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Fact Finding Report
Joseph Krislov

City of Troy
And
Troy Sergeants

Case No. 03-MED-08-0812

Hearing Date: 9 January 2004

The parties have each presented a list of contract articles that they have agreed to as changed and other articles that they have agreed to be included in the new contract without change. The list of articles and the changes authorized by the parties are signed by two representatives from each party, and need not be attached to this report. As directed by the parties I accept their actions as my recommendations and hereby include them in my report.

The City and Union have further agreed that I should respond to 3 issues:

1. Should the differential between top police officer and top sergeant be increased as proposed by the Union, or maintained at the current level, as proposed by the City?

I recommend that the City's position be adopted.

2. Should a newly promoted sergeant receive the top sergeant wage rate after only 12 months, as proposed by the Union, or should the current steps be maintained, as proposed by the City?

I recommend that the City's position be adopted.

3. Should the sergeants' pay rate be expressed as a percentage over the top police officer rate, as proposed by the Union, or as an hourly wage rate, as proposed by the City?

I recommend that the Union's position be adopted.

All three of my recommendations preserve the existing contract provisions, obviating the need for any further negotiations.

My reasons for each recommendation follow.

Reasoning for Issue #1:

The City negotiated with 5 units at the end of 2003. All of the bargaining units reached agreement with the City, and the employees of 4 units ratified the contract. Only the police sergeants did not ratify their agreement. The agreements included annual wage increases of 3%, 3.5% and 3.5%, and a more generous health insurance program.

Clearly the negotiators and individual employees (except for the sergeants) were satisfied with the agreement. I begin therefore with the view that the sergeants have a heavy burden in persuading me that they deserve an extra 1.45%. The major argument offered by the FOP is that the sergeant and platoon commander jobs are comparable. (See FOP Statement, Issue # 1, Wages)

I cannot accept that view. It is true, as the FOP has argued, that the job descriptions of the sergeants and the platoon commanders indicate that both supervise employees (See FOP, Tab 2) Nevertheless, only three of the sergeants are in fact first line supervisors. Two function as detectives and one works as an "Accreditation Manager". (See City Statement, Tab 5). Therefore, only half of the sergeants do the supervisory work of the platoon commander. Why the 3 non-supervisory sergeants are classified as sergeants is not obvious, but their inclusion in the classification weakens the argument that the sergeants and platoon commanders are comparable.

There is no evidence that historically the parties have considered the positions as comparable. When the parties agreed to the 15% differential in 2000, they surveyed "top-police" and "top-sergeant" positions in nearby cities, and adopted the "average"

differential. (See City, Tab 3) No consideration was given to the sergeants and platoon commanders' differential internally. Moreover, the City's Attachment 9 indicates that the internal differential between sergeants and platoon commanders has varied. In 1998 it was 6.05% (a high), and it has declined each year to a low of 1.45% in 2003. The variation over the decade indicates that the parties have not used the sergeants-platoon commanders' wage differential to determine the sergeant's wages.

Because I have concluded that the two classifications are not comparable and that the parties have not used their differential as a reason to determine wages, I cannot accept the FOP's recommendation and must accept the City's.

Reasoning for Issue #2:

As in the case of Issue #1, the parties reached a tentative agreement to maintain the present 4 step increases to newly-appointed sergeants. As indicated in the City's opening statement (6):

For the first 12 months, the sergeant is at step 1 and receives a 12% differential over top police officer pay. For the second 12 months, the sergeant is at step 2 and receives a 13% differential. For the third 12 months, the sergeant is at step 3 and receives a 14% differential. After 36 months, the sergeant is at step 4 and receives a 15% differential.

Following rejection by the sergeants, the FOP proposed that a newly appointed sergeant receive 12% the first year (Step 1) and then move up to a newly created Step 2. That Step would pay 16.45%. In short, the 1.45% increase would be added to the existing Step 4 differential of 15%.

As in Issue #1, I believe that the FOP has a heavy burden in persuading me that the sergeants should receive more than the negotiators agreed upon. Moreover, it seems clear

that the 16.45% differential is not appropriate because I have concluded that the rationale for that number is faulty. What would be possible would be a compression of the 12%, 13%, 14% and 15% progression. A 12%, 13% and 15% progression is an example of an alternative possibility.

The parties have not briefed me about the implications of any alternative possibilities. I am therefore reluctant to make a de novo recommendation in face of the City's Attachment 4. The survey indicates that the differential between "top police" and "top sergeant" in 2003 was 15 %. What "step" arrangements, if any, the 14 jurisdictions have was not presented.

The FOP's argument that there are no steps for 3 platoon commanders is a telling one. If there is a "learning curve" for police sergeants, presumably there is a "learning curve" for fire platoon commanders. But platoon commanders have only one step, and sergeants have four. The reason for the difference is not clear. Nevertheless, I am not convinced that the FOP has supported the case to reduce the steps, and it bears the burden of proof in this proceeding. Accordingly, I recommend acceptance of the City's position.

Recommendation for Issue #3:

As in the case of the other two issues, the parties reached agreement on this issue. They agreed to maintain the current approach of expressing wages as a percentage differential (City's Statement, 6). Following rejection by the sergeants, the City proposed to express the police sergeant's base pay as an hourly rate. If adopted, this change would prevent the sergeants from receiving a wage increase without ratifying their own agreement. The City felt that the present arrangement gives the sergeants a "free ride". (Ibid. 6)

As in issue 1 and 2, I believe that the City now has the burden of persuading me that their proposal is preferable to the current arrangement. While the City is correct that the “sergeants get the benefit of a wage increase without having to agree to their own contract”, the benefit is modest. The sergeants receive the wage increase on January 1 in the first year of the contract rather than when the parties eventually settle the issue. Changing the payment schedule for sergeants from other payment schedules can only cause confusion and misunderstandings. I cannot believe that the benefit from the City’s proposed change is worth the problems it will cause.

I recommend therefore that the parties “maintain the current approach of expressing wages as a percentage differential” (City Statement, 6).

14 January 2004



Joseph Krislov
Fact Finder