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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 19-cv-00901-WJM-NRN

MICHAELLA LYNN SURAT,

Plaintiff,

vs.

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



VIDEOCONFERENCED 30(b)(6) DEPOSITION OF  
CITY OF FORT COLLINS BY DEPUTY CHIEF GREG YEAGER  
September 24, 2020

VIDEOCONFERENCED APPEARANCES:

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1                   And then when I was promoted to assistant  
2 chief, I was certainly part of reviews that would come  
3 through Internal Affairs or even the administrative  
4 investigations that would go through first-line  
5 supervisors.

6                   And now as the deputy chief of police, I  
7 sit on the review of every investigation that would lead  
8 to significant discipline. So if it -- and what I mean  
9 by that is, if it would involve any leave time, any  
10 unpaid leave, demotion, termination, any of those more  
11 severe levels of disciplinary action that could come out.

12                  Q.    Okay. I kind of want to get a sense of  
13 what years we're talking about when we talk about each of  
14 these different ranks.

15                  A.    Okay.

16                  Q.    So let's start with the IA sergeant. You  
17 said you were the IA sergeant for two and a half years.  
18 What years were those?

19                  A.    So let me -- let me just think a little  
20 bit. I believe I went into Internal Affairs around --  
21 2008 seems correct, late 2008. And as a matter of fact,  
22 I feel pretty confident it was late 2008 that I went into  
23 Internal Affairs.

24                  Then I was promoted -- while I was in  
25 Internal Affairs, I was promoted to lieutenant in early

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1 let an arrestee loose, he did not let go of her. But  
2 they finally get her up to her feet over to the car and  
3 then Officer Mast takes custody of her as the medical  
4 officials are checking her out. So...

5 Q. (By Mr. McNulty) That's your -- that's  
6 your understanding of what happened?

7 A. That is my understanding as I tried to go  
8 through that, yes, sir.

9 Q. Okay. We'll watch the videos and unpack  
10 that a little bit.

11 A. Okay.

12 Q. I just wanted to kind of get your  
13 understanding.

14 A. Okay.

15 Q. I have a couple of follow-up questions  
16 based on what you just talked about. Obstruction is a  
17 misdemeanor crime, correct?

18 A. Yes, sir.

19 Q. And it's not a violent misdemeanor crime,  
20 is it?

21 A. Well, what -- what do you mean by violent,  
22 sir? Are you talking about an exact definition, or what  
23 do you mean?

24 MR. RATNER: I'm going to object to form  
25 to that last question.

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1 Q. (By Mr. McNulty) Well, it means exactly  
2 what it means. The crime of obstruction is not a violent  
3 misdemeanor, correct?

4 MR. RATNER: Same objection.

5 A. Well, sir, again, I don't know exactly how  
6 you're using that, if you're looking for a specific  
7 definition. But I think a person obstructing can  
8 demonstrate violent behavior as part of that.

9 Q. (By Mr. McNulty) The crime of obstruction  
10 isn't classified by law as a violent crime, is it?

11 MR. RATNER: Object to foundation.

12 A. So I -- I -- without looking at the  
13 statute in front of me, I don't know if there's a  
14 subsection or something that refers to it as being a  
15 violent crime. Certainly actions that are obstructing,  
16 when you're striking a police officer and grabbing  
17 his throat, are violent actions.

18 Q. (By Mr. McNulty) That wasn't my question,  
19 though. My question was, based on your knowledge as a  
20 police -- you know, deputy chief, a police officer who's  
21 trained on the law and knows about the laws of the State  
22 of Colorado and the laws and ordinances of Fort Collins,  
23 obstruction is not a violent misdemeanor crime, correct?

24 MR. RATNER: Object to form and  
25 foundation.

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1           A.     So, sir, I believe in the statute it  
2 actually refers to by using -- by using violence and  
3 force. So if the statute itself is referring to the word  
4 violence, then I -- I think that it is reasonable to say  
5 that that is a violent offense.

6           Q.     (By Mr. McNulty) Do you know what the  
7 statute for obstruction says?

8           A.     I cannot quote it.

9           Q.     Do you know that it has the word "violent"  
10 in there?

11          A.     I do believe it has -- I do believe it has  
12 the word "violent" or "violence" in there. It talks  
13 about threatening. I'm trying to think of some of the  
14 other key words that are part of it, you know, as far as  
15 impeding the officer's duties. But I believe the word  
16 "violent" or "violence" is in there.

17          Q.     And if the word "violent" or "violence"  
18 isn't in there, then you would agree with me that it's --  
19 the crime of obstruction is not a violent misdemeanor;  
20 isn't that right?

21                 MR. RATNER: Object to form and  
22 foundation.

23          A.     No, sir. I'm telling you that I do  
24 believe that obstruction, whether the word is  
25 specifically in there or not, can and often does entail

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1 violent actions, and in this case did.

2 Q. (By Mr. McNulty) Well, you stated just  
3 now, you said the video doesn't show that Ms. Surat  
4 grabbed Officer Klamser's neck; isn't that right?

5 A. I did not see it in the video. The  
6 witnesses testified to it and Officer Klamser testified  
7 to it.

8 Q. My question was the video doesn't show that  
9 Ms. Surat grabbed Officer Klamser's neck. Isn't that  
10 right?

11 MR. RATNER: Object to foundation.

12 A. I did not see it in the video that she  
13 grabbed him -- in Officer Klamser's video, I did not see  
14 it. From the other video, you can see her arms moving  
15 around, but I could not clearly tell exactly where her  
16 arms were contacting, if they were.

17 Q. (By Mr. McNulty) You couldn't see in the  
18 other video that Ms. Surat grabbed Officer Klamser's neck  
19 either, right?

20 A. In the -- what I would say is an outside  
21 party video, not either one of the officers' videos, it's  
22 grainy and at distance, and I can see her arms moving  
23 around. I cannot say that she struck him, based on that  
24 video.

25 Q. My question wasn't whether she struck him,

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1        though.  It's whether she grabbed his neck.

2                A.     I'm sorry.  I cannot say if she grabbed  
3 his neck, based on my observation of that video.

4                Q.     And the videos, they don't show that  
5 Ms. Surat struck Officer Klamser either, right?

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

8                A.     So, again, to my previous response, I can  
9 see her arms moving at his upper chest level.  I cannot  
10 see if she contacted him with her hands, if she struck  
11 him or contacted him.  I am not able to say that.

12                Q.     (By Mr. McNulty)  Right.  So you can't see  
13 in the video that she struck Officer Klamser; is that  
14 correct?

15                A.     I am saying I cannot see that -- that her  
16 hands are contacting him.

17                Q.     And the video -- and, therefore, the video  
18 does not show that Ms. Surat struck Officer Klamser; isn't  
19 that right?

20                        MR. RATNER:  Object to form and  
21 foundation.

22                A.     So based on my observations, I suppose  
23 that if there was a way to enhance the video or  
24 something, someone else might be able to do that.  I  
25 cannot say if the video shows it.  I can tell you that I

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1 do not see it in the video.

2 Q. (By Mr. McNulty) Do you think that other  
3 people have a way to enhance this video?

4 A. I don't -- I don't know. I personally  
5 don't have any forensic enhancement training. I know  
6 that forensic video enhancement and picture enhancement  
7 are things that exist in the world.

8 Q. Does the Fort Collins Police Department  
9 have any way to enhance this video to show something other  
10 than what it shows right now?

11 MR. RATNER: Object to form.

12 A. There is a regional crime lab that we  
13 participate in and they often look at video and  
14 photographs to see if things can be enhanced. I do not  
15 know if they have looked at this video, and I do not know  
16 if they would be able to do something with it. But,  
17 again, in general knowledge, there are software packages  
18 and individuals who have the skills to be able to do  
19 that. I suppose it's possible. I do not know if they  
20 can do that.

21 Q. (By Mr. McNulty) Okay. Well, let's --  
22 let's watch the body-worn camera video together.

23 A. Okay.

24 Q. Just so we can get over some of these  
25 foundation objections.

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1 MR. RATNER: Which one are we going to  
2 look at?

3 MR. MCNULTY: We're going to look at  
4 Officer Klamser's body-worn camera. I'm going to share  
5 my screen.

6 Q. (By Mr. McNulty) All right. Can you see  
7 that?

8 A. I can. May I ask just before you hit  
9 play, may I turn off my light, see if I can see it a  
10 little better?

11 Q. Sure.

12 A. I'm just going to move over here and turn  
13 off this light. And I am back.

14 Q. Great. All right. We're going to watch it  
15 once all the way through, just so you can refresh your  
16 recollection about the video. Okay?

17 A. Okay.

18 (Video playing.)

19 MR. MCNULTY: I'm just going to stop  
20 the -- just to tell the court reporter that you do not  
21 need to transcribe the contents of the video, the audio,  
22 but the audio just started on the video. So there is  
23 audio accompanying this.

24 THE REPORTER: Okay. Thank you.

25 (Video playing.)

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1 MR. RATNER: Andy, we can't hear anything.  
2 Andy?

3 Q. (By Mr. McNulty) Okay. Deputy Chief, did  
4 you see that video?

5 A. Yeah, I could see the video. The audio  
6 didn't come on for us, but I was able to see the video.

7 Q. Oh, okay. The court reporter -- just off  
8 the record real quick.

9 (Break taken from 1:54 p.m. to 1:55 p.m.)

10 MR. RATNER: The video is frozen from my  
11 perspective.

12 MR. MCNULTY: Really. Aw, man. Okay. Is  
13 it still frozen?

14 THE REPORTER: Yes.

15 MR. RATNER: Yes.

16 MR. MCNULTY: All right. How about now?

17 THE REPORTER: No. It's good now.

18 MR. RATNER: There you go.

19 MR. MCNULTY: Cool.

20 (Video playing.)

21 Q. (By Mr. McNulty) All right. Deputy Chief,  
22 did you hear it that time?

23 A. Yes, sir, I could hear it.

24 Q. Great.

25 So, Deputy Chief, after watching that

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1 video, you would agree with me that you don't see in that  
2 video that Ms. Surat grabbed Officer Klamser's neck,  
3 correct?

4 A. I could not see it, sir, correct.

5 Q. And you would agree with me that that  
6 video, based on your viewing, does not show Officer -- or  
7 Ms. Surat strike Officer Klamser in the chest, right?

8 A. Well, I can't tell what she's doing with  
9 her arms. I cannot see a strike to the chest. I see her  
10 arms moving around his chest area as she twists and  
11 turns, but I can't see it hit.

12 Q. And did you hear Officer Klamser at any  
13 point in that video says the words "Absolutely not"?

14 A. Not that I recall, sir.

15 Q. All right. I'm going to -- I'm going to  
16 walk back a little bit to -- let's start at 1:04 of the  
17 video. All right. I'll play it for just a couple seconds  
18 here. Okay?

19 A. Okay.

20 (Video playing.)

21 Q. (By Mr. McNulty) Did you hear Ms. Surat  
22 saying, "You don't need to fucking touch me"?

23 A. Yes, sir.

24 Q. And immediately after that, she attempted  
25 to walk past Officer Klamser; is that right?

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1 MR. RATNER: Object to foundation and  
2 form.

3 A. Sir, in the entire of that little segment  
4 she's twisting and turning, so I can't tell you if she's  
5 trying to walk past him. But she's twisting and turning  
6 away from him.

7 Q. (By Mr. McNulty) So she turns away from  
8 him immediately after saying that; is that right?

9 A. I believe so. I can't tell if it was  
10 immediately after. I'd have to see it again to know what  
11 you're asking me.

12 Q. Sure. I can play it for you again.

13 (Video playing. )

14 Q. (By Mr. McNulty) Did you see that again?

15 A. I did. So it appears that she's, like,  
16 turning to her right. And then she turns back towards  
17 her left towards Mr. Waltz and Officer Pastor.

18 Q. Is her -- is her back to Officer Klamser at  
19 that moment?

20 MR. RATNER: Object to form.

21 A. At the moment I'm looking at, sir, or  
22 which --

23 Q. (By Mr. McNulty) In the clip I just played  
24 you, from 1:04 to 1:11, in the body-worn camera of  
25 Officer Klamser is Ms. Surat's back to Officer Klamser?

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1           A.    At some points, but her right side is  
2 towards us, her back and then her left side, so, yes, at  
3 some point her back is towards us.

4           Q.    And at that point, you don't see Ms. Surat  
5 put her arms -- or put her hand around Officer Klamser's  
6 neck, right?

7           A.    I did not see her put her hand around  
8 his neck.

9           Q.    All right. Did you at any point in that  
10 video see Ms. Surat wrap her leg around a light pole?

11          A.    I -- I can't tell if she wrapped her leg  
12 around a light pole. I see her up against the light pole  
13 like she's back -- I think her back is to it at one  
14 point. I -- I don't remember seeing her leg wrapped  
15 around it.

16          Q.    And you don't see her arm wrapped around  
17 the light pole either, right?

18          A.    Not that I recall, sir.

19          Q.    And you never told -- you never heard  
20 Officer Klamser say to Ms. Surat, "Take your hands off my  
21 neck," right?

22          A.    Correct, sir, I did not hear that.

23          Q.    You never heard Officer Klamser tell  
24 Ms. Surat to not wrap her arm or leg around a light pole,  
25 right?

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1 A. Correct, sir.

2 Q. You never heard Officer Klamser say to  
3 Ms. Surat, "Stop hitting me in the chest," right?

4 A. Right.

5 Q. Now, you'd agree with me that Ms. Surat was  
6 trying to pull away from Officer Klamser; is that right?

7 A. Yes, sir.

8 Q. And she was trying to pull away to get to  
9 her boyfriend; is that right?

10 MR. RATNER: Object to foundation.

11 A. It appears that she's twisting and turning  
12 different directions. So I think initially she was  
13 headed towards her boyfriend. I don't know if she was  
14 still trying to get -- I guess she is right there at the  
15 end. I guess it does appear right there at the end, that  
16 last scene showed me that she is turned towards him  
17 again.

18 Q. (By Mr. McNulty) And it was after she had  
19 twisted away a couple of times that Officer Klamser used  
20 the -- what you deem -- I think it was a rolling-arm  
21 takedown maneuver?

22 A. Yes, sir.

23 Q. Now, at the minute that Officer Klamser  
24 used the rolling-arm takedown maneuver, Ms. Surat was not  
25 engaged in more resistance than she had been previously,

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1 right?

2 MR. RATNER: Object to form.

3 A. I -- I don't know. I mean, in the --  
4 because he had already told her she was under arrest and  
5 told her to put her hand up and she didn't do it. So I  
6 think that was the same level of resistance. She's still  
7 turning and trying to pry his hands off.

8 Q. (By Mr. McNulty) All right. And  
9 Ms. Surat's resistance is limited to her -- from what you  
10 see in the video -- turning and trying to pry  
11 Officer Klamser's hands off of her, correct?

12 MR. RATNER: Object to form.

13 A. Well, she's -- she's pulling away too. I  
14 mean, like her -- she, you know, is kind of leaning her  
15 body away from him. So you say is it limited to? I  
16 think she's turning, she's pulling her arms up, which is  
17 very -- I mean, it's a very typical thing when someone's  
18 trying to resist one of our escorts, so she's lifting her  
19 elbows and kind of pulling her arms away. She reaches  
20 down and actually grabs his hands on her forearm and  
21 tries to pry him off, and then she's kind of leaning  
22 away. Those are the things that I remember seeing in the  
23 video.

24 Q. (By Mr. McNulty) Anything else?

25 A. I mean, her -- she's verbally resistant,

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1 obviously. She's -- she's saying she won't -- she says  
2 she will, but then she also says she won't comply. I  
3 do -- I do not recall anything else right now, sir.

4 Q. Ms. Surat was unarmed, correct?

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

7 A. As I stated previously, I was not there.  
8 I do not remember seeing any note, any documentation, in  
9 the reports or elsewhere, that she was armed in any way.

10 Q. (By Mr. McNulty) Did you see anything in  
11 the video that would indicate to you that she is armed?

12 A. I -- I did not see that she was armed with  
13 a traditional weapon. You know, a knife, a gun, pepper  
14 spray. I did not see anything like that.

15 Q. Is it fair to say that Ms. Surat was  
16 wearing a skintight dress, in the video?

17 A. Yes, sir, I believe that is fair to say.

18 Q. Is it fair to say that it would be  
19 difficult to conceal a weapon in such a dress?

20 MR. RATNER: Object to foundation.

21 A. I would tell you, sir, that we have had  
22 numerous occasions over my career where people have  
23 secreted weapons or other contraband, even in very small  
24 clothing like that. It's usually in an uncomfortable  
25 location.



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1 Q. (By Mr. McNulty) All right. And if the  
2 contraband was in that uncomfortable location, would it be  
3 easily accessible to Ms. Surat in this situation?

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

6 A. I do not imagine that it would be easy to  
7 access it.

8 Q. (By Mr. McNulty) Ms. Surat was smaller  
9 than Officer Klamser; is that correct?

10 A. I only know from the documentation, sir.  
11 I have not seen them together. I don't -- I don't know  
12 how their statures are; but I think from the  
13 documentation, it shows that she's -- she may be  
14 his height, but she's quite a bit lighter than he is, by  
15 weight.

16 Q. And you would agree with me that  
17 Officer Klamser was stronger than Ms. Surat, correct?

18 MR. RATNER: Object to foundation.

19 A. I would assume by size, sir, that he had  
20 greater strength, but I have no way to qualify that.

21 Q. (By Mr. McNulty) Officer Klamser didn't  
22 appear in the video, to you, to be tired, correct?

23 MR. RATNER: Object to form and  
24 foundation.

25 A. I -- I did not see something that led me

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1 to believe he was tired.

2 Q. (By Mr. McNulty) There was one other  
3 officer on scene at the time, right?

4 A. I believe that's correct.

5 Q. And there were multiple bouncers that you  
6 saw in the video at the time right there, correct?

7 A. Yes, sir.

8 Q. Ms. Surat never threatened Officer Klamser  
9 with deadly force, did she?

10 A. No, sir.

11 Q. She never told Officer Klamser that she was  
12 going to hit him, did she?

13 A. No, sir, not that I heard.

14 Q. She never made any threats at  
15 Officer Klamser, did she?

16 MR. RATNER: Object to form and  
17 foundation.

18 A. I -- I do not remember a threat, just her  
19 resistant language and profanity. I don't remember a  
20 threat, sir.

21 Q. (By Mr. McNulty) So that's true, then,  
22 Ms. Surat never threatened the officers, right?

23 MR. RATNER: Objection, argumentative.

24 A. I did not hear Ms. Surat threaten the  
25 officers.

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1 Q. (By Mr. McNulty) I wasn't trying to be  
2 argumentative. I'm just trying to get a clear record and  
3 answer. So thank you for answering the question. I  
4 appreciate it.

5 Now, you know, as someone who has reviewed  
6 the file clearly and the investigation reports, the police  
7 reports, everything else, that Ms. Surat was not the party  
8 the police were called that night to speak with; is that  
9 right?

10 A. That's correct, sir.

11 Q. She wasn't the subject of the initial  
12 investigation, correct?

13 A. No, sir, not the initial investigation.  
14 It was only when she was obstructing and then she became  
15 his focus.

16 Q. And that -- yeah, and that's the crime that  
17 Officer Klamser determines midway through the interaction,  
18 that Ms. Surat was alleged to have committed, and that's  
19 why he decided to take her into -- under arrest; is that  
20 right?

21 A. Well, I -- I -- I think -- I don't know at  
22 the precise moment he decided. You said midpoint. Her  
23 initial -- I mean, her very initial reaction is  
24 obstruction, trying to pull her boyfriend away from  
25 Officer Pastor. And then when Officer Klamser tells her

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1 she can go, she steps into him three to four steps and  
2 won't leave when he tells her to.

3 So I don't know at precisely what moment  
4 he decided that she was obstructing, but her actions were  
5 obstructing from the very first moment.

6 Q. Ms. Surat wasn't trying to run away from  
7 the officers, was she?

8 MR. RATNER: Object to foundation.

9 A. Well, I -- sir, I would argue that she --  
10 I'm sorry. I'm not arguing.

11 She tries to walk away initially with  
12 Mr. Waltz, and then as Officer Klamser is trying to move  
13 her from the area and even arrest her, as she's twisting  
14 and turning, I don't know if she's trying to run away.  
15 But she's definitely trying to get away from his control.

16 Q. (By Mr. McNulty) But she's not trying to  
17 run -- she's not running away, right?

18 A. I don't believe she was trying to  
19 physically run, no.

20 Q. If Ms. Surat had escaped, there wasn't  
21 going to be a risk of harm to other people, right?

22 MR. RATNER: Object to foundation.

23 A. Well, in -- in what way, sir? In what way  
24 would you --

25 Q. (By Mr. McNulty) So, for example --

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1 A. -- describe harm?

2 Q. Sure, I can clarify that -- easier -- make  
3 this a little easier.

4 You know Ms. Surat didn't have a gun and  
5 wasn't threatening people in the immediate area, right?

6 A. I don't believe she had a gun, and I don't  
7 believe she threatened anybody else in the immediate  
8 area.

9 Q. And she didn't make threats against anyone,  
10 as you said, right?

11 A. Not that I heard, sir, no.

12 Q. So if she were to have gotten away, you  
13 know, and escaped from the situation and ran away, there  
14 was no immediate threat to other people; is that right?

15 MR. RATNER: Object to foundation.

16 A. Not the kind of threat you're referring  
17 to, sir. I mean, she -- she says that she's intoxicated  
18 and had been using marijuana. So I -- you know, if she  
19 was going to drive -- I have no idea what her personal  
20 plan was. I think there's different kinds of threats,  
21 but to the point that you're making, I do not know that  
22 she had a weapon and I don't know that she made any  
23 threats. So I don't think that was a threat concern.

24 Q. (By Mr. McNulty) Based on Ms. Surat's  
25 actions in that video, it was clear to you that Ms. Surat

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1 was just trying to get Officer Klamser to let her go; is  
2 that right?

3 MR. RATNER: Object to form and  
4 foundation.

5 A. No, sir. I think she was trying to keep  
6 the officers from dealing with Mr. Waltz. I mean, that  
7 was evidenced from the beginning. So I think she both  
8 wanted to not be moved from the area herself, but I think  
9 she was also trying to obstruct their actions with  
10 Mr. Waltz.

11 Q. (By Mr. McNulty) All right. When  
12 Officer Klamser contacted Ms. Surat, it's true that he had  
13 no information about her at all, right?

14 MR. RATNER: Object to form.

15 A. I don't know what Mr. -- what  
16 Officer Klamser believed he knew on his video. As the  
17 officers approach, you can see her talking to Mr. Waltz.  
18 So he may have noticed that himself. I don't know. I  
19 haven't talked to him about that.

20 Q. (By Mr. McNulty) Sure, but based on your  
21 review of the IA investigation, there was no indication  
22 that he had any -- any information about Ms. Surat's, you  
23 know, educational history or criminal history or anything  
24 else about her?

25 A. Well, in regard to those things, sir, no,

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1 I don't believe he knew her name or knew anything about  
2 her background like that.

3 Q. He didn't have any information to believe  
4 that she would be violent because of her background,  
5 right?

6 A. I'm not aware of anything that he knew at  
7 that moment. I did not see something from the reports or  
8 the video.

9 Q. All right. I'm going to -- I'm going to  
10 pull up the other -- the third-party video and we're going  
11 to watch that real quick -- it's a short one -- just so we  
12 have the full universe of body-worn camera videos.

13 A. Okay.

14 Q. I have a lot of videos to show. All right.  
15 Can we see this screen now?

16 A. Yes, sir.

17 Q. All right. Hopefully the volume will work.  
18 (Video playing.)

19 Q. (By Mr. McNulty) All right. Deputy Chief,  
20 did you see that video?

21 A. Yes, sir, I did.

22 Q. Did you hear the audio?

23 A. I did.

24 MR. MCNULTY: I guess this is a good time  
25 to enter both of these videos into evidence. Our -- I

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1 don't know what our exhibit -- you know, our exhibit  
2 practice has been kind of all over the place, but --

3 THE REPORTER: Just, you know, indicate on  
4 the record what you -- how you want to number them. And  
5 then you can send them to me later, and I can attach them  
6 to the deposition.

7 MR. MCNULTY: Sure, I was more talking  
8 about the numbering. I guess we could make this  
9 number -- well, I don't know, Mark, do you remember what  
10 we left off with last time?

11 MR. RATNER: I have no idea.

12 MR. MCNULTY: Yeah. You think we're --

13 MR. RATNER: Even if you make it, you  
14 know, Yeager 1, that's fine. We know which deposition it  
15 is.

16 MR. MCNULTY: Sure. Yeah, that sounds  
17 good. I'll mark this as -- this one's --

18 MS. OH: Those are already admitted. If  
19 we want to just go with that.

20 MR. MCNULTY: Oh, what was this admitted  
21 as?

22 MS. OH: 52.

23 MR. MCNULTY: 52? Sure.

24 Do we know if the body-worn camera video  
25 is also admitted?

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1 MS. OH: I have it as 51, but I'm not sure  
2 which body cam. Yeah, it looks like Klamser's.

3 MR. MCNULTY: Okay. All right. Well,  
4 these have already been admitted as exhibits, so we'll  
5 just keep it as that.

6 These are Exhibits 51 and 52. They're  
7 already in the record. And now we're talking about  
8 Exhibit 52 with Deputy Chief.

9 (Video playing.)

10 Q. (By Mr. McNulty) So you watched that  
11 video, Deputy Chief; is that right?

12 A. Yes, sir.

13 Q. And in that video did you see  
14 Officer Klamser use the rolling-arm takedown technique on  
15 Ms. Surat?

16 A. Yes, sir.

17 Q. Did you see Ms. Surat's head and face hit  
18 the ground?

19 A. I see her right hand come down, and then  
20 she's flat on the ground for a moment. So I -- I don't  
21 see a specific impact of her head and face.

22 Q. All right. We'll watch again.

23 (Video playing.)

24 A. Okay.

25 Q. (By Mr. McNulty) All right. Did you see

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1 Ms. Surat's chin and then head hit the ground?

2 A. I cannot tell clearly, sir, because I see  
3 her right hand come down. And as she goes -- I mean, she  
4 is lying flat. I cannot see if her head and face  
5 actually hit the ground. I think from the total record,  
6 I see pictures of her later, but right there, her arm's  
7 under her and so I -- it appears that she's flat, but I  
8 can't tell if she impacts.

9 Can you go back like just a hair?

10 MR. MCNULTY: And right now he's talking  
11 about at five seconds into that exhibit. And we're going  
12 back.

13 A. Right about there, sir.

14 Q. (By Mr. McNulty) Okay.

15 A. I'm sorry.

16 Q. Sorry, we're talking over each other.

17 Would you like me to hit play again?

18 A. Yes, sir.

19 (Video playing.)

20 Q. (By Mr. McNulty) All right. So, Deputy  
21 Chief, are you telling me that you didn't see Ms. Surat's  
22 chin and face hit the ground?

23 A. I am telling you I can't tell what part of  
24 her contacts the ground after her hand, because she goes  
25 completely flat. It does appear that her head or her

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1 chin and her whole body, her hips and everything, are  
2 flat on the ground. But where her arm is when she goes  
3 down, I cannot tell you specifically what impacts the  
4 ground.

5 Q. Okay. So you don't know whether  
6 Ms. Surat's head hit the ground in that video; is that  
7 right?

8 MR. RATNER: I'm going to object to form.

9 A. Sir, I don't know for certain. With it  
10 being that grainy, I can't quite tell after her -- after  
11 her -- her body and head kind of blend with her arm. I  
12 cannot see precisely what hits the ground. But she is  
13 lying flat on the ground at the precise moment where we  
14 are now.

15 MR. MCNULTY: All right. We've been going  
16 for about an hour. Do you mind if we take a break? My  
17 dog is having some gastrointestinal issues, so I need to  
18 take her out for a little walk so that we don't have  
19 problems.

20 MR. RATNER: What time do you want to come  
21 back?

22 MR. MCNULTY: Let's say at 2:25.

23 MR. RATNER: Sure.

24 MR. MCNULTY: Okay. Great.

25 THE REPORTER: Okay. We're off the

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1 record.

2 (Break taken from 2:18 p.m. to 2:25 p.m.)

3 THE REPORTER: Okay. We're on the record.

4 Q. (By Mr. McNulty) Welcome back, Deputy  
5 Chief Yeager. You know, same ground rules apply. Let me  
6 know if you need to take a break or anything like that,  
7 but you're back under oath. Okay?

8 A. Okay. Thank you.

9 Q. Thank you.

10 So we talked a little bit earlier about how  
11 you've been trained on the use of force; is that right?

12 A. Yes, sir.

13 Q. And you know the Fort Collins Police  
14 Department's policies and procedures about the use of  
15 force as well, right?

16 A. Yes, sir.

17 Q. So what -- what is your -- what does the  
18 training over use of force typically consist of?

19 A. So, of course, officers go through their  
20 basic training in a police academy, which is just guided  
21 by our State POST requirements. Once -- once they are at  
22 Fort Collins, we teach them a POST-approved curriculum.  
23 If you -- if you looked at different agencies across  
24 Colorado, they use different tactics. You know, they  
25 might handcuff people differently or, you know, do

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1 different control holds differently.

2 So for us, our defensive tactics team  
3 teaches them very specifically. We call it a mini  
4 academy because after they've completed their actual  
5 basic boots academy, they come and we teach them the Fort  
6 Collins' system, which, as I said, is POST-approved. And  
7 that's a minimum of 40 hours that they go through, but  
8 it's everything in their defensive tactics program. So  
9 it's their baton use, their handcuffing, physical control  
10 techniques, like these escorts, and like a takedown as  
11 Officer Klamser did.

12 And throughout those, the instructors give  
13 them clear guidance about, you know, if you're -- if  
14 you're -- you know, in our use-of-force paradigm, in our  
15 continuum, here's when you'd be authorized to use this  
16 technique, here's when it would make the most sense and  
17 here's how to de-escalate -- or escalate necessarily and  
18 de-escalate to gain control.

19 Q. Okay. What are you trained on as to when  
20 it's appropriate to use a takedown maneuver?

21 A. So there -- there are different elements  
22 that would go into that. And so I'll explain that. When  
23 we talk about the different levels of resistance that  
24 somebody might show to a police officer in the course of  
25 their duties, the officers have sort of logical levels

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1 that they consider.

2 And so, you know, you have presence and  
3 you have your verbal commands. I mean, oftentimes just  
4 your presence is enough to make somebody not do something  
5 that they were thinking of or already doing. But by the  
6 time we've gone through the -- you know, if you have your  
7 officer presence and you've -- you know, you've given  
8 some verbal commands, and you're -- you're going to a  
9 hands-on technique -- and to the case in point, you know,  
10 at the point that Officer Klamser is trying to escort  
11 her, he has her arm, and he's trying to escort her away.

12 We then -- we then say, okay, so you have  
13 a situation where what you're doing hasn't worked and you  
14 have to gain control of the situation. One of the  
15 greatest levels of control a police officer could have in  
16 that situation is the prone position, having someone lie  
17 down so that we take away their ability to twist and turn  
18 and fight and, you know, run or anything like that.

19 And so the -- I think it's important to  
20 note that an officer doesn't have to work through those  
21 levels. If -- if a person's resistance started at a  
22 certain level, the officer can go to that level and even  
23 exceed it by one, because they need to be able to gain  
24 control. But we tell our officers to use the lowest  
25 level of control that they can. And like in a situation

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1 like this, they have 50 or more people around. There's  
2 several people who are part of their group, part of  
3 Mr. Waltz and Ms. Surat's group, and who are actively  
4 around the officers.

5 In that situation, we would tell the  
6 officers you must gain control. Because Officer  
7 Klamser's initial job is to be a cover officer, to make  
8 sure that nothing happens while Officer Pastor tries to  
9 talk to Mr. Waltz in this case. And as anybody else  
10 comes to present an issue, an active threat or just in  
11 this case, like an obstruction, it's Officer Klamser's  
12 job to manage that.

13 So he actually ends up going from -- to  
14 the point you made earlier. He goes from being a cover  
15 officer to having to be the primary officer dealing with  
16 her. And so he has this other gentleman, who I still  
17 don't remember his name, but he was part of their party.  
18 He's in the video. He's behind Officer Klamser as she's  
19 twisting and turning and Mr. Waltz is over there with  
20 Officer Pastor. Officer Pastor has now lost his cover  
21 officer. And so Officer Klamser, we would tell him, "You  
22 must gain control. You've got to settle this down."

23 So at that point, it's okay to use a  
24 takedown to gain control to swiftly end that situation  
25 and restore some normalcy.

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1 Q. (By Mr. McNulty) So that --

2 A. There's different factors, but in this  
3 case, that's what would lead to that.

4 Q. Sure. That wasn't really my question,  
5 though.

6 My question wasn't whether -- you know, if  
7 you could just listen to the question and answer the  
8 question, it would be a lot easier.

9 A. Okay.

10 Q. So below a takedown, what are the lesser  
11 levels of force that you could employ before you get to  
12 that level?

13 A. So, again, that's what I was going to. I  
14 mean, your officer presence is -- we actually consider  
15 that kind of a first level, because when you come in  
16 there by your uniform and your presence, you are  
17 hopefully commanding a different behavior.

18 Verbal instructions in telling someone  
19 what they can or cannot do or what they should do, the  
20 verbal direction is there.

21 We would -- you'd then go to some of these  
22 hands-on techniques, like an escort where you're grabbing  
23 someone's arm to move them out of the area.

24 There are several other techniques that  
25 are in that first physical contact. And --

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1 Q. What are some other techniques within  
2 that --

3 MR. RATNER: Andy, hold on a second.  
4 Andy, let him finish. You know, he's in the middle of an  
5 explanation. And obviously we want a complete record, so  
6 please let him finish first and then you can follow-up.

7 So, Chief, I don't know if you can  
8 continue with what you were saying.

9 A. I believe I can. Thank you.

10 So -- so it's your presence, it's your  
11 voice, it's then some of these hands-on techniques where  
12 you're physically moving somebody from the area or  
13 directing their behavior.

14 There are some -- there are pain  
15 compliance techniques that could be in there. You know,  
16 different pressure points that you can use that doesn't  
17 cause a lasting injury but is an uncomfortable situation  
18 for someone.

19 And then it would move to -- and  
20 physical -- and these -- a physical takedown, like this,  
21 is right at the top of that. So as you're dealing with  
22 these hands-on situations, a takedown is the continuation  
23 of those hands-on techniques, especially when it's an  
24 arrest and you are going to a handcuffing situation.

25 If you're not able to handcuff someone

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1 standing, then you go to a kneeling or a prone position  
2 to gain greater control. And then it moves beyond those  
3 physical techniques with the things like OC and Tasers  
4 and impact levels.

5 Q. (By Mr. McNulty) Okay. So you said that  
6 there are a number of hands-on techniques, like an escort.  
7 What are the other ones?

8 A. So we have different things that we --  
9 that we do. So if you're trying to arrest someone -- so  
10 in this case, you're in an escort where you have someone  
11 by the arm to direct their -- their movement. And then  
12 you say, "Okay. Well, now they're under arrest."

13 So the physical techniques at that point  
14 could be -- we have these different techniques. One's a  
15 rear wrist, where if you can gain control of that arm and  
16 bring it around to the small of their back, you can bring  
17 it behind them to the small of their back and then you  
18 direct them to put their other hand on their head, and  
19 then you handcuff them -- that high hand and bring it  
20 down to handcuff that other hand that you're holding in  
21 the small of their back.

22 That is another technique, a standing  
23 technique that we can use.

24 There are -- there are -- I'm trying to  
25 think. There's several others where if the person is

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1 being reasonably compliant, you can bring their arms  
2 straight back behind them and it causes you to -- not  
3 causes you -- but you bend their wrist in a certain way  
4 that you can give them commands about, "Okay, put your  
5 hand on your head," or "Put it in the small of your  
6 back." That deals with a little bit of leverage on their  
7 wrist.

8 So there are several other techniques in  
9 that realm, but they all require the person to comply.  
10 They all require them to put their hand on their head or  
11 put their hand in the small of their back.

12 Q. Well, you talked about a pain compliance.  
13 So isn't it first pain and then compliance? Like that's  
14 how it works, right? You put the hand back in the small  
15 of their back and put them in a little bit of pain and  
16 then ask them to comply with your order. Isn't that  
17 right?

18 A. Yes, sir, there are different pain  
19 compliance techniques, but you could -- if you are able  
20 to get their hand to the technique you're kind of  
21 describing, if you're able to get their hand down into  
22 the small of their back behind them, then, yes, there's a  
23 little bit of leverage on the wrist that you then can use  
24 to direct them if they are being resistant about putting  
25 their hand on their head, that leverage on the wrist that

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1 you do have in the small of their back helps gain  
2 compliance to put their hand on their head.

3 But you have to get their hand down in  
4 that position first to gain that leverage.

5 Q. What other pain compliance techniques are  
6 there that could be --

7 A. Well, in general or in this specific  
8 instance?

9 Q. I'm just -- generally, I want to know the  
10 universe of pain compliance techniques.

11 A. Sure. So there are other techniques, if  
12 you have somebody resisting and it's a very -- it's more  
13 of a controlled environment. So maybe you have other  
14 officers and the person's seated, there's a -- there's a  
15 place on the back of your jaw line, on the back of your  
16 mandible, it's called the mandibular notch.

17 And so you can use your -- if you take  
18 your thumb and you just push right there, it's sort of --  
19 it's irritating. It's painful and irritating. And so if  
20 you tell somebody -- we do that if we have two officers  
21 in control and so one of them, to my point, if you're  
22 trying to get somebody's hand behind their back and  
23 they're being resistant, we actually use it if someone's  
24 seated, if they're sort of, you know, passively  
25 resisting, just saying, "I'm not going to do what you're

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1 saying," you can use that pain compliance point and then  
2 tell them to bring your arm behind your back. And the  
3 other officer directs it, to do the handcuffing.

4 There are -- there are different -- what  
5 the instructors would refer to as joint locks. And so I  
6 recognize that the tape doesn't have the benefit of the  
7 video, but if you -- if you bring a person's arm out to  
8 the side or back behind them, and their -- you have the  
9 ability to apply pressure sort of at the base of their  
10 tricep or at their wrist, there -- there is tension on  
11 the joint that -- that can often make them, you know,  
12 relax their grip or move their hand or whatever it is  
13 you're trying to direct them to do.

14 There -- there's a nerve bundle on the  
15 side of your thigh which is called the common peroneal.  
16 If you have someone who's seated or lying down and you're  
17 trying to gain control, you can actually, you know, take  
18 a knuckle or your thumb, kind of a strong finger and push  
19 in on that -- that nerve bundle on the side of their  
20 thigh and it's particularly irritating and sometimes that  
21 gains compliance.

22 I -- I'm not remembering any others right  
23 now.

24 Q. Okay. We -- we know about the rolling-arm  
25 takedown. Are there other types of takedown maneuvers

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1 that are taught to Fort Collins police officers?

2 A. Yes, there are.

3 Q. Can you tell me about them?

4 A. Yes.

5 So the rolling-arm takedown is a version  
6 of an arm bar takedown. And so an arm bar takedown is  
7 just one where the person's arm is more straight out to  
8 their side, and the officer, again, can use leverage to  
9 direct them down to the ground for this prone control  
10 that I've been referring to.

11 There -- there are techniques that if  
12 someone grabs an officer, especially face-to-face, that  
13 the officer can grab their hand, grab the assailant's  
14 hand, and you basically turn their wrist back towards  
15 them and by -- it's the same kind of leverage I was  
16 referring to in the handcuffing posture by making it -- I  
17 guess, the way I'd describe it for the written record, is  
18 if you -- if you imagine your palm facing up in the air,  
19 if you push a person's palm towards their forearm so  
20 that -- I mean, it's physically impossible probably for  
21 the majority of people on earth, but, you know, your palm  
22 cannot lie flat on your forearm. And so by pushing that,  
23 the officer can use that leverage to direct the person  
24 down to the ground for a handcuffing situation.

25 That is a very dynamic technique. It's

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1 usually when somebody, you know, runs up and grabs an  
2 officer. Interestingly, our badges seem to be something  
3 that someone wants to grab. It's a symbol of what we do,  
4 I suppose. And if they grab your badge, you can actually  
5 take their hand, turn it back towards them, and direct  
6 them down to the ground with the leverage I'm talking  
7 about.

8 So you have, you know, wrist takedowns.  
9 You have arm bar takedowns. There are other techniques.  
10 If the -- if the person is -- is violently attacking the  
11 officer, the officer can deliver knee strikes into that  
12 same common peroneal nerve that I was talking about. But  
13 that's just sort of a prelude to -- it's a distraction  
14 before you try to take them down.

15 I -- thinking about frontal assaults,  
16 someone from the side, those are the -- those are the  
17 only ones I can think of right now, Mr. McNulty.

18 Q. Okay. Thank you.

19 So we've watched the video -- the videos in  
20 this case, you know, the two that we just watched, the two  
21 exhibits. You didn't see Officer Klamser at any point  
22 tell Ms. Surat to get on the ground, did you?

23 A. No, he did say to her, you know, "Please  
24 don't -- please don't make me put you on the ground or  
25 throw you on the ground." He said something to the

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1 effect of, "Please don't make me put you on the ground."

2 But he did not tell her to go to the ground.

3 Q. So he didn't put Ms. Surat into a joint  
4 lock, did he?

5 A. No, I don't think he was ever -- I don't  
6 think so. In the twisting and turning, I don't think he  
7 was ever able to get the joint lock like I'm talking  
8 about.

9 Q. He didn't put her into, for example, the  
10 mandibular notch you talked about, right?

11 A. No, but it wouldn't be a technique for  
12 this situation.

13 Q. He didn't try to push the palm to the  
14 forearm technique you talked about, did he?

15 A. No, sir. But, again, it's not a technique  
16 for this situation.

17 Q. I'm not asking you about whether it's a  
18 technique for this situation or not. So if you would  
19 please just answer the question.

20 MR. RATNER: Andy, he is answering the  
21 question.

22 MR. MCNULTY: I'm asking did he, and  
23 that's the question. And the answer is, no, he did not.  
24 It's not a commentary afterwards.

25 MR. RATNER: Well, but you may not like



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1 it, but he can answer any way he wants. He doesn't have  
2 to answer yes or no. I mean, that's a common  
3 misconception.

4 MR. MCNULTY: I disagree, but I'll just  
5 keep asking questions.

6 MR. RATNER: Sure.

7 Q. (By Mr. McNulty) Officer Klamser never  
8 told Ms. Surat why he was contacting her, did he?

9 MR. RATNER: Object to form; assumes facts  
10 not in evidence, but --

11 A. Well, he told her that she needed to step  
12 back and away from the situation. So I would say that he  
13 did tell her why he was standing between her and moving  
14 her away.

15 Q. (By Mr. McNulty) All right.  
16 Officer Klamser ultimately used the rolling-arm takedown  
17 technique, correct?

18 A. Yes, sir.

19 Q. And he used that technique in compliance  
20 with Fort Collins Police Department's policy, correct?

21 MR. RATNER: Object to form.

22 Q. (By Mr. McNulty) All right. You know, you  
23 get trained as well, I imagine, on takedown techniques.  
24 Can you tell me about that?

25 MR. RATNER: Object to form.

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1 A. Yes. I'm sorry the question is just: Do  
2 we get trained on takedown techniques?

3 Q. (By Mr. McNulty) Yes.

4 A. Yes, sir, we do.

5 Q. And do you get trained on -- I imagine  
6 you're trained on all types of use of force, right?

7 A. Yes, sir.

8 Q. Everything from shooting your gun to just,  
9 you know, touching another person. That's considered use  
10 of force under the policy. And I bet you're trained on  
11 it, right?

12 A. Yes, sir.

13 Q. So are you trained under these policies  
14 that a strike to the head is potentially deadly force?

15 MR. RATNER: Object to form.

16 A. So if it is -- depending on the different  
17 tools being utilized. So certainly with firearms, the  
18 less projectile munitions or a baton, yes, a strike to a  
19 head would be classified as deadly force. It is not  
20 classified as deadly force, if, in the course of this, an  
21 officer had to use their hand or some other body part to  
22 strike someone.

23 Q. (By Mr. McNulty) Okay. So you're saying  
24 that if a KIP or a gun or a baton is used against the  
25 head, then under the Fort Collins Police Department

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1 policy, that would be a potentially deadly use of force;  
2 is that right?

3 A. I'm sorry, sir, a KIP?

4 Q. Oh, a kinetic impact projectile, you know,  
5 like a less than lethal baton round or something.

6 A. Yes, sir. Yes, I'm sorry. I just wasn't  
7 familiar with that acronym. So could you say that again?  
8 I want to make sure I heard all the things you said.

9 Q. Yeah, sure. So the first one -- I'll use  
10 your terminology. A less lethal -- less than lethal  
11 rounds, baton or a firearm to strike to the head would be  
12 potentially lethal force, right?

13 A. Yes.

14 Q. Are you trained under the policy that  
15 slamming someone to the ground head first is potentially  
16 lethal force?

17 A. Well, we -- we don't train our officers to  
18 slam people to the ground head first. But we certainly  
19 train our officers about the totality of the system and  
20 that they need to consider that the way they use their  
21 force, they need to understand what injury it could cause  
22 to someone. But we do not train people to throw people  
23 to the ground head first.

24 Q. Sure. That's because it's pretty  
25 dangerous, right? Throwing someone to the ground head

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1 first is a dangerous move; is that correct?

2 A. Well, I suppose if there was no way for  
3 them to break the fall or depending on the surface,  
4 certainly there could be a potential for serious injury.

5 Q. So, for example, slamming someone's head to  
6 the ground onto concrete is something that would have  
7 potential for serious injury, right?

8 A. If there was no mitigating things, like a  
9 way for them to break their fall or otherwise, correct,  
10 sir.

11 Q. And do you understand that that could be  
12 potentially deadly force?

13 MR. RATNER: I'm just going to place an  
14 objection to this line of questioning. I guess I'm  
15 looking at the topics, and I think they're outside the  
16 scope of the 30(b)(6).

17 MR. MCNULTY: Okay.

18 Q. (By Mr. McNulty) You can answer the  
19 question, Deputy Chief.

20 A. So it -- it does not meet the definition.  
21 So it does not meet the definition of deadly force to say  
22 that taking someone down like that would be deadly force  
23 because we would say if it's -- if it's reasonably  
24 anticipated or if it was reasonably intended -- you know,  
25 obviously a firearm is anticipated or intended. Taking

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1 someone down, we would not classify that as deadly force.

2 Q. All right. So we kind of talked about, you  
3 know, the training you received in terms of takedown  
4 techniques. About how many hours would you think, if you  
5 had to estimate, you spent getting trained on takedown  
6 techniques?

7 MR. RATNER: Again, I'm going to object.  
8 This is outside the scope of the 30(b)(6).

9 Go ahead.

10 Q. (By Mr. McNulty) You can answer.

11 A. Okay. I would have a hard time breaking  
12 it down by hours to a particular technique. You know, as  
13 I said, you have a 40-hour -- you have at least a 40-hour  
14 basic academy, a 40-hour mini academy, and then we get  
15 ongoing training every year by POST requirements. I do  
16 not -- I don't have any way that I can even estimate for  
17 you specifically to takedowns.

18 Q. Okay. What about -- you know, do you  
19 receive more than five hours of training over takedowns,  
20 would you say, a year?

21 MR. RATNER: Same objection.

22 A. I don't think we get more than five hours  
23 specific to takedowns in a year, but we --

24 Q. (By Mr. McNulty) I'm talking about  
25 takedowns -- well, any defensive tactic. Could you give

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1 me an estimate on, you know, how many hours you get  
2 trained on defensive tactics and takedowns and things that  
3 fall into that category in a year?

4 MR. RATNER: Same objection.

5 A. So we have a -- I would -- I believe  
6 there's a minimum of eight hours of defensive tactics  
7 training each year. So -- but, again, that encompasses  
8 everything. It's your handcuffing. It's your batons.  
9 It's everything.

10 Q. (By Mr. McNulty) Sure. And so safe to say  
11 that, you know, yourself and also Officer Klamser were  
12 pretty well-trained in defensive tactics at the time of  
13 this incident?

14 MR. RATNER: Same objection, outside the  
15 scope.

16 A. Yes. I -- I believe we have a robust  
17 training program.

18 Q. (By Mr. McNulty) And it's probably true  
19 that Officer Klamser was better trained in how to use  
20 defensive tactics than Ms. Surat was; is that right?

21 MR. RATNER: Object to foundation; also  
22 outside the scope.

23 A. I have no idea what her personal training  
24 is, what she may have done in her personal life, but I  
25 know that he is well-trained.

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1 Q. (By Mr. McNulty) You would agree with me  
2 that Fort Collins' policies are written to comply with the  
3 Constitution; is that right?

4 MR. RATNER: Same objection.

5 A. Yes, I believe they are.

6 Q. (By Mr. McNulty) And they lay out for  
7 officers, you know, the parameters of actions they can  
8 take to stay in compliance with the Constitution, right?

9 MR. RATNER: Object to outside the scope.

10 A. Yes. They -- they talk about what they  
11 need to do to stay within the confines of the  
12 Constitution, state and federal law, municipal ordinance.

13 Q. (By Mr. McNulty) All right. We just  
14 talked a couple of minutes ago about a couple of other  
15 tactics that Officer Klamser didn't employ during this  
16 situation, didn't we?

17 MR. RATNER: Object to form.

18 A. Yes, we did.

19 Q. (By Mr. McNulty) And so Officer Klamser  
20 had other options that he could have used in this  
21 situation, right?

22 MR. RATNER: Object to foundation.

23 A. I believe he -- he might have been able to  
24 use at least one other technique.

25 Q. (By Mr. McNulty) But instead, he used the

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1 rolling-arm takedown, right?

2 MR. RATNER: Object to form, foundation.

3 A. Yes, he did.

4 Q. (By Mr. McNulty) So instead of using a  
5 takedown, Officer Klamser could have used a pain  
6 compliance technique, right?

7 MR. RATNER: Object to form, foundation.

8 A. I don't believe he could have based on her  
9 resistance. I don't think that he had the position  
10 required to use a pain compliance technique.

11 Q. (By Mr. McNulty) All right. Okay. So  
12 based on, you know, your viewing of the video and your  
13 review of the records, did you see anything that  
14 Officer Klamser did that was wrong in terms of  
15 Fort Collins' policies and customs and training?

16 A. No, sir.

17 Q. So everything he did was within  
18 Fort Collins' policy; is that right?

19 MR. RATNER: Object to form.

20 A. Everything that -- that I am aware of. I  
21 don't know of something that he did outside policy.

22 Q. (By Mr. McNulty) If you were training a  
23 new recruit, you could show this video as an example of  
24 how to do good police work. Do you agree with that?

25 MR. RATNER: Object to form and



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1 foundation; outside the scope.

2 A. I believe we can use this as a training  
3 video to show the application of that rolling-arm  
4 technique, yes.

5 Q. (By Mr. McNulty) So you would have no  
6 problem going forward using this video as a guide and  
7 example of when to use the rolling-arm technique; is that  
8 right?

9 MR. RATNER: Same objections.

10 A. Yes, that's correct.

11 Q. (By Mr. McNulty) Was Officer Klamser  
12 disciplined for his treatment of Ms. Surat?

13 A. No, he was not.

14 Q. Why not?

15 A. Because he was not found -- he was not  
16 found to be in violation of any policies or training  
17 directives.

18 Q. So when I talked about he wasn't  
19 disciplined, that includes informal discipline, too? He  
20 wasn't ever even just admonished off the books; is that  
21 right?

22 MR. RATNER: Object to form.

23 A. Not that I'm aware of.

24 Q. (By Mr. McNulty) Okay. Are you familiar  
25 with the -- the Internal Affairs investigation file in

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1 this case?

2 A. I -- I have read it, yes.

3 Q. Okay. So you know that --

4 Officer Klamser's use of force was reviewed by his chain  
5 of command, correct?

6 A. Correct.

7 Q. And that chain of command found that the  
8 use of force was within policy and consistent with  
9 Fort Collins Police Department training, right?

10 A. Correct.

11 Q. Now, during that Internal Affairs  
12 investigation, there's an officer named Al Brown who  
13 weighed in; isn't that correct?

14 A. Yes, sir.

15 Q. Who is Officer Al Brown?

16 A. He is -- at the time, officer. Currently  
17 his position, he's a corporal, and he works in the  
18 personnel and training unit. And in this case, he was  
19 providing information in his capacity as a lead defensive  
20 tactics instructor.

21 Q. So is it fair to say that he's the head  
22 defensive tactics trainer for Fort Collins at this time of  
23 the incident?

24 A. Yes, I mean, there's -- there's a sergeant  
25 who technically, in a rank structure, would be above him,

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1 but he is probably the longest serving -- probably the  
2 longest serving senior member of that team.

3 Q. And Officer Brown concluded basically that  
4 the way that Officer Klamser acted with relation to  
5 Ms. Surat is how Fort Collins trains their police  
6 officers, right?

7 MR. RATNER: Object to form.

8 A. Yes, sir, he did.

9 Q. (By Mr. McNulty) He was -- he issued a  
10 report saying, you know, as a defensive tactics trainer,  
11 this is how I train officers to act in a situation like  
12 this, right?

13 A. Yes, sir.

14 Q. And that if another officer were to  
15 encounter a different person who was acting in the same  
16 way as Ms. Surat, that officer should take the exact same  
17 actions under Fort Collins' training, right?

18 A. No, we don't -- we don't train our  
19 officers that they do exactly what someone else does.  
20 Every situation is based on the individual officers,  
21 their abilities, their observations, the actions of the  
22 other person. And so neither for Mr. Brown or another  
23 instructor could they tell someone, "You should do it  
24 exactly like this if this came up," because it would  
25 depend on that individual officer's observations and

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1 abilities.

2 Q. That's fair. Okay.

3 Let me ask this, then: Did Officer Brown  
4 feel as though Officer Klamser acted inconsistently with  
5 the way that he had been trained by the Fort Collins  
6 Police Department?

7 A. I don't believe so. I believe he said it  
8 was consistent.

9 Q. And that Officer Klamser acted this way  
10 because he was trained in this manner by the Fort Collins  
11 Police Department, right?

12 MR. RATNER: Object to form.

13 A. Yes, I believe his conclusion was that  
14 Klamser was in compliant -- I'm sorry, Officer Klamser  
15 was in compliance with his training and the policy.

16 Q. (By Mr. McNulty) And you've read  
17 Officer Brown's report, I imagine?

18 A. Are you referring to what he prepared --  
19 he did -- he did one report for, I think, the District  
20 Attorney's Office. Is that what you're referring to,  
21 sir?

22 Q. Sure. Let me pull it up and I can  
23 introduce it as an exhibit in this case.

24 A. Okay.

25 Q. Do you see this, Deputy Chief?

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1 A. Yes, sir. That is what I was -- that's  
2 what I thought you were referring to.

3 Q. And what is this document?

4 A. So I -- I believe this is an evaluation by  
5 Officer Al Brown that was given to Mitch Murray, who's  
6 the First Assistant District Attorney in the 8th Judicial  
7 District. I -- I believe this was maybe in support of  
8 the criminal prosecution, but I don't know. I saw this  
9 in the documents that were sent to me, but I -- I don't  
10 know why this was written, unless it was just for that  
11 purpose, to support the criminal proceeding.

12 MR. MCNULTY: Okay. I'm going to mark  
13 this exhibit as Yeager 1 on the record.

14 (Exhibit 1 marked for identification.)

15 MR. RATNER: You want to identify it by  
16 Bates?

17 MR. MCNULTY: Sure. Yeah. It's FC Surat  
18 1702 through 1706.

19 MR. RATNER: Thank you.

20 Q. (By Mr. McNulty) So did you have a chance  
21 to read this report, Deputy Chief?

22 A. Yes, sir, I did.

23 Q. Do you agree with its conclusions?

24 A. Yes, sir, I do.

25 Q. Do you agree with the conclusion that the

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1 takedown by Officer Klamser was completed in accordance  
2 with agency training as a response to Surat's level of  
3 resistance? Is that right?

4 A. Yes.

5 Q. All right. Now, Officer Brown also, I  
6 think, contributed to the Internal Affairs investigation.  
7 That's what we were talking about earlier; is that right?

8 A. Yes, I believe -- I think it was  
9 Sergeant Jackie Pearson was the -- I believe was the  
10 sergeant at the time. And I think she interviewed him.

11 Q. Yeah, that's -- that's right. I'm going to  
12 pull up the IA file now and put this into the record as  
13 well.

14 All right. Do you see that document,  
15 Deputy Chief?

16 A. Yes, sir, I do.

17 Q. All right. I don't know if you have  
18 documents in front of you, but this is -- this is FC Surat  
19 5966 through 6011. Do you have those documents?

20 A. I may. I -- when I got the link, I don't  
21 know that I printed out -- I did not -- I don't have this  
22 printed out, sir.

23 Q. Okay. Have you seen this -- these  
24 documents before, though?

25 A. Yes, I have seen them.

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1 Q. Okay. I'm just going to scroll through  
2 real quick. And I'll represent to you that this is the  
3 investigation file, Internal Affairs investigation file,  
4 that we received in discovery in this case.

5 A. Okay.

6 MR. MCNULTY: So I'd like to mark this as  
7 Yeager 2.

8 (Exhibit 2 marked for identification.)

9 Q. (By Mr. McNulty) All right. So you're --  
10 you're familiar with the internal investigation in this  
11 case, correct?

12 A. Yes, sir. By reading it, yes.

13 Q. Okay. And so you know that in addition to  
14 what we just discussed, about Officer Klamser's chain of  
15 command reviewing the use of force, that Sergeant Jackie  
16 Pearson also reviewed Officer Klamser's use of force in  
17 this incident, correct?

18 A. Yes. And I don't know if it's too  
19 specific, but in our system, she's actually the  
20 investigator. So she -- she prepares the investigation.  
21 And then the chain of command does the review to decide  
22 if it's sufficient and correct. But, yes, of course she  
23 had interviews in all these parts to lead up to these  
24 documents.

25 Q. Yeah. And I think -- I think she also made

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1 a recommendation as to whether Officer Klamser's use of  
2 force was within policy and consistent with training. Do  
3 you remember that?

4 A. Yes, sir, it would be normal for the  
5 investigator to render findings about the allegations --  
6 these allegations of the policy violation. They render  
7 an opinion on whether they're exonerated, unfounded,  
8 whatever it may be. They do not render an opinion on any  
9 discipline. And then the chain of command, as they look  
10 at it, looks and decides if they agree with the findings  
11 of Internal Affairs. So, yes, she did put findings in  
12 here, as you see right here on the screen.

13 Q. Yeah. I'm pulling this up right now. And  
14 I'm going to say for the record that this is FC Surat  
15 5988. And on that page, Sergeant Jackie Pearson issues  
16 findings as to Officer Klamser's use of force and finds  
17 that he is exonerated as to the use of force and to the  
18 conduct -- as to the conduct under 340.3 and unfounded as  
19 to violating the constitutional rights of an individual.

20 Do you see that?

21 A. Yes.

22 Q. And does "exonerated" mean that, you know,  
23 Officer Klamser's actions were within Fort Collins Police  
24 Department training and policy?

25 A. Yes. Yeah, it -- "exonerated" for us



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1 means that whatever the incident was that was  
2 investigated occurred, the employee didn't violate any of  
3 our policies, our training directives, things like that.

4 Q. So this was -- that is sent on to a  
5 lieutenant named Jeremy Yonce, right?

6 A. I think there should have -- there should  
7 have been a sergeant in there, because when we do the  
8 whole chain of review, it would be the sergeants -- the  
9 sergeant at the scene was Heather Moore. So I would  
10 assume that Heather Moore did the first review and then  
11 lieutenant -- and then I think you're correct, Lieutenant  
12 Yonce, and then Kevin Cronin.

13 Q. Okay. I think you're right. I think  
14 you're right. At the bottom here, the folks who are CC'd,  
15 so Lieutenant Yonce also concluded that Klamser's use of  
16 force was within Fort Collins Police Department policy and  
17 consistent with Fort Collins Police Department training,  
18 correct?

19 A. Yes, he did.

20 Q. And then, you know, finally, it went up to  
21 the chief of police at the time, who was Terry Jones,  
22 correct?

23 A. Yes, sir.

24 Q. And the chief of police also found that  
25 Officer Klamser's use of force was within Fort Collins

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1 Police Department policy and consistent with Fort Collins  
2 Police Department training, correct?

3 A. Yes, sir, but -- so there's another piece  
4 in there. Our Citizen Review Board looked at this. And  
5 they would have looked at it after this chain of review  
6 and before the chief does. So the CRB would have  
7 rendered findings, and I believe their findings were in  
8 line.

9 So I think the chain of review and the CRB  
10 all agreed with Sergeant Pearson, and then Chief Jones  
11 would have received it.

12 Q. I appreciate that, but my question was that  
13 chief of police, Terry Jones, found that Officer Klamser's  
14 use of force was within Fort Collins Police Department  
15 policy and consistent with its training, right?

16 A. Yes, sir, I believe he did.

17 Q. So at -- every level within the chain of  
18 commands in the Fort Collins Police Department found that  
19 Officer Klamser did the right thing with respect to  
20 Ms. Surat, correct?

21 A. Yes.

22 Q. At the end of the day, the way  
23 Officer Klamser interacted with Ms. Surat is exactly how  
24 Fort Collins police officers are expected to act and  
25 trained to act according to Fort Collins Police Department

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1 policy, right?

2 MR. RATNER: Object to form.

3 A. So the one word I'd say, Mr. McNulty, is  
4 you said exactly as I was saying earlier. I think it  
5 is -- it is an acceptable way. A different police  
6 officer might do it differently, so it is not the exact  
7 way, but it is an acceptable way.

8 Q. (By Mr. McNulty) I appreciate that  
9 clarification.

10 And according to the Fort Collins Police  
11 Department, Officer Klamser did not need to do anything  
12 differently in his interaction with Ms. Surat, right?

13 MR. RATNER: Object to form.

14 A. I believe the chain of command recommended  
15 no -- did not recommend any changes or -- (inaudible) --

16 THE REPORTER: I'm sorry, any changes or  
17 what?

18 THE DEPONENT: Or differences. I  
19 apologize. Differences.

20 Q. (By Mr. McNulty) All right. Based on  
21 their training, Fort Collins Police Department could  
22 fairly anticipate that Officer Klamser would take the  
23 actions that he took against Ms. Surat; is that right?

24 MR. RATNER: Object to form and  
25 foundation.

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1           A.     Again, I believe that the police  
2     department could expect that it was one of the possible  
3     sets of circumstances that would be within policy.

4           Q.     (By Mr. McNulty) At the end of the day is  
5     there anything you would change about the way Klamser  
6     handled the situation?

7           MR. RATNER: Object to form; outside the  
8     scope.

9           Go ahead.

10          A.     I -- of course, my review is from the  
11     outside and after the fact. I -- I think that there  
12     were -- there were too many times when Officer Klamser  
13     had his back to someone else. You know, Ms. Surat's  
14     friend or Mr. Waltz' friend, the gentleman who was with  
15     them, was right behind him at one point and even closes  
16     in on him when he takes her down.

17          I -- I would have encouraged  
18     Officer Klamser to take that action earlier or -- or  
19     moved to some other position, if possible. I think that  
20     was the challenge. I, in looking at the video, am  
21     concerned about his safety and Officer Pastor's because  
22     his back is to one of the other people who ultimately  
23     closes in on them.

24          Q.     (By Mr. McNulty) So am I understanding  
25     this right, is that one of the things that you would

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1 You would agree with me that a concussion is a serious  
2 injury, right?

3 A. Sir, I think it can be. I don't know what  
4 the medical definition is, but I think that can be an  
5 injury.

6 Q. Under the Fort Collins Police Department  
7 policies and training, is a concussion a serious bodily  
8 injury?

9 A. I'm trying to think if we have that  
10 specifically listed.

11 Q. It could be a traumatic brain injury,  
12 called that or, you know, something of that. I mean, if a  
13 concussion falls within -- so let me re-ask the question,  
14 because a concussion is like one type of traumatic brain  
15 injury.

16 So under the Fort Collins Police  
17 Department's training and policies, is a traumatic brain  
18 injury a serious bodily injury?

19 MR. RATNER: I'm going to object to form  
20 and outside the scope, and foundation.

21 A. And I want to clarify, because a traumatic  
22 brain injury is -- usually involves a high velocity  
23 compression of the brain, which is far different from a  
24 concussion, which could be a sports injury. So I -- we  
25 do not address traumatic brain injury in our policy, to

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1 my knowledge.

2 I would say that is certainly a serious  
3 bodily injury, where I would not think that a  
4 concussion -- which I also am not certain if the wording  
5 is actually in the policy -- but I would not say that is  
6 serious bodily injury.

7 Q. (By Mr. McNulty) All right. So let's pull  
8 up the response to resistance policy. All right. Deputy  
9 Chief, do you see that?

10 A. I do. I see it.

11 Q. Have you reviewed this policy before?

12 A. Yes, sir, I have.

13 Q. Recently?

14 A. Yes, sir, for this proceeding.

15 Q. Great.

16 MR. MCNULTY: So I'm going to mark this as  
17 Yeager 3. And this is FC Surat 1303 through 1309.

18 (Exhibit 3 marked for identification.)

19 Q. (By Mr. McNulty) So, Deputy Chief, I'm  
20 going to move on to a little bit further down in this  
21 policy. And this talks about the use of force -- sorry,  
22 I'm not there. Let me go -- here it is.

23 So do you see this at 300.30.2, it's called  
24 factors used to determine the reasonableness of force. Do  
25 you see that?

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1 response was to take her to the ground for the greatest  
2 level of control.

3 So without my hands specifically feeling  
4 the resistance and knowing whether I could effect the  
5 technique, I -- I don't know if I would have done it  
6 differently. But I think it was correct to direct her to  
7 the ground so that he could take all of the twisting and  
8 turning out of the scenario, to get the handcuffs on her.

9 Q. (By Mr. McNulty) Can I ask you -- I'm  
10 going to ask you one more question here. You know -- and  
11 some follow-ups on it.

12 You talked a little bit earlier about this  
13 plus one concept. Can you explain that to me?

14 MR. RATNER: Object to form. That  
15 mischaracterizes his testimony.

16 A. So the principle behind that is if, you  
17 know, an officer does not have to meet a subject's level  
18 of resistance with the exact same level of control.  
19 Effectively you end up with an arm-wrestling match where  
20 there's a stalemate at the peak. So the officer is  
21 allowed to use a technique or a tool that is one level up  
22 from that, to gain control for safety for both parties.

23 So, again, he doesn't -- in this example,  
24 the officer doesn't have to stand there and twist and  
25 turn until someone reaches exhaustion. The officer is

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1 able to say, "Okay. Well, I'm going to change the  
2 scenario. I'm going to put this person on the ground and  
3 take away any advantage or equality they have in the  
4 standing position."

5 And so that's the next level that the  
6 officer goes up. And as long as that's reasonable and  
7 appropriate, that's -- you're allowed to do that  
8 increased level of control.

9 Q. (By Mr. McNulty) Is that a part of the  
10 training in Fort Collins?

11 A. Yes, it is.

12 Q. Is that -- is that written anywhere in a  
13 policy, do you know?

14 A. I know our defensive tactics team has it  
15 in their materials when they're doing the instruction. I  
16 do not know if it's specifically written in the policy.

17 Q. Okay. So just so I'm understanding this  
18 correctly, officers under Fort Collins' training,  
19 seemingly, but maybe not under their official policies  
20 written somewhere, they're allowed to employ this plus one  
21 rule which lets the officer use one level of force higher  
22 than what they're -- than what they're encountering from a  
23 suspect; is that right?

24 MR. RATNER: Object to form.

25 A. So just a little bit of clarity.



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1 with.

2 Q. Okay. And that makes sense to me. And you  
3 used one example of, like, a person pulling their hand  
4 away and officers would be trained then to respond to that  
5 of the plus one -- like, you know, a plus one level of  
6 being -- you know, distraction, which is like a pain  
7 compliance technique or something like that; is that  
8 right?

9 MR. RATNER: Object to form.

10 A. It is -- it is an option. I mean, it  
11 might be -- it might be changing what you're doing. So  
12 if you're trying to work with their arm, it might be  
13 transitioning to the other one.

14 It might be -- you know, in -- like in  
15 this case, sure, going from a standing position to one on  
16 the ground. So the officer may use a pain compliance.  
17 They may, instead of trying to put -- you know, instead  
18 of trying to use their arm as leverage, maybe they use  
19 their wrist as leverage, or just the opposite.

20 Q. (By Mr. McNulty) Okay. And, you know, how  
21 does the plus one rule apply in this case?

22 A. So in -- in very specific terms, they're  
23 standing there, he's trying to control her arm and she's  
24 actively resisting him. She's twisting and turning and  
25 pulling her arm, and even prying his hands off. So he

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1 tries that for -- and I haven't watched the timer to see  
2 how long that little melee is happening. But she's  
3 twisting and turning. And what he's doing is obviously  
4 not gaining control of the situation, and he's worried  
5 about his safety and the safety of the other officers.

6 So he says the plus one now is if I take  
7 her to the ground, that's the greatest level of control  
8 for handcuffing -- our instructors teach us that. And so  
9 he changes the scenario by now she's not standing, she  
10 can't use her leg -- your legs are usually the strongest  
11 part of your body. She can't push and pull the same way.

12 So in my assessment, I'd say his plus one  
13 was he decided to go from a standing position where  
14 they're having a push/pull situation to putting her on  
15 the ground so that he can gain control quickly.

16 Q. So his -- his actions were in full  
17 compliance with the plus one rule as it's articulated to  
18 Fort Collins police officers; is that right?

19 A. Yes.

20 MR. MCNULTY: All right. Those are all  
21 the questions that I have for you, Deputy Chief. I  
22 appreciate you taking the time today and sitting here and  
23 answering my questions.

24 THE DEPONENT: Okay. Thank you.

25 MR. RATNER: I don't have any questions.

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