



ZACH KLEIN
COLUMBUS CITY ATTORNEY

FOR IMMEDIATE RELEASE

Nov. 9, 2020

MEDIA CONTACT:

RCDavis@columbus.gov

TARoberts-Myers@columbus.gov

Victoria.Hollingsworth@daytonohio.gov

Asege@everytown.org

COLUMBUS AND DAYTON FILE FIRST-OF-ITS-KIND SUIT AGAINST OHIO ATTORNEY GENERAL'S OFFICE OVER FAILURE TO ENSURE CRIMINAL CONVICTIONS ARE ENTERED INTO BACKGROUND CHECK DATABASES

AG'S Failure Means Thousands of People Prohibiting from Purchasing Firearms Can Still Pass Background Checks

COLUMBUS, Ohio – The cities of Columbus and Dayton announced today they have filed a first-of-its kind lawsuit alleging that court intervention is required to remedy massive gaps that have plagued Ohio's criminal background check databases for years, putting public safety at risk. As a result of these gaps, the case alleges, thousands of people prohibited from possessing firearms because of a criminal conviction can currently pass background checks – including background checks required to buy firearms, obtain an Ohio concealed carry permit and be hired in sensitive positions including working with children. The cities are seeking a court order directing the Bureau of Criminal Investigation (BCI), a division of the Ohio Attorney General's Office, to take prompt corrective action.

The City of Columbus is represented by Columbus City Attorney Zach Klein's office and the City of Dayton is represented by Dayton City Attorney Barbara Doseck's office. Everytown Law, the litigation arm of Everytown for Gun Safety Support Fund, is co-counsel for both cities, and along with the Columbus law firm Cooper & Elliott LLC, it also represents a second plaintiff, a Reynoldsburg, Ohio, resident and mother of school-age children.

"When it comes to purchasing firearms, our citizens have been falsely lulled into feeling secure with Ohio's and the federal background check systems," said **City Attorney Zach Klein**. "Victims of domestic violence, schools and local employers rely on these systems to be accurate and to keep dangerous individuals unarmed and out of certain situations. The system is failing our residents – particularly those who are most at-risk. Republicans and Democrats have all acknowledged our broken system, but those in charge have failed to do anything about it. It's up to us to step in and try to make this right for everyone's safety and security."

"The country has seen a spike in violence, and Columbus has not been immune," said **Columbus Mayor Andrew Ginther**. "Roughly 70% of homicides in Columbus are committed with firearms, usually firearms that are illegally obtained. We should all be deeply concerned that background checks may be failing to keep firearms out of the hands of violent offenders, putting our residents in a dangerous position. We cannot and will not tolerate it."

“Ohio officials have a clear legal obligation to make sure felony criminal convictions and all other required records are part of the state and federal background check systems,” said **Eric Tirschwell, managing director of Everytown Law**. “Despite years of investigations, reporting, and task forces, the public record makes clear there are still massive gaps that have gone unaddressed for far too long. These gaps mean that thousands of people legally prohibited from owning guns -- including people with felony and domestic violence convictions -- may be able to pass a background check and walk out of a store with a gun, obtain an Ohio concealed carry permit, or be hired throughout the state for sensitive positions including working with young children.”

“The records missing from our background check system create unacceptable risks to public safety,” said **Dayton Mayor Nan Whaley**. “There are clear steps that officials can take to address these issues, and the public has waited too long already. It’s past time to fix these dangerous problems.”

Gaps in state and federal background check systems can lead to deadly results. In the 2017 mass shooting in Sutherland Springs, Texas, a man who should have been prohibited from purchasing a firearm was able to do so due to gaps in the system and used that firearm to murder 26 people. In Ohio, in 2010, a man with a prior violent felony conviction that did not turn up in a background check was hired at The Ohio State University. When he learned he was to be fired, he shot and killed a colleague.

Despite the critical role a fully populated background check system plays in protecting public safety, Ohio’s system continues to suffer from massive gaps. As the lawsuit alleges, a 2018 survey commissioned by former Governor John Kasich showed that the state receives and collects all criminal disposition information from only 60% of the elected clerks of court; the others report only a “majority” of criminal dispositions, “some” dispositions, or, a for a few, none at all. Ohio Auditor Keith Faber even more recently found that more than half of Ohio’s 88 counties had at least one court or law enforcement department that didn’t report records on time or, in a few cases, at all.

As the complaint filed today explains, Ohio law assigns to BCI and its Superintendent the primary and mandatory obligation to “procure” specified information concerning all persons convicted of felonies and other crimes. Yet, as alleged, there are dangerous and persistent gaps in BCI’s collection of this information. And while Ohio law also imposes on Clerks of Court an obligation to report felony conviction information to BCI, the lawsuit alleges that many complain that BCI rejects that information on technical grounds, and, for the Clerks who simply do not report or fail to do so in a timely manner, they do so with apparent impunity from BCI.

None of this is news to officials in Ohio. As alleged in the lawsuit, investigations in 2015 found that the system erroneously indicated that thousands of criminals had clean records. Ohio Auditor Faber stated as recently as December 2019 that the background check system is “broken and needs immediate attention,” reflecting “a systemic failure.” Governor Mike DeWine too has recently acknowledged that the background check system is “dangerously deficient.”

The lawsuit also alleges that the gaps in criminal conviction record reporting are only one of many severe deficiencies in Ohio’s background check system, which also include massive gaps in the reporting of outstanding arrest warrants and of court findings of mental illness or commitments to mental health facilities.

Through today's lawsuit, the cities of Columbus and Dayton and a concerned mother of Ohio public school students are asking the court to order executive branch officials to promptly rectify their failures and fulfill their obligation to ensure that Ohio's background check databases – which also feed into the federal National Instant Criminal Background Check System – reflect full and complete information about all people convicted in Ohio of felonies and other serious crimes, as required by law.

###