

# THE CHRONICLE

## BOARD MEMBER MESSAGE FROM LOCAL ASSOCIATE TO OLC BOARD MEMBER

In June 2005, I started my career as a deputy with the Montgomery County Sheriff's Office. At the time, I didn't really know anything about labor unions or collective bargaining. I was told during my new hire orientation the deputies were represented by the Ohio Labor Council (OLC) and I was provided a copy of the current contract and a blank membership card. I completed that membership card in my new hire packet and have been a member of the OLC ever since then.

I thought becoming a member of the OLC was an extra insurance policy every deputy or officer needed because of the nature of the work we do. Through the years I became more involved with my department's bargaining unit committee and eventually I was selected to be the Associate, which I have been for many years now. One of my goals as the Associate was to keep track of the membership status of all our deputies and provide all of them with the opportunity to become members of the OLC. I reach out to all our new hires and encourage them to complete membership cards by explaining the benefits of being a member. It's not always an easy task since my department has over 170 deputies, but it is well worth the time because I think it is necessary.

There's only been one time during my career where I have been the focus of an internal investigation for a use of force complaint. The



Linda Shutts  
Elected Board Member

incident was well documented and there were no foreseeable issues with the force used, but I felt even more confident with the situation knowing I would have my OLC Staff Representative with me during my internal interview.

My department has unfortunately seen its fair share of officer involved shootings and critical incidents over the years, many of which have occurred while I have been the Associate. The dedication and response time I have seen from the OLC has been outstanding. Obviously not all critical incidents occur during normal business hours, but that doesn't hinder the response from the OLC. I can recall the incidents that have occurred both in the middle of the night or during the day where I have gotten a phone call from one of my members informing me of a situation. I made the call to 1-800-FOP-OLCI in the middle of the night to initiate the response of the OLC Staff Rep and/or the attorney who will be assigned to represent the member. Being able to talk to an actual person is crucial to relay the necessary information to the OLC so the proper people are notified. Within a matter of just a couple of minutes of making the (cont'd)

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## BOARD MEMBER MESSAGE

### **(CONT'D)**

initial call, I was on the phone with an attorney to brief them on the situation and put them in contact with the member who is the focus of the critical incident. There have also been a couple of times where I have initiated the process by calling our assigned OLC Staff Representative directly. What I have found is no matter how the process is initiated, the OLC has always responded quickly and knows the importance of getting representation for our members and ensuring their safety and wellbeing.

A few years ago, when I received a call asking if I would be interested in filling the open spot on the OLC board as the member at large, I didn't hesitate. I have always been proud of being a member of the OLC because of my experiences and witnessing the dedication of the staff. I wanted to become part of the process to ensure the level of commitment and dedication our staff provides continues. I have no doubt our members receive the best representation from the OLC staff and will continue to do so.

## OLC BOARD MEMBER RETIRES

FOP/OLC Board Member Chris Hamberg recently retired from BCI after a stellar career conducting investigations in Northwest Ohio and beyond. Chris started his career in law enforcement as a Deputy with the Mercer County Sheriff's Office where he will return in retirement as a Lieutenant over investigations. While a Mercer County Deputy, Chris was selected as the Employee of the Year in 2008. This is particularly noteworthy because this recognition was initiated and voted upon by his fellow Deputies. He also received accommodations and certificates of merit for significant investigations he conducted, one of which involved a six-month-old baby abused and murdered by the babysitter after suffering two skull fractures.

As a BCI Agent, Chris received a Certificate of Appreciation in 2018 from the Sandusky County Sheriff for his diligent investigative efforts in solving the cold case homicide of Heather Bogle. This homicide occurred in 2015, with original suspects being local drug dealers. Agent Hamberg was able to re-work the investigation determining that the victim was actually murdered by a co-worker, totally unrelated to the original primary suspects. This investigation received national notoriety.

An example of Chris' character is that when discussing these cases, he makes it a point to note that working these investigations is a group effort where the credit goes to all involved including his fellow Agents and Deputies, along with the crime scene, lab, intel and support personnel.

Chris was an integral part of the FOP/OLC Board and will be missed!



Chris is pictured on the left with FOP/OLC Board President Bruce Szilagyi .

## LEGAL UPDATE

# PRISON RAPE ELIMINATION ACT



**Brian Brenneman**

Staff Attorney

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Congress passed the Prison Rape Elimination Act of 2003 (PREA) after determining that, of the 10,000,000 separate admissions to prisons and jails in 1999, at least 13 percent of the inmates had been sexually assaulted. While insufficient research and data exists to identify the extent of the assaults, it is known that many inmates suffer from repeated assaults. Inmates with mental health illnesses are at an increased risk of sexual assault, and juveniles are five times more likely to be sexually assaulted in adult rather than juvenile facilities.



Congress made several additional findings: most prison staff are not adequately trained; prison rape often goes unreported; prison rape contributes to the spread of disease including HIV and AIDS; prison rape endangers the public safety; prison rape increases the level of homicides in prisons; victims suffer severe physical and psychological effects; prison rape undermines the effectiveness of grant programs; among others.

The overriding goal of PREA is to collect information to develop and provide training to prison staff, as well as provide a clearinghouse for prison administrators. Congress identified nine distinct purposes within the statute: 1) establish a zero-tolerance standard for the incidence of prison rape in prisons in the United States; 2) make the prevention of prison rape a top priority in each prison system; 3) develop and implement national standards for the detection, prevention, reduction,

and punishment of prison rape; 4) increase the available data and information on the incidents of prison rape, consequently improving the management and administration of correctional facilities; 5) standardize the definitions used for collecting data on the incidence of prison rape; 6) increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape; 7) protect the Eighth Amendment rights of Federal, State, and local prisoners; 8) increase the efficiency and effectiveness of Federal expenditures through grant programs such as those dealing with health care; mental health care; disease prevention; crime prevention, investigation and prosecution; prison construction, maintenance and operation; race relations; poverty; unemployment; and homelessness; and 9) reduce the costs that prison rape imposes on interstate commerce.

PREA established a commission of nine members tasked with studying the issue and making recommendations of national standards for enhancing the detection, prevention, reduction and punishment of prison rape. A final rule was issued, adopting the national standards set forth in 28 CFR 115.5 et seq.

The term “prison” for purposes of PREA means any confinement facility of a Federal, State, or local government, whether administered by such government or by a private organization on behalf of such government and includes any local jail or police lockup and any juvenile facility used for the custody or care of juvenile inmates. Lockup is defined as a facility that contains holding cells, cell blocks, or other secure enclosures that are under the control of a law enforcement officer and primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

**PRISON RAPE ELIMINATION ACT (CoNT'D) –**



PREA

Detection Prevention Reduction Punishment

What does this mean for us? PREA requires a prison or local jail to develop a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining its approach to preventing, detecting and responding to such conduct. One of the requirements under PREA is the investigation of allegations of sexual abuse or sexual harassment. This would include allegations against prison staff. Even those allegations that are pre-textual or insufficient on its face will be fully investigated. Members accused of sexual abuse or sexual harassment will likely be reassigned or

placed on paid administrative leave during the investigation. There is no specific timeframe in which an inmate must make an allegation. We are well prepared to manage these complaints as they will mirror any other policy investigation. There are no specific penalties associated with the Act, so standard disciplinary procedures should be applied. Your collective bargaining agreement should govern these investigations like any other investigation.



Negotiations Update



<u>Employer</u>	<u>Wages</u>	<u>Other Details</u>
Euclid Police Department Police Officers and Sergeants	4%, 3%, 3%	A \$1,000.00 equity adjustment during the first year with no change to healthcare
The Ohio State University Security Officers	3.5%, 3%, 3.5%	There was also a \$750.00 bonus for step ups and up to 22% for employees who were on 1st year probation
Erie County Sheriff Administrative, Dispatchers and Sergeants	3%, 3%, 3%	\$2 –\$3 dollar adjustment in first year, added holiday, extra personal day, educational bonus and increased cash sick leave cash out.



## ARBITRATION NEWS

### **"SENT HOME" MEANS JUST THAT**

The Collective Bargaining Agreement (CBA) contained an "Emergency Closings" article that stated:

"When the Mayor or Safety-Service Director declares an emergency and all City departments are sent home, those employees required to still work shall be given their regular day's pay plus one (1) hour compensatory time for each hour actually worked between 8:00 a.m. and 4:00 p.m."

In response to the COVID-19 pandemic, the Safety Service Director closed all city facilities to the general public on March 17, 2020. The Mayor signed a formal declaration of emergency on March 20, 2020. Non-essential employees transitioned to remote work or on-call status. The bargaining unit employees remained at work and felt they were entitled to an additional one (1) hour of compensatory time for each hour worked between 8:00 am and 4:00 pm under the "Emergency Closings" provision. Eight (8) employees filed a grievance protesting the City's refusal to credit them with additional compensatory time.



(Photo by ersinkisacik / Getty Images.)

The City maintained that two (2) conditions must be met for the "Emergency Closings" article to apply: 1) there must be a declaration of an

emergency by the Mayor or Safety Service Director, and 2) all city departments must be sent home. The City argued that emergency meant a brief weather-related circumstance, not a long-term global pandemic. The City also argued that the city departments were not closed or shut down, that the Auditor's Office and Municipal Court remained fully open with all employees reporting to work.

The Arbitrator found that there was an emergency. The Mayor signed a formal declaration of emergency. The "Emergency Closings" article is not limited to only weather-related emergencies but could have been if the parties had so chosen. Further, the City invoked the "Waiver Due to Emergency" article to suspend various provisions of the CBA. The Arbitrator determined that the City cannot invoke an emergency provision in one section of the CBA and then claim an emergency does not exist under a different section.

The Arbitrator also found that it was not necessary for City departments to close, shut down or cease operations. Instead, the compensatory time benefit is triggered when City departments are "sent home". The non-essential employees were transitioned to remote work or on-call status, thus they were sent home. Although the employees in the Auditor's Office and the Municipal Court were not sent home, the Arbitrator noted that they were essential employees. Besides, the Auditor's Office and Municipal Court were semi-autonomous entities and not subject to the authority of the Mayor.



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## OUTCOME

Grievance sustained. The Employer was ordered to credit each employee who signed the grievance with one hour of compensatory time for each hour worked between 8 am and 4 pm from March 23, 2020 through May 12, 2020 (when most public facilities were reopened).

## ARBITRATION NEWS



### **WARNING AND WRITTEN REPRIMAND LACKED JUST CAUSE; FIVE (5) DAY SUSPENSION REDUCED TO WRITTEN REPRIMAND**

The Sheriff issued discipline to a 23-year veteran Sergeant for the following offenses:

- Failing to assist the Ohio State Highway Patrol (warning)
- Engaging in a pattern of unprofessional conduct on two occasions (written reprimand)
- Failure to assist in the apprehension of an escaped inmate (40-Hour Suspension)

The FOP argued that the Sheriff lacked just cause, failed to follow progressive discipline and had violated requirements of the CBA by failing to inform the Grievant when investigations had been completed and/or had failed to complete investigations within the 90-day time limit set forth in the CBA. In addition, the FOP argued that there were no rules that governed the situation regarding the escaped inmate and that one of the incidents had already resulted in a verbal counseling to the Grievant.

The Arbitrator held that the Sheriff had failed to inform the Grievant of the results of the investigation and failed to follow the time requirements set forth in the discipline article of the CBA regarding the charge of failing to assist the OSP and the first charge of unprofessional conduct and therefore did not have just cause to discipline the Sergeant for those incidents.

Regarding the second charge of unprofessional conduct, the Arbitrator held that the matter had already been addressed by the Lieutenant, who had concluded that the Grievant had

not engaged in any significant policy violations and had verbally counseled the Grievant. As a result, the Arbitrator held that issuing any further discipline was “double jeopardy.”

Regarding the charge of failure to assist in the apprehension of an escaped inmate, the Arbitrator concluded that the Sheriff had not established any policy addressing what should take place when a prisoner escapes from a facility that is in another county. The Arbitrator also recognized that the Grievant had taken several actions to address the escape and the likelihood that the fugitive would be returning to the County. The Arbitrator determined that some discipline was justified but that the proper discipline was a written reprimand.



### **OUTCOME**

Grievance sustained in part. The warning and written reprimand lacked just cause. The five-day suspension reduced to a written reprimand.

## **LEGISLATIVE UPDATE:**

The Fraternal Order of Police (FOP) focuses on three pension-related bills: House Bill (HB) 296, HB 94, and HB 492.

HB 296, introduced by Representatives Abrams and Hall, aims to eliminate the difference in employer contributions to the Ohio Police and Fire Pension Fund (OP&F) between police and firefighters. The bill proposes gradually increasing the employer contribution from 19.5% to 24% over four years. Employers contribute 24% to OP&F for firefighters, and this bill seeks to address this disparity. The bill will bring equity to the uniformed services, as police and firefighters receive the same benefits from OP&F despite differences in employer contributions.

# Ohio Police & Fire Pension Fund

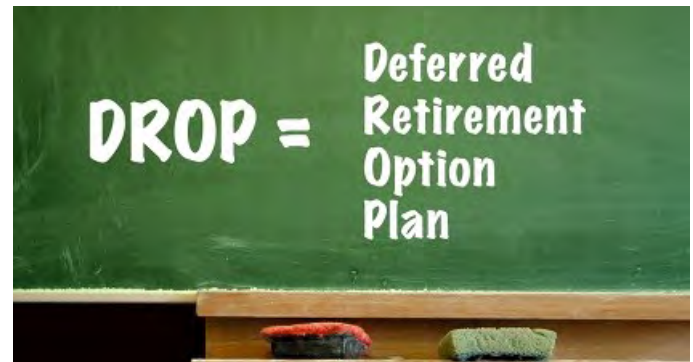
Notably, it has been 40 years since employers increased their contributions, while members of OP&F have made changes to support the system. In 2013, several changes were implemented, including increasing the minimum retirement age by four years, tying members' cost-of-living rates to the CPI, capping them at 3%, and freezing COLAs until age 55. Additionally, members lost their group insurance plan and transitioned to a stipend-based Health Reimbursement Arrangement (HRA) for purchasing insurance in the marketplace.

HB 94 deals with service credit transfers from OP&F to the Ohio Public Employees Retirement System for Law Enforcement (OPERS-LE). Amendments were made to SB 42 of the 130th General Assembly, which came into effect on March 25, 2015, without thorough review by the Ohio Retirement Study Council. One of these



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changes required former OP&F and State Highway Patrol Retirement System (SHPRS) members to work longer in OPERS to retire from OPERS, which negatively impacted lateral transfers and upward mobility for several individuals.



Finally, HB 492, introduced by Representative Kevin Miller, aims to establish a Deferred Retirement Option Plan (DROP) in OPERS-LE. This program, which is voluntary and cost-neutral to the system, allows eligible law enforcement officers to accumulate a lump sum for retirement.

We anticipate swift progress on all three bills after the legislators return from their break after the November election. Please be ready to assist when they return.





## **MY ANNUAL LABOR DAY MESSAGE:**



**Jay McDonald**  
FOP of Ohio  
President  
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Today is Labor Day. Almost every full time sworn law enforcement officer in Ohio is a member of a union. However, many of our members have never worked in law enforcement before collective bargaining existed in Ohio. This includes myself.

We do not really talk about the history of the FOP as much as we should, we should talk more about those who came before us. We should talk more about those who fought for the rights of our members to belong to a union. We do not spend too much time looking to the past to see how we got from an occupation that required our members to work multiple jobs to provide for our families. We have forgotten that the FOP Associates were formed to help us get proper equipment from our employers. It is a far too distant memory that Deputy Sheriffs were fired every time a new Sheriff came into office. Most do not know that a full retirement almost never happened for rank and file Troopers before collective bargaining because you could be transferred for no reason at all, forcing a Trooper to choose between his job and his kid's school, his wife's job, keeping his house. Post academy training did not exist until there were unions.

Law Enforcement Officers are now a part of the middle class. This profession no longer requires you to work a side job to make the mortgage payment. We no longer have to provide our own vests and guns (unless the employer gives you money to do so.) We have better equipment than ever before. We have health care. We have pensions. We send our kids to college now.

No employer gave those things to you. You are not middle class because your employers have become benevolent.

**YOU ARE MIDDLE CLASS TODAY BECAUSE OF THE UNION!** Your family is more secure because of the FOP. You are safer because of the FOP. The families of our fallen are more protected now because of your union, the FOP!

We must remember that we are a part of this Labor Movement. We must remember that we were not just handed all of the advancements of the past 30 years, those who came before us fought for them. They fought, went on strike or had the blue flu, they marched, they protested, they enlisted help from the community. **THEY FOUGHT!**

Remember those that came before us today. Remember them when you go to the ballot box and the choice is between someone who wants to kill your union and someone who supports your union. Remember which union, the FOP, has been fighting for LEO's since 1915. Remember, so-called right to work is **WRONG** but it is not just a threat! It is really that simple. Remember!

In today's environment of continual attacks on our members, we cannot rely on politicians to protect us. They will throw us away if it is in their interest. The only thing we can rely on is our contract and our supporters in the community to rally behind us. Your contract and the FOP will be there for you!

Today especially but also on everyday...remember that we are a large part of the labor movement.

**We are union and we are Proud to Be FOP**





## **STAFF SPOTLIGHT**

### **Rick Paquette, Staff Representative**



**Rick Paquette**  
Staff Representative  
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Rick graduated Magna Cum Laude from Thomas More College with a Bachelor of Business Administration in 2010. Rick served active duty with the United States Marine Corps from 1981 until 1990. While on active duty Rick earned 6 promotions and several awards, including 2 Meritorious Masts. Rick also achieved the rank of Staff Sergeant with the Marine Corps. Rick was hired by the Hamilton County Sheriff's Office in 1990 as a Deputy Sheriff. While on the Sheriff's Office Rick spent eighteen (18) years on the Negotiating Committee for the Deputies, fifteen (15) years as Chairman of the Negotiating Committee. Rick found that the disparity in treatment and discipline of the bargaining unit members and selective enforcement of the rules and policies inspired him to seek out the position of Staff Representative with the Ohio Labor Council after he retired from the Sheriff's Office in 2012. Rick was hired as a full-time Staff Representative in 2017. Rick is known for his exceptional negotiation skills, having successfully secured numerous contracts that enhance working conditions, benefits and job security for law enforcement officers and support personnel. Rick has steadfastly advocated for law enforcement officers' rights and well-being. With his extensive background in labor relations and deep understanding of the unique challenges law enforcement faces, he is a tremendous asset to the staff and members of the OLC.

### **Diane Fuchs, Account Executive**

Diane Fuchs is a seasoned accounting professional with over 10 years of experience in payroll management, accounts payable, and comprehensive accounting functions. Diane is known for her meticulous attention to detail and strong organizational skills, she excels in managing payroll processing, budgeting management, and optimizing accounts payable workflows. Diane is adept at using advanced accounting software and has a proven track record of implementing efficient financial processes that enhance overall operational efficiency. In her current role at the FOP, she is recognized for her reliability, quick turnaround time, integrity and dedication to financial accuracy. Diane began her employment with the FOP in August 2015 working out of the Columbus Office.



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Account Executive  
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## Pass Along...



Use the QR code to access the dues card!

*Have you completed your dues card?*

*Do you need to update the information?*

The FOP/Ohio Labor Council, Inc. tries to make sure that the information that we gather is correct. If you are unsure if you have filled out a dues card, or if the information on the dues card is correct you can now follow the QR code and complete it electronically.

Just open your phones camera until you see the yellow box and then tap within the box. Just make sure you have an account at the FOPohio.org website!

If you have any questions, contact Aaron Crawford, Deputy Director.  
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Stay Safe!

