

What Collective Bargaining has Meant to the MSPTA

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1. MSPTA History & Background

The Department of State Police began as a temporary wartime emergency force, for the purpose of domestic security during World War I. The department was created on April 17, 1919 by then Governor Albert Sleeper. The department was known as the Michigan State Constabulary. The force consisted of mounted, dismounted, and motorized units, totaling 300 men. On March 26, 1919, Public Act 26 reorganized the Constabulary as a permanent, peacetime force, known as the Michigan State Police (MSP).¹

In 1961, the Michigan State Employees Association (MSEA) was in charge of lobbying for troopers. The MSEA was a diverse organization that represented almost every safety and regulatory state employee in Michigan. In 1962, twelve troopers from the Newaygo post chipped in \$10 each to hire lawyers to fight the MSP in court over the practice of forcing troopers to work unlimited hours. At that time, troopers there were working a minimum of 54 hours per week with only one scheduled day off. In 1963, through court pressure the State of Michigan adopted a 96-hour bi-weekly schedule for troopers.

In 1963, the original twelve members from the Newaygo post who funded the effort were transferred to different posts all over the state. These 12 members, along with other troopers around the state, pushed for their own association to represent the interests of troopers. In 1964, the Michigan State Police Troopers Association (MSPTA) was founded to represent the interests of troopers. During the mid to late 1960's the primary focus of the MSPTA was to represent members grievances in front of the civil service commission.

The Public Employment Relations Act (PERA) of 1965 granted all non-state public employees collective bargaining. Act 312, which was created in 1969, granted binding arbitration to local police and fire. In many ways these two acts started collective bargaining in the state of Michigan. Led by the Detroit Police officers, local law enforcement started to get better wages and benefits due to collective bargaining. Members of the MSPTA executive council believed collective bargaining was the only way to get better terms and conditions of employment for its members. In 1973, the MSPTA attempted its first petition drive to have the question of collective bargaining for troopers placed on the ballot. The drive failed with the MSPTA falling short by more than 100,000 signatures.

In 1974, the MSPTA lobbied the legislature to put a collective bargaining proposal for troopers on the ballot. To have an issue placed on the ballot a two-thirds vote is needed in both the house and senate. When the votes were tallied up, the MSPTA had lost by two votes in the house and collective bargaining would not appear on the ballot.²

2. The 1978 Ballot Initiative

In 1977, because of lack of funding, the Wayne county sheriff pulled his officers off the state freeway system. Crime increased dramatically along Detroit freeways, people voiced concerns to the governor, and something needed to be done. The MSP, at that time, had no presence in Detroit; local departments did most law enforcement in Wayne County. In 1977, The Governor of Michigan signed an executive order, which created a Detroit post. The post was quickly staffed with 125 troopers; within a short period of time crime along the freeways fell dramatically.

To staff the Detroit post troopers were taken from all over the state. Transferred troopers were given 12 days notice. District and Post Commanders were able to choose troopers at their will; no preference was given to seniority. The way the MSP handled the opening of the Detroit post angered many troopers, which in turn began a movement within the rank and file of the MSPTA to get collective bargaining for its members.

In 1977, the MSPTA hired Lansing attorney Donald Reisig to craft a ballot proposal that would give the MSPTA collective bargaining rights. After a short period of time Mr. Reisig and the MSPTA came up with the following ballot proposal:³

Collective Bargaining For State Police

The State Police collective bargaining proposal would amend Article XI, Section 5, of the Michigan Constitution. It was placed on the ballot by way of initiative petition and would:

- Permit State Police troopers and sergeants, through their elected representative, to bargain collectively concerning conditions of their employment including compensation, normal working conditions, retirement, pensions, and other matters, but excluding hiring and promotion.
- Grant State Police the right, 30 days after commencement of such bargaining, to submit any unresolved disputes to binding arbitration.

Troopers were sent off duty to places such as malls, home & garden shows, festivals, carnivals, and bowling alleys to gather signatures so that the issue of collective bargaining could appear on the ballot. Troopers, volunteers, and at the end, paid workers, helped the MSPTA get 330,000 signatures. In late 1977 the MSPTA submitted the signatures to the state board for certification. The state rejected the petition citing inadequate signatures. Down to their last dime, the MSPTA sent troopers to find people whose signatures were declared ineligible by the state. Troopers off duty had to find the individuals and get their signature notarized. In early 1978 signatures were sent back to the state for certification. Finally, in March 1978 the signatures were certified and the issue was scheduled to appear on the ballot.

With little money, the MSPTA campaigned mostly by word of mouth. The association did manage a couple full-page ads in the Detroit papers and limited radio spots with MSPTA members asking the public for their support. The MSPTA hoped the base of signatures it gathered in 1977 along with the public's favorable opinion of the department would propel them to victory. In November 1978, 1,535,000 or 56% of the voters voted yes to ballot initiative known as Proposal G.⁴

The association, from 1970-1979, spent \$750,000 and countless hours lobbying for the right to collectively bargain. In early November 1978 the MSPTA could finally declare victory; the goal of getting collective bargaining rights was finally a reality. For the purpose of this paper it is important to examine why the MSPTA won. In my opinion there are six reasons, which I submit in descending order of importance.

1. Leadership of the MSPTA

The leadership set a goal of attaining collective bargaining and didn't look back. After two failed attempts it would have been easy to switch gears and go down a different path. However, MSPTA leadership had a vision, and they understood that the only way to reach the long-term goals and objectives set for their members was through collective bargaining. The executive council also deserves credit for keeping the association afloat during the tough times. Leadership was able to share its vision of collective bargaining with its members and keep the rank and file motivated over a long period of time that included many ups and downs. The previous leadership, in my opinion, is the number one reason why troopers today enjoy the right to collectively bargain.

2. No opposition to Ballot Proposal G in 1978

The Governor and command officers of the MSP opposed the ballot initiative, but it was nearly impossible for them to mount any kind of a campaign against the MSPTA. They could

not spend taxpayer money in opposition and it is nearly impossible for a small group of public sector employees to raise large amounts of money needed in a campaign. With such a small base of centrally located people, the governor and MSP command officers were unable to mount any kind of formidable opposition. The governor also had other concerns at the time; inflation and unemployment were both rising. He made the decision to spend political capital and time on what he considered more pressing matters. With almost no opposition and some token support from other unions like the UAW, the MSPTA was able to go forward campaigning for the ballot initiative. If a group of highly motivated and financed individuals stepped up and vigorously opposed this initiative, the MSPTA would most likely not enjoy the right to collectively bargain.

3. Motivation of MSPTA Members

Three factors, in order of importance, angered the rank and file of the MSPTA and motivated members to seek collective bargaining:

- A. Transfer Policy: At that time, a Post Commander could transfer troopers at any time, for any reason, anywhere in the state. Troopers wanted a say in where they worked, and many were tired of being transferred around the state with no rhyme or reason.
- B. Grievance Policy: The Civil Service commission was responsible for deciding all grievances. The governor appointed the commission and troopers felt it was nearly impossible to get a grievance decided in their favor. Troopers, after years of bad civil service decisions, were tired of the current grievance machinery and wanted change.
- C. Pay: During the 70's troopers pay had fallen behind many local and county law enforcement departments. The MSPTA and its members felt they were the premier law enforcement unit in the State and troopers' pay should reflect this premier status.

Motivated MSPTA members are largely responsible for gaining the proper signatures so the initiative could appear on the ballot in 1978. If rank and file members were not motivated, the MSPTA would never have been able to obtain enough signatures to have the issue placed on the ballot.

4. Public's Opinion of the MSP and Unions in General

The public's perception of Michigan State Police and unions in general was a big reason why the proposal was successful. The State conducts public opinion polls to gauge how the public views the MSP. At the time results were very favorable, people on average respected the job troopers were doing. The public's opinion of unions at the time was also favorable. In the Midwest steel mills were closing, in Michigan Chrysler was going into default and hovering around bankruptcy. Big business was out of favor and organized labor was in. Had the public

viewed the MSPTA or unions differently there is a good chance the ballot proposal would have failed.⁵

5. Governor William G. Milliken

The state certified the MSPTA signatures in March 1978; the election was scheduled for November 1978. Governor Milliken could have essentially killed the proposal by issuing an executive order before Election Day that granted the MSPTA a version of collective bargaining. Had Milliken stepped in and crafted his own version of collective bargaining for troopers there is a good chance the public would have voted no on proposal G. The argument by the state and others would have been the troopers now have bargaining and proposal G is not needed. There is a good chance the ballot proposal would have failed had Governor Milliken signed an executive order granting the MSPTA his version of collective bargaining.

6. The Opening of the Detroit Post

The opening of the Detroit post was critical for two reasons. First, the transfers that resulted from the opening of the new post angered many MSPTA members and motivated them to pursue collective bargaining. Second, the MSP dramatically reduced crime along the freeway system. Many suburban Detroit residents who were anti-labor, supported the MSPTA because of the job they had done along the freeway system.

3. Bargaining Between the MSPTSA and the State of Michigan (1978-2002)

For the proposal to become law it still needed implementing legislation from the Michigan legislature. Twice, in late 1978 and in early 1979, Governor Milliken vetoed implementing legislation. Milliken wanted separate contracts for troopers and sergeants and the MSPTA resisted. President Gordy Gots, along with other senior members of the MSPTA, made the call to picket Governor Milliken. Troopers picketed outside the State Capitol, at the Governor's birthday party, and at the National Governors Conference in Traverse City.

Finally in 1980 a compromise was reached. Contract books for troopers and sergeants had to be different colors. Milliken was able to declare a small victory and the MSPTA got exactly what they wanted, implementing legislation that kept troopers and sergeants under the same contract. It should be noted, that in the 22 years following the first contract the State has never printed up separate colored contract books for troopers and sergeants.⁶

The implementing legislation was Act 17 of 1980. Act 117 was signed into law by Governor Milliken on February 24, 1980, and was effective immediately. It provided for compulsory arbitration of labor disputes for state police troopers and sergeants. Act 17 was modeled word for word after Act 312 (1969), which granted binding arbitration to local police and fire. Act 17 also tied state police troopers in with the Public Employment Relations Act (1965), which granted public non-state employees the right to bargain collectively.⁷

In March of 1980 the State of Michigan and the MSPTA sat down to collectively bargain their first contract. The state hired Charlie Fine, an academic, to be their lead arbitrator. President Gordy Gotts led the MSPTA. When the State tried to delay, the MSPTA threatened to go to the media. The State proposed breaking bargaining off for a few days, and the MSPTA countered with a proposal to bargain 24 hours a day 7 days a week. After between three and four months of intense negotiation the state and MSPTA came to an agreement on their first contract.

Between 1980-1992 MSPTA contracts financially mirrored those of other state agencies. Bargaining between 1980-1992 was described as “tough but fair.”⁸ The MSPTA achieved gains in non-economic issues. The transfer policy, discipline policy, and grievance procedures were all changed through collective bargaining.

Between 1993-2002 the MSPTA shifted its focus to economic issues. MSPTA leadership focused on making wages and pensions more competitive with state and local police departments. Bargaining between 1993-2002 was described as, “contentious and adversarial.”⁹ During this time period two contracts went to arbitration and the incumbent president of the MSPTA was voted out. In the early days of collective bargaining, issues were decided at the table, today, courts and arbitrators make the final decisions.

4. Impact of Collective Bargaining on Terms and Conditions of Employment

Under the current system most state employees have to, “collectively beg” the governor and civil service commission for better terms and conditions of employment. Troopers, because of proposal G, enjoy the right to collectively bargain. Troopers have made gains in economic and non-economic issues from 1980-2002 that the other state employees with similar duties have been unable to achieve. This is all due to the fact that the MSPTA has the right to collectively bargain and go to binding arbitration.

Binding arbitration and collective bargaining can be directly correlated with better terms and conditions of employment. To prove this I compared and contrasted the contract of motor carrier officers represented by the MSEA with the contract of troopers who are represented by the MSPTA. Motor carrier officers and troopers have similar training, equipment, and working conditions.

The motor carrier division is given full police powers for purpose of commercial vehicle enforcement. Motor carrier officers perform a full range of enforcement duties including the detection and apprehension of individuals who use commercial vehicles in criminal activities. Officers intercept drugs, alcohol, weapons and other contraband being transported on Michigan roadways.¹⁰ On paper there is very little difference between the job duties of a trooper and motor carrier officer.

The real difference between troopers, and motor carrier officers is in terms and conditions of employment. To illustrate this I compared and contrasted five contractual issues. Two issues

were economic; wages and pension. Three issues were non-economic; transfers, grievance procedure, and bill of rights. The results speak for themselves.

1. Wages

On October 1, 2002 motor carriers received an hourly increase of 2%.¹¹ On October 1, 2001 troopers received an hourly increase of 4.5%.¹² The troopers' wages were decided in arbitration, the civil service commission set motor carrier wages. A 2.5% pay difference is substantial and can only be explained by binding arbitration. (Note: I was unable to come up with troopers 2002 wages because the issue is currently being decided in arbitration.)

2. Pension

Troopers with 25 years of service receive 60% of their average final two years of pay.¹³ Motor carriers with 25 years of service receive 37.5% of their average final three years of pay.¹⁴ Pension is the most glaring difference between troopers and motor carriers. A 22.5% pension difference is unbelievable and can only be explained by binding arbitration.

3. Bill of Rights

Troopers have Article 7, which is a bill of rights that covers polygraph testing, electronic surveillance, locker searches, the right to sue, investigations, and representation. Article 7 protects troopers' rights and provides clear guidelines for the state to follow.¹⁵ Motor carriers have Article 28, which only covers polygraph testing.¹⁶ The bill of rights for troopers was bargained into the contract after 1980.

4. Grievance Procedure

There is one glaring difference in grievance procedure between troopers and motor carriers, arbitration. When a trooper's grievance is decided in arbitration the decision is binding, the civil service commission cannot reverse it.¹⁷ The civil service commission can reverse motor carriers grievances after arbitration.¹⁸ It is much harder for the MSEA to get an arbitration victory to stand. Binding arbitration for troopers came as a result of proposal G in 1978.

5. Transfer Policy

Today, trooper transfers are mostly voluntary and based seniority.¹⁹ Before proposal G, trooper transfers were at the discretion of management with little to no preference given to seniority. Transfers in the motor carrier division are mostly at the discretion of management.²⁰ The transfer policy for troopers changed as a result of proposal G in 1978.

5. Conclusion

Collective bargaining and binding arbitration dramatically changed the terms and conditions of employment for troopers. The biggest impact the ballot proposal has had on the MSPTA

and its members have been with non-economic issues. Today troopers have a say in where they're transferred, the civil service commission cannot overturn grievances, and a bill of rights is in the contract that protects the rights of troopers and provides clear guidelines that the state must follow. Troopers today owe a great deal to Gordy Gotts and early members of the MPSTA. If they had not had the vision and foresight to create the MSPTA and pursue collective bargaining the workplace today would be a very different place.

I would like to thank former MSPTA President Gordy Gotts, labor counsel Mark Porter, and former trooper John Charney for all their time. My paper would not have been possible without your help.

Footnotes

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