FOP Ohio Labor Council, Inc.

June 2023

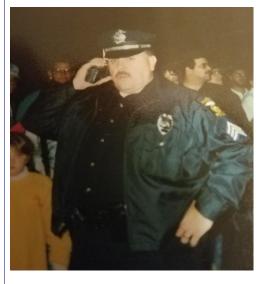


BOARD MEMBER'S MESSAGE WORDS OF WISDOM

BY: MIKE BAMMANN, OLC BOARD VICE CHAIRMAN

I have been fortunate to have an enjoyable and fulfilling career in law enforcement that not only enabled me to put a lot of bad individuals in prison but also to pay the bills and raise a family. It didn't start so easily but without the union, it would have been much more difficult if not impossible.

My first experience with a union took place in the private sector in 1966 while in junior high school working in a local grocery store. After graduating from high school in 1969, I left the store and began working in a local foundry and joined the IBEW local where Ι served on numerous negotiating committees and held several positions on the executive board.



Mike Bammann working night shift at a parade in late 1989 in Mansfield, Ohio.



In 1977, before many of you were born, I joined the Mansfield Police Department. At this time, there were no collective bargaining agreements and no collective bargaining laws, and we were forced to engage in what we called "collective begging". Mv starting annual salary was \$10,500 with a \$300.00 annual uniform allowance. Overtime was minute for minute with no guaranteed minimums. They could also fire you if they didn't like the way you looked. As a result, we had to engage in some unpleasant risky actions as leverage to protect our careers and provide for our families.

Things have come a long way since the passage of collective bargaining. When the FOP Ohio Labor Council was created, my FOP Lodge entered into a service agreement with the OLC, and they became our labor representatives. Things then began to improve exponentially with salary and benefits.

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WORDS OF WISDOM (CONT'D)

During my 31-year career at the Mansfield Police Department, I served on every contract negotiating committee with the majority as the Bargaining Committee Chairman. I was the Labor Council Associate for the Patrolman's Unit until my promotion to Sergeant, at which time I became the Associate for the Supervisors Unit and held that position until my retirement in 2008. In 1998 I was appointed to fill an open elected position representing Municipal Officers on the Executive Board of the Labor Council. I currently serve as the Vice Chairman of the OLC Executive Board, an honor that I have had for several years. In addition to my OLC duties, I am the President of FOP Lodge 32 in Mansfield/Richland County and have had the privilege to do so for the past 30 years.

From someone who began a career when Law Enforcement was compensated very poorly with few benefits and participated in the movement that has brought us to where we are today, I can tell you that collective bargaining is sacred and should be protected at all costs. I have walked in your shoes and can say with the utmost confidence that no labor organization can represent Law Enforcement better than the leadership and staff at the FOP/Ohio Labor Council. To all my Brothers and Sisters in law enforcement, stay safe, well and take care of yourself and each other.



Still looking the part while taking a break from his tireless job working with the Metrich task force for Mansfield. A long bike ride to the water to help clear the mind.

EXECUTIVE DIRECTOR'S MESSAGE

RESPECT. HONOR. REMEMBER.

With bittersweetness, the month of May is when we along with many Americans honor the sacrifices made by those in blue who have given their lives for their fellow citizens during the previous year.

On May 4th, the Ohio Peace Officers Memorial Motorcade began at the FOP of Ohio in downtown Columbus where hundreds of Officers in cruisers and motorcycles gathered before traveling in formation to the Ohio Peace Officers Memorial in London.

If you have not done so already, I encourage you to visit the National Law Enforcement Officers Memorial in Washington, D.C., and the Ohio Fallen Officers Memorial Wall on the grounds of OPOTA in London. These memorials bear the names of all 829 Ohio Law enforcement Officers who have died on the job. The eternal flame at the Ohio memorial symbolizes our commitment to never forget those who have perished and serves as a reminder of the risks our brave men and women face every day while protecting the home front.

Always know that your FOP/OLC Staff Representatives, Attorneys, Paralegals, Administrative Staff and others at the FOP/OLC



Gwen Callender Executive Director GCallender@fopohio.org

work tirelessly to improve the working conditions and benefits of our members. We strive to improve your livelihood and we strive to keep your name off that wall.

The FOP/OLC takes pride in being the *Protector of the Protectors!*



The following Officers were honored for the sacrifice they made and the suffering their loved ones and colleagues have since endured.

FALLEN HEROES

Deputy Matthew E. Yates, Clark County Sheriff's Office

Officer Dominic M. Francis, Bluffton Police Department

Deputy Daniel J. Kin, Wyandot County Sheriff's Office

Officer Kenneth C. Jones, Akron Police Department

Officer Edward L. Stewart, Akron Police Department

Deputy Robert C. Mills, Butler County Sheriff's Office

Patrolman Sean E. Vandenberg, Lawrence Township Police Department

Agent John D. Stayrook, Medina County Drug Task Force

LEGAL UPDATE

<u>COURT DENIES PLAINTIFF'S MOTION TO OBTAIN</u> INDENTYFYING INFORMATION OF DEFENDANT JOHN DOE

The City's Police Department operated a Facebook page that was open for public viewing and commenting. Comments were made on the Facebook page by anonymous accounts, alleging that the Police Chief was unfit to be Chief and implied that she may be involved with the Deputy Chief. An email from a fictitious account was also sent to City Officials alleging the Chief was unfit to hold the position of Police Chief and that her leadership style had decreased morale in the Police Department. The Chief and the City filed a complaint against Defendant John Doe for defamation. Plaintiff then filed a motion to authorize discovery to obtain identifying information of Defendant, seeking to obtain user data for the Facebook and email accounts to identify the individual(s) behind the fictitious accounts.

The issue before the Court was the standard to be used when ruling on a motion to authorize discovery to unmask an otherwise anonymous speaker on the Internet. The Court recognized the importance of anonymous speech under the First Amendment, but also noted that the First Amendment does not protect all speech, particularly when vigorous criticism descends into defamation or other tortious conduct. The Court also recognized that defamation suits could be used by public figures solely to unmask the identities of anonymous critics to stifle opposing speech. The Court must strike a balance between one's First Amendment right to speak anonymously and the right of an individual to pursue legitimate, actionable defamation claims in the court system.

Since there was no Ohio court decision on this issue, the Court looked to decisions from other states. The Court examined the four-part test in a case out of New Jersey, which required Plaintiff to: 1) undertake efforts to notify the anonymous user that they are the subject of a subpoena or application for order of disclosure and allow them a reasonable time to respond; 2) identify the specific statement(s) that constitute actionable speech; 3) provide sufficient evidence supporting each element of the cause of action on a prima facie basis; and 4)



Doug Behringer General Counsel DBehringer@fopohio.org

once the first three prongs are satisfied, the court must then balance the defendant's right to free speech against the strength of the plaintiff's case and the necessity of disclosure to allow the plaintiff to succeed. *Dendrite Intern., Inc. v. Doe No. 3*, 775 A.2d 756 (N.J. App. 2001). The Cuyahoga County Common Pleas Court adopted a modified version of the *Dendrite* standard, in which it adopted the first three prongs but rejected the final balancing test as inviting unnecessary judicial activism.

Applying this standard to Plaintiff's motion for discovery, the Court concluded that Plaintiff only satisfied one of the three prongs. The Court found that Plaintiff properly identified the alleged defamatory statements but failed to provide notice to Defendant John Doe of her motion or establish a prima facie case of defamation. In cases involving defamation of a public figure, the Plaintiff must demonstrate that the actionable statements were not only false but that the statements were made with "actual malice" meaning that the statement was made with knowledge of its falsity or with reckless disregard for its truth. The Ohio Supreme Court has established that "opinions", rather than facts, are afforded immunity from liability. Scott v. News-Herald, 25 Ohio St.3d 243, 250 (1986).

The Court reviewed each of the alleged defamatory statements and concluded that all were protected opinions and not defamatory statements. The statements were all hyperbolic, provocative, sarcastic, exaggerated, inane, and the often-crass style of anonymous speech that is characteristic of anonymous speech of social media sites. As protected opinions, the Plaintiff failed to make a prima facie case of defamation.

McLaughlin, et. al., v. John Doe, CV-22-973016, Cuyahoga County Court of Common Pleas



ARBITRATION NEWS

<u>Request To Use Compensatory Time</u> <u>Improperly Denied</u>

The Grievant is one (1) of five (5) full-time nurses in the Jail. They are supplemented by three (3) part -time nurses outside the bargaining unit. The Grievant worked Saturday through Wednesday, with Thursday and Friday as off days. In February, she booked and paid for a flight to Colorado, departing on July 25th and returning on July 29th. In May, she submitted a request for vacation for July 27th through 29th. The Employer granted her request for vacation leave on July 29th but denied her request for July 27th and 28th, stating that one nurse was already off on those dates. The Grievant subsequently requested to use compensatory time on July 27th and 28th. Again, her request was denied for the same reason. The Grievant filed a grievance.

The FOP argued that the collective bargaining agreement did not restrict the number of nurses who may be on leave on any given shift. The FOP pointed to three (3) other agreements for the Deputies, Command Officers and Dispatchers that explicitly limited the number of employees who can be off on leave on any given shift; however, the Nurses' agreement contained such no limitation. The FOP further argued that there was no policy or practice that restricted the number of nurses who could be on leave at any time. The FOP also argued that there was sufficient manpower to accommodate the Grievant's leave request.

The Employer argued that the contract language, stating that compensatory "leave may be granted if sufficient manpower is available to permit comp time leave", is permissive, not mandatory, on the



Kay Cremeans Chief Counsel KCremeans@fopohio.org

Employer and that the determination of whether there is sufficient available manpower is an inherently managerial determination. The Employer further argued that it has consistently restricted voluntary leave to one nurse per shift. Further, the Employer was not required to post overtime to accommodate a request for compensatory time.

The Arbitrator found that compensatory leave is a form of compensation which is payable in lieu of premium wages for overtime work; thus, when an employee requests time off in lieu of wages, that request may not lightly be denied. The Employer violated the agreement by placing a numerical limitation on the number of employees who could be off on each shift that is more restrictive than the plain language of the agreement. By applying an arbitrary rule instead of utilizing the contractual standard, the Employer violated the parties' agreement. A determination of whether the Employer may grant a request for compensatory time should consider only whether "sufficient manpower is available to permit comp time leave." The contract contemplates that the Employer will schedule or reschedule its workforce to maximize its ability to grant requests for compensatory time, including shift trades and scheduling other employees at overtime.

OUTCOME

Grievance is sustained in part. The Employer shall cease and desist from utilizing a numerical limitation in determining whether to grant a request to use compensatory time. The Arbitrator denied the Grievant's request that sixteen (16) hours of compensatory time be credited to her.

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ARBITRATION NEWS

TERMINATION REVERSED BASED ON DOUBLE JEOPARDY

The Grievant was previously suspended for altercations with his girlfriend and was warned that any further similar instances in the 12 months following that discipline could result in termination. Those suspensions were not the subject of this arbitration but referenced solely for the purpose of progressive discipline.

Approximately 7 months later, another incident with a different girlfriend occurred. The girlfriend claimed that she was bitten, choked and assaulted by the Grievant. Grievant claimed that he was attacked by his girlfriend and the two tumbled down the stairs together. The Chief suspended the grievant for 15 days and recommended to the Mayor that he be terminated.

The Grievant was also charged criminally for assault, domestic violence and aggravated menacing. A bond was set that contained a condition that the Grievant have no contact with the girlfriend. Grievant allegedly violated the bond order when he went to a birthday party for the girlfriend's daughter. However, the Grievant's girlfriend and multiple witnesses stated the girlfriend was not supposed to be at the party, but later arrived. As a result of violating the no contact order, the Chief suspended grievant for 15 days and again recommended that he be terminated by the Mayor.

During the investigation of these incidents, the Grievant's former landlord complained to the City that the Grievant had to be evicted due to non-payment of rent for eleven (11) months and also accused him of stealing appliances worth \$1,900 from the house he was renting. The Grievant asserted that the landlord's deceased wife gave him

the appliances and that he was on a lease option to purchase and that he was given possession of the appliances. In his criminal case, the Grievant pled guilty to persistent disorderly conduct. Because of the landlord's accusations and the criminal plea, the Chief of Police suspended the grievant for 15 days and again recommended to the Mayor that he be terminated.

Upon receiving the recommendations of termination, the Mayor terminated the Grievant. Grievances were filed protesting the three (3) suspensions and his termination.

The Union argued that the discipline violated the just cause standard and that the principle of double jeopardy was violated when the grievant was suspended and then terminated for the same incident.

The Arbitrator found the Union's arguments persuasive. Double jeopardy is a key component to a just cause analysis. The 15-day suspensions were full and final disciplines. The termination that followed for the same offense was double jeopardy. An employee cannot be subject to more than one discipline for the same offense. The Arbitrator also found that there were questions of fact in that none of the complaining parties testified at the hearing. The Arbitrator determined that the guilty plea to the criminal offense of persistent disorderly justified 15-day conduct а suspension. The other two 15-day suspensions and the termination were too severe or unproven for the charged offenses.

OUTCOME

Grievance sustained. The Grievant is reinstated with full back pay and benefits except for the 15-day suspension for the guilty plea to the misdemeanor.

LEGISLATIVE UPDATE: RECREATIONAL MARIJUANA HB 168



Jay McDonald FOP of Ohio Legislative Chair IMcDonald@fopohio.org

As the legislature focuses on passing the biennial budget to keep the Ohio government operating by the July 1 deadline, a lot of other legislative activity has slowed down. However, something very important is happening in Ohio during this summer Backers of a recreational slowdown period. marijuana proposal submitted the Ohio to something legislature called an "initiated statute." Citizen groups can gather about 140,000 signatures from registered voters and then present that and their plan to the Ohio legislature. The legislature has 1 year to act on that proposal and if they do not, the citizen group can go back and collect another 125,000 signatures or so and place the issue on the ballot for the voters to This is exactly the process the prodecide. recreational marijuana group called "Regulate Marijuana Like Alcohol" is doing right now. You their website see at https:// can To learn more about the justlikealcohol.com/ of marijuana, you can risks visit this website: https://www.samhsa.gov/marijuana



Assuming they gather the remaining signatures, the issue will be on the November ballot. Under the proposal, people ages 21 and older could purchase marijuana at a state-regulated dispensary, or grow up to six cannabis plants at their primary residence for adult use. Recreational marijuana would be taxed at 10%, in addition to state and local sales taxes. Revenues from the 10% tax would go to

funds to support jobs and economic development, funding and treatment for cannabis addiction and other substance addictions and defraying the costs of regulation and administering the tax. Part of the 10% tax would also go toward "social equity issues" – which would aim to hire people from disadvantaged social and economic groups in the marijuana industry; <u>study and fund criminal</u> <u>justice reform</u>; study and propose policies related to the effects of enforcement of marijuana laws; and track and prevent underage use of marijuana.

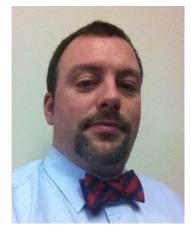
In response to this issue, a bipartisan group of Ohio legislators have introduced HB 168. It is virtually identical in many ways to the proposal from citizen groups except it would state the legislature can have control over the finer details of the bill. If Ohioans legalize the initiated statute proposal, those details are to be decided by the coalition, which is made up by companies in the medical marijuana program. This includes where the tax would be directed. In the legislative proposal, the taxes from recreational sales would be sent to the Ohio Department of Public Safety to combat illegal drug trafficking; to K-12 education; to the Ohio Department of Mental Health and Addiction Services to assist people suffering from chemical or substance abuse: dependency to local governments; and to the state's General Revenue Fund.

Either way, expect to hear more about recreational marijuana this fall.



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STAFF SPOTLIGHT



Aaron Crawford Deputy Director <u>ACrawford@fopohio.org</u>

Aaron Crawford, Deputy Director

Aaron Crawford is currently the Deputy Director of the FOP Ohio Labor Council, as well as the IT and property manager for the FOP of Ohio and the FOP Ohio Labor Council. Aaron started with the FOP of Ohio in 1993, as a clerk responsible for copy, mail, and assorted clerical tasks. As the FOP and FOP/OLC decided to expand their computer network and add internet access and email, Aaron became involved in the technical aspects of those tasks and other communications systems. When the FOP needed a new property manager, his engineering background and mechanical ability were tasked to fill the role. Over the years, he moved from the internal clerical unit to the administrative staff, becoming an assistant to both the FOP Office Administrator and the FOP/OLC Deputy Director. In 2005, when the FOP/ OLC reorganized its administrative staff, Aaron became the Deputy Director along with retaining many of his current roles. As he moves into his thirtieth (30th) year, he continues to enjoy the diversity in his roles at the office and always strives to provide the best service to the members of the FOP, Ohio Labor Council, and the FOP of Ohio.

Otto Holm, Senior Staff Representative

Otto Holm, Jr. has been employed with the FOP/OLC as a full-time Staff Representative since 1995. His labor relations and negotiating experience spans more than 15 years in private-sector manufacturing and nearly 30 years in the public sector.

Today, Otto's expertise includes collective bargaining negotiations, public sector labor law, grievance filings, mid-term contract negotiations and arbitrations. He has served on the Arbitration Association Advisory Board as Vice-President and as the Policy and Ethics Chairman from 1997-2004 and ghost-author of "Did You Know..." for the FOP Journal. He negotiated percentage increases during the economic recession, has represented hundreds of OLC members in discipline cases, and is considered an expert in financial "what-if" scenario planning. Otto recently developed and implemented a joint labor and management healthcare committee in cooperation with many municipalities, saving significant costs for both employees and employers.

Mr. Holm earned his undergraduate degree (BSBA) from Ashland University with a double major in marketing and psychology. He received his Master's in Labor Relations and Human Resources with an emphasis in Labor Law from Cleveland State University in 1992 and is a guest lecturer in the College of Urban Affairs at Cleveland State University. Mr. Holm holds his commission as a Captain as a Merchant Marine for over 16 years. Mr. Holm is active on nonprofit boards, serves as a church deacon, past council Vice President, Endowment committee co-chair, and a member of Blue Coats as well as a member of the American Legion Post 136 St. James City Florida. Mr. Holm resides in Cleveland, Ohio with his wife, Dr. Maudie Holm Ph.D.



Otto Holm Senior Staff Representative <u>OHolm@fopohio.org</u>

SHOUT OUT! GREAT JOB



Officer Ruble pictured with FOP/OLC Staff Rep. Rick Paquette and Executive Director Gwen Callender.



Officer Ruble with FOP/OLC Chairman Bruce Szilagyi and FOP 5th District Trustee Mike Galbraith.

During the 3-18-23, Ohio FOP Board Meeting, Bellbrook Police Officer Tony Ruble was recognized for his heroism in rendering immediate life saving aid to a fellow Officer who sustained a gunshot wound following a training mission. Along with his heroic actions, FOP/OLC Staff Rep Rick Paquette stated that "Officer Tony Ruble is a very proactive associate for his unit and is as much of an advocate for membership as any he's ever seen". Staff Rep Paquette added that "Tony is very humble regarding his actions in saving his fellow Officer's life".



FOP/OLC Staff Rep Otto Holm, pictured with India Birdsong Terry, CEO of the Greater Cleveland Regional Transit Authority, at a ceremony where the GCRTA was awarded \$130 million dollars by the U.S. DOT to replace old passenger rail vehicles. During this ceremony, FOP/OLC members of the GCRTA Police Department were recognized for their efforts to provide one of the safest rail and bus services in the nation. The GCRTA's rail lines provide more than 12,000 trips every weekday, and ridership totaled 18.8 million in 2022 across all bus and rail routes.

CAUGHT ON CAMERA!

OLC STAFF TRAINING AT THE OHIO STATE REFORMATORY





Field Staff Coordinator Mark Scranton and Staff Representative Chuck Aliff work together to share their knowledge regarding fact-findings and conciliation hearings.



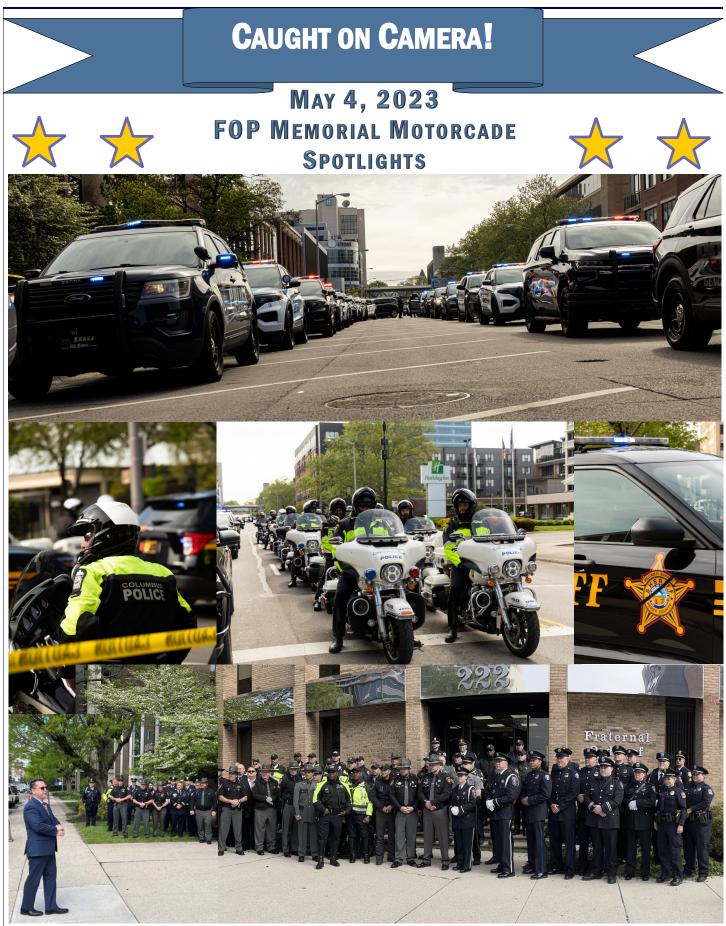
General Counsel Meagan Roeth, FOP Account Clerk Diane Fuchs and OLC Staff Representative Tracy Rader take a lunch break with the Shawshank inmates at the training.



Staff Representatives Lucy DiNardo and Tracy Rader are sharing their knowledge with Brooks.



Staff training on Fact-finding Preparation.



Training Opportunities





UNIQUE TRAINING OPPORTUNITY

Officer Involved Shootings/Critical Incident 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

Instructors

BCI Special Agent FOP/OLC Staff Representatives FOP Critical Incident Response Program Coordinator

Date, Time & Location

Thursday, July 13th, from 9:00 a.m. to 1:00 p.m. Hamilton County Coroner-Multi-Purpose Room* 4477 Carver Woods Drive Blue Ash, OH 45242

> Lunch and beverages will be provided Please RSVP to <u>Dozbolt@FOPohio.org</u>

*Parking is restricted to the free garage directly across from Building

Training Opportunities

LIVE EMPLOYEE RIGHTS TRAINING IN LORAIN

Wednesday August 9, 2023, from 10:00 a.m. to 1:00 p.m.

LOCATION:

Lorain County Deputies Association Building 6618 Lake Avenue, Elyria, OH Please RSVP to Dozbolt@FOPOhio.org



Gwen Callender

Presented by FOP/OLC Attorneys Gwen Callender, Executive Director Kay Cremeans, Chief Counsel Keith Washburn, General Counsel



Kay Cremeans

DON'T FORGET ABOUT ONLINE TRAINING: OFFICER INVOLVED SHOOTINGS

The FOP/OLC is currently developing online training for our membership, starting with a four-part series on Officer Involved Shootings. Module three is now available which covers the Critical Incident Response Service (peer support) offered by the FOP for our members. Modules one and two are also currently accessible on the FOP/OLC website. The first module is about the immediate aftermath following an Officer Involved Shooting, and module two covers the interview process. Officer Involved Shooting modules one, two and three can be accessed by going to our homepage:

FOPOhio.org

Top right: Click on "Member Resources" Scroll down, and click on "Training Videos"

Note: If you aren't registered, you will be prompted to sign up, which is quick and easy. These important training videos are not available to the public and are restricted to our members.

In Module four, which is still in the production phases, you will hear from an Officer who survived the aftermath of a shooting. This module will be available soon.

Please keep in mind that online training is not designed to replace in-depth in-person training. These modules are designed to give our members some basic information and/or to serve as a refresher on these important topics.

Notes from the OLC Annual Meeting:



For those who were unable to attend our OLC Annual meeting which took place on May 23, 2023, in Columbus below are the highlights. For pictures, please see page 15 of this Newsletter.

· In the morning we had a 2-hour LEGAL UPDATE from Robert Meader, Esq.

- \cdot The afternoon business session included reports and updates:
 - » Executive Director Gwen Callender's Report: OLC Membership is now over 8200 members; the OLC filed over 162 Notices to Negotiate with an additional 136 to be filed before the end of the year; the OLC Staff drove a combined 234,571 miles to service units; there were 8 Fact-finding Hearings; 296 Grievances were filed; 39 Arbitration Hearings; two (2) new attorneys were hired; the dues for 2024 will be \$45.05 which is an increase of \$1.33 per member per month beginning January 1, 2024, pursuant to the OLC Code of Regulations which ties the increase to the average law enforcement wage increase for the previous year as reported by the State Employment Relations Board; the OLC is currently managing 82 criminal investigations/charges involving members.
 - » FOP of Ohio Legislative Chairman Jay McDonald reported on legislation that is pending in Ohio which impacts OLC membership.
 - » Delegates Affirmed the FOP Appointments of Chairman Bruce Szilagyi, Mike Bammann and Dan McCormick.
 - » Board Member Lisa Beam was re-elected to another 4-year term as a member from a County Agency. Deputy Beam's term will expire in 2027.

Chairman Szilagyi announced the 2024 OLC Annual Meeting will be <u>May 21, 2024</u>. Please mark your calendars now and plan on attending as a delegate!

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. <u>ACrawford@fopohio.org</u>



Stay Safe!

CAUGHT ON CAMERA!

OLC ANNUAL CONFERENCE May 23, 2023





Executive Director Gwen Callender reporting to the delegates. Seated is the OLC Executive Committee.



Executive Director Gwen Callender presents Deputy Director Aaron Crawford with his 30 year Plaque.



Deputy Director Aaron Crawford presenting OLC Staff Representative Tracy Rader with her 15 year Plaque.



Deputy Director Aaron Crawford presenting OLC Staff Representative Tom Fehr with his 25 year Plaque.



Deputy Director Aaron Crawford presenting OLC Paralegal Renee Engelbach with her 35 year Plaque.