

Rose, William

From: Lindsey, Mark
Date: Monday, March 09, 2009 10:58 AM
To: Rose, William
Subject: RE: Document1

Good Morning:

I believe that the Officers had the right to contact the individual to address his presence in the area in light of the circumstances. The initial contact was merely to either confirm or eliminate the individual for additional investigatory contact.

The Officer's safety concern was heightened when the individual did not respond appropriately to the Officer's request for contact. The fact that the individual responded by arming himself actually confirmed the Officer's safety concern. Certainly, this would not be an issue if the individual had suddenly reached inside his clothing, picked up a rock a stick, or some other obvious weapon. At that point, the Officer had done nothing other than initiate contact. The Officer had not even requested identification before the situation escalated without an obvious reason therefore. The Officer did not know what was unfolding, so he requested compliance for public and officer safety reasons. When the individual declined to appropriately respond to the Officer's repeated requests, the circumstances required a more intensive type of contact. The individual's response to the increased contact by the Officer only made the situation worse because now the Officer's concerns appear to be confirmed with each passing moment.

Each individual in this Country is entitled to walk down the street without being harassed by law enforcement; however, unintrusive contact as initially occurred herein typically does not precipitate the contacted individual into responding by essentially arming themselves. If the individual had immediately dropped the "weapon" upon request, then the Officer's safety concerns would have been somewhat alleviated. Unfortunately, the individual chose poorly and only made the situation worse.

Please advise if further discussion is either desired or required.

Thank you.

M.E.Lindsey

From: Rose, William
Sent: Monday, March 09, 2009 10:16 AM
To: Lindsey, Mark
Subject: Document1

Mark, could you please look at this scenario and give your opinion as to the actions of the officers involved. I need to know particularly whether you believe they had the legal right to make the Terry Stop and if they had the legal right to frisk the suspect under the circumstances as described. I was directed to get a legal opinion. I tried to stay with just what the responding officers knew at the time of the stop. If it is possible I need your answer by Thursday. Thanks

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