

*in the matter of the*  
**ARBITRATION**

*Between*

**ILLINOIS FRATERNAL ORDER OF POLICE  
LABOR COUNCIL**

**and**

**COUNTY OF COOK  
COOK COUNTY SHERIFF  
Sheriff 's Police Officers**

**Juan A. Velez, Jr. 90-Day Suspension  
OPR # 2018-0284**

**OPINION AND AWARD  
of  
JOHN C. FLETCHER, ARBITRATOR  
July 9, 2019**

This matter came to be heard in the Chicago California Street Office of the Cook County Sheriff on June 26, 2019. The Illinois Fraternal Order of Police Labor Council and the herein Grievant, Police Officer Juan A. Velez, Jr., were represented by:

Gary L. Bailey, Esq.  
Attorney, IL FOP Labor Council  
5600 South Wolfe Road, Suite 120  
Western Springs, Illinois 60558

Cook County and the Sheriff of Cook County were represented by:

Peter M. Kramer, Esq.  
Assistant General Council  
Cook County Sheriff  
50 West Washington Street, Room 704  
Chicago, Illinois 60602

At the conclusion of the evidentiary hearing Counsel for the parties made oral summations at which time the record was closed, except for the submission of an additional exhibit, which the Sheriff sent to the Arbitrator on June 27, 2019.

**Background:**

On or about September 1, 2018, the Cook County Illinois Sheriff (“Sheriff”) consolidated the Fugitive Warrants Section with the 9-1-1 Call Center in Des Plaines, Illinois. The herein Grievant, Police Officer Juan A.Velez, Jr. (“Velez”), at the time a 27 year veteran of the Sheriff’s Department, and at the time assigned to the Sheriff’s Street Crimes Suppression Unit, was on September 7, 2018, detailed to the Call Center to teach Telecommunicators procedures on handling information on warrant requests received from local, national, and international law enforcement agencies.

On October 13, 2018, Velez, abetted by Telecommunicator Michael Quan (“Quan”) and Telecommunicator John Braun (“Braun”), 23 and 25-year Sheriff’s Department employees, obtained a copy of Call Center Supervisor Jon D. Mahon’s (“Mahon”) Illinois Driver License photo through access to the Law Enforcement Agency Data System (“LEADS”) and the Illinois Secretary of State (“SOS”) data site. Velez “photo shopped” Mahon’s picture onto the picture of a wanted fugitive from Colorado, using an APP on his phone. Velez then showed the picture to several individuals, including another Sheriff’s Police Officer and Telecommunicators. Several days later Mahon learned of the picture and confronted Velez, who asserted that it was done as a “joke”.

When the Executive Director of the Communications Center learned of the incident, the matter was referred to the Sheriff's Office of Professional Review ("OPR") and investigated by Director Cameron Pon ("Pon"). Pon's investigation, completed on January 28, 2019, concluded that there was sufficient evidence that Velez violated policies on access and use of protected information and circulated an inappropriate picture of Mahon.<sup>1</sup> Quan and Braun were also found to have violated regulations for their involvement in the incident. On March 18, 2019, Velez was notified that he was being assessed discipline of a 90-day suspension<sup>2</sup>

It is the grievance challenging the 90-Day suspension that is the subject of this arbitration.

## DISCUSSION

What is involved in this arbitration is a situation where a 27-year veteran Sheriff's Police Officer asserts that he was merely participating in a joke when he unlawfully secured a driver's license photo of an individual with whom he had only been working with for about five weeks,<sup>3</sup> pasted the photo on the photo of a body

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<sup>1</sup> Jt.Ex. 4,p. 2.

<sup>2</sup> Quan and Braun were each given thirty-day suspension. In its opening, the Union noted that a modification of these suspension was agreed upon but the final result was confidential, not to be disclosed under any circumstances. The Arbitrator respects the confidentiality of these settlements and gives them no consideration, whatsoever, in his deliberations. Insofar as this record is concerned, the Arbitrator *finds* Quan and Braun were disciplined with thirty-day suspensions for their involvement in the "joke" and Velez was disciplined with a ninety-day suspension for his involvement. Any thing different is beyond the record and cannot be considered.

<sup>3</sup> A fair assessment of Velez's statements to Pon and in his testimony in this arbitration is that Velez hardly knew Mahon. Why the trio, Velez, Quan, and Braun, on Saturday, October 13th selected Velez as the subject of their "joke" remains a mystery. Especially since October 13, 2018, was not the only time that LEADS was inappropriately

of a wanted felon, and then showed the picture to other's<sup>4</sup> before saving the image to a third persons phone. According to Velez, he did not immediately share the joke with Mahon, because he didn't know him that well, but at the time Quan told him he would do so and that Mahon would "get a kick out of it ... he likes jokes." By any measure the "joke" was in bad taste and demeaning, in spite of Velez's assertions that Mahon's initial reaction was acceptance of it as a joke.<sup>5</sup> The Cook County Sheriff has in place a Zero Tolerance Policy forbidding harassment in the workplace. The Sheriff also has a specific proscription against "disrespectful ... treatment of any person." Joking or not, compiling and showing to others a picture of a well barbered male wearing a long curly blonde wig on a female body is most certainly disrespectful.

While some may find the photo incident humorous, most would find it not funny at all. In today's world doctored photos simply are not a joke. Most newspapers have on staff cartoon artists who daily draw images of political personalities wherein certain physical items are exaggerated, i.e., Obama's ears –

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accessed from the Call Center terminal seeking information on Mahon. Earlier inquiries occurred on September 5, 2018 and September 19, 2018. Pon testified that efforts to determine who was responsible for these additional accesses were unsuccessful.

<sup>4</sup> The Office of Professional Review report states that Velez "circulated" the photo to others. The Union challenges this characterization, noting that Velez merely shared the photo with four other individuals, hardly a situation of circulation to the office, it argues. It is not the number of individuals that saw the photo that is determinative of misconduct. If Velez only showed it to one, that is sufficient to prove wrongdoing.

<sup>5</sup> It is mind boggling to learn that three Sheriff Department employees *with combined service of seventy-five years*, and the training each had received during that service, would disregard the message and purpose of this training when they had ought to have been well aware of its teachings and the consequences of such misconduct and place their careers in jeopardy with such a "joke". Jokes can be cruel, and one like that here, founded in demeaning if not unlawful conduct, is not a joke at all.

Trump's hair – Hillary's hips. This is done to send a message to the reader. In this matter one wonders what the message Velez and Quan intended to send, and to who, by showing a picture of Mahon with a long blonde curly wig.

As noted earlier, Velez had been a Sheriff's Department employee for twenty-seven years at the time he compiled the photo of Mahon. In that long period of service he most certainly was aware of the proscriptions against and consequences of unauthorized access to LEADS and the SOS database. Notwithstanding, Velez breached these basic proscriptions, this conduct cannot be excused on the grounds that it was a joke.<sup>6</sup>

Finally, it should be noted that the Sheriff, or for that matter any employer, need not accept as an excuse for misconduct, violation of rules and regulations, that the episode was merely a joke. Sheriff's Police Officers and Sheriff's Telecommunicators are not paid to engage in jokes while on duty.

After conducting an investigation into the incident the Sheriff determined that discipline of a ninety-day suspension was appropriate. This Arbitrator, finding that the investigation is without flaw, properly conducted, and containing adequate evidence supporting the conclusions stated, will not substitute his judgment for that of the Sheriff. The discipline assessed will not be disturbed.

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<sup>6</sup> The Arbitrator will exercise restraint and not comment on the absurdity of senior Sheriff's Department employees ignoring their duties to participate in a joke that demeans a supervisor.

**A W A R D**

The ninety-day suspension imposed upon Sheriff's Police Officer Juan A. Velez, Jr. on March 19, 2019, as a result of the findings in the January 28, 2019, report of the Office of Professional Review, Case No. OPR 2018-0284, will not be disturbed or modified in any manner.

A handwritten signature in blue ink that reads "John C. Fletcher". The signature is written in a cursive style with a large initial "J" and "F".

**John C. Fletcher, Arbitrator**