  
6 apologize.

7 Q. (BY MR. LANE) Yes. You viewed the  
8 whole scene and the videos and in your almost seven  
9 years of experience you believe that what Klamser did  
10 was totally consistent with the customs, practices,  
11 and policies of the use of force of the Fort Collins  
12 Police Department?

13 A. Yes.

14 MR. RATNER: Same objection.

15 Q. (BY MR. LANE) So there was nothing out  
16 of line with your training or experience that Klamser  
17 did, right?

18 A. No.

19 Q. And you would have done exactly the  
20 same thing to Michaella Surat had you been in  
21 Klamser's situation, wouldn't you?

22 MR. RATNER: Form and foundation.

23 Go ahead.

24 A. I don't know if I would have done the  
25 same thing. I don't know what Officer Klamser was

1 thinking at that time.

2 Q. (BY MR. LANE) Well, if you put  
3 yourself in that situation, you would have done  
4 exactly the same thing, wouldn't you?

5 MR. RATNER: Same objection.

6 A. Possibly. Possibly not. I don't know  
7 how to answer that question.

8 Q. (BY MR. LANE) Well, look, all of your  
9 training is based on hypotheticals, isn't it? I  
10 mean, when you are at the firing range, you're  
11 pretending that you're shooting at a target that may  
12 be humans shooting back at you. They don't actually  
13 put you in a live fire situation where you're got  
14 people shooting at you, do they?

15 A. No.

16 Q. Okay. So every bit of training you  
17 have is hypothetical. If you are confronted with the  
18 following, you should do the following. That's what  
19 all of your physical defense tactics are based on,  
20 hypotheticals. And you train using hypotheticals,  
21 don't you?

22 A. Yes.

23 Q. Okay. So I'm putting you in a  
24 hypothetical situation. You've seen the Klamser  
25 situation, you were right there, you saw the videos,

1       okay, put yourself in Klamser's position, would you  
2       have done exactly the same thing as Klamser did?

3               A.     No.

4               MR. RATNER:   Same objection.

5               Q.     (BY MR. LANE)   Why not?

6               A.     Because we're approached with, let's  
7       say A, it doesn't mean our answer is only B.

8               Q.     Correct.

9               A.     There's different things.  It could  
10      lead to C.  It could lead to L.  It doesn't -- so  
11      there's lot a of different options.  So would I do  
12      exactly what Klamser would do?  No or yes.  It all  
13      depends.

14              Q.     That's the answer for every situation:  
15      It all depends.

16              A.     It could be, yes.

17              Q.     But if somebody pulls a gun on you and  
18      is threatening to kill you, one of your correct  
19      responses is to pull out your gun and kill that man,  
20      right?

21              A.     Yes.

22              Q.     Another is to duck behind cover as fast  
23      as you can if you can safely do that, right?

24              A.     Yes.

25              Q.     It just depends, right?

1 A. Yes.

2 Q. Every situation is different, isn't it?

3 A. Yes.

4 Q. And you might choose option A or B and  
5 both may be viable options, but neither is a  
6 violation of department policy, right?

7 MR. RATNER: Object to foundation.

8 A. Yes.

9 Q. (BY MR. LANE) And so what I'm saying  
10 is, you saw what Klamser did, and now you're telling  
11 me, well, there are many other options available.  
12 Give me a for instance. What other options are  
13 available for Klamser that you may have considered  
14 using that Klamser apparently considered and  
15 rejected?

16 MR. RATNER: Object to form.

17 Q. (BY MR. LANE) Well, we don't know what  
18 Klamser was thinking. But you have a whole range of  
19 options if that's you in the Klamser situation. What  
20 are those options available to you, Officer Pastor?  
21 What could you have done short of throwing her face  
22 first into the cement?

23 MR. RATNER: Object to form.

24 Q. (BY MR. LANE) Go ahead.

25 A. He could have done a different kind of

1 takedown. He could have --

2 Q. What kind?

3 A. He could have transitioned to a  
4 rear-wrist takedown.

5 Q. And how does that work?

6 A. Just instead of taking her forward, you  
7 kind of take her back. It's with joint manipulations  
8 and off balance and those types of things.

9 Q. Basically twisting her arm, right?

10 MR. RATNER: Object to form.

11 A. For lack of a better term, yes.

12 Q. (BY MR. LANE) I'm sorry. Say that  
13 again.

14 A. For a lack of better terms, yes.

15 Q. What else could he have done?

16 A. He could have disengaged.

17 Q. That would have been an option?

18 A. Uh-huh.

19 Q. You can't say "uh-huh," because the  
20 court reporter has to take down every word.

21 A. I apologize. Yes.

22 Q. Meaning disengage, just let go of her,  
23 right?

24 A. Or push her away or however.

25 Q. And disengaging would not have resulted



1           A.    He used the amount of force needed to  
2 maintain control of Ms. Surat.

3           Q.    (BY MR. LANE) Well, that's the issue.  
4 Did he use excessive force, or did he use the amount  
5 of force necessary to control her? Her feet lifted  
6 off the ground in that video and were above her head  
7 before she hit the ground. Did you see that?

8           A.    I don't know.

9           Q.    He threw her with such force that  
10 actually her head hit the pavement before her feet.  
11 You saw that, right?

12          A.    I saw the video, yes.

13          Q.    Okay. You would agree with my  
14 characterization of that video, right? Her head hit  
15 the ground before her feet? We can watch it again if  
16 you want.

17          A.    No. Yes.

18          Q.    Okay. So you agree with my  
19 characterization of the video, right?

20          A.    Yes.

21          Q.    How tall are you? You're 6-5, aren't  
22 you?

23          A.    6-5, yes, sir.

24          Q.    And you weigh what, 200 and what?

25          A.    About 225 pounds.

1 Q. Okay. And Klamser is about what, 6  
2 feet?

3 A. Approximately.

4 Q. Probably weighs about as much as you?

5 A. A little less.

6 Q. So you would agree with me that you  
7 were interviewing the possible suspect who got kicked  
8 out of the Bondi Bar when this happened, right?

9 A. Yes, sir.

10 Q. Trying to figure out what his story  
11 was, right?

12 A. Yes, sir.

13 Q. And ultimately no one -- you didn't  
14 arrest him, did you?

15 A. He was not arrested that night, no.

16 Q. So you were just trying to get to the  
17 bottom of, hey, what happened in the bar, right?

18 A. Yes.

19 Q. And he told you, ultimately, Gee, I was  
20 a little drunk and I was possibly dancing a little  
21 too aggressively, right?

22 A. Yes.

23 Q. And his name was Mitchell Waltz; is  
24 that right?

25 A. Yes.

1 Q. And Klamser was engaged with Michaelaella  
2 Surat, right?

3 A. Yes.

4 Q. Waltz was being very cooperative with  
5 you, wasn't he?

6 A. He was.

7 Q. And Surat was struggling to pull away  
8 from Klamser, wasn't she?

9 A. I don't know what Surat was doing.

10 Q. Well, you were standing right there  
11 watching, weren't you?

12 A. Right. But I was not engaged with  
13 Ms. Surat.

14 Q. Well, I didn't ask who you were engaged  
15 with. I asked what you saw. What you saw was  
16 Michaelaella Surat pulling away from Klamser; isn't that  
17 right?

18 MR. RATNER: Object to form and  
19 foundation.

20 A. Are you asking --

21 Q. (BY MR. LANE) I'm asking you, didn't  
22 you see Michaelaella Surat pulling away from Klamser?

23 A. On that clip that you showed us?

24 Q. No. With your own two eyes right there  
25 on the scene.

1 Q. (BY MR. LANE) She weighs less than  
2 you. I would hope so. But we're talking about maybe  
3 100 pounds, 105, 110, something like that?

4 MR. RATNER: Same objection.

5 Q. (BY MR. LANE) Is that right?

6 A. Around there, yes.

7 Q. And she's about 5-3 or something like  
8 that, right?

9 A. I don't remember.

10 Q. Well, she's a small, small woman,  
11 right?

12 A. Right.

13 Q. And she was wearing a miniskirt, right?

14 A. She was wearing a dress, yes.

15 Q. A miniskirt and  
16 I'm-going-out-on-the-town heels, right?

17 A. Yes.

18 MR. RATNER: Object to form.

19 Q. (BY MR. LANE) You never saw a weapon in  
20 her hands, did you?

21 A. I did not see a weapon in her hands,  
22 no.

23 Q. And when she was arrested and searched,  
24 there was no weapon, right?

25 A. No.

1 Q. Am I right about that?

2 A. I did not find a weapon, no.

3 Q. Another option you said was for Klamser  
4 to disengage. But wouldn't another option be just --  
5 he had her by the wrist, correct?

6 A. I believe so.

7 Q. And it appeared that she was trying to  
8 get away, right? I mean, you've seen the Klamser  
9 body cam, right?

10 A. I saw that clip of it, yes.

11 MR. RATNER: Form and foundation.

12 Q. (BY MR. LANE) She seemed to be pulling  
13 away. That's what it looked like. "Get your fucking  
14 hands off me." She kept screaming "Leave me alone,"  
15 right?

16 A. Right.

17 Q. Had Klamser said, Hey, Pastor, could  
18 you give me a hand here, what would you have done?

19 A. I would have probably given him a hand.

20 Q. And you would have gone over and  
21 probably grabbed her free hand, right, because  
22 Klamser had her by one wrist, correct?

23 A. Yes.

24 Q. And then between 450 pounds of cops,  
25 you, based on your training and experience and life

1 on planet Earth, would agree that 450 pounds of you  
2 guys probably could have controlled Michaela Surat,  
3 correct?

4 MR. RATNER: Form and foundation.

5 A. Correct.

6 Q. (BY MR. LANE) And then you put her in  
7 cuffs and it wouldn't have been probably a terribly  
8 difficult thing to have done, right?

9 MR. RATNER: Same objections.

10 A. Probably.

11 Q. (BY MR. LANE) Probably. Yes, maybe she  
12 is the reincarnation of a, you know, the god of all  
13 martial arts. Maybe she could have broken your neck  
14 with a kick. Possibly, yes, along with a meteor  
15 coming down and killing all of you. All things are  
16 possible, I understand. But I'm asking probable.  
17 Probably you could have cuffed her and taken her  
18 away, right?

19 MR. RATNER: Same objections.

20 A. Yes.

21 Q. (BY MR. LANE) That would have been a  
22 lesser use of force than body slamming her into the  
23 ground like Klamser did, right?

24 MR. RATNER: Object to form.

25 A. It would have been a lesser use of

1 right?

2 MR. RATNER: Form and foundation.

3 A. Yes.

4 Q. (BY MR. LANE) Okay. Tell me where I'm  
5 going off the rails here. You've given me several  
6 options for a lesser use of force, which almost  
7 certainly would have controlled Michaela Surat,  
8 correct?

9 MR. RATNER: Object to form.

10 A. I don't know if they would have  
11 controlled Surat. I don't know what Surat's intent  
12 was that evening.

13 Q. (BY MR. LANE) I understand. We're  
14 talking probabilities. And based on your training  
15 and experience -- and how old are you, Mr. Pastor?

16 A. 35.

17 Q. In your 35 years of living life on  
18 planet Earth and interacting with other human beings,  
19 this was a girl in a college town dressed to -- I  
20 hate to use the term "dressed to kill," because that  
21 sounds violent. Let's just say she was dressed to go  
22 out on the town that night, right?

23 A. Okay.

24 Q. Likely you have encountered that type  
25 repeatedly in Old Town Fort Collins, haven't you?

1 A. Yes.

2 Q. And maybe she had been drinking a bit  
3 also, correct?

4 A. Possibly, yes.

5 Q. Well, likely, right, because it was  
6 late and that's the kind of stuff that you encounter  
7 in Old Town with people that fit that profile, right?

8 A. Yes.

9 Q. Okay. You could have grabbed one arm.  
10 Klamser could have grabbed the other arm and almost  
11 certainly you would have been able to control her,  
12 right?

13 A. I could have.

14 MR. RATNER: Form and foundation.

15 Q. (BY MR. LANE) And Klamser could have  
16 just twisted her arm behind her, caused a little pain  
17 compliance, and likely she would have been  
18 controlled, right?

19 A. I don't know if Officer Klamser tried  
20 that or not.

21 Q. No. We don't know. But that's in your  
22 arsenal of things that you would have tried, right?

23 A. It's in our arsenal, yes.

24 Q. And you would have tried it, right?

25 A. I would have tried it.



1 Q. Or just given the low level of what she  
2 had done, you would agree that what she had done was  
3 not a serious offense, right?

4 A. Looking back now? Knowing that --

5 Q. Even at the scene. Even at the time,  
6 she's being -- she's like, Hey, I want to go -- I  
7 want to take my boyfriend away, let's go. It's like,  
8 okay, stop. It's not worthy of taking out your gun  
9 and threatening to kill her if she does it again,  
10 right?

11 A. No.

12 Q. It's a low level. It's misdemeanor  
13 stuff, right?

14 A. Right.

15 Q. And that's what you processed as you  
16 saw it unfold, right?

17 A. The misdemeanor stuff, yes.

18 Q. Yeah. And part of your use-of-force  
19 training involves if it's low-level stuff, you can't  
20 escalate to a maximum use of force to stop a  
21 misdemeanor from occurring, right?

22 A. Right. Officer Klamser didn't use the  
23 maximum use of force.

24 Q. Right. Let me get into another screen  
25 share here. And I don't know if this has been marked

1 as an exhibit yet or not. Can you guys see the  
2 Response to Resistance on your screen now?

3 A. Yes.

4 Q. This is from the Fort Collins Police  
5 Policy Manual. Are you familiar with this?

6 A. Yes.

7 (Deposition Exhibit 5 was marked.)

8 Q. (BY MR. LANE) I don't know if it's  
9 previously in or not, but let's just mark it as  
10 Exhibit 5. It talks about reasonable use of force.  
11 At 300.2.1 talks about a Duty to Intercede. What is  
12 the Duty to Intercede. Do you see that?

13 A. Yes.

14 Q. What is the Duty to Intercede, based on  
15 your understanding?

16 A. So it's any person that -- honestly, I  
17 don't know the policy verbatim.

18 Q. Do you recall, approximately, what it's  
19 supposed to be?

20 A. Honestly, I do not.

21 Q. Okay. Have you ever been trained that  
22 when you see a fellow officer using excessive force,  
23 you have an obligation to jump in, stop that from  
24 happening, and then rat him out?

25 A. Yes.

1 MR. RATNER: Object to form.

2 Q. (BY MR. LANE) You didn't jump in and  
3 stop Klamser from doing this, did you?

4 A. No, I did not.

5 MR. RATNER: Object to form and  
6 foundation.

7 Q. (BY MR. LANE) And it happened really  
8 quickly, and there's probably no way that you could  
9 have jumped in to stop Klamser from doing it, right?

10 MR. RATNER: Same objections.

11 A. Yes, it did happen quickly.

12 Q. (BY MR. LANE) And there was really no  
13 way for you to stop Klamser, was there?

14 A. No.

15 Q. And after the fact, did you report what  
16 you believed to be excessive force to your  
17 commanders?

18 MR. RATNER: Object to form.

19 A. We called for a supervisor, but I did  
20 not report it as excessive force, because I did not  
21 believe it was excessive force.

22 Q. (BY MR. LANE) Right. Because it was  
23 consistent with your training with the Fort Collins  
24 Police Department, right?

25 A. Yes, sir.

1 Q. And it was clearly within the custom,  
2 practice, and policy of the Fort Collins Police  
3 Department to do to Michaela Surat exactly what  
4 Klamser did to her, right?

5 MR. RATNER: Form and foundation.

6 A. With that technique, yes.

7 Q. (BY MR. LANE) Okay. Let's look at  
8 300.3. "Officers shall use only that amount of force  
9 that reasonably appears necessary given the facts and  
10 circumstances perceived by the officer at the time of  
11 the event to accomplish a legitimate law enforcement  
12 purpose." Right? That's what that says.

13 A. Yes.

14 Q. And then we get into 300.3.2, The  
15 Factors Used to Determine the Reasonableness of the  
16 Force. A, "Immediacy and severity of the threat."  
17 Well, you agree that Michaela Surat pulling away  
18 from Klamser didn't really appear to propose a severe  
19 threat to Klamser or anyone else?

20 MR. RATNER: Object to form.

21 A. No.

22 Q. (BY MR. LANE) You'd agree with me,  
23 wouldn't you?

24 A. Yes.

25 Q. And she appeared to be pulling away.

1 She was screaming "Get your fucking hands off of me,"  
2 and things like that, right?

3 A. Yes.

4 Q. And C, "Officer/subject factors, age,  
5 size, strength, et cetera, number of officers  
6 available." All of those things play into it, right?

7 A. Yes.

8 Q. We've already talked about how the two  
9 of you -- your size compared to hers, your strength  
10 compared to hers, your skill level compared to hers,  
11 number of cops versus number of Michaelias. All of  
12 those things have to be taken into account, right?

13 A. Yes.

14 Q. The effects of drugs or alcohol,  
15 presumably not on the officers, but on the subject,  
16 right?

17 A. Yes.

18 Q. And she may have been drinking, right?

19 A. Yes.

20 Q. And that's part of her -- subject's  
21 mental state or capacity, right?

22 A. Yes.

23 Q. Didn't appear to be armed in any way,  
24 right?

25 A. Right.

1 Q. Those shoes might have been spiky, but  
2 can't remember. Other than that, she didn't appear  
3 to be armed, right?

4 A. No.

5 Q. Has the subject been effectively  
6 restrained, and what is her ability to resist.  
7 Despite being restrained, Klamser had her by the  
8 wrist the whole time, right?

9 A. I believe so.

10 Q. He was just trying to get her cuffed,  
11 right?

12 MR. RATNER: Object to foundation.

13 Q. (BY MR. LANE) Right?

14 A. Yes.

15 Q. Okay. So she was restrained to the  
16 point where they were having a coherent conversation  
17 when she wrapped her leg around the lamp poles,  
18 right?

19 MR. RATNER: Object to form.

20 Q. (BY MR. LANE) He grabbed her by the  
21 wrist, and she was talking with him, right?

22 MR. RATNER: Object to form.

23 Q. (BY MR. LANE) Right?

24 A. Yes.

25 MR. RATNER: Same objection.

1 MR. LANE: Your objection is there,  
2 Mark. You've got to let him answer.

3 MR. RATNER: Well, I know, but I'm  
4 going to put it on the record, David.

5 MR. LANE: I understand that. But when  
6 I asked him to answer, then you objected again.  
7 Okay. You've objected, and then you're cutting off  
8 his answer.

9 Q. (BY MR. LANE) Mr. Pastor, when she  
10 wrapped her leg around the lamppost, Klamser still  
11 had her by the wrist, right?

12 MR. RATNER: Object to foundation.

13 Q. (BY MR. LANE) You've got to answer when  
14 he objects, Mr. Pastor.

15 A. Right. Right. I don't -- I don't  
16 remember seeing that clip or anything with her leg  
17 wrapped around the lamppost.

18 Q. Okay. The point I'm making is, he had  
19 her by the wrist and that never changed, right?

20 MR. RATNER: Object to foundation.

21 A. Yes.

22 Q. (BY MR. LANE) And, in fact, you said  
23 one thing he could have done is just let go of her  
24 wrist and that would have disengaged, right?

25 A. Yes.

1 Q. And that also may have deescalated the  
2 situation; is that correct?

3 A. Hopefully, yes.

4 Q. But he didn't do that, did he?

5 A. No.

6 Q. The availability of other options and  
7 their possible effectiveness, that has to be  
8 considered, right?

9 A. Yes.

10 Q. So you've given us several other  
11 options that would have possibly been equally  
12 effective, right?

13 A. Could have been, yes.

14 Q. And the seriousness of the offense,  
15 this is minor, isn't it?

16 A. Yes.

17 Q. Training and experience of the officer.  
18 We've been there. Potential for injury to officers  
19 or suspects, you would agree the potential for injury  
20 to you or Klamser is pretty minimal here, right?

21 A. Yes, for me.

22 Q. Well, for Klamser too. The potential  
23 for him getting injured by Michaela Surat in her  
24 miniskirt and her go-out-on-the-town outfit with no  
25 weapons seemed to be pretty minimal given her hundred



1 pounds, right?

2 MR. RATNER: Object to form.

3 A. Yes.

4 Q. (BY MR. LANE) But slamming her head  
5 into the pavement, the potential for injury there  
6 seemed pretty big, doesn't it?

7 A. There's a potential for injury, yes.

8 Q. Now, what you saw her doing is trying  
9 to pull away from Klamser, not going after him in an  
10 aggressive way, right?

11 A. In that clip, yes.

12 Q. Well, while you were on scene, the  
13 commotion you heard, wasn't Klamser saying, Hey, stop  
14 hitting me, you're attacking me, that never happened  
15 at any time, did it?

16 A. No, he did not state those things.

17 Q. It looked, based on your view of  
18 everything, that she was simply trying to get away  
19 from Klamser, right?

20 A. In that clip, yes.

21 Q. Well, everything you know about this  
22 case. Everything you've seen, everything you've  
23 heard, it all seemed like she was trying to get away  
24 from him once he grabbed her by the wrist, right?

25 A. Yes.

1 Q. And you've talked to Klamser about  
2 this, right?

3 A. After the incident occurred, yes.

4 Q. Okay. All right. Now, you testified  
5 at the criminal trial in Fort Collins, right?

6 A. Yes, sir.

7 Q. And you were under oath when you were  
8 testifying in that criminal trial, right?

9 A. Yes.

10 Q. And you reviewed that testimony, right?

11 A. I'm sorry. You're a little broken.

12 Q. You've reviewed that testimony, right?

13 A. Yes.

14 Q. And you recall talking about the  
15 use-of-force continuum in that case, the six levels  
16 of force that you're trained in?

17 A. Yes.

18 Q. And how you as a police officer are  
19 expected to win every confrontation with a suspect,  
20 right?

21 A. Yes, sir.

22 Q. And you're allowed to use whatever  
23 force is necessary to allow you to win any  
24 confrontation with a suspect, right?

25 MR. RATNER: Object to form and

1 foundation.

2 A. Not any kind of force.

3 Q. (BY MR. LANE) Well, let's me rephrase,  
4 okay. Let's say a suspect wants to box with you,  
5 they have a fistfight with you. You don't have to  
6 meet that suspect on that suspect's terms if -- you  
7 know, just because he's using his fists, doesn't mean  
8 you're limited to fists. You can go up one level in  
9 the use of force and use a striking weapon, like take  
10 out your baton and start whacking him, right?

11 A. Correct.

12 Q. And your training, generally, is you're  
13 allowed to go up one level on the use of force from  
14 wherever the suspect is, right?

15 A. Yes, sir.

16 Q. Because that allows you to win the  
17 confrontation, right?

18 A. Yes, sir.

19 Q. Now, you said it would be way out of  
20 line and unreasonable for Klamser to have taken out  
21 his nightstick and smacked Michaela on the head for  
22 what was going on there, right?

23 A. Yes.

24 Q. Do you know what level use of force  
25 that would have been had he taken out his nightstick

1 and hit her with it?

2 MR. RATNER: Object to form.

3 A. Hit her in the head, as they were  
4 talking?

5 Q. (BY MR. LANE) Yes.

6 A. It could relate to deadly force.

7 Q. Okay. So that would have been among  
8 the highest levels of use of force, right?

9 A. Yes, sir.

10 Q. And that would have been completely  
11 unreasonable, right?

12 A. Yes.

13 Q. But hands on when somebody is doing  
14 this, it is perfectly reasonable, isn't it?

15 A. To do a hands on, yes.

16 Q. And even to use some pain compliance,  
17 which is an escalation of use of force, isn't it?

18 A. Yes.

19 Q. Okay. Twisting her arm causes some  
20 pain, and the object of pain compliance is, it hurts,  
21 stop resisting me, and I'll stop hurting you, right?

22 A. Yes.

23 Q. That would have been reasonable here,  
24 right?

25 A. Yes.

1 Q. Bringing in you to assist him also  
2 would have been a slight escalation in the use of  
3 force, right?

4 A. Yes.

5 Q. But it could have gotten the job done,  
6 right?

7 A. Yes.

8 Q. But it would have been a much lesser  
9 use of force than throwing her into the pavement,  
10 which is what he did, right?

11 MR. RATNER: Object to form.

12 A. It's still physical force or physical  
13 control.

14 Q. (BY MR. LANE) Pushing somebody with  
15 your open hand is physical force and physical  
16 control. Shooting somebody is also physical force  
17 and physical control. I know that. My question is  
18 on a level use-of-force continuum, bringing you over  
19 to help Klamser escalates it very slightly because  
20 now there's two of you. And grabbing her, both of  
21 you, is less use of force than slamming her into the  
22 pavement, right?

23 MR. RATNER: Object to form.

24 Q. (BY MR. LANE) Is that a yes?

25 A. Yes.

1 Q. That use of force where it escalates up  
2 one level is called the plus one theory of the use of  
3 force, right?

4 A. Yes, sir.

5 Q. You heard Klamser telling her, "Place  
6 your hand on top of your head, you're under arrest."  
7 You heard that, right?

8 A. Yes.

9 Q. Somebody during this incident after she  
10 got thrown on the ground was screaming, "Stop  
11 resisting, stop resisting." Was that you or was that  
12 Klamser?

13 A. I believe I stated that at one point.

14 Q. Part of your training is when somebody  
15 is -- when you're using force on someone, you're  
16 trained to scream, "Stop resisting, stop resisting,"  
17 aren't you?

18 A. Yes.

19 Q. And what Klamser used was called the  
20 rowing arm takedown; is that right?

21 A. I believe so, yes.

22 Q. I'm just reviewing some notes here.  
23 Give me one second here. Klamser was your partner  
24 back then, right?

25 A. Yes, sir. That night he was, yes.