

20 MINUTES TO...TRAINED STUDY GUIDE:

DELIBERATIONS & GROUPTHINK

Presented by:

Brett A. Sokolow, J.D. and
Brian Van Brunt, Ed.D.



20 Minutes to Trained: Deliberations and Groupthink Table of Contents

- I. Learning Outcomes
- II. Discussion Questions
- III. Case Studies
 - a. Professor Weber
 - b. Tim Lane and Elizabeth Williamson
- IV. Case Study Questions & Answers
 - a. Professor Weber
 - b. Tim Lane and Elizabeth Williamson
- V. The NCHERM 2003 Whitepaper: *It's Not That We Don't Know How to Think, It's That We Lack Dialectical Skills*



20 Minutes to Trained: Deliberations and Groupthink Learning Outcomes

- Participants will be able to articulate the importance – and limitations – of the investigator’s recommendation(s) in the deliberation process.
- Participants will understand the advantages and disadvantages of having numerous individuals involved in the deliberation process.
- Participants will understand the connection between bias and deliberations and be able to articulate why bias creates problems for investigators/hearing panels.
- Participants can differentiate between rendering a policy violation and determining appropriate sanctions.



20 Minutes to Trained: Deliberations and Groupthink Discussion Questions

- When deliberating, should you defer to the most senior or experienced person in the room?
- In deliberation, how much weight should you give to recommendations of or perceptions of the investigator(s)?
- When deliberating, should the goal be consensus? Why or why not?
- In deliberating, is it best to discuss first and then vote, or take an immediate straw vote and then discuss? Why?
- When in deliberations there is a contrast between the testimony in the investigation report and what you have learned directly from a witness, how should you reconcile the disparity?



20 Minutes to Trained: Deliberations and Groupthink Case Studies

Professor Weber

As the Title IX Coordinator at a small community college, you were recently notified that a sociology faculty member, Professor Weber, had written a somewhat inflammatory memo regarding pregnancy and wage discrimination and circulated it throughout the department. Professor Weber, an older, outspoken, and staunchly conservative lifelong academic, is known for engaging his colleagues in often spirited (and sometimes public) debates on issues of race and gender-based discrimination, but this is the first time he's ever put it in writing and attempted to reach such a broad audience.

The memo – an arguably well-written, 4-page op-ed of sorts – argues that there is extensive research demonstrating that women who decide to take a year or two off from either school or their jobs have a correlative drop in their earning potential. The memo asserts that women knowingly make the decision to have kids, accepting the temporary hold it places on their academic or professional careers, but then “whine” about wage discrimination when their male colleagues, who he emphasizes do not take such leaves, end up making more than they do. Though conceding that malicious wage-discrimination does exist in the workforce, he argues that such incidents are “anomalous,” with the “vast majority of gender-based wage discrimination claims

being propagated by women who are simply dissatisfied with the biological obligations of their sex and the corresponding vocational sacrifice associated with the decision to start a family.” Professor Weber calls the typical college campus a “bastion of liberalism,” which he argues “unwittingly encourages women to declare victim-status” rather than “being accountable for the decisions they, themselves, make,” ultimately equating the decision to have children to “any other decision with career implications, such as leaving a management position at a large corporation to work for a promising startup.” He concludes by acknowledging his unconventional approach of sending out a seemingly unprompted internal memo to his colleagues, but remarks that, as the self-proclaimed “island of conservatism in a sea of liberalism” and given the multiple discussions he has had with his female colleagues on the topic, he is tired of feeling pressured into silence as the minority viewpoint and felt it his moral obligation to present the opposing side.

After several intradepartmental female faculty members angrily forwarded the memo to other faculty members outside of the department, the memo rapidly became the prevailing gossip on campus. Students quickly learned of the memo, many from other faculty members who mentioned it during their lectures in vents of frustration. Within a few days, social media had erupted with calls for Professor Weber’s termination – from students, faculty, and staff alike. The school newspaper ran several editorials addressing the situation and several student organizations became highly vocal as well, setting up shop in the free speech area of campus and calling for a sit-in at the president’s office.

Multiple faculty members have contacted you directly, insisting that Professor Weber’s memo “clearly created a hostile educational environment in violation of College policy.” The faculty members pointed to the palpable unrest on campus, the notable distraction the whole situation has caused, and the message it sends to the campus community

if at least something is not done in response to something so clearly averse to the College's mission. One of the faculty members, with whom you've partnered on several occasions for outreach and prevention initiatives, asked you point blank how this could *not* meet the definition of hostile environment sexual harassment, given that it was "objectively offensive, sex-based, written behavior that is so pervasive that you would be hard pressed to find a member of the community who didn't know about it."

In your initial meeting with Professor Weber, he told you that he was stunned by the community response to his memo, insisting that not only was the memo never intended for anyone outside of his department, but that he was simply offering a differing viewpoint on a topic and never intended to offend anyone. He added that it was exactly this type of thin-skinned, overreaction that he was referring to in his memo and that undermines the free exchange of ideas.

Tim Lane and Elizabeth Williamson

Tim Lane, Reporting Party

Elizabeth Williamson, Responding Party

Interview with Tim Lane, reporting party

- "Elizabeth emotionally and sexually abused me for two straight years."
- Williamson was interested in BDSM and made Lane play out rape fantasies and Lane wasn't comfortable with that.
- Williamson would pressure Lane to act "hyper-masculine" and Lane was "pressured and shamed...to act a certain way or else [Lane] wasn't seen as attractive."
- "Elizabeth wanted me to be this hyper aggressive and hyper sexual male ideal. Before I met Elizabeth I was identifying as

- asexual, gender-neutral - but in the relationship, I was told I couldn't do that and needed to go by he/him pronouns. I am back to they/them.”
- “She told me I was weak and to fix it. I would ‘dom’¹ myself out of acting a certain way. She gave it a pet name when I was like that, “Tiger-Tim.” I hated that. She would eventually be able to bring me back into that state she wanted with relative ease because she trained it with positive reinforcement.”
 - “Since deciding to go through with this process I haven’t kept up with my academics – I wake up tired. I’m exhausted, I have nightmares – that’s part of my PTSD. If I have a stressful day, that sets off nightmares – so now if I have a stressful day I won’t go to sleep. There was a time [I] scratched myself up all over my body because of self-hate because I couldn't deal with the memories. I have had suicidal thoughts and none of this happened before Elizabeth.”
 - When asked about their gender identity prior to starting the relationship with Williamson, Lane said: “Either a-gender or gender fluid. I wasn’t comfortable insisting on pronouns at that point but did tell people and was very open about being a-gendered...Everyone used he/him then because I wasn’t good at advocating for myself and people weren’t used to it since it is a relatively new thing.”
 - “I felt pressure about a month and a half into the relationship to act out the gender role of hyper masculine man. At that point Elizabeth wanted me to act out and identify internally in that role as male.”
 - When asked what was said about this, Lane stated: “Essentially just that if I was going to continue to be Elizabeth’s partner – what Elizabeth found attractive was this hyper male standard and if I wanted to continue to be attractive that I would need

¹ Dominate.

- to play out that role. I wanted to be a good partner so I would keep trying to meet the standard.”
- “I was a-gendered in the beginning but the more I was pressured the more I changed internally. I still had a dissonance – it didn’t feel like me – but I did present differently. When I felt maximally dissonant was when I started to think I needed to get out of it. I never felt like who I actually was appreciated because I didn’t show my actual self.”
 - Regarding the enactment of the rape scene, Lane said they did that “several times, not without coercion. I would go ahead and do it even though I wasn’t comfortable with it. She said she had rape fantasies. She wanted that kind of sex.... [E]ither her or me [*sic*] would be sexually aroused or horny and if I tried to engage with that – one of the ways she would indicate she wanted that kind of treatment was that she would actively resist – early on I would get visibly uncomfortable with that – then she would tell me I should go ahead anyway – then I learned that when she acted like that she wanted me to proceed anyway.”
 - Regarding the dom/sub dynamic: “I was ok with toys and bed restraints but not with the power dynamic. The social hierarchy was what I wasn’t ok with.”
 - When asked about details regarding how Williamson pressured Lane, “Basically the entire [sexual] situation. When the situation is supposed to start with aggression and power and force I didn’t – who I am – I didn’t want to do it at all. I tried to push through that discomfort to try to do what she wanted but that’s not me. Sometimes I felt unreal for hours afterward. I felt like I couldn’t advocate for my own desires.”
 - When asked if Lane derived sexual pleasure from their interactions, they stated: “It depends on what you mean by that. My body responded to it – but there was cognitive

- dissonance with my mind. I am not interested in engaging in any of those actions – they are the opposite of attractive to me – they are disgusting.”
- “During between fifty and sixty percent of the sexual interactions with Williamson, I did not want to do those behaviors. I was unduly pressured to be hyper masculine and violent.”

Interview with Elizabeth Williamson

- “In 2015 Tim and I started BDSM in the relationship – it was experimental and consensual – we set up safe words and boundaries and I had no reason to believe anything was wrong. They were very clear in saying they wanted to experiment with it. They operated predominantly as the dominant and I was the submissive. Safe words – and clear communication about what was permissible and what was not.”
- “Then Tim started to isolate me from my family – listen in on my phone calls with my mother. Summer of 2015 I came to the conclusion that the relationship with my parents was abusive and cut off all ties at Tim’s urging.”
- “Tim did assume the position of dominant more and brought the dynamic outside of the bedroom more. [Lane] tried to separate me more from my parents. I felt uncomfortable leaving my room without him. I had a lot of anxiety at the time that I believe was brought on by the relationship. [Lane] demanded I appear more feminine – how I dressed, exercising – what I ate. We broke up because I wanted to experiment with my gender and I had no idea Tim wanted to do the same.”
- “For the whole relationship Tim used he/him. At the beginning, they said they didn’t have any close relation to any gender identity. But throughout the course of the relationship Tim used

he/him and then strongly identified as he/him. There were several conversations about gender at the beginning of the relationship. Being in college we explore these issues.”

- When asked if she communicated a preference to Lane about Lane’s gender identity, Williamson said: “I personally am straight. Rather I am bi leaning toward straight. I communicated about that.” Investigators asked again if she had a preference for how Lane identified, to which Williamson stated: “There was talk about the fact that I personally would prefer to date someone who identifies as male. But not in the context of my demanding [Lane] present a certain way.”
- When asked about Lane’s reaction to that, Williamson said: “Nothing in particular – there was a slow process that Tim identified more strongly with he.”
- When asked how often Williamson communicated her preference to Lane, she stated: “I imagine a handful of times. In college, we talk about gender identity a lot. I always said I would support no matter what.”
- Lane’s friends referred to Lane “[a]s he. Tim openly and publicly identified as he. I haven’t had much contact since but I heard they were going by something non-binary. That wasn’t something I would have clearly expected given our relationship.”
- When asked how the dom/sub dynamic was initially discussed, Williamson stated: “I initially said I was interested in trying this in the bedroom and Tim agreed.”
- When asked if Williamson communicated that she wanted Lane to be more dominant, she stated: “In the bedroom certainly” but Lane never discussed discomfort about the dominant role.
- When asked about discussion about her rape fantasy, Lane said “No. That is one of my hard lines. I like rough sex but not simulation.”

- When asked if she remembered asking Lane to “dom his way” out of certain behaviors, she stated: “It’s a possibility I used that term. I remember [them] having troubles in situations and telling [them they] could overcome that. A potential conversation might be something like if school was getting the better of [them] – had a lot of work to do – I would say something like – you are dominant and can take control of the situation. [They were] usually receptive and would say I was right and would take charge and control the situation.”
- “There was communication about asking Tim to be more aggressive in certain scenes – but it was all consensual. I would say – I like it when you do this – Tim would ask if I would like [them] to do it more and I would say yes – and then [they] would.”
- When asked about their discussion regarding safe words, Williamson stated that it occurred “[v]ery early on. Green is go ahead – red is stop – and yellow is pause and discuss...We never really had to use them. We did a lot of stopping and discussing throughout the relationship.”
- When asked if it was clear they both had access to safe words, Williamson said “I tried to make it as clear as possible. The conversation was that we should both have safe words. Tim said that was a good idea. Tim was not comfortable with anal play on [themselves] and that was the only clear boundary I got from [them].”
- When asked if Williamson had communicated to Lane that she enjoyed the dom/sub dynamic outside of their sexual interactions, she said: “Yes, originally. But then the dynamics went out of the bedroom. The most specific examples are the ones that make me uncomfortable. January and beyond 2016 – controlling what I wore, what I ate – defensive of me around my family. The later portion of it was when I started to become really uncomfortable

and things made me upset. I felt that when I brought up having problems with the dynamic Tim would brush it off – say that it was confirmation bias and that the problem didn't exist. That made it difficult to communicate any discomfort. This was with make-up and all the things listed – but also normal relationship things – like you don't trust me – we didn't discuss that – but those types of things.”

- “In January 2016, Tim began controlling my appearance and affecting my self-image and degree of attractiveness. [Lane] would tell me that [they] thought I was unattractive and had been gaining weight. [Lane] told me to start wearing makeup more in order to look more attractive and began telling me what to wear and what to eat. [Lane] also told me to start exercising to make myself look more feminine. [Lane's] demands escalated to the point where I would have to ask permission to eat certain foods. During multiple instances, [Lane] would not allow me to eat dessert.” When asked whether she communicated her discomfort around Lane's control of her appearance, she stated: “Yes, I said I wasn't comfortable – that I wanted to wear what I wanted to wear. Tim never changed [their] behavior based on my communicated discomfort.”
- “There was a period of time that I wanted [them] to monitor my eating – but then I became uncomfortable with that and with the things [they] would say like ‘I'm not attracted to you when you do those things.’”
- Williamson denied calling Lane “weak.”
- When asked if Williamson told Lane that she wasn't attracted to them if they acted certain ways, she stated: “There may have been times that I said behaviors made me uncomfortable and I didn't know how to handle them and that [they weren't] as attractive to me – but it wasn't meant with any harm. There was a time [they] drank too much and started throwing up and I might have said I wasn't comfortable with that.”

- When asked if Williamson put pressure on Lane to act more masculine, she said: “Possibly. Never to harm though. I would say I liked certain things – and ask if [they] were comfortable doing them. [They] would say yes. [They] would continue. These were things in the bedroom.”
- Williamson stated that Lane did seem to derive pleasure from their sexual interactions.
- Lane engaged in controlling behavior:
 - When asked about Lane listening in on her phone conversations with her parents, Williamson said that it started “Fall of 2014 and continued throughout the relationship. Sometimes I would have it on speaker and sometimes Tim would just be in the room. Early on that was okay with me and it became less okay as time went on and I wanted to have a relationship with my parents. They were oftentimes placing themselves as a barrier to having a relationship with my parents. Late Summer 2015 – Fall 2015 I became uncomfortable with it. At the time, I thought it was fine and looking back on it I don’t. I think it was Tim’s influence that had me seeing it that way. I really appreciate my relationship with my parents now. I went on a trip to Ireland with my mom over spring break and I wouldn’t have done that with Tim there.”
 - When asked about Lane controlling her social life, Williamson stated: “At the time a lot of it was because I felt uncomfortable going to things without Tim. That seemed fine at the time but now is quite alarming. We had a lot of the same friends, mostly [Lane’s] friends, [Lane and their friends] would often disparage my social skills and said I wasn’t good with people or social skills. It was mostly Tim and his friend Eric and it made me extraordinarily anxious in social situations, and now I know I’m quite good at those interactions. Fall 2015/Spring 2016. People calling me

awkward – saying I was poor at reading people, my rocking and constant motion annoyed people – Tim and Eric would say these things...I took it to heart. I trusted them and their assessment of me.”

- There was a time when it was okay that she and Lane went to events together but “I started to feel that Tim became upset when I would do things without them.” Williamson was unable to provide an example.
- Lane controlled Williamson’ appearance:
 - “I went off Adderall – it raises your metabolism and lowers your appetite and I gained about 20 pounds. [Lane] wanted me to work out more, lose weight, have a tighter body. I started getting into make-up – it was fun. [Lane] said I should wear make-up more, that it looked good – that when I wasn’t wearing make-up I was frumpy. They would only comment positively on my appearance when I put in more effort than I generally do.”
 - Lane made “comments like you’d be so much more attractive if you worked out. I want you to have a tighter body.”
 - When asked what her response was, Williamson said: “I felt I had to agree. Tim had already started working out at that point. I said I liked it and I liked the results.”
 - “They liked it when I wore shorter shorts, higher heels, tighter tops.”
 - When asked what she thought would have happened if she didn’t wear makeup, Williamson stated: “They wouldn’t have been attracted to me...I don’t think any sort of control like that is healthy. You are a partner, you are supposed to be supportive and make people feel better about themselves, not worse.”

- “I just wanted the comments about my appearance to stop.” When asked if she communicated this to Lane, Williamson stated: “I wasn’t aware of what it was doing to me at the time. None of it is okay looking back on it.”
- When asked what led to the decision to report, Williamson stated: “I realized all these things had an effect on me. I didn’t know I could report until Tim did it.”



20 Minutes to Trained: Deliberations and Groupthink Q & A

Professor Weber

For Discussion

- First, let's visualize how this would play out on our own campuses. What are the politics you would likely have to manage in responding to this situation?
 - Student groups, different departments, faculty members, and staff will likely have differing views on Weber's conduct and each may require a different response. Consider the appropriate point person/people for these groups as well as the messages that you want to convey.
- How would you manage this situation? Would you investigate this, and what would that investigation look like?
 - Take this step by step. A preliminary inquiry is appropriate here to assess the impact of Weber's conduct. Speak with faculty members that work with Weber and students that are in his classes as a start.
- Assess the facts here against your institution's sexual harassment policy. Is this a violation? Why or why not?
 - Hostile Environment: unwelcome verbal/written/physical conduct of a sexual nature, or that is sex- or gender-based, that is so severe, persistent, or pervasive, and objectively

offensive, such that it unreasonably interferes with, denies, or limits someone's ability to participate in or benefit from the institution's education or employment programs.

- Look at how Weber's conduct is affecting others – students and faculty. As the conduct is not severe or persistent, one central analysis is whether it is so pervasive. What does pervasive look like to you? Just because a faculty states that you would be hard pressed to find someone who didn't know about the memo doesn't mean it is objectively offensive, so remember the conduct needs to meet the criteria set forth in the rubric.

Tim Lane and Elizabeth Williamson

For Discussion

- What are your next steps?
 - Decide whether the same investigator will handle the reports from both parties (makes the most sense).
 - Recognize that you need to determine whether Elizabeth's report is retaliatory, fabricated, and/or legitimate. In order to do so, a preliminary inquiry is necessary.
 - Decide how and to what extent to raise the issue of Elizabeth's allegations with Tim.
 - Return to the parties and discuss the other party's statement, ask follow up questions.
 - Speak with friends/witnesses of the parties. What were the parties communicating to their respective friends at the time of the relationship?
- What concerns/considerations are implicated by these reports?
 - Elizabeth's credibility will be affected if you determine that her counter report was either fabricated or retaliatory. But

follow your process and conduct a preliminary inquiry into her allegations.

- An understanding of the relationship's baseline is critical here, as is an understanding of what behavior was acceptable to each party and when conduct crossed a line.
- It is also important to keep in mind the realities of relationships. Relationships can be messy, complicated, and unhealthy without violating policy. Sorting out a messy relationship – or the ending of one – is not the responsibility of a Title IX investigator, but it is important to recognize when an unhealthy relationship or interaction constitutes a policy violation.

It's Not That We Don't Know How to Think, it's That We Lack Dialectical Skills

By: Brett A. Sokolow, JD
President, The National Center for Higher Education Risk Management
--a not-for-profit corporation—

www.ncherp.org

© 2002-2003 NCHERM. All Rights Reserved.

Twelve Angry Men Visit the Campus

In my favourite courtroom drama, *Twelve Angry Men* (1957—*Academy Award Nominee, Best Picture*), Henry Fonda proves the title of this article. This classic movie is a must for any campus judicial officer. Fonda plays juror #8 in a murder trial. After the trial, the jury takes a straw vote, and the vote is 11-to-1 in favor of convicting the defendant. Fonda is the sole holdout. The crux of the movie is the story of how Fonda convinces the eleven other jurors to heed their gut instincts, but also to parse the facts and issues in the case to come to a reasoned, deliberate conclusion. At the end, Fonda has convinced the jury to re-vote, and based upon his patient dialectic, the jury votes 12-0 for the acquittal of an innocent man.

Herdin9 Cats or Skill-Buildin9?

I've been training judicial boards for six years now. I've used clips from this movie (and a modern Paulie Shore take-off, *Jury Duty*, that is surprisingly the sum of more than its parts) in my judicial trainings. The more I train, the less time I spend on procedural issues, and the more time I spend on dialectical skill-building. Deliberation is the act of analyzing the evidence to determine if a policy, rule or law has been violated. Deliberation occurs by means of dialectical analysis. Dialectic is the art of reasoning or disputing, or that branch of logic which teaches the

rules and modes of reasoning, or of distinguishing truth from error; the method of investigating the truth by analysis. And, my experience is showing me that it's not that people don't know how to think, it's that they lack dialectical skills.

Left to their own devices, the deliberative process post-hearing is (in my experience at least 85% of the time) a disorderly discussion by hearing board members of random facts, assertions and conclusions somewhat reminiscent of a herd of cats in its orderliness. Mostly, what emerges is a right-brained gut or instinctual decision, usually based on the decision-maker's belief that the respondent acted in way that was wrong. I rarely see much heed of whether the actions in fact violated the specific and precise standards of the campus policy. It is often the case that such undisciplined responses come not from students (who seem to have their own anti-developmental bent), but from seasoned faculty and staff members, who should be well-schooled in dialectical analysis.

Follow Your Gut Instincts?

It's not that there isn't a place for right-brained reactions. But, we owe the parties to the complaint more than that. We owe them a duty to test our gut reactions against Henry Fonda's patient parsing of the facts to reach a reasoned, deliberate conclusion. If that conclusion winds up matching our gut, that only makes our conclusion stronger. But, I'll wager strongly that if you pay close attention, you'll notice that at least 50% of the time, your reasoned conclusion is 180 degrees from what your gut tells you.

Just like the Twelve Angry Men on that jury.

You may delude yourself into believing that reason matches your gut all the time, but it does not. For any of us. Gut reactions are emotional. Emotions are subjective, and the decisions we make on the basis of right and wrong are misleading. The campus conduct process is not about determining right from wrong. It is about determining whether a policy was violated. If you ask the wrong question, you can't get the right answer. And too often, our gut causes us to ask the wrong question, and we don't even consciously realize that we're doing it.

Doing Dialectic Right

Dialectical analysis should be an ordered process. It begins with parsing the policy, to identify the elements of each offense alleged. Some people prefer to flowchart a policy, to help them understand its requirements. Others don't need a visual depiction, but still need to break down the constituent elements. For example, look at this policy definition of vandalism:

VANDALISM is committed when there is...

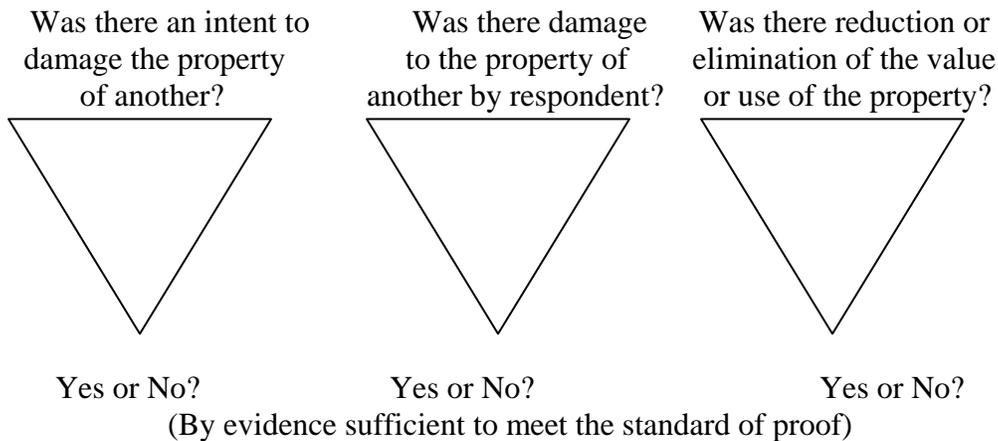
“an intent to damage the property of another so as to render it reduced in value or valueless, or reduced in use or useless”

Identifying the elements means that vandalism does not take place unless there is:

1. An intent to damage, AND
2. Damage to property of another, AND
3. Reduction or elimination of the value or use of the property.

Issue Spotting

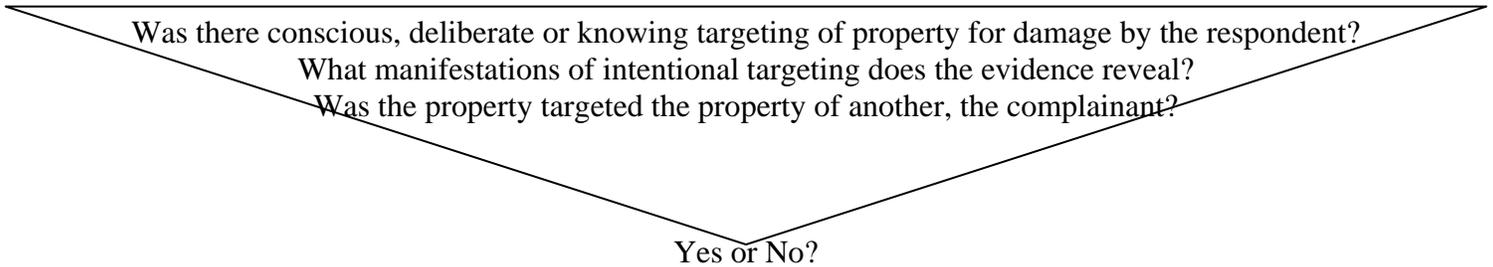
Each of these policy elements is then put into play in a process of issue-spotting. Perhaps the process can be best captured with an image. Imagine an inverted triangle. At the top is the charge, or subject of the complaint, broken into the constituent policy elements. At the bottom, at the point of the triangle, is the responsible or not-responsible finding. Issue spotting is then a process of taking the complaint, from start to finish, through a process of narrowing questions and issues that need to be addressed in order to determine a finding. There may be multiple sub-triangles for each offense. At the top of each triangle is the broadest question or issue. Then, as the triangle narrows, so do the questions, resulting ultimately in the key question apropos the issue. For this vandalism complaint, the policy dictates that there are THREE issue triangles:



While vandalism may be a simplistic example, it's easiest to understand dialectic through a simple example, though it will be most useful in complex, multi-issue, multi-offense cases.

For the first triangle, on the left above, the key questions that could flow down the triangle might be, from broadest to narrowest:

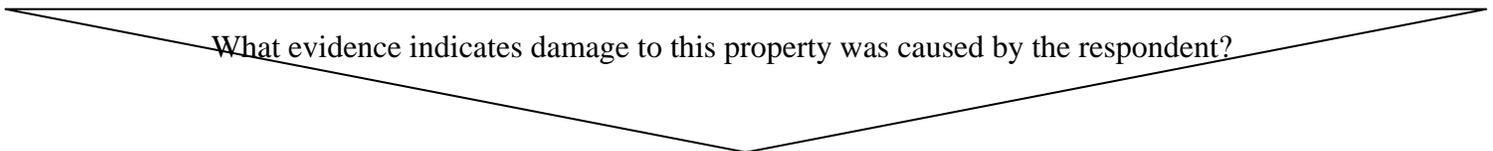
Was there an intent to damage the property of another?



Yes or No?

For the middle triangle, the key questions that flow down the triangle, from broad to narrow:

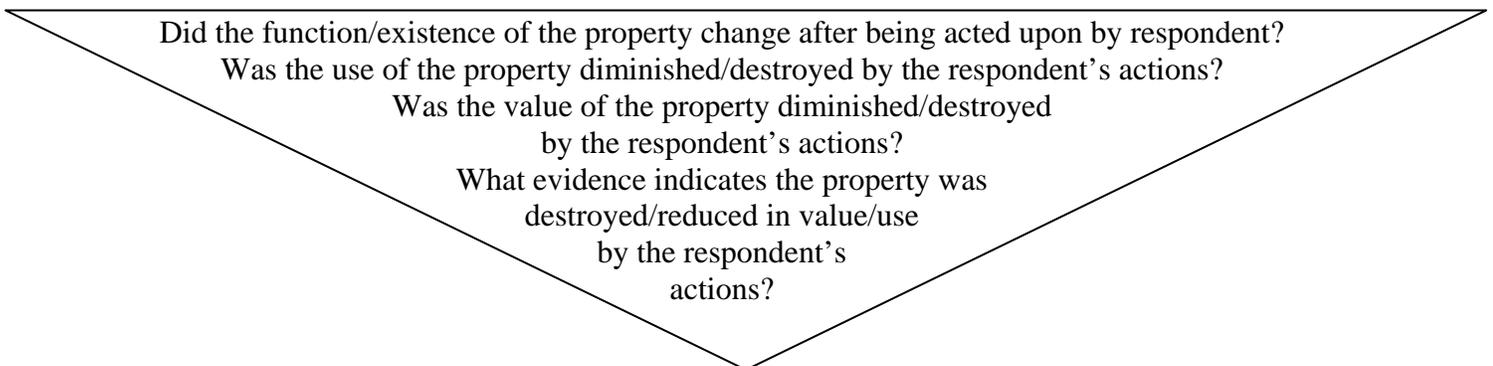
Was there damage to the property of another by respondent?



Yes or No?

For the third triangle, on the right, the key questions that could flow down the triangle, from broad to narrow:

Was there reduction or elimination of the use or value of the property?



Yes or No?

The Dialectic Requires a Matching Process

The final step is to answer each of the questions/issues within each triangle. For each question, the dialectic requires engaging in a matching process. For each question, ask what evidence/information you gained from the hearing that indicates an answer to the question.

Then, for each piece of evidence or information, assess its evidentiary value (deliberation, of which dialectical analysis is a component, can then involve a group process of evaluating and assessing the value of evidence). Is the question answered with a fact(s)? Is it answered with opinion(s)? Is it answered with circumstantial evidence? If it is a fact, it deserves the greatest weight. Opinions are worth less. Circumstances are worth even less. (Try distinguishing between the three—it's not always as easy as you think, and sometimes there are strong and weak facts, opinions and circumstances, that have to be weighed accordingly).

Summing Up?

Some people will assign a numerical weight to each piece of evidence. Not everyone thinks of this in mathematical terms, though. Such an approach is most helpful in borderline cases. If you use a "more likely than not" standard of proof, do you have 51% of the evidence indicating a violation? Some people prefer to add it up and see. Others prefer a less scientific weighing. One approach is not better than another. People just process differently. In the above three triangles, let's say that facts, opinions and circumstances give you a "Yes" answer to all three issues. That would indicate a policy violation. If you get a "Yes" for the first two triangles, but a "No" to the third, then no violation is indicated.

Whether you process by weighing mathematically, or on a more visceral balancing, processing is the goal. And the foregoing is a basic explication of the process of dialectical reasoning, laid out for you methodically, step-by-step. Give it a try. You too can give a performance like juror #8.