

canteen items into the South One Housing Unit and providing misleading or inaccurate information to superiors.

Employee denies any wrongdoing, and alleges that Agency failed to apply the Douglas factors, his termination was excessive, and that the penalty was retaliation for Employee's triumph in another OEA appeal.

SUMMARY OF RELEVANT TESTIMONY

Darlene Bryant (November 8, 2012 transcript, pgs. 12-65).

Correctional Officer Darlene Bryant testified that she was a probationary hire working the third shift at the Southwest One unit of the D.C. Jail at the time of the incident, and that her job was to patrol the unit and escort authorized visits into and out of the unit. Employee was the Officer-in-Charge (OIC) of the unit.

At around 7 p.m. of July 16, 2009, Officer Bryant was manning the control booth called a "bubble" which controls egress in and out of the unit. An inmate, Mr. Earles, asked her to open the gate so that he could give his canteen¹ to someone. When Officer Bryant refused the request, the inmate approached Employee. Employee then informed Officer Bryant through a hand gesture to allow the inmate to exit the gate. Inmate Earles then dropped the canteen into the sally port² outside the gate and went back in. Corporal McCarthy then came into the bubble to ask about the canteen left out in the corridor. Bryant explained that it was Employee who authorized it. Then McCarthy and Employee went to the sally port to discuss the issue. Employee inspected the contents of the canteen and then transferred the canteen to a storage room just inside the South One unit.³ South One is a special management unit as it housed the serious offenders.

When Employee reentered the unit, Officer Bryant told him about a probationary officer who got suspended for attempting to retrieve a canteen for an inmate. Employee responded that it was all institutional business and that he was taking responsibility for the canteen leaving the unit.

Officer Bryant then began explaining a video recording (Agency Exhibit 1 video CD) which verified her testimony. She added that on instructions of Lieutenant Daniels at the Command Center, Corporal McCarthy said they would all have to file a DC-1 incident report regarding the canteen.

¹ A canteen is a see-through plastic pouch that inmates are allowed to use for storing their personal items that they are allowed to purchase from a canteen officer. The testimonies are inconsistent in that at times witnesses mentioned one canteen bag and at other times two or even three canteen bags. However, the video in Agency Exhibit 1 showed two, and then three, bags.

² A sally port is a hallway connecting different rooms in a housing unit.

³ There are three inmate housing units on that particular floor of the D.C. Jail: Southeast One, Southwest One, and South One. South One is called a special management unit because its inmates had more restrictions placed on them for safety purposes.

William Daniels (November 8, 2012 transcript pgs. 65-101).

Retired Lt. William Daniels testified that on July 16, 2009, he received a call from Sergeant Glaumeiz Croom alerting him to the presence of two canteen bags inside a room in the South One housing unit where inmates with disciplinary problems were housed.⁴ South One inmates could only leave the unit escorted by an officer with handcuffs and leg irons on. He responded to the site and confiscated the bags and brought them to the control center.⁵ He then informed Deputy Warden Harper and wrote a report.

Daniels defined contraband⁶ as any item which an inmate is not allowed to possess inside the D.C. jail. He further clarified that there are also items which are inherently contraband, such as weapons, cell phones, cigarettes, and the like. Items that may be allowed in an inmate's possession depending on the situation are those on the canteen list, a list of items such as snacks that can be purchased from the D.C. jail's canteen. Daniels admitted that inmates in South One are allowed to have canteen items. Although officers are required to report unattended canteen items, he was not aware of a written rule that specifically states that, nor is he aware of any officer disciplined for improper handling of canteen items. He admitted that Corporal McCarthy was not disciplined despite failing to report the presence of the canteen in the hallway.⁷

Larry McCarthy (November 8, 2012 transcript pgs. 102-136).

Corporal Larry McCarthy testified that on July 16, 2009, Employee was the officer in charge of Southwest One. McCarthy said he first saw the canteen bags in the hallway between Southwest One and South One. An inmate from inside South One informed him that the items belonged to him. McCarthy then went inside Southwest One and talked to Officer Bryant inside the bubble. Bryant informed him that it was Employee who allowed the canteen to be left outside. He instructed Bryant to note it in the log book. Because officers are only allowed inside the units that they are assigned or detailed to, he gestured to the South One control officer in order to speak with Sergeant Croom about the canteen. However, Croom was dealing with a guy trying to tamper with a jail camera and was thus unable to talk to him.

So McCarthy went back to his command bubble and spoke to Officer Bryant and Officer

⁴ Early in his testimony, he mistakenly referred to this as the sally port area. His subsequent testimony clarified it to be the South One housing unit.

⁵ A video recording that verified his testimony was played during his testimony.

⁶ Chapter 2, Basic Correctional Regulations 2.2, defines contraband and states: "any article not officially issued or purchased from the canteen. There are certain articles purchased or issued that may become contraband, if moved from their authorized area to an unauthorized one. Employees are charged with preventing the introduction of such contraband under all circumstances, into the areas for which they are responsible, or upon the person of an inmate assigned to them. Correctional Officers will be held individually responsible for all evidence as to contraband." Agency Exhibit 3.

⁷ Based on Corporal McCarthy's own testimony, this was not true. However, it is irrelevant to the issues of this appeal.

Winder about the canteen being taken out of the unit, which they agreed was a violation. Officer Bryant said it should be reported, so they decided to put it in the log book. Lt. Daniels came to him and after McCarthy advised him of the incident, he was told to write a DC-1 report.

McCarthy was upset as Employee's action endangered their jobs. Indeed, McCarthy revealed that he was suspended without pay for three days because of he failed to take the canteen to a supervisor immediately. (See Agency Exhibit 4).

Glaumeiz Croom (November 8, 2012 transcript pgs. 136-168).

Sergeant Glaumeiz Croom testified that she was working in the South One housing unit which housed high-profile inmates presenting special disciplinary problems and were thus locked up in their cells 23 hours a day. Any inmate being escorted out of the unit had to wear a three-piece harness.⁸ Around 6:30 p.m. of July 16, 2009, she was trying to control an inmate who had climbed a fence to cover up one of the jail's surveillance cameras. Corporal Brown then informed her that Employee had placed canteen objects on the number one gate entrance on the inside of the South One housing unit. She asked him why he opened up the gate to allow Employee to do this prohibited act. Brown answered that he did not know as he was probationary.

Croom then inspected the canteen items and called for her supervisor, Lt. Daniels, who in turn instructed her to write a DC-1 report on the matter. An upset Croom queried Employee as to why he placed those canteen items inside her unit and Employee apologized. Later Croom found out that those canteen items were intended for inmate Donnell Stewart when Stewart cursed her for refusing to obtain them for him. She stated the inmate Stewart was on disciplinary segregation and thus was not allowed to have any canteen items.

Delonte Jamar Brown (November 8, 2012 transcript pgs. 168-186).

Corporal Delonte Brown worked as a probationary officer at the South One control module on July 16, 2009, when Employee signaled to him to open up the gate. Employee then placed canteen bags inside a South One room. Brown tried to catch Employee's attention, but failed. He then called Sergeant Croom to come see what bags Employee left. When asked why he opened up the gate for Employee, Brown explained that Employee was a higher-ranking officer that he had to obey, pointing out the regulations for Agency employees. (See Agency Exhibit 5).

Michael Winder (November 8, 2012 transcript pgs. 186-195).

Corporal Michael Winder testified that he was working in Southwest One at the time together with Officer Bryant, Corporal McCarthy, and Employee. Because Employee was the highest-ranking officer, he was the Officer in Charge (OIC). Corporal McCarthy informed him that Employee had taken a canteen bag and placed it inside the South One sally port. Winder confronted Employee because this action jeopardized the jobs of everyone working that shift. Employee acted like he did not do anything wrong. Although he himself was not disciplined for

⁸ A three-piece is a harness consisting of interconnected handcuffs, belly chain, and leg irons to prevent any inmate escapes.

the incident, he knew that Officer Fowler and Corporal McCarthy were.

Mitchell Franks (November 8, 2012 transcript pgs. 195-256).

Human Resources Officer Mitchell Franks has extensive experience in the corrections field, even serving as deputy warden and then warden for several years in Maryland. He asserted that the reason Employee was terminated was because he assisted an inmate in moving contraband canteen items from one housing unit to another and thereby endangered the safety of people in the facility. Franks affirmed that excessively violent inmates are housed in South One, which is also called the segregation unit. He explained that in a correctional environment, any item that is not where it is supposed to be or is in the possession of someone who is not authorized becomes contraband. South One inmates are not allowed to have canteen items.

Franks stated that since Employee was in charge of Southwest One at the time, he should have taken the canteen bags into Southwest One and secured them inside its control module pending the arrival of his supervisor. Instead Employee introduced those bags to South One where he had no authority to do so. Franks identified Agency's Program Statement 3300.1, which lays out the employee code of ethics and conduct (Agency Exhibit 9) and Program Statement 3040.2, which lays out the correctional officers' general orders (Agency Exhibit 10).

With regards to the choice of penalty, Franks testified that he discussed the options with then Director Devon Brown and concurred with the final choice of termination. They concluded that Employee could no longer be trusted because he caused the introduction of contraband and then lied about it upon questioning. However, on cross-examination, Franks stated that he does not remember being in the conversation regarding the choice of penalty. Franks recalled that Fowler and McCarthy were also disciplined for this incident.

Franks explained that Employee was wrong in several ways: allowing an inmate to take his canteen bags outside his Southwest One housing unit, then in moving those contraband items into South One, a housing unit that is not only more security sensitive than the unit where the items came from, but also where Employee had no authority to enter. He added that the storage area where Employee stored the contraband was unsecured, and accessible to the inmate cleaning crew.

Employee (November 9, 2012 transcript pgs. 262-351).

Employee testified that apart from two other adverse actions lodged against him, a removal action in 2005 and a demotion action in 2008, he had a clean 20-year work record as a Correctional Officer with the Department of Corrections. He also stated that because of an appeal he filed with this Office ("Office of Employee Appeals or OEA"), he won his appeal. Employee asserted that this current adverse action was simply retaliation for his OEA victory. He never received any refresher training for the handling of unattended canteen items or any training for working in a special management housing unit. On cross-examination, he admitted receiving some training, but denied receiving annual training. He denied receiving any training manuals at any time during his career. (Transcript p. 348).

Employee asserted that canteen items, even those given to an inmate who is not authorized

to receive them, can never be contraband. He also insisted that abandoned or misplaced canteen items should not be considered contraband. Employee stated that even some inmates in a special management housing unit, such as South One where dangerous inmates, pedophiles, informants, child rapists are housed, are allowed canteen items.

Upon cross-examination, Employee admitted that even a harmless canteen item may become contraband if the inmate is not allowed to possess them. He also admitted that any item in the wrong place may be considered contraband, but insisted that he was unaware of that at the time. When asked why he, alone of all the fellow correctional officers who testified, was unaware of the definition of contraband, Employee responded that while he was terminated, the other two got a three-day suspension and another two received no penalty at all.

Watching the video, he identified a Southwest One inmate as the person who first placed the canteens into South One. Employee testified that he saw some unattended canteen bags in the corridor. After inspecting them for contraband, he placed them in the storage area of South One after Officer Brown opened the gate. Employee insisted that the storage room he used was locked and secure. He then went back to his unit, Southwest One. Employee claimed that he did not know what he was supposed to do with unattended canteen items inside the jail. (Transcript p. 300)

On cross-examination, Employee admitted that the storage area where he stored the canteen was not locked as he did not have the key. He also admitted he did not bother to ask the control unit officer for the key because he was confident that the unit was restricted. Based on his 22 years of experience as a Corrections Officer, Employee insisted that the cleaning crew is always attended by an officer in a restricted area.

Employee denied knowing inmate Jerome Earles, the guy who first placed his canteen bags outside his housing unit. He also denied ever gesturing to Officer Bryant to open the gate for Inmate Earles. He denied being told by Officer Bryant that he was wrong for his motioning to allow the inmate to exit the unit or for his placing the canteen inside the South One storage room. He denied ever speaking to Lt. Daniels or Sergeant Croom about the canteen items or apologizing to Sergeant Croom for getting her involved in that situation. Employee insisted that he never intended to give those canteen items to any inmate; that his only motive was to secure those items until a supervisor came by. Employee denied knowingly providing any false information to Investigator Peavy. Employee admitted that he never thought to notify his superiors about the presence of the canteen items in the hallway.

Video Footage from prison surveillance cameras⁹ (Agency exhibit 1).

Around 7:31 p.m., Inmate Earles, seen carrying a pair of canteen bags, motions to Employee. At 7:32 p.m., Employee motions to the control module to open the sally port door, thereby allowing Inmate Earles to exit the unit with the bag.¹⁰ Inmate drops the bags just outside

⁹ Combined footage seen from two surveillance cameras, one in first floor south corridor and the other in South One upper tier.

¹⁰ According to the investigator's memorandum, Employee made several statements that were contradicted by the surveillance video and the accounts of other witnesses. (See Agency Exhibit 6)

the unit. Corporal McCarthy sees the canteen bags in the hallway and then enters the unit. At 7:34 p.m., another inmate places a bag also containing canteen items next to the bags left by Inmate Earles. At 7:38 p.m., Corporal McCarthy exits Southwest One and proceeds towards South One. An unidentified inmate enters the south corridor but is ignored by McCarthy. At 7:39 p.m., Employee proceeds to the control module. At 7:40 p.m., Employee leaves the control module and enters the sally port. Employee inspects the bags and attempts to hand one of the bags to an unidentified inmate in the Southeast One sally port, but the inmate declines to take it. Employee proceeds towards South One and gestures for the control module to open the gate. He then places the bags inside.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

Whether Employee's actions constituted cause for adverse action.

The actions of Employee in collecting the contraband canteen items from the hallway connecting the three housing units and then placing them inside the South One housing unit is undisputed, and indeed, cannot be denied, as it is clearly shown on the video captured by the prison's camera. What differs is the interpretation ascribed by the parties to these actions.

In trying to resolve issues of credibility, I considered the demeanor and character of the witness, the inherent improbability of the witness's version, inconsistent statements of the witness and the witness's opportunity and capacity to observe the event or act at issue. *Hillen v. Department of the Army*, 35 M.S.P.R. 453 (1987). Because of the conflicting testimony, I adhered to these considerations carefully, particularly reflecting on the demeanor of the witnesses during the testimony, since the substance of the testimony could be reviewed when the transcript was reviewed, but the demeanor could not be captured in a transcript. *See, e.g., Universal Camera Corp. v. National Labor Relations Board*, 340 U.S. 474, 496 (1951). The District of Columbia Court of Appeals emphasized the importance of credibility evaluations by the individual who sees the witness "first hand." *Stevens Chevrolet Inc. v. Commission on Human Rights*, 498 A.2d at 440-450 (D.C. 1985). I was also mindful that even if some parts of a witness's testimony is discredited; other parts can be accepted as true. *DeSarno, et al., v. Department of Commerce*, 761 F.2d 657, 661 (Fed. Cir.1985).

I find Agency's witnesses to be more credible than Employee. The testimony of Agency's witnesses was consistent and corroborated by the evidence presented by the other witnesses. In contrast, other than his self-serving assertions, Employee offered no witnesses or other evidence to back up his version of events. Nor does Employee offer any credible reason why the other witnesses would testify to a version so diametrically opposed to his own. In addition, Employee contradicted himself in various parts of his testimony. For instance, he insists that the South One storage area, where he placed the canteen, was locked and secure. Upon cross-examination, he admits that he had no key and failed to notify anyone regarding the presence of the canteen items, much less obtain a key to lock them up. Employee further strains credulity by insisting on his own definition of contraband, which, despite his twenty-some years of work experience, differs dramatically from that of all the other witnesses, all fellow employees of a correctional facility. His insistence at one point that he had inadequate to no training on what to do with contraband is also incredible.

Based on the evidence presented, I therefore make the following findings of fact:

1. On July 16, 2009, Employee was the Officer-in-Charge at Southwest One housing unit. He motioned for Officer Bryant, who was working inside the control booth, to open the cell door so that Inmate Earle could take canteen bags outside Southwest One and drop them in the hallway. At this point, since the bags were not in an authorized area, they became prison contraband, as per the basic correctional regulations (Agency Exhibit 3). Employee also violates these regulations on contraband when he allowed their introduction into the hallway.
2. Corporal McCarthy saw the bags and informs Employee.
3. Employee inspected the canteen bags and attempts to pass one to an unidentified inmate who rebuffs his offer.
4. Employee then signaled Corporal Brown to open the gate of South One, a unit that housed the prison's most violent and troublesome inmates.
5. Employee proceeds to place the canteen bags inside an unlocked storage area just inside South One. He does not secure the items, does not inform his superiors about the contraband, and fails to make a written report, thereby violating security protocol as outlined in the basic correctional regulations.
6. I also find that Employee, similar to all other correctional employees who testified, did in fact receive training on the recognition and handling of contraband items inside a correctional facility during his 22+ years of service.
7. Later an inmate named Stewart informs Sergeant Croom that the canteen items belong to him and reacts angrily when she refuses to hand them over. The canteen items were intended by Inmate Earle to be conveyed to Inmate Stewart.
8. At some point, Corporal Bryant indicated her concerns about the canteen bags. Employee downplayed her fears. Corporal Michael Winder of Southwest One also voiced his unhappiness with the canteen incident, and again Employee dismissed his concerns.
9. Upon questioning by Agency investigator, Employee lied about his actions and what he knew.
10. On December 8, 2009, Agency sends Employee an advance notice of removal for "Any on-duty or employment related act or omission that interferes with the efficiency and integrity of government operations; misfeasance. It alleges that Employee introduced contraband items into the special management unit of South One housing unit. In essence, the notice indicates that Employee violated several Agency program statements (Agency Exhibits 9 and 10) and post orders (Agency Exhibit 11) by aiding an inmate to deliver contraband; allowing an inmate to leave a housing unit without an ID or call out pass; and then lying about what he knew during the investigation.
11. On April 1, 2010, Agency hands Employee its final notice of removal.
12. Based on Employee's admission¹¹ and Agency's concurrence, Employee's prior disciplinary record is as follows: a) Enforced leave from August 2005 to February 2009 for marijuana possession; b) 2008 demotion that was overturned on appeal.

¹¹ April 18, 2013 letter from Employee's counsel. The administrative leave was actually enforced leave from August 2005 to February 2009. Employee also had two termination proposals, one in September 2005 and another in December 2006, but the first was later withdrawn and the second was never effected.

In an adverse action, this Office's Rules and Regulations provide that the agency must prove its case by a preponderance of the evidence. "Preponderance" is defined as "that degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue." OEA Rule 628.1, 59 D.C. Reg. 2129 (2012).

Considering all the testimonial and documentary evidence presented, I find that Agency has proven by a preponderance of the evidence that Employee was guilty of committing an on-duty or employment related act or omission that interferes with the efficiency or integrity of government operations under the subsection of misfeasance. These actions constitute conduct that impeded government efficiency and adversely affected public confidence in the integrity of the government. Accordingly, I conclude that Agency has met its burden of establishing cause for taking adverse action against Employee.

Whether the penalty of removal was appropriate under the circumstances

The last issue to be resolved is the question of whether Agency's penalty was appropriate. Employee alleges that his termination was not because of any alleged misfeasance, but because of retaliation for his successful appeal of an earlier demotion.¹² However, Employee failed to present any credible evidence to support this contention. That particular demotion occurred as a result of Employee's April 6, 2005 possession of marijuana in his vehicle while on duty. Here, the evidence clearly establishes that the current adverse action is a result of Employee's actions of July 16, 2009, and not because of a prior successful appeal.

Next, Employee also complains that other employees involved in this incident received lesser penalties than he did, or no penalties at all. Specifically, Employee states that Officers Bryant, McCarthy and Fowler only received suspensions, not termination. In other words, Employee is alleging disparate treatment. In reviewing an agency's decision, a number of factors are important in determining whether a penalty is reasonable.¹³ Among these factors is whether or not the agency has meted out similar penalties for similar offenses.¹⁴

However, in *Huntley v. Metropolitan Police Department*, this Office held that the principal of similar penalties for similar offenses does not require that agencies insist upon rigid formalism, mathematical rigidity or perfect consistency regardless of variation, but that they apply practical realism to each situation to assure that employees receive fair and equitable treatment where genuinely similar cases are presented.¹⁵ Normally, in order to show disparate

¹² See *Hairston v. Department of Corrections*, OEA Matter No. 1601-0047-08 (December 15, 2008).

¹³ *Id.* at 4.

¹⁴ See *Stokes v. District of Columbia*, 502 A.2d 1006 (D.C. 1985); *Employee v. Agency*, D.C. Reg. 4565 (1982); *Employee v. Agency*, 30 D.C. Reg. 352 (1983); *Giacobbi v. U.S. Postal Service*, 30 M.S.P.R. 39 (1986).

treatment, the employee must show that he or she worked in the same organizational unit as the comparison employees and that they were subject to discipline by the same supervisor within the same general time period.¹⁶

Here, Employee failed to meet his burden of proof regarding disparate treatment. He failed to show that all these other employees had the same supervisor as he did. In addition, the offenses that these employees committed were substantially different from his and thus do not merit the same penalty. For instance, none of the other officers enabled an inmate to introduce contraband into the prison hallway. Officer Bryant opened the gate on Employee's direct order. None of the other officers proceeded to place the contraband into an unsecured area and then failed to notify their superiors about the incident. Employee was also of a higher rank and pay grade, and thus held to a higher standard. Thus, Employee cannot avail himself of the disparate treatment defense.

In *Employee v. Agency*,¹⁷ this Office held that it would leave a penalty undisturbed when it is satisfied on the basis of the charge(s) sustained, that the penalty is within the range allowed by law, regulation, or guideline, and is not clearly an error of judgment.

When assessing the appropriateness of a penalty, this Office is not to substitute its judgment for that of the Agency, but simply to ensure that "managerial discretion has been legitimately invoked and properly exercised."¹⁸ When the charge is upheld, this Office has held that it will leave Agency's penalty "undisturbed" when "the penalty is within the range allowed by law, regulation, or guidelines and is clearly not an error of judgment."¹⁹

The District of Personnel Manual (DPM) regulation on considering an employee's prior disciplinary record is as follows:

1606.2 In determining the penalty for a disciplinary action under this chapter, documentation appropriately placed in the OPF regarding prior corrective or adverse actions, other than a record of the personnel action, may be considered for not longer than three (3) years from the effective date of the action, unless sooner ordered withdrawn in accordance with section 1601.7 of this chapter.

¹⁵ *Huntley* at 5; *See also Douglas v. Veterans Administration*, 5 M.S.P.R. 280, 306-307 (1981).

¹⁶ *See Carroll v. Department of Health and Human Services*, 703 F.2d 1388 (Fed. Cir. 1983); *Kuhlmann v. Department of Health and Human Services*, 10 M.S.P.R. 356 (1982); *Mille v. Department of the Air Force*, 28 M.S.P.R. 248 (1985).

¹⁷ OEA Matter No. 1601-0158-81, *Opinion and Order on Petition for Review*, 32 D.C. Reg. 2915, 2916 (1985).

¹⁸ *Stokes v. District of Columbia*, 502 A.2d 1006, 1009 (D.C. 1985).

¹⁹ *Employee v. Agency*, OEA Matter No. 1601-0158-81, *supra*.

1602.2 An admonition may be considered in determining the penalty for a corrective or adverse action when the admonition was issued not more than three (3) years prior to the date of the proposed corrective or adverse action, and has not been ordered withdrawn as provided in § 1602.1.

Before this current offense, Employee's only prior disciplinary record is an enforced leave which took effect on August 2005. As it occurred more than three years prior to the July 16, 2009, date of this misfeasance, it cannot be considered, and thus, for purposes of determining the appropriate penalty, Employee's current misfeasance is considered a first offense. According to the Table of Appropriate Penalties²⁰, the penalty for a first offense of misfeasance is a suspension of fifteen (15) days. Agency has not presented any evidence to show that its chosen penalty of removal is reasonable. I therefore find that Agency has not properly exercised its managerial discretion and its chosen penalty is clearly an error of judgment. Accordingly, I conclude that Agency's action must be reversed and modified to a fifteen day suspension.

ORDER

It is hereby ORDERED that:

1. Agency's action removing Employee is REVERSED and the penalty is modified to a fifteen (15) day suspension.
2. Agency restore to Employee all pay and benefits lost as a result of its action; and
3. Agency file with this Office documents signifying compliance with the terms of this ORDER within thirty days from the date this decision becomes final.

FOR THE OFFICE:

JOSEPH E. LIM, ESQ.
Senior Administrative Judge

²⁰ DPM Chapter 16, § 1619.1 The Table of Appropriate Penalties f. Any on-Duty or Employment-Related Act or Omission that Interferes with the Efficiency and Integrity of Government Operations: (6) Misfeasance. (2008).