

## Criminal Justice Issues and Prisoners' Rights

<https://www.acluohio.org/en/news/ohio-city-says-yes-arrests-no-stopping-overdose-deaths>

### Public Facing Advocacy Writing

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The only good thing about Washington Court House arresting naloxone-revived opioid users is that it shows everything wrong with criminal justice today. Since February, this town nestled between Columbus and Cincinnati has been charging overdose victims with Inducing Panic after emergency responders revive them. Inducing Panic, designed to punish things like false bomb threats, is a first-degree misdemeanor punishable by up to 180 days in jail and a fine of \$1,000. The harmfulness of arresting someone saved from a drug overdose cannot be overstated. It is a bad faith effort to circumvent state law; it is an ineffective (and illegal) public health policy; and it reflects a legislative culture that sees incarceration as the solution to any and all problems.

#### In Bad Faith

First, these Inducing Panic arrests are a cynical way to dodge the states new Good Samaritan law one of the few positive steps that Ohio has taken to reduce its monumental drug overdose death toll.

Good Samaritan laws ban police from arresting overdose victims or those who call 911 to help them. The [most common reason](#) people do not call 911 is a fear of police, and so thirty-seven states have enacted this life-saving policy. The American Medical Association supports these laws for a reason.

Suffering a serious overdose problem, Washington Court House has continued its harm-producing philosophy of arrest, arrest, arrest. It still files drug charges against those exempt from the Good Samaritan law, such as overdose victims on probation, and has had to invent a pretext Inducing Panic for arresting those protected by Good Samaritan laws.

#### A Threat to Public Health

The Washington Court House folly illustrates why police should not have responsibility for a public health problem. Local police say their goal is to save lives by forcing people into treatment, even though Good Samaritan laws *already* refer overdose victims to treatment. Arresting them will likely have the opposite effect. Fewer people will call for help; more people will die. Dead people do not seek treatment.

In drug policy, law enforcement likes to believe that punishment ultimately benefits drug users. Research, however, shows the opposite: harm to drug users, harm to communities and harm to public safety. Good intentions that produce bad results may be the nations number one drug problem.

#### A Symptom of Government Run Amok

On a larger scale, the misuse of the Inducing Panic law shows what is wrong with Ohios criminal law. Every year, Ohio legislators add [unnecessary, overlapping, redundant criminal laws](#) to a criminal code that is now incomprehensible to the public and many lawyers.

A charge of Inducing Panic for a drug overdose is an extreme misuse of Ohios bloated criminal law, yet none of the dozen or so people wrongly charged has had the resources to defend themselves. The ACLU of Ohio [sent a letter](#) on March 28, 2017 to Washington Court House describing how Inducing Panic prosecutions violate multiple court decisions.

#### Just Plain Illegal

Washington Court House City Attorney/Prosecutor Mark Pitstick told me the city hadnt decided yet whether to continue filing Inducing Panic charges, despite it being a legally preposterous charge for a drug overdose.

For example, Ohios First District Court of Appeals threw out an Inducing Panic charge in 2011 against a man suspected of threatening his girlfriend. The appeals court quoted from a 1973 legislative report articulating the types of cases the law covered: [For example](#), a false bomb threat which causes airport officials to have the terminal cleared [or] deceptively causing a meeting to be cancelled for fear of the safety of those attending, or engaging in a free-for-all fight in a bar which causes customers to scurry for the exits.

An *unconscious* drug user dying silently, usually in a private home, is not causing a public panic.

The law also requires prosecutors to show serious public inconvenience or alarm. For nearly a half century, Ohio courts have rejected the claim that police responding to an incident qualifies. In 2001, police charged a man threatening suicide with Inducing Panic. The First District Court of Appeals ruled that a suicide threat made in a bedroom was neither public, nor an inconvenience to police who were merely doing their jobs. [The officers](#), acting in their official capacity, thus could not have been inconvenienced within the contemplation of R.C. 2917.31(A) simply because they had responded to his residence *as their duties required* them to do. (Emphasis added.)

As their duties required. Its a phrase worth repeating. When a person is dying of a drug overdose, the rescue squad has a duty to save a life. Police have a duty to follow the law, whether they like it or not.

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