



ZACH KLEIN

COLUMBUS CITY ATTORNEY

eNewsletter

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From the Desk of City Attorney Zach Klein

As always, a lot has transpired since our last newsletter. We announced several new policy initiatives and pilot programs in our ongoing efforts to modernize the criminal justice system. We also continued to defend home rule and the ability of local communities to determine what’s in their best interest, rather than the state and federal governments dictating to us.

We won another important legal fight in our ongoing efforts to defend the new gun laws that the City of Columbus adopted in 2018, when a three-judge panel on the 10th District Court of Appeals reinstated our bump-stock ban and reaffirmed that our new laws to keep guns out of the hands of domestic abusers and other dangerous criminals are constitutional. But the pro-gun groups who sued us have indicated that the legal battle may continue on to the next level at the Ohio Supreme Court. Given the horrific tragedies that recently happened in Dayton, El Paso, and West Texas, it’s well past time for the gun lobby and their allies at the statehouse to stop attacking common-sense legislation like we enacted in Columbus and actually make substantive changes to our state and federal gun laws so we can protect our residents from the threat of another senseless mass shooting. This is completely within our control to fix if our legislators had the courage to do something.

In another instance where we’re defending Columbus’ ability to self-govern, we pushed back on a new state legislative proposal that would allow the Ohio Attorney General to seize control and dismiss the individual lawsuits that over 100 Ohio cities and counties filed against the opioid industry. Just recently, the Columbus Dispatch [reported](#) that overall, Ohio saw a 22 percent drop in the number of drug overdose deaths last year—while Franklin County was one of the 24 counties in the state that unfortunately saw a rise in fatalities. Clearly now is not the time for the Ohio Attorney General and his allies in the state legislature to be pushing a divisive, unnecessary, and unconstitutional legislative proposal that is nothing more than a power and money grab. The Dispatch called the Attorney General’s approach “heavy-handed” and rightly called on him to work with those of us on the frontlines of the opioid epidemic instead of against us. We need partners, not bullies, to help lift up local communities across Ohio.

One of the offshoots of the drug crisis is the fact that many individuals suffering from drug dependence often turn to other forms of crime to feed their addiction until they get the comprehensive help they need. The featured article in this month’s newsletter focuses on a first-of-its-kind pilot program we recently launched to address the underlying causes of crime and recidivism. Our goal is to emphasize safety and justice while also trying to help individuals break the cycle of crime and restore their lives.

September 2019



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Helping Understand Barriers

Retail theft in the United States accounted for close to \$18 BILLION in lost merchandise last year according to the National Retail Federation. Unfortunately, those costs are passed onto the American consumer. Here in Columbus, City Attorney Klein recently announced an innovative, new pilot program that focuses on why people commit these crimes in order to stop repeat offenders and help them restore their lives.

Statistics show that many people who commit non-violent crimes such as retail theft often spend months to years cycling through the criminal justice system before they are ready and able to make a change.

Acknowledging that reality, the City Attorney's office developed the *Help Understanding Barriers* (HUB) diversion program to start identifying the root causes of crime and address those causes by connecting accused individuals to community services and treatment. A review of cases to determine eligibility for the program is the first step, as a trained community health worker from a local provider administers a 36 question screening tool to assess social determinants barriers and provide linkage to resources to address those needs. This confidential information is stored in a HIPAA compliant database managed by the Healthcare Collaborative of Greater Columbus. The community health worker keeps the defendant on the health worker's caseload throughout the diversion process to assist with any outstanding issues.

Upon full compliance and successful completion of the program, prosecutors ask the court to dismiss the criminal case and agree to having the record sealed. Some of the partners include:

Healthcare Collaborative of Greater Columbus: The HCGC is the manager of the Central Ohio Pathways HUB, which is a centralized resource to connect individuals in need with necessary services. Community health workers from participating HUB agencies facilitate the process by screening individuals for needs, providing pathways to resources, and storing the information in a secure database.

Wellness First: Local provider Wellness First is the first agency to dedicate a community health worker to assist with the HUB diversion program and is a part of the African American Alzheimer's & Wellness Association.

Franklin County Public Defender's Office: The Public Defender's office provides ongoing legal representation and case management throughout the diversion process.

Franklin County Municipal Court: The court provides access to one of its offices so the community health worker can perform screenings.

Franklin County Municipal Clerk of Court: The municipal clerk assisted with the development of a process to allow the cases to be placed on special status for the duration of the program.

Relink.org: Part of the Dalton Foundation, this website is a free, user-friendly, online addiction recovery, human trafficking, and reentry resource tool that addresses the entire continuum of care.

Social services agencies: We regularly reach out to social services agencies and perform ongoing efforts to keep building community resources to support HUB diversion.

Property was ‘Revolving Door’ of Drug Dealing

The City Attorney’s office secured an emergency court order to board-up a drug operation that was running out of a multi-family residential duplex located less than two blocks from a school for students with developmental disabilities. The City Attorney’s office has now obtained injunctions to shut down 16 drug-related nuisance properties so far this year. Half of them have been on the city’s west side.



Records indicate that the Columbus Division of Police responded to 287 South Central Avenue multiple times over the last year for narcotics complaints, domestic violence, robbery, assault, and allegations of incest. Detectives seized heroin, cocaine, fentanyl, and a cache of weapons and ammunition from the premises. One police report documents a known drug dealer associated with the property who hired a Lyft driver to ferry him around. Officers also responded to the premises for a domestic violence incident and documented an encounter with a 22-year-old female victim who reported that “her father had been manipulating her into having sex with him.”

Immediately after the Franklin County Environmental Court granted City Attorney Klein’s motion for an ex parte temporary restraining order, officers from the Investigative/Tactical Unit raided the property and enforced the court’s order to board up the premises.

According to court documents, Columbus Police conducted several covert purchases of crack cocaine from the premises since 2018, resulting in at least three search warrants that turned up various weapons and drugs.

Last year, detectives seized 18.6 grams of heroin from the kitchen freezer, powdered cocaine, over 65 grams of packaged crack cocaine, 1.2 grams of suspected fentanyl, cash, counterfeit bills, a digital scale, 12 cellphones, guns, and ammunition.

On May 17, 2019 police were called to the premises on a report that an individual was making threats with a gun. The responding officers determined that the suspect in this incident was the same individual accused by his daughter on November 12, 2018 of domestic violence and incest. During that incident, officers had noted that there were firearms present in the apartment.

Drug activity continued at the premises as detectives conducted several more covert purchases of crack cocaine this year, including twice in the last month. While executing a search warrant on August 14, 2019, officers found, among the items seized, “multiple boxes” of ammunition and heroin.



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Policy Announcement

Following a state legislative proposal that was hurriedly passed and signed into law to make hemp and so-called CBD oil legal throughout the state of Ohio, City Attorney Klein announced that Columbus city prosecutors could no longer prosecute misdemeanor marijuana possession cases. Upon passage of [Senate Bill 57](#), which Governor DeWine signed into law last month, the prosecution of marijuana possession charges now requires drug testing that distinguishes hemp from marijuana. The state legislature passed the bill as an emergency, rendering it to go into effect immediately, without fully taking into consideration the concerns of prosecutors and law enforcement agencies that almost all certified crime labs in the state of Ohio do not have the ability to measure the concentration levels of THC, the principal psychoactive constituent of cannabis that determines whether a substance is illegal marijuana versus legal hemp and/or CBD oil.



Without this drug testing capability, the City Attorney's office is not able to prove misdemeanor marijuana possession beyond a reasonable doubt. City Attorney Klein also announced that city prosecutors would be dismissing any current pending misdemeanor marijuana possession charges.

City Attorney Klein issued the following statement:

The passage of Senate Bill 57 requires a distinction between hemp and marijuana, but our current drug testing technology is not able to differentiate, so we will not have the evidence required to prosecute these cases. As we continued to review these policies, Senate Bill 57 opened up a broader conversation about how we should prosecute minor misdemeanor marijuana possession cases in the future. Considering the substantial cost of new equipment and testing versus the possible benefit of prosecuting these often-dismissed cases, in addition to the recent ordinance passed by Columbus City Council, we plan on engaging in further discussions on whether to make this new policy permanent.

The new policy, which went into effect on August 8, 2019, is as follows:

- 1) The City Attorney's Office (CAO) will be dismissing all marijuana possession charges. The CAO will not dismiss other accompanying charges unless there is a separate and distinct reason to do so.
- 2) Possession of marijuana is still illegal. Therefore, it can still be a legal, constitutional reason to stop and/or search someone. An officer may still therefore have reasonable suspicion or probable cause to believe someone is committing the crime of possession of marijuana.
- 3) OVI's based on marijuana intoxication will be reviewed on a case-by-case basis. The CAO will not dismiss on the basis of this policy.

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City Attorney Klein was honored to participate in the [Big Table](#) discussion on gun violence held last week at **First Congregational Church**. Students from **Fort Hayes Education Center** and the **Mosaic** program were among the estimated 200 people who attended.



Our community outreach coordinator, Mercedes Wiley (*right*), helped coordinate the City Attorney staff's volunteer work and donations to help with last month's **Linden Back-to-School Book Bag Giveaway**.

City Attorney Klein was honored to attend the **National African American Male Wellness Initiative** reception in August.



City Attorney Klein was invited by Pastor Mitchell Ellison to help provide school supplies at the Linden Back-to-School Book Bag Giveaway. Thanks to all who donated supplies and volunteered their time to help!

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