



March 28, 2017

VIA CERTIFIED MAIL AND EMAIL

Mark Pitstick, Law Director, Washington Court House
117 N Main Street
Washington Court House, OH 43160
[REDACTED]

RE: Exploiting Ohio's "Inducing Panic" statute to criminalize drug overdoses

Dear Mr. Pitstick:

AMERICAN CIVIL
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It has come to our attention that the City of Washington Court House has begun charging individuals with a violation of Ohio's Inducing Panic statute¹ if they are treated by EMS for overdosing on opioid drugs. The City must immediately discontinue this practice, which is not only an unlawful application of the Inducing Panic statute, but is also a counterproductive approach to the problem of drug use in your City.

We understand that, according to the City, to be treated for a drug overdose by emergency responders is to commit the crime of "caus[ing] serious public inconvenience or alarm."² Washington Court House police records reveal that during the past two months, your police department has charged at least 12 people who suffered a drug overdose with a first degree misdemeanor under the Inducing Panic law because law enforcement and medical responders were called.

Ohio faces a tragic problem in the overuse of heroin and other opioids. But funneling at-risk people into the criminal justice system because they relied upon emergency help during a medical crisis is not the answer. In fact, it may lead to even more tragic consequences.

Heightening criminal penalties for drug use fails to address the underlying causes of addiction, fails to prevent recidivism, and—most perversely—makes individuals less likely to seek help when their loved ones desperately need it.³

¹ R.C. § 2917.31

² *Id.* at § 2913.31(A)(3)

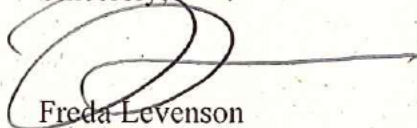
³ See ACLU and Human Rights Watch, *Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United States*, Oct. 12, 2016

Your practice places friends, family, and neighbors in the difficult situation of choosing between lifesaving treatment for their loved one while exposing them to criminal prosecution, or not calling medical providers and seeking alternative treatments or simply hoping the overdose is not fatal. This only exacerbates the dangers of the very drug use the City is attempting to prevent. Punishing those who experience an overdose also shifts the burden of rehabilitation from the healthcare system—which is designed and equipped to treat addiction issues—to the criminal justice system—which is much less effective and much more expensive.

Beyond this, misappropriating the Inducing Panic statute to criminalize drug addiction is not merely bad policy, it is unlawful. The City is hijacking a statute to punish acts that are not within its purview; the City cannot turn emergency need for medical assistance into a criminal act. Under Ohio law, law enforcement officers performing their official duties cannot be victims of statutes like R.C. 2917.31.⁴ If receiving police or EMS assistance could be said to cause criminal “inconvenience or alarm,”⁵ then “every time a police officer respond[ed] to anything other than a routine traffic investigation a potential defendant could be charged with inducing panic.”⁶ The City’s misapplication of this statute demonstrates that the law itself “impermissibly delegates basic policy matters to policemen...for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.”⁷ The City’s practice and the statute as applied are unconstitutional.

We urge Washington Court House to immediately end its practice of charging people experiencing a health crisis under this vague and inappropriate criminal statute. The City’s unlawful application of the statute will intensify the dangers of heroin use—not help to control them.

Sincerely,



Freda Levenson
Legal Director
ACLU of Ohio

E: [REDACTED]

P: [REDACTED]



Elizabeth Bonham
Staff Attorney
ACLU of Ohio

E: [REDACTED]

P: [REDACTED]

⁴ *State v. Cordell*, 62 Ohio Misc.2d 542, 546, 604 N.E.2d 1389 (M.C. 1992) citing *State v. Miller*, 67 Ohio App.2d 127, 426 N.E.2d 497 (3d Dist.1980); see also *State v. Campbell*, 195 Ohio App.3d 9, 2011-Ohio-3459, 958 N.E.2d 622 ¶ 12 (1st Dist.)

⁵ R.C. §2917.31(A)(3)

⁶ *Cordell*, 62 Ohio Misc.2d at 546

⁷ *Grayned v. City of Rockford*, 408 U.S. 104, 107, 92 S.Ct. 2294 (1972)