



Search and Seizure of Narcotics

In case [2018OPA-0417](#), the Named Employee observed a person holding a small container talking with another individual with money in his hands. As the Named Employee approached, the person put the container in his pocket. When the Named Employee then ordered him to take the “little capsule” out of his pocket, he appeared to try to unscrew the lid. The Named Employee grabbed his arm to prevent this and took him to the ground. After the arrest was made, the capsule, which did contain narcotics, was found. The subject then denied it was his.

The prosecution dismissed the case because they believed the seizure was an impermissible search. OPA, on the other hand, looked to the Ninth Circuit decision in *U.S. v. Pope*, in which an officer ordered a suspect to empty his pockets. When the suspect did so and removed potential contraband, the court found the officer was justified in conducting a warrantless search and seizing the contraband. OPA applied *Pope* here and found the search to be valid for the following reasons:

1. The Named Employee had probable cause to arrest.
2. The subject’s apparent intent to open the capsule provided exigent circumstances to seize it and prevent the possible destruction of evidence.
3. The subject removed the capsule from his pocket voluntarily and was not compelled to do so by force or threat.
4. The capsule was in plain view when it was removed from the pocket and could lawfully be seized.

Training Referral for Professionalism Allegation

In case [2018OPA-0431](#), the Named Employee responded to a call of a woman trespassing by sleeping in a parking lot. The Named Employee asked her to leave multiple times, but the woman angrily refused, using profanity and calling him names. A bystander—the Complainant in this case—approached the Named Employee and expressed displeasure with how he handled the situation. The Named Employee gave a curt reply, responding: “I’m not too crazy about you who didn’t see the whole thing.” The Complainant contacted OPA to report that the Named Employee’s actions and statements in this instance were unprofessional.

OPA determined that, while the Named Employee’s statement to the Complainant was unnecessary, it did not rise to the level of unprofessional conduct. In reaching this conclusion, OPA recognized that it cannot evaluate such cases in a vacuum and rather needs to consider the overall complexity of police work, including being on the frontlines of homelessness, drug addiction, and mental illness. In addition, OPA took into account the Named Employee’s frustration with being second-guessed by a community member who did not observe the entirety of the incident. OPA ultimately recommended a training referral to counsel the Named Employee on the Department’s expectations for professionalism.

If you have questions, feedback, content requests, or to add/remove your name from this distribution list, please contact either Andrew Myerberg, OPA Director, at andrew.myerberg-OPA@seattle.gov, or Anne Bettesworth, OPA Compliance, Policy, and Research Manager, at anne.bettesworth@seattle.gov.



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