

THE CHRONICLE

BOARD MEMBER'S MESSAGE **MY JOURNEY TO UNION STRONG**

BY: DAN MCCORMICK

A long, long time ago, as a rookie, in my first department, far away from where I ended up, I did not think much about “the Union.” I knew I was in one, I remember signing a card, but that was about it. At that time, that department had an independent association through the FOP Lodge.

As time went by I learned that department politics was a real thing and that our Chief was ...pardon me while I search for a publishable phrase...let's say, not patrolman-friendly. Then it happened. I finally landed on his radar. I will spare you the details, but he wanted to suspend me for something I didn't believe was wrong. I should mention that he had an S.O.P. that, in addition to whatever infraction he was charging a person with, he always tacked on Untruthfulness.

The disciplinary process was eye-opening. It was the first time I heard of “The Brady List”. Having four years, “on the job”, I realized that the disciplinary process was vast and cumbersome. I learned that membership in the Patrolman's Association did not guarantee legal counsel. My case was handled by the Association President who was a senior patrolman. He was a great guy with my best interests in mind, but he was far outmatched in this process. The thought that there must be a better



way was now deeply rooted in my mind. I wanted to take care of my guys, my “family”, and not have them go through what I went through.

A short time later a few of us decided to seek professional representation. We vetted our options and decided to join the FOP/Ohio Labor Council. As someone who had been through discipline and knew we needed outside representation, I proudly served as the first Associate for our bargaining unit with the Ohio Labor Council. The difference between how we had operated before, and how the OLC operates, was fundamental and immediate. From the day-to-day operations to contract negotiations, things were just better. The OLC taught me about officer rights, disciplinary cases, and negotiation.

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MY JOURNEY TO UNION STRONG (Cont'd)

A few short years later these noted differences in professional representation by the OLC, would be shown to be more valuable than any contract negotiation or grievance representation, more than I could have imagined.

One of my brothers on the force was involved in a deadly encounter.

It was the first officer-involved shooting in our city in recent memory and I slept through it. I had worked the night before the incident. I was at home and asleep. What woke me up was the sound of someone pounding on my door and calling my name. It was the same guy who had represented me, saying one of our people had just shot someone and needed the Union. I sped to the station and found my guy in the Detective Bureau repeating the story over and over again. My first words were, "Brother, we're in D.B., shut up!" I had him on a phone with a union staff attorney in minutes. I was joined by our OLC Staff Representative Chuck Choate. We got him through the first part of the investigation and then drove him home, making sure his needs were met. The OLC provided him an attorney who walked him through the interview regarding his use of lethal force. Ultimately my brother's use of force was ruled justified.

From that moment on I was hooked. I knew I would always be involved in some way, with protecting, advocating for, and defending my Brothers and Sisters in blue.

I am, OLC Proud.

Dan McCormick currently serves on the Board of the FOP/Ohio Labor Council, Inc. Dan retired in October 2022 after serving for 34 years in law enforcement. Dan worked for the cities of Cuyahoga Falls and Deer Park, Ohio at different ends of the state. He served as an OLC Associate in both departments. Dan was also one of the founding members of the FOP Critical Incident Response Service helping officers through trauma in Ohio, Kentucky, Pennsylvania, and in New York in 2001. Before law enforcement, Dan served in the Navy as a Gunner's Mate.



Academy Graduation, Huron Police Department 1988



Retirement on October 10, 2022 from Deer Park Police Department

WORDS OF WISDOM FROM A POLICE CHAPLAIN



Craig Hungler
Former Police Officer
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In the current day it sometimes seems the world is out of control. Each night on the news we hear of homicides, deadly crashes, fires and a multitude of tragic occurrences. For my brothers and sisters still serving and protecting their jurisdiction, it must feel like this never-ending battle against evil. Regardless of jurisdiction, in too many communities law enforcement personnel are being blamed for the violence that takes place on the streets of their towns. I want to make sure that all who wear the badge know the TRUTH. That truth is that there are more citizens who appreciate the sacrifice that law enforcement personnel make each day, than those who criticize. Unfortunately, those who support law enforcement are often silent. This silence must stop if we are to continue having young men and women entering the noble profession of wearing the badge.

Unfortunately in our society today it seems that if we don't subscribe to the rhetoric being spread by many, somehow we are "wrong". What happened to the days when we could offer views which may not be the message being spread by the loudest in the room. Somewhere along the way I believe we have lost civility in our world. I am all in favor of "Free Speech" and believe everyone should feel free to express themselves in civil conversation without demonizing those who have differing opinions. The question is how to accomplish this task. In my opinion one of the most important ways is to pray.

Too many in our profession think that prayer is somehow "taboo". I happen to believe that view is misguided and wrong. Individual prayer is a constitutional right and privilege. Praying for situations as well as those within your circle of influence is actually an act of love which takes courage. Many within our law enforcement family are praying for you each and every day, myself included. The act of prayer is an act of love. It is not a sign of weakness as many people would have you believe, but an act of courage. I am convinced that just entering the profession of law enforcement is not only of courage, but an act of love. There are men and women throughout Ohio and beyond that

stand beside our courageous law enforcement personnel with the "soul" purpose being to keep them spiritually grounded and healthy, they are called Law Enforcement Chaplains.

Chaplains in your agency can be the best, and most of the time the least expensive, position to keep your men and women grounded and healthy. No law enforcement agency would even think of not qualifying on the firing range to maintain their skills, or exercising to maintain physical fitness. Both of these topics are crucial to keeping personnel safe. The same example applies to the spiritual health, which is the task of the Law Enforcement Chaplain. Spirituality is a vital part of every human being, especially when working in an environment where tragic situations are commonplace. Just the day-to-day negativity which is natural for officers can have a devastating effect on the officer, their family and their career, if it is not appropriately addressed.

Having a well-trained Chaplain is an ideal way to preserve the positive work environment within your agency. Chaplains have the ability to defuse officers who have gone through a critical incident or are just overloaded with the day to day routine, especially in this environment when it seems that we do not have much public support. Should your agency be interested in starting a Chaplain program and need some assistance, please feel free to reach out to me.

Stay safe and God Bless.

Craig Hungler was with Dublin Police Department for 30 years before retiring in 2015 at the rank of Sergeant. Throughout his law enforcement career he served as a Police Chaplain for his agency in addition to patrol responsibilities. Serving with the Central Ohio CISM team he also responded to New York City in the wake of the 9/11 attacks; Louisiana in the wake of Hurricane Katrina and Sandy Hook after the shootings in the Sandy Hook Elementary School.

LEGAL UPDATE

EMPLOYERS VACCINATION MANDATE UPHELD



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With the COVID-19 pandemic, cities nationwide instituted internal policies mandating public employees to vaccinate. A recent appellate decision out of Chicago, Illinois delved into the bounds of a public employer's right to mandate vaccinations.

In August 2021, the City of Chicago announced they would institute a policy requiring all City employees to get the COVID-19 vaccination. The Fraternal Order of Police represented police officers while the Policemen's Benevolent and Protective Association represented sergeants, lieutenants and captains. The FOP and the City of Chicago were in ongoing contract negotiations at the time of the policy announcement. The City submitted the proposed vaccination policy to the Unions for discussion and feedback. However, the City ultimately implemented the policy without input from the Unions.



The policy at the root of the case required that employees report their vaccination status to the City. Additionally, employees must be fully vaccinated against COVID-19 by October 15, 2021 or test twice weekly. The City later removed the testing option for employees who did not receive an approved exemption and mandated vaccinations prior to December 31, 2021. Non-exempted employees who were not fully vaccinated by December 31 would be placed on unpaid, non-disciplinary leave until fully vaccinated.

The Unions filed grievances in response to the City's unilateral policy implementation, asserting that the City violated the collective bargaining agreements by unilaterally implementing the vaccination policy. The FOP also asserted that the City violated the negotiation impasse procedure which required all disputed items to be referred to a three-person arbitration board, and that the vaccination policy violated the just cause provision of the contract when officers were relieved of pay and benefits due to the vaccination policy.



The grievances were combined and the matter proceeded to arbitration. The arbitrator denied the grievances, finding that the City had the right to issue the vaccine mandate which was a reasonable exercise of management rights under the collective bargaining agreements.

The Unions filed a motion to vacate the arbitration award, arguing that the award violated public policy. Courts generally limit judicial review of arbitration awards; however, courts in Illinois have recognized a narrow exception when an award, in interpreting the collective bargaining agreement, violates a public policy. In this case, the circuit court and the appellate court found no violation of an explicit, clearly defined and dominant public policy and upheld the arbitrator's decision.

ARBITRATION NEWS

INVOLUNTARY TRANSFERS VIOLATE COLLECTIVE BARGAINING AGREEMENT



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This case involves the involuntary transfer of two lieutenants from their bid positions. The grievants bid and were selected for open positions: one as Fleet Vehicle Manager and the other as the Civil Lieutenant. Approximately two (2) years later, the Employer involuntarily transferred them from their bid positions, i.e., the two lieutenants switched positions.

The Employer argued management rights gave it broad discretion to involuntarily transfer employees, provided it notify the employee of the reason for the transfer. The Employer also argued that it transferred the employees to improve the efficiency and effectiveness of its operations, because one of the lieutenants was having performance issues. Lastly, the Employer argued past practice supported the involuntary transfers.

The Union argued that the specific language regarding the posting and bidding process was mandatory and that an employee could not be involuntarily removed from their bid position. There was no language that allowed the Employer to remove employees from their bid positions. If the Employer could unilaterally transfer employees, then the posting and bidding process would be meaningless. The Employer's ability to transfer an employee was limited to temporary transfers which was inapplicable since these were permanent transfers. The disciplinary article did not list involuntary transfers as a form of discipline and the record did not support that one of the lieutenants was having performance issues. The past examples provided by the Employer were situations involving promotions, job abolishment, or situations where

nobody bid on a position, these are not similar to the involuntary transfers herein.

The Arbitrator held that the Employer did not have the ability to transfer employees from their bid positions. The specific language found in the CBA regarding the posting and bidding process carved away management rights and placed limitations on its ability to transfer employees out of their bid positions. The examples provided by the Employer of a past practice did not support a finding that the Union acquiesced to involuntary transfers of employees from their bid positions. The testimony regarding the lieutenant's performance issues was totally inconsistent with his evaluation reports.

Salaries Employment Health
Grievance Protection Law
COLLECTIVE BARGAINING
Process Negotiation
Agreement Productive
Working Hours Terms Rules
Employer Union Wages Group
Overtime Safety Establish Cost

OUTCOME

Grievances sustained. The Employer was ordered to return the Lieutenants to their bid positions. This award was confirmed by the Common Pleas Court.

ARBITRATION NEWS

INCREASED DISCIPLINE FOR SAME OFFENSE IMPROPER

The Grievant, a patrol officer, received a call from dispatch asking him to respond to an incident involving a stop sign that had reportedly been struck down by a vehicle. There was no vehicle when the Grievant arrived at the scene and he did not notice tire marks. The Grievant propped up the stop sign and moved vehicular debris out of the roadway without processing it as evidence. The Grievant completed a Property Damage Report and did not mention that a vehicle was involved.

A Lieutenant issued the Grievant a written reprimand for violating a rule titled “Divisional Reports” for not completing a Traffic Crash Report (OH-1). Approximately one month later, after a Garrity interview, the Chief rescinded the written reprimand and instead suspended the Grievant for three (3) days for violation of additional rules “Processing Property and Evidence” and “Unsatisfactory Performance” and provisions pertaining to making false statements in reports and wanton or willful neglect of assigned duties. A grievance was filed.

The Employer argued that the Grievant’s characterization of the incident as “property damage” was false information in a report, and the Grievant’s actions in reporting the incident as property damage instead of a traffic crash and failing to process evidence were wanton and willful neglect of his duties.

The Union argued that the Grievant’s discipline was without just cause because he did not make any false statements or show wanton or willful neglect of his duties, and the discipline was excessive and not in line with the progressive discipline requirements for less serious offenses. The Union

also argued that the Grievant was subjected to double jeopardy in violation of due process requirements when he received increased discipline for the same offense.



The Arbitrator held that discipline was warranted because the Grievant did not complete an OH-1 and submitted incomplete information that was inaccurate and/or false; he failed to collect or photograph evidence; his performance was unsatisfactory; and his conduct amounted to making false statements and a wanton and willful neglect of his duties. However, the Arbitrator held that Grievant’s three (3) day suspension was without just cause due to procedural defects because when Grievant received his written reprimand, he was not notified that there would be additional review of the incident by his superiors, and he received increased discipline based upon the same facts that were known at the time of the written reprimand. Based on these procedural defects, the Grievant did not receive due process. The Arbitrator found this to be a classic case of double jeopardy – disciplining an employee twice for the same act which is a due process basis for invalidating the discipline.

OUTCOME

Grievance sustained in part. The Grievant’s three (3) day suspension was rescinded and all back pay and benefits were awarded. The Grievant’s written reprimand was reinstated.

LEGISLATIVE UPDATE: FIREARMS CERTIFICATION FOR CERTAIN COUNTY CORRECTIONS EMPLOYEES, PRIMARY TRAFFIC OFFENSE FOR USE OF PHONE AND OTHER ITEMS OF INTEREST



Jay McDonald
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Legislative Chair
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A massive criminal justice reform bill (Senate Bill 288) passed the Ohio legislature with support from both Republicans and Democrats. The bill was signed by the Governor on December 14, 2022.

One provision of this new law that we wanted to highlight is the provision that allows county correction officers the ability to carry firearms while on duty. The bill authorizes a “county correctional officer” to carry firearms while on duty in the same manner, to the same extent, and in the same areas as a law enforcement officer of the law enforcement agency with jurisdiction over the place at which the county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse is located, if all of the following apply:

1. The person in charge of the jail, workhouse, or correctional center has specifically authorized the county correctional officer to carry firearms while on duty.
2. The county correctional officer has done or received one of the following:
 - a. The officer has been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission (OPOTC), which certificate attests to satisfactory completion of an approved state, county, or municipal basic training program or a program at the Ohio Peace Officer Training Academy (OPOTA) that qualifies the officer to carry firearms while on duty and that conforms to the rules adopted by the Attorney General (AG), as described below.

b. Prior to or during employment as a county correctional officer and prior to the effective date of the bill, the officer successfully completed a firearms training program, other than

one described in (a), above, that was approved by the OPOTC.

This new law also grants a county corrections officer protection from civil and criminal liability to the same extent as a law enforcement officer for acts taken while on duty.

The bill also has provisions making it easier for offenders to have their records sealed and expunged; will allow local prosecutors to expunge thousands of marijuana offenses in masse, as opposed to mandating individuals to do it; give the State of Ohio a much greater ability to release inmates from prison and it allows inmates the ability to get out prison earlier because of good behavior or during an emergency like the COVID pandemic. This law expands the immunity provisions for people overdosing to include a new prohibition for charging people who are seeking medical attention for an overdose from probation violations or being charged with drug paraphernalia. It changes Underage Consumption from an M-1 to a M-3. The new law creates a new primary traffic offense for using your phone while driving with some exceptions, including a public safety vehicle exception. It also creates a new felony called strangulation.

There are many parts to this new law (it is about 1000 pages long) that go into effect April 4, 2023. The hands-free driving portion does not go into effect until October 2023. Please ensure that your agency is training you on the new law.

You can find additional information about the new law in the linked [legislative summary](#).



STAFF SPOTLIGHT

Kay Cremeans, Chief Counsel



Kay Cremeans
Chief Counsel
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Kay Cremeans graduated from The Ohio State University with a bachelor's degree in 1984. She graduated from Capital University Law School in 1988 and was admitted to the practice of law in Ohio the same year. She is admitted to practice law in the United States District Court for both the Northern and Southern Districts of Ohio.

Kay has been employed with the FOP/OLC since 1988 when she was hired as General Counsel. In January of 2020, Kay was appointed as the Chief Counsel for the FOP/OLC. In her role as Chief Counsel, Kay manages the FOP/OLC legal staff in addition to continuing to represent several bargaining units of FOP/OLC members around the State of Ohio. As an attorney for the FOP/OLC for well over thirty years, Kay has represented law enforcement officers and safety support personnel in all aspects of public sector labor law including investigatory interviews, pre-disciplinary hearings, mediations, grievance hearings and negotiating collective bargaining agreements. Kay has represented hundreds of FOP/OLC members in single and multi-day arbitration hearings. Kay has extensive experience representing the FOP/OLC all over the state in the various Courts of Appeal defending arbitration awards. In addition, Kay has extensive experience in administrative practice before the Ohio State Employment Relations Board and the Ohio Personnel Board of Review. Over the past 3 decades Kay has represented the FOP/OLC at SERB in complex statutory Representation and Unfair Labor Practice hearings. Kay also travels around the State of Ohio lecturing on the U.S. Supreme Court cases that govern the rights of law enforcement officers in Ohio.

Renee Engelbach, Paralegal

Renee has been employed with the FOP/OLC since 1988 when she was hired as a Paralegal. Renee has spent nearly thirty-five years assisting the legal staff in all aspects of public sector collective bargaining. Over that time frame, Renee has assisted the legal staff in preparing for contract negotiations, processing grievances, and attending arbitration hearings. Renee has drafted legal pleadings at every level of state courts in Ohio as well as at the State Employment Relations Board. Renee currently manages the grievances that get filed by OLC members through the OLC Griev Trac database. In addition to making sure that all grievances that are filed are processed following the steps contained in the collective bargaining agreements, Renee also oversees all matters related to the Notices to Negotiate, the certification of new bargaining units, and any amendments to the descriptions of current bargaining units. Renee is well-versed in researching issues that are related to public sector collective bargaining and has extensive experience in navigating through BNA published Labor Arbitration decisions.

Before being hired at the FOP/OLC Renee worked in the private sector. She worked in loan services for a local bank and worked as a manager for a local restaurant chain. Renee resides in central Ohio with her husband and her beloved Shelties. Outside of work, Renee is very active in Sheltie rescue programs throughout Ohio.



Renee Engelbach
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CAUGHT ON CAMERA!



MEMBER SPOTLIGHTS



Bucyrus Police Department honored three for Heroism and Professionalism during a shootout that occurred on 11/11/2022 in the city. Featured left to right are K-9 Officer Devin Wireman (Capone), Chief Neil Assenheimer, FOP Staff Representative David Garrick, Lieutenant Curt Bursby and Dispatcher Jennifer Gerger.



Chillicothe Dispatcher Taylor Matson and Ross County Sheriff Sgt. Eric Kocheran.



Taylor Matson (center) was awarded for her heroic actions that helped save an Officer's life. Pictured with her from left to right are Bruce Szilagyi, Board Chairman of the FOP/OLC, Chillicothe Police Chief Ron Meyers and Tom Porter, Ohio FOP 4th District Trustee.

CAUGHT ON CAMERA!



Executive Director Gwen Callender and Director of ATF, Steve Dettelbach



Steve Dettlebach, Executive Director of ATF, State FOP 2nd VP Bill Saringer and Sergeant at Arms Shari Robertson.



Franklin County Coroner Case Secretaries



Franklin County Coroner Morgue Technicians



Monroe County Sheriff's Office

Training Opportunities

LIVE EMPLOYEE RIGHTS TRAINING IN LORAIN

Wednesday, May 10, 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

NEW ONLINE TRAINING: OFFICER INVOLVED SHOOTINGS THIRD MODULE AVAILABLE

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](https://www.fopo.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.



Negotiations Update



<u>Employer</u>	<u>Wages</u>	<u>Other Details</u>
Adams County Sergeants and Lieutenants	5% / 6% / 7%	
Adams County Deputies, Dispatcher and non-sworn Personnel	13-18% / 3% / 3%	
Galion Lieutenants	6% / 5% / 5%	Extra-duty was negotiated to be included in the paycheck and will go toward pensions
Shaker Heights Sergeants and Lieutenants	2.25% / 2.25% / 2.25%	Lump Sum \$1,000 after CBA is signed then \$1,500 / \$1,500 / \$1,000
Belmont County 911	3.5% / 3.5% / 3.5%	The dispatchers also received a one time increase in January 2023 of \$0.75

Pass Along...



Happy St. Patrick's Day!

Have you downloaded the FOP and FOP/OLC APP on your tablet or phone?

If you have not already downloaded the App, you can do so by following the link on the website home page. Clicking the image on the right will take you there.

You can also search for 'FOPOhio' in either the Apple App Store or the Google Play Store. If you have any questions, contact Aaron Crawford, Deputy Director.

ACrawford@fopohio.org

Stay Safe!

Download Our App!

