



ZACH KLEIN

COLUMBUS CITY ATTORNEY

eNewsletter

Volume 2, Issue 2

From the Desk of City Attorney Zach Klein

I always appreciate having the opportunity in our monthly e-newsletters to talk about the core mission of the Columbus City Attorney’s office: keeping our neighborhoods safe, promoting economic progress, and protecting the most vulnerable members of our community. As we continue the day-to-day job of defending the city and protecting our community, it’s always important to reflect on the different ways our office works to better the lives of Columbus residents. Whether it’s fighting in court to protect our drinking water supply or working with state and local officials on a host of bipartisan legislative proposals, our office is helping make a positive impact both locally and statewide.

In this latest issue, you’ll learn more about an important legal battle we won against the State of Ohio. In a much-anticipated decision, a trial court judge ruled in our favor in a long-standing environmental lawsuit we filed against the state several years ago. While the attorney general still has the option to appeal the judge’s ruling that the state violated three separate clauses of Ohio’s Constitution, I’m optimistic that the state will refrain from going any further in their misguided gambit to interfere with our ability to manage city-owned property along our reservoirs. In essence, protecting clean drinking water was at stake, and we won.

We’re also working hard to advocate for important and effective changes to Ohio law that will have an impact on all of us. Serving in Ohio’s capital city affords me the unique opportunity to speak up on issues where local and state government priorities intersect. I do not take this responsibility lightly, and, in fact, I’m always looking for common interests so that this is done in a bipartisan way. There are many examples where advocacy on behalf of Columbus residents can have a direct, positive impact on the rest of our state, and vice versa.

I am proud to stand with a bipartisan group of local and state leaders to push for a host of changes that will strengthen the social fabric of our diverse state and help defend some of the most vulnerable crime victims in our city and state. There’s lots of work to do, but we’re up for the challenge.

Sincerely,

March 2019



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Sweeping Environmental Victory

Last month, the City of Columbus won a sweeping victory against the State of Ohio in a years-long environmental legal battle after Franklin County Court of Common Pleas Judge Michael J. Holbrook ruled that the state violated several provisions of Ohio's Constitution in trying to interfere with municipalities' efforts to protect safe drinking water.



Columbus, along with co-plaintiffs Akron and Barberton, filed a joint lawsuit in 2015 after the Ohio General Assembly surreptitiously slipped an unrelated provision into the two-year state budget that would allow certain adjacent property owners to trespass and alter publicly-owned land that surrounds the cities' reservoirs. Some of these property owners had been warned previously that they were illegally trespassing on city land when they were caught cutting grass, removing trees and vegetation, and making other alterations to create waterfront views for themselves. The cities maintained that the grass, trees, plants and other vegetation on the city-owned property were serving as natural filtration systems that help prevent fertilizer and other toxic chemicals from entering the reservoirs that provide the public's drinking water.

The proposed state law, Ohio Revised Code 743.50, never went into effect after the judge initially ordered a stay following the cities' lawsuit. The potential for damages was not merely hypothetical. In 2014, Columbus successfully sued a trespassing property owner who "recklessly" clear-cut 2.7 acres of city trees and other plants that were serving as a natural buffer zone to filter toxins and other contaminants that threatened Columbus' public reservoir parkland and the drinking water supply of 1.2 million people throughout Central Ohio.

In Judge Holbrook's decision, the court ruled that the state violated the Ohio Constitution's single-subject rule, which requires the General Assembly to pass laws that deal only with a single subject and is designed to prevent legislators from using procedural gimmicks to pass laws that wouldn't have support on their own.

The court also ruled that the state violated the Utility Clause of the Ohio Constitution, which allows cities in Ohio to operate public utilities. Columbus and the other cities successfully argued that they maintain the natural vegetative buffers around the reservoirs because they filter out nitrates, pesticides, and other contaminants from going into the drinking water supply. Because the state's new law would have interfered with the cities' ability to maintain those buffers, the court concluded the law would have restricted the cities' ability to operate a public utility. The court also concluded that the state had no real interest in its law because the law would have benefitted only the select few people living next to the cities' reservoir property.

Finally, the court ruled that the state violated the Ohio Constitution's Home-Rule Amendment. In addition to helping provide safer and cleaner drinking water, Columbus' reservoir parkland also provides the people of Central Ohio a range of recreational activities such as boating and fishing, in addition to providing a habitat for wildlife such as bald eagles. The law would have restricted Columbus' ability to use and maintain its own property, but would not have regulated the conduct of all citizens equally or uniformly throughout the state. **2**

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Protecting Victims of Stalking

National statistics show that between six and seven million Americans are impacted by stalking each year. One in six women [will be stalked](#) in their lifetime and [one in three teens](#) will experience some form of physical or emotional abuse by someone they are dating. The damage can be profound. That's why Columbus City Attorney Klein released a [public service announcement](#) to deliver a powerful and direct message: stalking is a crime and it can be stopped.

The [PSA](#) was released during [Teen Dating Violence Awareness Month](#) since reports indicate that young people experience the highest rate of stalking. Statistics also show that the majority of people are stalked by someone they know, usually a current or former intimate partner.

Stalking is not about love or romance. It is crime of violence, control and intimidation. Stalking victims need to understand that it's not their fault and they need to trust their intuition. They should never underestimate their stalker or the potential threat level that person may present. If the threat is immediate, call or text 911.

The crime of stalking occurs when a person engages in a pattern of conduct (two or more actions or incidents closely related in time) targeting a person or a business that knowingly causes the victim to believe the offender will cause physical harm or mental distress to him or her. Typical stalking behavior can include:

- Following or watching
- Unwanted telephone calls
- Unwanted mail or gifts
- Inappropriate approaches or physical contact
- Unwanted contact via the internet
- Intrusion into your private life
- Threats to your health or safety
- Physical assault
- Threats against family or friends
- Appearing anywhere you may be for no legitimate reason
- Damage to physical property

To successfully prosecute stalking, prosecutors need to prove that a series of incidents (which, if viewed as isolated incidents, might not constitute criminal acts) happened and that it caused the victim mental distress or fear of physical harm. City Attorney staff and police investigators rely heavily upon various types of physical evidence to assist in prosecuting stalking cases, and victims often can provide the most useful evidence.

Stalking victims should consider:

- Saving all documents, gifts, letters, or other forms of correspondence from the stalker. These items should be put in paper bags and handled as little as possible.
- Keeping a log of all events that involve stalking. The dates, times, a general summary of each event, any witnesses, and the victim's reaction to the incident will assist in establishing the criminal case.
- If safe to do so, carrying a camera or video recorder and recording telephone calls and making screen shots of texts from the stalker.
- Obtaining a telephone trap by contacting the Annoyance Call Bureau of your telephone provider.

Along with the [PSA](#), more information about stalking and the resources available to victims can be found on the City Attorney's [website](#).

Community Action

City Attorney Klein is currently working with a bipartisan group of leaders, including Franklin County Prosecutor Ron O'Brien and Ohio Senate President Larry Obhoff, to reform Ohio's drug sentencing laws. Columbus has been hit particularly hard by the opioid crisis, as the rate of overdose deaths in Ohio, and especially Franklin County, are some of the [highest in the nation](#). The plan would focus on rehabilitation and treatment instead of incarceration for non-violent, low-level felony drug possession, appropriately distinguishing between those struggling with drug addiction and the narcotics traffickers who prey upon them. By increasing the chances for Ohioans struggling with addiction to turn their lives around, the Klein-O'Brien plan, as it's being called, should ultimately lead to lower recidivism rates and less crime in our communities.



City Attorney Klein also has reached out to other members of the Ohio Legislature to take an in-depth look at increasing the penalties for domestic violence. The City Attorney's office is widely recognized across the state for the innovative approach its Domestic Violence & Stalking Unit takes in providing services to victims of misdemeanor domestic violence and stalking crimes. The City Attorney's office also led the way in passing tough new local gun ordinances that prohibit domestic violence abusers from owning or possessing weapons, as well as expanded the definition of domestic violence to include intimate partners. The City Attorney's office prosecutes close to 5000 domestic violence cases a year and serves more than 5500 victims annually—with prosecutors and victim advocates working hard to hold abusers accountable and help victims start healing. But such terrible crimes should warrant a wider range of penalties than those available under Ohio's misdemeanor criminal sentencing laws.

City prosecutors recently highlighted another serious deficiency in current Ohio law when trying to prosecute a local chiropractor who sexually assaulted over 40 women in our community. The offender was convicted for abusing dozens of his patients but the judge sentenced him to 60 consecutive weekends in jail and five years of probation. Prosecutors advocated for the maximum penalty of 18 months in jail because the offender violated not only his patients' trust, but every obvious ethical standard in this situation. But such misconduct warrants more than only the misdemeanor charges currently allowed under the Ohio Revised Code. Chiropractor-patient relationships should be treated as seriously as any other medical, doctor-patient relationship, and it's imperative for local and state officials to work together to find a solution for this injustice.

In a similar vein, the City Attorney's office is supporting efforts to address another glaring gap in state law. Prosecutors should not have to face additional barriers in trying to apply the same protections for 16- and 17-year-old victims of human trafficking that are available to other minors in Ohio. The Protect Trafficked Minors Act sponsored by State Senator Teresa Fedor also would bring Ohio in line with federal law, affording a wider range of resources and tools for prosecutors and victim advocates.

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City Attorney Klein was invited to appear on Valentine's Day on [WBNS-10TV](#)'s morning show to talk about stalking and what can be done to protect victims.



City Attorney Klein testifying before the Ohio Senate Judiciary Committee about the bipartisan plan he helped develop to reform the state's criminal justice system.



Images from a former case showing the destruction and devastation caused on city-owned land that used to serve as a natural buffer zone to protect Columbus' drinking water reservoir.