

Good Morning. My name is Susan Manofsky. I was admitted to the practice of law in 1991 and I am here today on behalf of the Legal Defender's Office of Summit County. We support amending the Overdose Immunity or Good Samaritan Law to include all drug paraphernalia and drug abuse instruments.

When I explained this legal problem to my 12 year old daughter, Abra, she asked me this question: "Why would you want to make anyone scared of saving someone else's life?"

When Ohio enacted the immunity for overdose it was clear that the purpose was to save lives. However, the application of that law as written has gone against the legislative intent of encouraging people to report overdoses.

As a legal defender, I am appointed to represent indigent misdemeanor defendants in Akron, Ohio. My clients are still charged with serious misdemeanor possession offenses despite receiving immunity for possession of drugs such as heroin and fentanyl during an overdose. This is absurd. In order to accomplish an overdose, my clients use hypodermic needles and even bits of plastic and spoons to prepare the drugs. All of those items are categorized as either drug paraphernalia or drug abuse instruments and prosecuted despite the immunity.

A few years ago the Overdose Immunity or Good Samaritan Law was publicized as an immunity to encourage people to save lives by telling on themselves or each other. The law even requires 911 operators to explain the immunity to callers during an emergency.

My clients are afraid of being convicted. Of losing or being denied jobs, benefits, housing, scholarships, drivers licenses, and other penalties and stigma.

About fifty years ago our country declared a war on drugs. My entire legal career has been touched by this war. I represent people who have survived drug overdoses and people who have family members that have succumbed. There is no litmus test for which of us will be afflicted with a drug addiction through some unfortunate tragedy. Our only means of control is to "keep yourself alive" (to paraphrase the rock legends in Queen, also from about fifty years ago.)

As an advocate for my clients I have taken their drug cases to court and in some instances the trial judge agreed with me and dismissed the cases. However, the government appealed, and on appeal the cases were overturned.

The Ninth District Court of Appeals has decided (despite three appeals) that the current law is not ambiguous and does not provide immunity for drug paraphernalia or drug abuse instruments. However, in the recent case of *City of Akron v. James Bachtel*, decided June 5, 2019, the court of appeals noted its concern with the overdose immunity law by stating:

Nonetheless, we note our continuing concern that the plain language of R.C. 2925.11(B)(2) - which this Court must apply as written - is counterproductive. As enforced in this case, the statute has the potential to deter individuals from immediately calling 911 when confronted with an overdose situation and to result in delayed reporting because the threat of prosecution for possession of drug paraphernalia is ever present. This deterrent effect could be deadly, thwarting the very purposes that the Ohio legislature sought to achieve. Whether the result of oversight or a deliberate decision, this situation should be remedied by the legislature.

Since the Overdose Immunity was a life saving measure borne out of one of the worst epidemics our nation has known, please fix it. Currently, the immunity is illusory. The enforcement of it has a chilling effect on the intent of the immunity. The solution is to make the immunity cover the overdose, which includes the paraphernalia and drug instruments, not just the drugs. There will never be an overdose without the tools to use the drugs.