

THE CHRONICLE

MEMORIAL MESSAGE

WE HONOR OUR FALLEN OFFICERS

BY: DAN OZBOLT,
MEMBERSHIP AND PUBLIC RELATIONS COORDINATOR

On May 2nd, Ohio's fallen Officers from the preceding year were honored at the 36th Ohio Peace Officers Memorial Ceremony. This solemn event started with a procession of hundreds of cruisers and police motorcycles from the State FOP Offices in downtown Columbus to the Ohio Peace Officers Memorial on the grounds of OPOTA.

The eternal flame at the Peace Officers Memorial reminds us that we will forever honor the men and women who knowing the risks, made the ultimate sacrifice on our behalf.



Line-up for the Memorial Motorcade in Columbus, Ohio



Dan Ozbolt at the National Memorial
Membership and Public Relations
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The fallen Officers are as follows:

Deputy Matthew E. Yates, Clark County Sheriff's Office – Deputy Yates, who was a member of the special operations team, was shot and killed by a mentally disturbed suspect who had earlier shot and killed his own mother. Deputy John Loney said his friend left a lasting impression on the community: "There is not a day that goes by that you don't hear something about Matt, or somebody asks about him." Even inmates in the county jail were moved by his death, Loney said. "Some of them went so far as to write 'RIP, Deputy Yates' on the windows. That says it all about Matt right there."

Officer Dominic M Francis, Bluffton Police Department - Officer Francis lost his life after being struck by a motor vehicle operated by a fleeing suspect. Officer Francis was deploying stop-sticks at the time of his death. "His involvement in the community went a lot further than just his dedication to serve and protect," Bluffton Police Chief Ryan Burkholder said. "He was always willing to be a teacher and mentor, both inside the department and outside

INSIDE THIS ISSUE:

<i>Memorial Message</i>	1-2
<i>Legal Update</i>	3
<i>Arbitration News</i>	4-5
<i>Legislative Update</i>	6-7
<i>Staff Spotlight</i>	8
<i>2024 Motorcade and Memorial Week Pictures</i>	9
<i>40th OLC Annual Meeting</i>	10
<i>OIS Training/ Corrections Week Pictures</i>	11
<i>Training Opportunity</i>	12
<i>Negotiations</i>	13
<i>Passalong</i>	13

MEMORIAL MESSAGE (CONT'D) —



the department, and that speaks volumes about his character and personality.”

Deputy Daniel J. Kin, Wyandot County Sheriff’s Office – While transporting a prisoner, Deputy Kin was fatally injured in a crash. Sheriff Frey said that “Dan was a very devoted father, husband, son, brother and co-worker. He was very passionate about his family. I always describe Dan as a ray of sunshine. He had a passion for the job and a positive outlook on life. He could walk into any room and just brighten up everybody’s day.”

Agent John D. Stayrook, Medina County Drug Task Force – Agent Stayrook died after contracting COVID while assisting the Brunswick Police. Medina County Sheriff Terry Grice said Agent Stayrook dedicated himself to the task force’s mission. “His passion to do the right thing was very evident,” Grice said. “He was a remarkable agent and a tremendous person and will be missed by all those who had the privilege to know him.”

Patrolman Sean E. VanDenberg, Lawrence Township Police Department – Patrolman VanDenberg died of COVID, which he contracted from an arrestee. Chief Brown stated “Sean gave people the benefit of the doubt and did everything he could to put them in a better place. It didn’t matter whether a person was the victim of a crime or the suspect; he always helped them be better at that moment.”

Deputy Robert “Craig” Mills, Butler County Sheriff’s Office – Deputy Mills died after contracting COVID on the job. Sheriff Jones stated “you couldn’t ask for a better deputy. His job was to

find people and serve warrants, and nobody did it better. Other agencies from our county and around the state would even turn to him if they needed help. He had an unbelievable instinct and an amazing rapport with people.”

Officer Edward L. Stewart, Akron Police Department – Officer Stewart died after contracting COVID on the job. Lt. Michael Miller stated that “even after Ed became sick, he said he didn’t want to let anyone down. That struck me because, even as uncertain as his situation was, his thoughts were on serving others. He set the bar high. This department and this community lost a great man.”

Officer Kenneth C. Jones, Akron Police Department - While responding to a domestic assault of a child, Officer Jones transported the suspect back to the police station when he was beginning to have chest pains. Officer Jones later died of a heart attack related to this incident. The soft-spoken Jones was a “gentle giant” whose calmness had a way of defusing tense situations. His colleagues said even the people he interacted with on the streets or transported to jail or mental-health facilities seemed to appreciate his empathy and respected the way he went about his job.



Let us never forget.....

LEGAL UPDATE

CRIMINAL CHARGES DISMISSED BASED ON GARRITY



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In today's world, many people want to remove the rights of police officers; however, the courts have stated that some of those rights are ingrained in our Constitution. In *Garrity v. New Jersey*, the United States Supreme Court held that government employees cannot be compelled to testify against themselves in a criminal matter. A law enforcement officer who is involved in an administrative investigation can be compelled to provide testimony against his own interests; however, those statements cannot be used against him in a subsequent criminal case. The FOP/Ohio Labor Council recently argued a case involving the use of *Garrity* materials.

THE GARRITY STATEMENT

On (date), (time) at (Location), I, (Name), was ordered to make this statement/report by (Name and rank). I submit this statement/report at his/her order as a condition of my employment and upon pain of discipline/termination. I demand a representative/attorney be present before proceeding with any interview or writing any report. I hereby invoke my rights under *Garrity v. New Jersey*, 385 U.S. 493 (1967) and *Spevak v. Klein*, 385 U.S. 551 (1966).

It is my belief and understanding that this report/statement is for internal purposes and will not and cannot be used against me in any subsequent proceeding.

This statement/report is made to the best of my memory, knowledge, and belief. I reserve the right to amend or change this statement to correct or explain any unintended mistake, conflict, or contradiction, without subjecting myself to a charge of untruthfulness and demand the opportunity, before this matter is concluded, to review any and all evidence in this matter, including, without limitation, the statements and reports made by others.

For any and all other purposes, I hereby invoke my constitutional right to remain silent and to consult with an attorney pursuant to the Sixth, Fifth, and Fourteenth Amendments to the U.S. Constitution and any other rights prescribed by law.

A Police Lieutenant was assigned to his department's detective division and oversaw the family victim unit. The Lieutenant's job duties included investigating potential Internet Crimes Against Children (ICAC). Suspicions arose that he was not properly following procedures regarding these investigations which led to an Internal Affairs investigation. The Lieutenant was given a *Garrity* notice and made several statements in the Internal Affairs investigation which were reduced to writing.

Upon completion of the Internal Affairs investigation, the file was sent to the Law Director's Office. A criminal investigation was launched and the criminal investigator was given the Internal Affairs file which contained the statements made by the Lieutenant under *Garrity*. The Lieutenant was charged with 14 Misdemeanor counts of Dereliction of Duty. The Lieutenant entered a Not Guilty plea to all charges and filed a motion for a *Kastigar* hearing and an alternative motion to dismiss the charges. In *Kastigar v. United States*, the United States Supreme Court established a two-prong test that the prosecution

must satisfy when a witness makes a claim that his immunized testimony was used: 1) The State must deny any use of the defendant's immunized statements; and 2) the State must affirmatively prove that all evidence to be presented at trial was derived wholly independent of the immunized statements.

Following the *Kastigar* hearing, the Trial Court dismissed the charges against the Lieutenant because *Garrity* material was in the possession of the Law Director's Office for months prior to the charges being filed but that the State failed to affirmatively establish that the *Garrity* materials were not used in the criminal investigation or in the Law Director's decision to file charges. Further, the State failed to affirmatively prove that the evidence it intended to use at trial was derived from legitimate sources wholly independent of the *Garrity* materials.

The State filed an appeal with the Seventh District Court of Appeals, claiming that the criminal investigator did not use the *Garrity* materials and that the mere possession of the *Garrity* materials in the Law Director's Office was not in and of itself a *Garrity* violation. On behalf of the Lieutenant, the FOP/OLC argued that, although the State's criminal investigator testified that he disregarded the immunized statements, the State failed the *Kastigar* test since there was no testimony given to ascertain that the evidence to be presented at trial was obtained wholly independent of the immunized testimony. The Court of Appeals agreed, stating that the State did not offer any evidence, let alone prove, that the *Garrity* materials were not used by the Law Director's Office in deciding to file the complaints against the Lieutenant. The Law Director's Office was in possession of the *Garrity* materials for a significant amount of time and the Law Director was the one who filed the probable cause affidavits to charge the Lieutenant. The Court of Appeals affirmed the Trial Court's dismissal of all charges.

State v. Flynn, 7th Dist. Mahoning No. 23MA0076, 2024-Ohio-941

ARBITRATION NEWS

TRANSFER LIMITED TO 60 DAYS IN 12-MONTH PERIOD

The Collective Bargaining Agreement (CBA) contained a provision limiting temporary transfers to 60 days during any 12-month period, except where a temporary transfer is made for the period during which a member performs light duty work within his classification because of disability. The CBA defined a transfer as a change in a member's regular shift and/or facility, and defining a vacancy as a newly created position to be filled, an opening which results from a transfer, except a temporary transfer, or a position to be filled resulting from terminations, resignations, and/or promotions.



The Grievant was a Correctional Program Specialist (CPS). CPSs worked at one of two facilities: the downtown facility or the Jackson Pike facility. The Grievant had worked downtown since she was hired. A different CPS who worked at Jackson Pike was separated from employment, leaving a vacancy which was not posted or filled. A few months later, the Grievant was informed that she would be permanently transferred to Jackson Pike to do prisoner assessments, which was a task that had not previously been performed. The Grievant objected to the transfer. Despite her objection, the Grievant was transferred to Jackson Pike for more than 60 days.



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The Union argued that the Employer violated the CBA by assigning the Grievant to Jackson Pike for more than 60 days, which amounted to an involuntary transfer to a vacancy that should have been posted under the terms of the CBA.

The Employer argued that there was no requirement to post the assignment at Jackson Pike because it was not a new position or vacancy; performing assessments was a duty contained in the job description of a CPS. Further, only temporary transfers are time-limited, and this was a permanent transfer.

The Arbitrator held that the Grievant's assignment to a different facility was a transfer under the CBA. The Grievant was transferred to the vacancy at Jackson Pike that was created when another CPS was separated from the position. Because the CBA limits temporary transfers to 60 days within a 12-month period, it made no sense to allow involuntary permanent transfers. The Employer violated the CBA when it transferred the Grievant to the vacancy at Jackson Pike for more than 60 days instead of posting the vacancy and filling it in accordance with the CBA.



OUTCOME

Grievance sustained. The Employer was ordered to return the Grievant to her regular assignment and to count the days that the Grievant was on temporary assignment against the 60-day limitation on temporary transfers.

ARBITRATION NEWS

MITIGATING FACTORS RESULT IN DEPUTY WINNING HIS JOB BACK

Grievant was on patrol when he heard that a vehicle had rammed the cruiser of a fellow deputy. A pursuit ensued, with the Grievant joining the pursuit, reaching speeds of 80 to 100 miles per hour through commercial and residential areas. The suspect's vehicle ultimately went off the road and came to a stop. Deputies approached the driver's side door which could not be opened, the window was up and the glass tinted so they could not see what the driver was doing. As the deputies yelled at the driver and beat on the window with their batons, the Grievant approached the vehicle from the passenger side and extracted the suspect from his vehicle through the open passenger window. During the extraction, the grievant struck the suspect once in the head and kicked him after he fell to the ground. Grievant responded to suspect's plea to "go home" with the response "You ain't going home, you're going to jail m.....f....." Shortly thereafter, while assisting in a search of the vehicle, Grievant pulled the suspect's vehicle door open further than it was designed to be opened, resulting in damage to the door.

The Employer terminated the Grievant for using unreasonable force, being unprofessional or discourteous, unethical conduct, and intentionally damaging property due to anger management. The Employer argued that there was "just cause" for the termination, stating that progression of discipline did not need to be followed due to the severity of the Grievant's actions. The Employer argued the Grievant's use of force was unreasonable, that he had received recent training on use of force protocols, that his response to the suspect's pleas to go home was unprofessional and violated policies on

de-escalation, and by opening the door as he did, showed a lack of being able to control himself.

The Union argued that Grievant's actions were reasonable under *Graham v. Connor*, 490 U.S. 386 (1989), that the Grievant was justified in punching the suspect because the Grievant could not see the suspect's hand and had a concern that he might have a weapon and that the kick to the abdomen was justified because the suspect was in a position that would allow him to jump up and run away. The Union also argued that the Employer did not follow progressive discipline, that the Grievant's response to the suspect, regardless of the words used, was not "just cause" for termination, the evidence attempting to prove he intentionally opened the door too far and damaging it was insufficient, and the discipline issued was not consistent with the prior applications for discipline to other employees.

The Arbitrator considered the Grievant's 21-years with the Sheriff's Office, the lack of any prior discipline, the heightened tension caused by the pursuit and his potential for rehabilitation as mitigating factors in determining that termination was excessive and that a lesser penalty was warranted.



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OUTCOME

The grievance was sustained in part. The Grievant's termination is vacated and Grievant must satisfactorily complete retraining and anger management.

LEGISLATIVE UPDATE:

The top National Fraternal Order of Police legislative priority is the passage of H.R. 82 / S. 597, the Social Security Fairness Act. This legislation would eliminate the Government Pension Offset and the Windfall Elimination Provision, two laws that are very harmful to our members.

What is the Windfall Elimination Provision or WEP? You will be penalized if you work for an employer who doesn't withhold Social Security taxes from your salary, any retirement or disability pension you get from that work can reduce your Social Security benefits. That means all public employees in Ohio are impacted, even if you worked in a private sector job before, during or after your public sector job. Once you reach an age where you can draw Social Security, your payment will be reduced by up to 60% compared to someone who paid the exact same amount you did but does not have a public sector pension.



Senator Sherrod Brown

What is the Government Pension Offset or GPO? The GPO reduces the Social Security spouse's or widow(er)'s benefits of most people who also receive a pension based on government employment not covered by Social Security. The Social Security spousal benefit is reduced by an amount equal to two-thirds of the noncovered government pension (i.e., a 67% offset).

As you can see, this extremely unfair rule that has been in place since the Reagan Administration and it needs to be repealed. So, where do we stand on this important legislation? There are 332 co-



Jay McDonald
FOP of Ohio
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sponsors in the US House of Representatives for H.R. 82. All Ohio representatives except Jordan, Wenstrup, Davidson and Latta are currently signed onto the bill. This is the most co-sponsors we have ever had for this legislation. In the US Senate, there are 59 co-sponsors to S. 597 which is the Senate version of this bill. Senator Sherrod Brown is the primary sponsor of this legislation in the Senate and Senator JD Vance is also signed on as a supporter of the bill.

In fact, Senator Brown held a hearing on his bill in Ohio on June 7 and FOP Lodge 9 President Brian Steel testified in support of the bill on behalf of the Fraternal Order of Police before a packed room at the IAFF Local 67 in Columbus.

National President Patrick Yoes released a statement that read in part "The FOP is very grateful to Senator Brown, the sponsor of this legislation, for his leadership and hard work on this issue," Yoes said. "We have been advocating for the repeal of the WEP and GPO for over two decades, and after two hearings in the House this Congress, I am glad that this issue is receiving the attention it deserves in the Senate. I am proud that Brian Steel, President of Capital City FOP Lodge #9 in Columbus, is among those who will be testifying in favor of S. 597, the Social Security Fairness Act."



FOP Capital City Lodge #9 President Brian Steel.

LEGISLATIVE UPDATE: (CONT'D)

So, as you can tell, 332 members of the US House of Representatives is more than a majority of the 435-member body. 59 Senators is more than half of the 100 Senators we have in total. So, what are the chances that we can finally pass this bill and our members will get the same Social Security benefits as anyone else who paid the exact same amount of money as our people have? That answer is unclear, but we must keep pressing the issue. We should hold all those who say that they support law enforcement but then turn around and say we deserve a 60% Social Security penalty to task. Our members **EARNED** these dollars and they deserve all of our best efforts to collect them for these retirees.

You can learn more about the WEP and the GPO by clicking this link: <https://crsreports.congress.gov/product/pdf/IF/IF10203>

Please make sure the Fraternal Order of Police and the FOP, Ohio Labor Council have your email address and that you follow the Facebook page at <https://www.facebook.com/fopohio> to stay on top of the important issues that impact all of us.

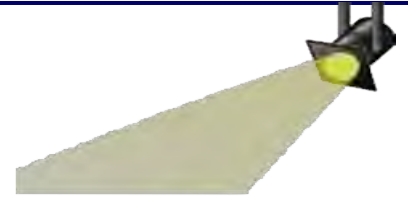
Fraternally,

Jay McDonald

Legislative Chair – FOP of Ohio



STAFF SPOTLIGHT



Chuck Aliff, Staff Representative



Chuck Aliff
Staff Representative
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Chuck Aliff has been a Staff Representative for the FOP/Ohio Labor Council since 2015. Prior to coming to the FOP/OLC, Chuck retired as a Sergeant from the Cleveland State University Police Department, where he was involved in providing in-service training to officers in various forms of use of force, e.g., firearms, defensive tactics, chemical agents, and conducted energy devices. While in law enforcement, Chuck was a member of FOP Lodge #124 and also served as the internal OLC union associate for sixteen years.

Chuck is a thirty-year veteran of the United States Air Force and the Ohio Air National Guard, having retired as a Command Chief Master Sergeant. In this capacity, Chuck was the senior enlisted advisor to the commander responsible for matters related to readiness, training, professional development and effective utilization of the unit's enlisted Airmen. As a result of the 2001 terrorist attacks on our Country, Chuck was mobilized in support of Operation Enduring Freedom and later deployed to Iraq, in direct support of Operation Iraqi Freedom.

Chuck, in his early years, was active in the Ohio and International Police Olympics, participating in the triathlon, mountain bike, 5k and 10k road races.

Chuck earned a Bachelor of Arts Degree in Economics from Cleveland State University.

Peggy Middendorf, Account Executive

Peggy Middendorf has worked in several roles with the Fraternal Order of Police in her 35 years working with the FOP. Peggy currently handles all incoming revenue for the FOP, OLC, 222, PAC and FOP Foundation. Peggy is comprehensive and efficient in all the accounting functions and serves as backup to the payroll and accounts receivable. In addition, Peggy serves as the Assistant to the Office Manager.

Peggy communicates with the FOP/Ohio Labor Council Employers and implements invoices and collects dues revenue for the Ohio Labor Council, Inc., while maintaining the database of OLC members.

Peggy excels in using the Microsoft suite of programs and accounting software and database management. Peggy has a proven record of handling all conference registration materials for both the FOP and OLC annual conferences with efficiency.

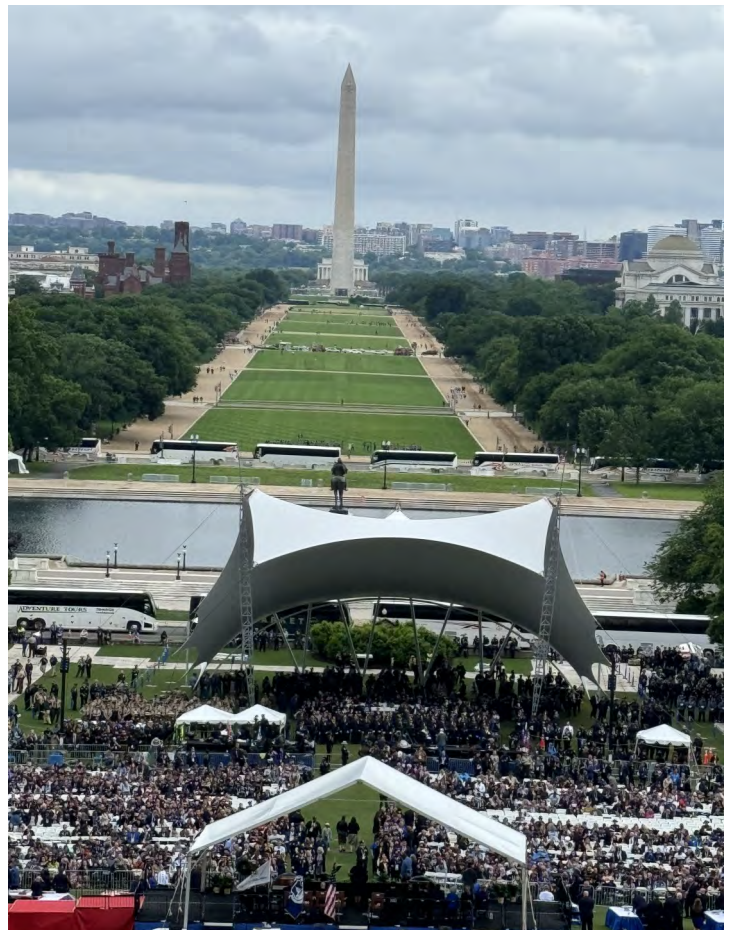


Peggy Middendorf
Account Executive
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2024 FOP MOTORCADE AND MEMORIAL WEEK



Motorcade officers standing alongside Lieutenant Governor Jon Husted



Arial view from Memorial Week in Washington, D.C.



2024 Memorial Motorcade to OPOTA from the FOP State Office.

2021-2024 SUMMIT COUNTY RETIREMENT DINNER



**Summit County Deputies
Fraternal Order of Police
Lodge #139**

2021-2024

Retirement Dinner

May 18, 2024

40TH FOP/OHIO LABOR COUNCIL ANNUAL CONFERENCE



Lucy DiNardo, Staff Representative receiving her award for 20 years of Service from Aaron Crawford, Deputy Director



Michael Piotrowski, Staff Attorney, receiving his award for 25 years of Service.



Otto Holm, Staff Representative receiving his award for 30 years of Service.



Administrator Jessica Looman, Wage & Hour Division, Department of Labor.



Chris Green, Esq., Associate General Counsel National FOP and FOP OLC Executive Director Gwen Callender.



Administrator Looman and her father John Looman. (Retired OLC Operations Coordinator)



2024 OLC 40th Annual Meeting attendees.

OFFICER INVOLVED SHOOTING TRAINING OLC & BCI



Huber Heights, Ohio, May 9, 2024



Deirdre DeLong, CIRs Director

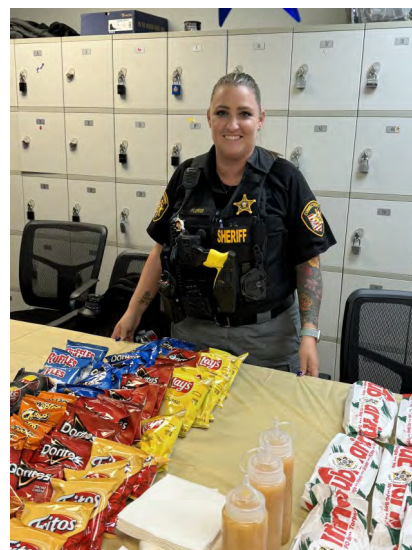


OLC Staff Representative, Rick Paquette and
OLC Staff Attorney, Keith Washburn

CORRECTIONS WEEK



Recognizing National Corrections Employee Week -
Sergeant Hocker of the Cuyahoga County Sheriff's Office



Delaware County
Corrections Deputy Kelly
Floridian during
Corrections Week on
May 11th.

Training Opportunities



UNIQUE TRAINING OPPORTUNITY

Officer Involved Shootings/Critical Incident & Employee Rights Training

Topics

Immediate Steps to Protect Your Rights After Scene is Secure.

What to Expect in the BCI Investigative Process

FOP Critical Incident Response Service

Presentation and Q&A from an Involved Officer

Garrity and other Employee Rights

Instructors

BCI Special Agent

FOP/OLC Staff Representative and Attorneys

FOP Critical Incident Response Program Coordinator

Involved Officer

Financial Wellness (1 hr. CPT for OP&F Officers, if your Chief Approves)

Date, Time & Location

Monday, September 9, 2024, from 9:00 a.m. to 4:30 p.m.

FOP Lodge 127

255 S. 6th Street

Newark, OH 43055

Free lunch and beverages will be provided by the FOP/OLC

Please RSVP asap to Dozbolt@FOPohio.org



Negotiations Update



<u>Employer</u>	<u>Wages</u>	<u>Other Details</u>
City of Shelby	18% with 12 % first Year	Increased Sick time, Added a holiday, and increased Shift Differential
Mt. Vernon	5%, 5%, 5%	160 Max for comp time with full cash payout 12/31, Increase in Longevity, and Life Insurance increase to 50k
Nelsonville (New Unit)	19%, 4%, 4%	Increased Shift differential, Educational Bonuses, Revised Annual Fitness bonus, Special Duty wage.

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.
ACrawford@fopohio.org

