Filed 6/30/17 Dove v. City of Los Angeles CA2/1

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

BETTY DOVE, Plaintiff and Appellant, v. CITY OF LOS ANGELES et al., Defendants and Respondents.	B275379 (Los Angeles County Super. Ct. No. BS155210)

APPEAL from a judgment of the Superior Court of Los Angeles County, James C. Chalfant, Judge. Affirmed.

Law Offices of Gregory G. Yacoubian and Gregory G. Yacoubian for Plaintiff and Appellant.

Michael N. Feuer, City Attorney, Blithe S. Bock, Assistant City Attorney, Matthew A. Scherb, Deputy City Attorney, for Defendants and Respondents.

The Los Angeles Police Department (LAPD) Board of Rights (Board) found LAPD Officer Betty Dove guilty of one count of inappropriately accessing an LAPD computer system and two counts of making false statements to internal affairs investigators. After the Board recommended that Dove be removed from the LAPD, the chief of police terminated Dove's employment.

Dove petitioned the superior court for a writ of mandate to set aside the decision to terminate her employment. The court denied the petition and Dove appealed. She contends that the evidence is insufficient to support the Board's findings and that a statute of limitation bars the LAPD's claims. We reject these arguments and affirm the judgment.

FACTUAL AND PROCEDURAL SUMMARY

A. Background

Dove was employed with the LAPD as a "Police Officer III" and assigned to the North Hollywood division. From 2009 until 2011, she was "in the field" as a training officer. In late 2011, Dove worked in the North Hollywood station as a timekeeper. Although her timekeeper duties did not involve training other officers, she would occasionally assist the training coordinator and conduct informal computer trainings on an ad hoc basis.

In the summer of 2009, Dove began a dating relationship with Carlos Rosales, and in early 2010 the two began living together. On April 6, 2010, Dove ran a search of Department of Motor Vehicles (DMV) records using Rosales's driver's license number and conducted a "master inquiry"[1] search for the name "Carlos Rosales." In December 2011, Dove and Rosales moved

---

[1] A master inquiry performs a search of a variety of local, state, and federal agencies.

to a residence in Montebello. They registered as domestic partners in December 2012.

Rosales's driver's license was scheduled to expire on January 3, 2012. About four weeks before that date, on December 7, 2011, Rosales went to a DMV office in Newhall where he applied to renew his driver's license and to inform the DMV of his change of address. Due to an apparent DMV error, however, the record of Rosales's license renewal application was not saved, and for some time DMV records indicated that Rosales's license expired on January 3, 2012.[2]

On January 11, 2012, Dove used the LAPD's computer system to access Rosales's DMV records by inputting Rosales's driver's license number. Six days later, she did it again.

On January 27, 2012, Rosales went to a DMV office in Montebello and applied for a duplicate driver's license.

On March 6 and 7, 2012, Dove again used Rosales's driver's license number to access Rosales's DMV records on an LAPD computer system.

On March 7, 2012, Rosales went to the Montebello DMV office where he had his picture taken and got his driver's license reissued.[3]

---

[2] In 2014, Rosales inquired of the DMV as to the status of his license since 2011. In response, the DMV conducted an investigation and discovered evidence of Rosales's December 7, 2011 license renewal application. As a result, a DMV official informed Rosales in October 2014, that his driver's license "was renewed on December 7, 2011, in the Newhall DMV office and there was no lapse in the validity of [his] driving privilege."

[3] At the hearing before the Board, Rosales initially denied that he had been to the Montebello DMV office. After DMV records were introduced evidencing his January 27, 2012, renewal application and his photograph taken in the Montebello office, he admitted he had been there.

Dove's use of LAPD computers to search Rosales's DMV records went undiscovered for the next 13 months. Meanwhile, Dove and another North Hollywood police officer, Jason Acevedo, were involved in a family law dispute concerning the custody of their son. In connection with that dispute, Dove submitted to the family court information regarding Acevedo's work schedule. Acevedo believed that the information was confidential, and complained about Dove's disclosure to the commanding officer of the North Hollywood division, Peter Whittingham.

Whittingham initiated a complaint alleging that Dove had "inappropriately accessed and presented department records pertaining to [Acevedo's] days off and overtime in court without authorization." Whittingham then "loaned" Dove to another LAPD location and directed the LAPD's Information Technology Division (ITD) to audit Dove's and Acevedo's "computer history inquiries" to determine whether the officers ran computer database searches "to access information about each other."

On April 11, 2013, Sergeant Season Nunez received and reviewed the computer audit results. The audit did not indicate that Dove had performed any computer searches for Acevedo, and the LAPD determined that Acevedo's complaint was unfounded. The audit, however, revealed Dove's computer inquiries regarding Rosales's driver's license. The audit also revealed that on February 22, 2012, Dove used her prior, married name—Betty Jefferis—to run a gun registration check and two master inquiry searches. The results of the audit were not disclosed to Dove for several months.

In April and May 2013, Dove, through her attorney, raised concerns about how she had been treated after her return to the North Hollywood station. Among other issues, Dove complained that Captain Justin Eisenberg had referred to unresolved, but unspecified, issues concerning Dove, which Eisenberg said he had discretion to pursue. Dove construed this comment as a threat.

On June 21, 2013, Dove met with LAPD internal affairs investigators, Sergeants Bridget Pickett and Mike Berretta, to address Dove's complaints. At that time, Dove was aware of the ITD audit, but did not know the results. She believed that the audit might have revealed that she had used computers to search, or "run" her name, and that Eisenberg's reference to unresolved issues might have related to such runs.

During the June 21 interview, Pickett asked Dove what Eisenberg might be "holding . . . over [Dove's] head." Dove stated: "[W]hen they did the ITD run—when I have my probationers I use my own personal DMV and—to run myself because I don't run other people's information." She added: "This is a training tool. I'm not worried about it. But [Eisenberg has] made reference to that saying that . . . that could be a potential issue because you're . . . running yourself and it came up on the run."

After the June 21 interview, Pickett reviewed the ITD audit report and discovered Dove's searches of Rosales's DMV records. On June 26, 2013, Pickett initiated a complaint that initially alleged a single count: "Between January 11, 2012, and March 7, 2012, you [Dove], while on duty, inappropriately accessed the [LAPD] computer system for non-duty related activities."

In September 2013, Pickett delivered the audit report to Sergeant Paul Chambers of the LAPD's internal affairs group and told Chambers that she believed Dove "lied to" her. On September 27, 2013, Chambers showed Dove a portion of the ITD audit that indicated that Dove had run Rosales's driver's license number.

On November 1, 2013, Chambers interviewed Dove regarding the alleged computer misconduct. Dove admitted that she had run Rosales's driver's license number, but said she did so only "for training purposes." Dove explained that she used Rosales's name, because it was a "common name, which would mean there would be multiple hits when running it. It's a great training tool." She said

she had Rosales's permission to use his name, and she produced a letter from Rosales, signed, ostensibly, on August 16, 2009, giving Dove such permission.[4] Rosales had his signature on the letter notarized on October 24, 2013, about one week before Dove's interview with Chambers. Dove could not recall during the interview the names of officers she had trained with Rosales's information.

Chambers asked Dove about the statement she made during the June 21, 2013 interview that she did not "run other people's information." Dove said she made that statement in the context of knowing that an ITD audit had been performed to determine whether she had run searches regarding Acevedo and herself, and she did not "think outside that scope at the time this question was asked." If she had been asked about the searches of Rosales, she stated, she "could have explained it then. It's not something [she] would have hidden."

North Hollywood division Captain Steven Carmona investigated the matter and determined that Dove's explanations for the subject searches were "unbelievable" and "disingenuous." Carmona explained that Dove could not name any officer she had trained with Rosales's information, and the only two probationary officers assigned to North Hollywood at the relevant time denied that Dove had trained them. Further, if a non-probationary officer (i.e., a "P-II" or "P-III" officer) needed help running a computer search, the station's "record clerk" would ordinarily provide assistance; training was not Dove's primary assignment. Carmona

---

[4] The letter states: "I, Carlos R. Rosales Irazaba give Betty Dove a Police Officer with the City of Los Angeles permission to use any and all of my personal information in the course of her duties as she sees necessary for training purposes. This permission is given on the date listed above [August 16, 2009] and continues until the demise of our relationship."

also stated that the facts that Dove searched Rosales's DMV records on March 6 and 7, 2012, and Rosales was conducting business at the DMV on March 7 was "a heck of a coincidence."

Carmona added two counts to the pending complaint against Dove. Count 2 alleged that "[o]n or about June 21st, 2013, you [Dove], while on duty, provided a false statement to . . . B. Pickett and M. Berretta, when you said you only conducted computer inquiries on yourself for training purposes." Count 3 alleged that "on November 1st, 2013, you, while on duty, provided a false statement to . . . Chambers, when you said you conducted a California driver's license check on your domestic partner while training probationary officers and police officer II's."

The three-count complaint was mailed to Dove on April 8, 2014.

B. The Board Hearing and Decision

The Board held its hearing on the complaint over the course of eight months in 2014 and 2015. Evidence of the facts summarized above was introduced, and Dove testified consistent with her prior statements: Dove performed the pertinent searches in the course of training others, and used Rosales's name with his permission because it was "a common last name where you get multiple hits." She did not explain how the "common last name" rationale justified her use of Rosales's driver's license number, and could not recall why she performed a search of her married name instead of her then-current name. Dove testified that no one ever told her that she could not use her name or the name of another for training purposes.

Dove admitted that her statement to Pickett that she did not " 'run other people's information' " was inaccurate and conceded that she should have mentioned her searches of Rosales's information. She testified, however, that she did not intend to lie, and that she made that statement because she "was thinking

about what the [ITD audit] was for, which was for Jason Acevedo and [her]self."

Saul Aviles, an LAPD employee in the records and identification department, testified regarding LAPD's rules and procedures in place to ensure appropriate use of the computer systems. These include a requirement that each employee sign an "operator security statement." In this statement, which Dove signed, the employee is informed of and agrees that employees are prohibited from disclosing information from LAPD's "official files, computer files, documents, records, reports and information" except in the scope of their employment. Aviles identified an admonishment that appears on a computer screen at the outset of a master inquiry search, stating that the system "is for law enforcement investigations only." Aviles explained that when employees are trained on the use of computers, LAPD trainers use "control documents [and] control numbers"; they are not allowed "to use actual live records as a means for training," unless accessing the live record is also part of a pending investigation.

Richard Perez was a training coordinator in the North Hollywood division. Although Dove was a timekeeper, she would provide informal computer training for officers during the January to March 2012 period. Perez stated that when training officers on computer searches, he would use the name of an "actual suspect" or his own name. He would use his own name, he explained, to show a trainee what a DMV printout would look like.

LAPD Officer Rhonda Baychue worked in LAPD's technology training unit, and has trained police officers on computer systems for 15 years. She could not identify a document that expressly prohibited officers from using their own name in searches. She testified, however, that officers have been instructed not to use their names in searches and that it would be inappropriate to run a boyfriend's name for any purpose, including training. Further,

when making a master inquiry search, the officer must indicate the purpose of the search, and if the purpose is for training, the officer should indicate that purpose. Dove, however, had testified that she always used "INV," the abbreviation for investigation, to indicate the purpose for her searches.

Dove introduced numerous witnesses who testified that she often provided informal computer training or assistance to officers as needed, and that she is an honest person with no integrity issues. Although Dove identified the names of some officers she believed she trained on the computers, no one testified that Dove had trained him or her by using Rosales's name or driver's license number or with Dove's former name.

In December 2014, the Board found Dove guilty on each count. After a further evidentiary hearing, the Board recommended Dove's removal from the LAPD.

On February 25, 2015, the chief of police upheld the Board's decision and terminated Dove's employment.

C. Petition for Writ of Mandate

Dove filed a verified petition for a writ of mandate on April 29, 2015, against the City of Los Angeles and its chief of police. Dove sought, among other relief, a writ commanding the respondents to set aside their decision to remove Dove as a police officer and to restore her to her position. Among other arguments, Dove asserted that each count was time-barred and that the Board's finding on count 1 was not supported by the evidence.[5]

---

[5] Dove also argued (1) that count 1 was barred by the doctrine of res judicata, (2) counts 2 and 3 were based on illegally obtained evidence that should have been suppressed, and (3) that the Board's evidentiary rulings deprived her of her right to due process. She does not assert these arguments on appeal.

The superior court denied the petition and entered judgment for the City and its chief of police. Regarding count 1 (inappropriate computer access), the court stated that it did not believe Dove's explanation that she used Rosales's name for training purposes. The court pointed to evidence that Dove's primary assignment of timekeeper meant that she would not normally train others on the computer system; Dove gave no explanation for running her married name, and "there is no good reason for even a trainer to run someone whom one is dating as opposed to using their own name or a dummy name." The court gave no credence to Rosales's 2009 permission letter, which it described as "phony," "concocted," and "fabricated." The court further explained that Dove's explanation for using Rosales's name—to show trainees a search that would produce multiple hits—"made no sense because she used [Rosales's] driver's license number." The court also reiterated Chambers's view that Dove's running of Rosales's driver's license on the same day Rosales got his license reissued "was a heck of a coincidence."

Dove timely appealed.

DISCUSSION

Under the Los Angeles City Charter, subject to exceptions not applicable here, an LAPD officer may not be "removed . . . from the service of the department . . . except for good and sufficient cause shown upon a finding of guilty of the specific charge or charges assigned as cause or causes after a full, fair, and impartial hearing before a Board of Rights." (L.A. City Charter, § 1070(a).) The LAPD has the burden of proving each charge. (L.A. City Charter, § 1070(l).)

Judicial review of the Board's decision is by petition for writ of administrative mandamus under Code of Civil Procedure section 1094.5. (See *Gales v. Superior Court* (1996) 47 Cal.App.4th 1596, 1603.) In evaluating a petition for writ of administrative mandate, the trial court determines (1) whether the Board "proceeded without, or in excess of, jurisdiction; (2) whether there was a fair trial; and (3) whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the [agency] has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence." (Code Civ. Proc., § 1094.5, subd. (b).) Dove does not challenge the Board's jurisdiction or contend that she did not receive a fair trial.

When, as here, an agency has deprived a police officer of a vested property interest in her employment, the trial court is required to exercise its independent judgment in determining whether the findings are supported by the evidence. (*Bixby v. Pierno* (1971) 4 Cal.3d 130, 143; *Barber v. Long Beach Civil Service Com.* (1996) 45 Cal.App.4th 652, 658; see Code Civ. Proc., § 1094.5, subd. (c).) In exercising its judgment, however, the "court must afford a strong presumption of correctness concerning the administrative findings, and the party challenging the

administrative decision bears the burden of convincing the court that the administrative findings are contrary to the weight of the evidence." (*Fukuda v. City of Angels* (1999) 20 Cal.4th 805, 817.) While giving "due respect to the agency's findings" (*id.* at p. 818), the court may draw its own reasonable inferences from the evidence and "make its own credibility determinations." (*Morrison v. Housing Authority of the City of Los Angeles Bd. of Comrs.* (2003) 107 Cal.App.4th 860, 868.)

On appeal, we determine questions of law independently of the Board and the trial court, and review the trial court's factual findings to determine whether they are supported by substantial evidence. (*Barber v. Long Beach Civil Service Com.*, *supra*, 45 Cal.App.4th at pp. 659-660; *Crawford v. City of Los Angeles* (2009) 175 Cal.App.4th 249, 253.) In evaluating the sufficiency of the evidence, we resolve all evidentiary conflicts and draw all legitimate, reasonable inferences in favor of the trial court's decision. (*Valiyee v. Department of Motor Vehicles* (1999) 74 Cal.App.4th 1026, 1031.)

I. Statute of Limitations

Under the Peace Officers Bill of Rights Act (POBRA), the LAPD may not take disciplinary action against an officer for misconduct unless within one year of the agency's discovery of the misconduct the agency completes its investigation of the alleged misconduct and notifies the officer that it may take disciplinary action. (Gov. Code, § 3304, subd. (d)(1); see *Mays v. City of Los Angeles* (2008) 43 Cal.4th 313, 321-322, 325.) The agency discovers the misconduct when "a person authorized to initiate an investigation of the allegation of . . . misconduct" discovers the misconduct. (Gov. Code, § 3304, subd. (d)(1).)[6] In the LAPD, such

[6] In addition to the POBRA statute of limitations, Dove and the LAPD refer us to section 1070(c) of the Los Angeles City

a person is a "Sergeant I or Detective II or higher." (*Jackson v. City of Los Angeles* (2003) 111 Cal.App.4th 899, 910.) The date of discovery is a question of fact. (*Haney v. City of Los Angeles* (2003) 109 Cal.App.4th 1, 8.)

Here, the trial court's findings regarding the discovery of Dove's misconduct are not perfectly clear. In its written ruling, the court states at one point that Nunez "reviewed the ITD audit" on "approximately April 11, 2013." In its summary of Nunez's testimony, the court stated that "Nunez discovered Dove's misconduct in running Rosales on the computer by reviewing the audit on April 11, 2013." The court's discussion of the statute of limitations issue includes the following: "The ITD audit was not completed until March 29, 2013, and Nunez did not review it until approximately April 11, 2013. Only then did she discover that, while neither Dove nor Acevedo ran each other on the [LAPD] computers, Dove had run Rosales. Thus, April 8, 2013 is the first time that the [LAPD] had any indication that Dove had committed misconduct by running Rosales. The one year statute did not begin to run until April 11, 2014."

The court's analysis is troubling for three reasons. The word "approximately" preceding the April 11, 2013 date injects vagueness into an analysis that calls for certainty as to the date of discovery. Second, the reference to April 8, 2013, as "the first time that the [LAPD] had any indication that Dove had committed misconduct by running Rosales" does not follow from the statements that precede

---

Charter, which provides: "No [non-probationary peace officer employed by the LAPD] shall be removed . . . for any conduct that was discovered by an uninvolved supervisor of the [LAPD] more than one year prior to the filing of the complaint against the member," except in circumstances not applicable here. The parties do not suggest that the POBRA and the municipal provision are, for the purposes of this appeal, substantively different.

it or from any fact set forth in the court's ruling, unless the court believed that April 8, 2013, is "approximately" April 11, 2013. Third, by stating that the "one year statute did not *begin to run until* April 11, 2014" (italics added), the court appears to have meant either that the one-year statute *ran*, i.e., expired, on April 11, 2014, or that it *began to run* on April 11, *2013*; there is no basis for a conclusion that the statute *began to run* on any date in 2014. Moreover, the absence of a reference to April 8 in the court's conclusion makes the reference to that date in the preceding sentence even more inexplicable.

A remand for further factfinding or clarification of these points is not necessary because the only date of discovery by a pertinent person that is supported by substantial evidence in the record is April 11, 2013. That is the date that Nunez reviewed the audit report that revealed Dove's searches concerning Rosales and herself.

Because Nunez discovered the facts upon which the computer misconduct count was based, the one-year limitations period began to run on that date and the LAPD was required to complete its investigation of the claim and notify Dove no later than April 11, 2014, that it may take disciplinary action against her. (See Gov. Code, § 3304, subd. (d)(1); *Mays v. City of Los Angeles*, *supra*, 43 Cal.4th at p. 325.) The complaint setting forth each of the three counts was signed by the chief of police on April 7, 2014 and mailed to Dove on April 8, 2014. Dove does not dispute that she was served with the requisite notice on that date.[7]

---

[7] In *Earl v. State Personnel Bd.* (2014) 231 Cal.App.4th 459, the Court of Appeal interpreted the POBRA statute of limitations as requiring personal service on the officer by the one-year deadline. (*Id.* at pp. 464-465.) Thus, in *Earl*, a notice mailed before the expiration of the one-year deadline but received *after*

Dove contends that the limitations period began to run in October 2012 when Dove allegedly accessed and disclosed to the family court information about Acevedo's hours and days off. None of the counts before the Board, however, are based on the facts underlying the Acevedo complaint. The Acevedo complaint was concerned with Dove's disclosure of Acevedo's personnel information to the family court; the relevant counts arose from Dove's computer searches concerning Rosales's DMV records and her subsequent statements about them to investigators. Although the investigation into Acevedo's complaint led to the computer audit that ultimately disclosed Dove's inappropriate computer use, that series of events merely shows *how* the charged misconduct was discovered, not *when* it was discovered. Under POBRA, the statute of limitations begins to run *when* the misconduct is discovered. As explained above, that occurred on April 11, 2013. Because Dove was served on April 8, 2014, count 1 is timely.

Counts 2 and 3 arose from Dove's allegedly false statements to investigators on June 21, 2013 and November 1, 2013, respectively. Because each date is less than one year from the date Dove was served with the complaint, these counts are timely.

Dove, however, contends that the statute of limitations for counts 2 and 3—for making false statements regarding the misconduct alleged in count 1—should coincide with the discovery of the underlying misconduct. The limitations period for all three counts commenced, she asserts, in October 2012 when Dove allegedly wrongfully disclosed Acevedo's personnel information to the family court.

Dove relies on *Alameida v. State Personnel Bd.* (2004) 120 Cal.App.4th 46, in which a state employee denied in 2000 that

---

the deadline was untimely. (*Ibid.*) Here, Dove has never asserted that she received notice of the complaint after April 11, 2014.

he committed certain illegal conduct that occurred in 1998. The State argued that even if the statute of limitations had run on its claim regarding the 1998 illegal conduct, it could still pursue the claim that the employee, in 2000, had wrongfully denied committing such conduct. The Court of Appeal disagreed, holding that a claim that a state employee wrongfully denied illegal conduct was barred by the statute of limitations when a claim based on the underlying illegal conduct was itself time-barred. (*Id.* at p. 57.) The employee's denial, the court explained, "does not constitute separate actionable misconduct but in effect merges with or is derivative of the alleged underlying misconduct. . . . To allow the dishonesty charge to survive would defeat the purpose of the limitations period, which is to ensure that conduct that could result in discipline should be adjudicated when memories are fresh." (*Id.* at p. 62.)

As the trial court and the LAPD point out, *Alameida* has been limited by subsequent decisions. In *Crawford v. City of Los Angeles*, *supra*, 175 Cal.App.4th 249, for example, the statute of limitations on a charge of wrongful conduct had not expired at the time the City's employee made false statements regarding the wrongful conduct. (*Id.* at p. 257.) There was thus "no danger that the City used the false statement to resuscitate a charge that was time barred." (*Ibid.*; see also *Department of Corrections & Rehabilitation v. California State Personnel Bd.* (2007) 147 Cal.App.4th 797, 807 [*Alameida* limited to cases involving "mere denials of underlying charges"].)

Even if the rule stated in *Alameida* applied here, it would not help Dove. Her reliance on *Alameida* with respect to counts 2 and 3 depends upon the success of her argument that the statute of limitations on count 1 began to run in October 2011 and is therefore barred by the statute of limitations. As explained above, we reject that argument. Her argument as to counts 2 and 3 therefore fail.

II. Sufficiency of the Evidence as to Count 1

Dove contends that the evidence was insufficient to support the court's determinations of guilt as to each count.[8] We disagree.

To establish the requisite "good and sufficient cause" necessary to remove Dove from the LAPD, the LAPD was required to prove "the specific charge or charges" against her. (L.A. City Charter, § 1070(a).) The specific charge under count 1, is that Dove, while on duty, inappropriately accessed LAPD's computer system for non-duty related activities.

It does not appear from our record that the LAPD has explicitly defined inappropriate access. The trial court relied on rule 405 of the LAPD manual, which provides: "All official files, documents, records, reports, photographs/imaging/recordings and information held by the [LAPD] or in the custody or control of an employee of the [LAPD] must be regarded as confidential. Employees must not disclose or permit the disclosure or use of such files, documents, reports, records, photographs/imaging/recordings or information except as required in the performance of their official duties."

Dove does not dispute that Rosales's DMV records are confidential for purposes of rule 405 of the LAPD manual, or

---

[8] The City contends that Dove forfeited her arguments that the evidence is insufficient to support the trial court's findings as to counts 2 and 3 by failing to raise these contentions below. The City is correct that Dove did not assert these points in the trial court and, "[g]enerally, points not urged in the trial court cannot be raised on appeal. [Citation.] The contention that a judgment is not supported by substantial evidence, however, is an obvious exception to the rule." (*Tahoe National Bank v. Phillips* (1971) 4 Cal.3d 11, 23, fn. 17; accord, *Oiye v. Fox* (2012) 211 Cal.App.4th 1036, 1067; *Mundy v. Lenc* (2012) 203 Cal.App.4th 1401, 1406.) We therefore address the merits.

that the use or disclosure of such records in violation of that rule would establish the requisite inappropriate access. Dove contends, however, that "there was no evidence that [she] 'disclosed' or 'used' [Rosales's] information." We disagree. Dove has consistently stated and testified that she used Rosales's name and driver's license number to train other police officers in conducting searches on LAPD's computer system. Such use presumably disclosed Rosales's DMV records to the trainees and, therefore, constitutes the use and disclosure of confidential information.

Although Dove contends that she used the DMV searches in the performance of her duties—i.e., her training duties—there is no evidence that she was "required" to use or disclose Rosales's information to train others, as rule 405 of the LAPD manual provides. Indeed, Aviles, the LAPD's records and identification department witness, testified that computer trainers will use "control documents [and] control numbers" during trainings and are not permitted "to use actual live records" unrelated to a pending investigation. Perez, the North Hollywood training coordinator during the relevant time, testified that he had used his own name to search DMV records when training others, as well as "actual suspect[s]," but did not testify that he ever used the name of a third person not involved in an active investigation. Baychue, an LAPD computer trainer, testified that it would be inappropriate to run a boyfriend's name for any purpose, including training. Such testimony is sufficient to support the court's finding that Dove's use of Rosales's driver's license number and LAPD's computer to search DMV records was inappropriate, even if Dove used the information for training purposes.

There was also sufficient evidence to support the trial court's finding that Dove's access of Rosales's computer information was not for training purposes, as she has maintained, but for her own or Rosales's use. Dove accessed Rosales's DMV records on two days

in January 2012, shortly after Rosales's driver's license was set to expire and, due to a DMV error, DMV records indicated that it had expired. Although the error was eventually discovered and, in October 2014, the DMV assured Rosales that his driver's license had not lapsed, the correction does not negate the fact that DMV records initially indicated that Rosales's driver's license had expired after January 3, 2012. Approximately two weeks after Dove's January 2012 searches of Rosales's DMV records, Rosales again applied for a renewed license. Dove again searched Rosales's DMV records on March 6 and 7, 2012. On March 7, Rosales went to the Montebello office where his picture was taken and his driver's license was reissued. After that date, Dove did not search for Rosales's DMV records again.

The close correlation between the period of time that Rosales appeared to be having trouble getting his driver's license renewed and the period of time that Dove was conducting searches of Rosales's DMV records support a reasonable inference that the computer searches were related to Rosales's driver's license renewal difficulties, and not for the training of police officers. The inference is further strengthened by the fact that Dove did not search Rosales's DMV records during the 20 months that preceded the apparent expiration of Rosales's driver's license or any time after his driver's license was reissued on March 7, 2012. It is also reasonable to infer that Dove shared with Rosales the information she obtained from her computer searches, including the then-apparent fact that Rosales's driver's license had expired.

Although Dove proffered an explanation for the computer searches, the court's rejection of it was reasonable. Dove's theory for using Rosales's information was that she wanted to use a common name to conduct computer searches because it would reveal multiple hits to the trainees. The relevant searches in January and March 2012, however, were conducted with Rosales's

unique driver's license number—which would have produced only one hit—not his name. Dove has never explained why she used Rosales's driver's license number as a training tool. The court could also reasonably conclude that Rosales's 2009 letter purporting to give Dove permission to use his personal information, which was ostensibly created shortly after the two began dating, was not legitimate.

Based on our review of the record, there is sufficient evidence to support the court's finding that Dove was guilty of the charge in count 1.

III. Sufficiency of the Evidence as to Count 2

In count 2, Dove was charged with providing a false statement to internal affairs investigators on June 21, 2013, when she said she "only conducted computer inquiries on [her]self for training purposes." Dove concedes that her statement was "untrue," but asserts that it was not a "false statement" under LAPD rules.[9] She relies on rule 828 of the LAPD manual, which states: "A false statement is [defined as] any manner of communication . . . which [an LAPD] employee makes when he or she knew or should have known the statement was false at the time it was made or the employee fails to correct the statement upon learning of its falsity." Dove focuses on the last clause, and argues that Dove "corrected" her untrue statement during her interview with Chambers.

---

[9] The allegation is arguably ambiguous. In the context of the statement that is the focus of the charge—"when I had my probationers, I use my own personal DMV—and to run myself, because I don't run other people's information"—there appears to be no dispute that the statement is, at least, untrue because Dove had run computer inquiries on someone other than herself.

The definition Dove relies on is stated in the disjunctive: A false statement is one that is *either* (1) a statement that is made when the speaker knew or should have known it was false, *or* (2) a statement the speaker learns is false and then fails to correct. Dove asserts that she corrected the falsehood after she was confronted with the evidence showing her DMV searches of Rosales. Even if her explanation of the statement was a correction, her argument ignores the first part of the definition of a false statement; i.e., that she knew or should have known that her statement was false when she made it. This is the part of the definition the Board relied on in finding Dove guilty on count 2.

There is substantial evidence here to support the Board's guilty finding on count 2 based on the first part of the false statement definition. Dove used Rosales's name and driver's license number in searches in 2010, and used his driver's license in seven searches over four days in early 2012. Because she performed the searches, she either knew or should have known in June 2013 that she had conducted computer inquiries on someone other than herself. We therefore reject Dove's argument as to the sufficiency of the evidence on count 2.

IV. Sufficiency of the Evidence as to Count 3

Count 3 alleged that Dove made a false statement to Chambers when she said she conducted a driver's license check on her domestic partner *while training police officers*. Dove does not dispute that she conducted the DMV searches regarding Rosales revealed in the ITD audit; the issue is whether she conducted those searches while training other officers. The only *direct* evidence on this issue was Dove's testimony that she conducted the searches while training officers. Indirect or circumstantial evidence will suffice, however, when the reasonable inferences drawn therefrom support the finding of guilt. (See, e.g., *People v. Brooks* (2017)

2 Cal.5th 674, 729; *Coffey v. Shiomoto* (2015) 60 Cal.4th 1198, 1217-1218.)

As explained above (see Discussion part II, *ante*), the coincidence of Dove's DMV searches and Rosales's efforts to get his driver's license renewed reasonably imply that the searches were not for training purposes. This inference is strengthened by testimony of witnesses who explained that it would be inappropriate for LAPD computer trainers to use "actual live records" outside of a pending investigation, or the trainers' boyfriends. The Board and court, we conclude, could have reasonably inferred from the circumstantial evidence that Dove searched Rosales's DMV information for purposes other than training. There was therefore sufficient evidence to support the finding that Dove's statement that she conducted the searches for training purposes was a false statement for purposes of count 3.

DISPOSITION

The judgment is affirmed. Respondents are awarded their costs on appeal.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

CHANEY, J.

LUI, J.