



Ohio FOP Focus

February, 2010

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Hello Brothers and Sisters,

I hope you and your family have enjoyed the holiday season and have begun what will be a happy and healthy new year.

A consortium of Ohio's newspapers have begun the year by attacking all

President's Message

of the state's public pension systems. They have decided that you do not deserve to have a defined benefit retirement system because some members of the communities in which you serve do not have them as well. They have decided that your pension benefits are too rich, so they have written articles and editorials to push their agenda.

What they fail to mention is that private sector employees already get a defined benefit retirement that you do not get, a full social security plan. They did not mention that our social security is penalized by up to 60% and if our spouse takes survivor's benefits from the pension system, then his/her social security is at-

tacked as well. They fail to mention that our pensions are funded with real assets, not IOU's from the government.

Our pensions are not given to us, we earn them. We earn them every day with the blood, sweat and tears we provide to our communities. We use these pensions to pay taxes, buy goods and provide billions in economic activity to Ohio.

The FOP will stand against any attempt to force our members into a 401 K style pension system.

Please stay safe,

Nick DiMarco

President, Ohio FOP
ndimarco@fopohio.org

76th Annual State Conference

The 76th annual state conference will take place from July 17th through the 20th at the Holiday Inn in Independence, Ohio. You can be a delegate to this conference and help make the decisions that will govern this organization for years to come. Lodges are granted delegates relative to the number of members it has. Each lodge gets at least one delegate and you get additional delegates for every 50 members you have, or the greater portion

thereof. So, if you have 76 members...you get 2 delegates. Delegates are elected locally.

What happens at a State Conference? At this conference, we will elect our leaders for the next two years. We will make our political endorsements of statewide elected candidates. We will make other decisions on how this lodge will function for the next year and beyond. The business of the FOP

is what we will do.

Please be looking for additional information on getting your hotel rooms, registering your delegates and registering for the conference events.

If your lodge has not been to a state conference before, what is stopping this year from being the first?

Statehouse Report

In Columbus, the Ohio FOP has been working daily to protect the interests of you, our members. We focus on legislative issues that have a direct impact on labor, pension and law and order. We have a legislative committee led by Chairman Mark Drum and Legislative Agents Jay McDonald and Jason Pappas. They have a professional legislative consultant to help guide them in Mike Taylor, former Ohio and National FOP Board member. Jay Smith is your full time staff member dedicated to legislative affairs. This committee monitors all legislation and works with other interested parties to insure that the FOP's legislative agenda is moved forward. We are the only group in Columbus working on behalf of rank and file law enforcement officers. Our competitors (IUPA, OPBA and others) are not as active in legislative affairs as the FOP, if they are around at all.

In the 128th General Assembly, the FOP has been working on several issues that we will outline below:

- Pension Reform - There has not been a bill introduced to enact the suggestions made by the pension systems. The FOP continues to monitor the legislature and look for the bills that we know are coming but have not been introduced yet.
- House Bill 28, regarding qualifications for Sheriff. The FOP is looking to add years of experience as a full time law enforcement officer as an additional way to gain the qualifications for Sheriff. Currently, you need to have supervisory experience or a college degree to qualify. It does not matter if you are a Chief in a one man department or have a degree in culinary arts, you are qualified. However, if you are a 30 year homicide detective in a major city, you are not qualified. We would like to amend this bill to reflect our position on this matter. We feel this decision about which qualifications are best to become one of the 88 Ohio Sheriffs should be decided by the voting public.
- Senate Bill 77 has passed the House Criminal Justice Committee with the compromise listed in the January E-Focus. It will surely pass the Ohio House and it appears likely that the Senate will accept the amendments made in the House. This bill changes the way law enforcement officers conduct interviews on murder and sex offense cases, conduct photo and physical lineups and the retention of evidence that may contain biological evidence.
- House Bill 146 had sponsor testimony in January. This bill would allow counties to purchase their health care through the state system. The sponsor, Rep. Robert Hagan from Youngstown, is receptive to adding cities into his bill. This would allow for public employers from small agencies to join a system with lots of employees, thereby spreading the risk and hopefully lowering the cost. It would also logically keep health care companies from raising rates higher than what the state system costs, and hopefully keep costs down. This is the same kind of legislation that our Board instructed the legislative committee to work on a couple of years ago. A new sponsor of the legislation was able to obtain a hearing and we will work with that sponsor as the bill progresses. However, keep in mind that this bill has only had one hearing.
- We continue to monitor the enabling legislation in regards to the casino issue in Ohio.

The FOP of Ohio works on the legislative affairs that affect you every day. If you have questions regarding these, or any legislative issue, please contact Jay Smith at 614-224-5700 or jsmith@fopohio.org

Line of Duty Deaths Soar in January

As of 01-15-2010, ten law enforcement officers from nine different states have been killed in the line of duty: four by gunfire and six in automobile or motorcycle crashes. This is an increase of about 900% compared to the same time last year. Line of duty deaths have been dropping until this disturbing trend. In Ohio, two officers were tragically killed in the line of duty in 2009. 777 Line of Duty Deaths occurred in the United States overall.

As we go into 2010, we need to remind ourselves to use our seat belts, wear our vests and be in good shape. Use good tactics and take care of each other. Be aware of critical incident stress management.

Doing these things will help us get home at the end of our shifts.

Our New Year's Resolution at the FOP of Ohio is the same in 2010 as it always has been. "Stay Safe."

Michigan law could change collective bargaining

Legislators in Michigan are trying to capitalize on the bad economic conditions to break unions. They have introduced a bill blaming the financial shortfalls of municipalities on the existence of binding arbitration (aka Conciliation). The Michigan FOP tells us that less than 1% of all contracts go to arbitration in the state up north, but that has not stopped the anti-union folks from trying to dismantle the public unions in Michigan.

How does this affect you? Every year, it seems as if there are rumblings around the statehouse to alter or kill the Ohio collective bargaining bill. That is why is so important to get the national collective bargaining bill passed in Congress this year. A federal bill would likely prevent those who would like to make us beg and grovel for pennies from trying so hard to weaken or kill the Ohio legislation.

FOP OF OHIO - NOMINATION CRITERIA FOP MEMBER OF THE YEAR

Please provide the following information:

Nominee: Name, Address, Telephone, Department/Organization

Submitting Lodge: Lodge Name and Number, Lodge President and Secretary, Mailing Address, Telephone Number

Eligibility: Only active FOP members currently working in Law Enforcement or retired from Law Enforcement shall be considered for this award. Retired Law Enforcement Officers are to be construed as active members. All nominations must be submitted by a Lodge in good standing. No individual member shall submit his or her own name as a nominee.

Members currently holding State or National elected offices are ineligible for nomination.

Criteria: Nominees will be considered on the basis of their career in Law Enforcement, their Fraternal Order of Police involvement and service that they have rendered to the community.

Seven (7) copies of all applications must be submitted, in typewritten form, giving all pertinent information as to why the Lodge feels the applicant should be considered for this award.

Nominations are limited to one (1) per Lodge.

Deadline for submitting applications is **postmark of June 1, 2010.**

FOP OF OHIO - NOMINATION CRITERIA FOP LODGE OF THE YEAR

Criteria: Must be in good standing with both State and Grand Lodges. Must participate in State Board Meetings and Conferences. Must be active in the community and local charities. Must provide current communication to membership (e-mail, website, newsletter). Must provide representation before City Council, County Commissioners and/or Pension Boards. Must provide assistance to members in need.

On a separate sheet of paper, please provide the following information:

Nominated Lodge Name & Number
Justification for nomination

Submitted by: Name, Lodge Name, Address, e-mail, Phone

**All nominations should be submitted in typewritten form
No later than June 1, 2010:**

COMPLETED NOMINATION FORMS AND SUPPORTING DOCUMENTATION SHOULD BE MAILED TO:

FRATERNAL ORDER OF POLICE OF OHIO, INC.
ATTN: DENISE YOUNG
222 E. TOWN STREET, COLUMBUS, OHIO 43215-4611

Did you know that the Ohio FOP offers a travel discount to its members? A travel portal is located at www.fopohio.org and it allows you to book flights, rent cars, book cruises, and provides other travel services. We ask that you compare the prices offered through this service when considering travel plans. If it is cheaper or the same price as you can get your travel services elsewhere, why would you not book that travel through the this service that provides a commission to the Ohio FOP?

COPS Hiring Bill Included in Appropriations in Congress

\$1.18 billion has been included in the "Jobs for Main Street Act of 2010" that has passed the U.S. House of Representatives and is headed to the U.S. Senate. This bill takes \$138 billion from the bank bailout money and re-directs it with a goal of producing and retaining jobs. Included in this act is the money to retain or hire 5500 police officers across the country.

House of Representatives Majority Leader, Steny Hoyer of Maryland, said when announcing the bill, "It is our responsibility to continue to fight to not only keep jobs, keep teachers on the job, keep police officers on the job and keep firemen and women on the job to make sure we can respond to the public needs, but to also to invest in creating jobs and building our infrastructure."

We all know that federal dollars have prevented thousands of layoffs across the country and the FOP will continue to press Washington to keep these dollars flowing into Ohio to keep our brothers and sisters working.

FOP/OLC WINS APPEAL ON ARBITRATION RIGHTS

The Fraternal Order of Police, Ohio Labor Council won a significant case in the Second District Court of Appeals of a case which tested the final and binding nature of Rights Arbitration.

Attorney Doug Behringer, who had handled the arbitration case, also handled the case on appeal.

The arbitration case dealt with a Piqua police officer who was dismissed by his employer but was ordered by an arbitrator to be reinstated. The case against the member involved a traffic accident in which a bicycle ran into the side of the officer's cruiser without the officer being aware of any collision. The officer drove through an intersection and then stopped because he sensed he was dragging something. It turned out to be the bicycle. The City of Piqua determined that based on three prior accidents, they had grounds to dismiss the officer. Some three months later his case came to trial and the Judge determined there was insufficient evidence to prove the officer had violated a traffic ordinance and found him not guilty (a case also handled by the FOP/OLC). At the arbitration, the arbitrator determined that the employer had failed to prove that the officer was in any way at fault for the accident. He ordered the officer reinstated with full back pay. The City appealed.

The grounds for appealing a decision of an arbitrator are found in Section 2711.10 of the Ohio Revised Code. The first three paragraphs of the section concern fraud, corruption or misconduct. The City did not allege any of these reasons. The fourth paragraph states that an award may be vacated if "the arbitrator exceeded their powers, or so imperfectly executed them that a mutual, final and definite award upon the subject matter submitted was not made." It was upon this ground that the City perfected its appeal. The City also alleged that the arbitrator's award "violated public policy" and that the arbitrator applied a standard of proof which was contrary to the standard contained in the agreement.

The Court of Common Pleas for Miami County (the county in which Piqua is located) agreed with the City and overturned the arbitration award, remanding it back to the arbitrator for apparently a different decision. The FOP/OLC appealed that decision to the Court of Appeals.

In overturning the decision of the Court of Common Pleas, the Second District endorsed the principal that wherever possible the courts should defer to arbitration as a cost and time effective way of dealing with disputes. It concurred with the FOP/OLC attorney that the Court of Common Pleas erred when it determined that the arbitrator exceeded his power, erred when it determined that the arbitrator imperfectly performed his duties so that the arbitration decision was both arbitrary and contrary to law, erred when the Court substituted its interpretation of the collective bargaining agreement for the interpretation made by the arbitrator, and erred when it misapplied the test for overturning and arbitrator's award.

The Appeals Court noted that an arbitrator, who derives his authority from the collective bargaining agreement, has considerable leeway unless limited by the agreement. By applying the rules of the American Arbitration Association (as mentioned in the contract), the arbitrator used his best judgment to settle the dispute. The parties to the arbitration know that in advance. To allege that the arbitrator did not have that ability when a decision is adverse to one party is disingenuous. The arbitrator was empowered to use whatever standard of proof he wanted (the employers claim that he should have used a "preponderance of evidence" standard rather than a "clear and convincing" standard was not contained in the agreement. It is in civil service statutes.). As it was, by any standard the employer did not have "just cause" to discipline the grievant/appellant.

The FOP/OLC raised another issue which the Court of Appeals did not consider. They FOP/OLC prayed for interest on behalf of the appellant. Since the trial court vacated the arbitrator award, it did not address the issue of interest, therefore there was no record of a ruling on interest which the appellate court could consider. The issue of interest was remanded to the trial court .

Do you want to receive information about the latest legislation that could affect you? Do you want to be notified when we ask members to contact these legislators to voice your opinion? Do you want to know about upcoming events? Do you want to know about brothers or sisters who need your help? If so, please send your email address to acrawford@fopohio.org, it really is very important to the success of this organization to be able to communicate with members!

FOP OF OHIO CALENDAR OF EVENTS

Climb for a Cure (Cystic Fibrosis Fundraiser)	February 27	Columbus
Polar Bear Plunge (Special Olympics)	February 27	Geneva Lake
2nd Annual FOP friends and family cruise	April 18–26	Western Caribbean
National Peace Officer Memorial Day	May 15	
Greater Cleveland 25th Annual Peace Officers Memorial Service	May 20-23	Cleveland
FOP of Ohio 76th Annual Conference	July 17-20	Independence