**Sound Decision-Making: Into the Mind of Decision-Makers**

**Table Exercises**

**Exercise One:**

***Review the following four determinations critically and determine whether in your view they illustrate sound decision-making. Are there instances of an ‘emotional tail wagging the rational dog’? Is the decision-maker succumbing to his beliefs? Is the decision-maker seeing causality or patterns in the evidence where none may exist? Is the decision-maker relying on the consistency as opposed to the completeness of the evidence? Is the decision-maker jumping to conclusions? In determining these questions, you may want to consider the following:***

1. ***Is the discussion of the issue logical?***
2. ***Is the discussion balanced and comprehensive, touching on all relevant aspects of the issue?***
3. ***Are the conclusions relating to that issue fully supported by the evidence?***
4. ***If the decision makes a finding on the probability of an occurrence, is the finding grounded on sufficient evidence?***

***Note: All four determinations relate to a complainant’s allegation that, as she was leaving a lesbian bar in the gay area of town, late one Saturday night, she was beaten by two men and left unconscious. The issue before the decision-maker in all four decisions is whether the complainant was gay-bashed. Assume that the crime of gay-bashing consists of an assault motivated by homophobia.***

***Decision 1***

* I find that the complainant was indeed gay-bashed. The complainant presented as a genuine lesbian. She works as an assistant plumber in the construction industry. She frequents lesbian bars weekly. She is stocky, wears army fatigues, and sports a short crew cut and no make-up. The complainant’s counsel submittted that she was indeed gay-bashed in view of the recent reports in the local press. Indeed, there seems to be a horrifying trend in the gay community. I am cognizant of two news reports of men who were seen leaving a popular bar in the same gay area of town and then found either pitilessly strangulated or murdered in pools of blood and in their own excrement.

***Decision 2***

* I believe the complainant when she states that she was gay-bashed. The complainant appeared articulate, clear and forthright in her testimony. This was the first time that, in her own words, “anything like this had happened to her” and contended that this could only be characterized as a gay-bashing incident. Questioned as to her past experience in the gay neighbourhood, she explained that she now sees this beating as the culmination of a number of incidents of harassment and manhandling by gay-bashers in the previous six months. Asked to be more specific, she recounted that she was once nearly toppled to the ground by a drunk teenager who elbowed her calling her a “stupid dyke”. On another occasion, the complainant was threatened by a bouncer after she declined his sexual invitations. I find the complainant to be a credible witness and conclude that she was a victim of gay-bashing.

***Decision 3***

* The complainant’s counsel submitted documents in support of her allegation that the recent election of an extreme right-wing federal party has encouraged homophobes to harass gays and lesbians with impunity. Counsel submitted a feature article from a reputable news source confirming the election of that party and reproducing that party’s election platform which clearly advocates criminalizing homosexual acts. However, the most recent publications by human rights monitors fail to report anything more than isolated gay-bashing incidents in the neighbourhood in question. The same reports give prominence to the fact that the local municipality has elected a gay councillor, issued a clear manifesto promoting the respect for human rights, and widely distributed literature on the recent amendment to the federal human rights code including sexual orientation as a prohibited ground of discrimination. Moreover, the police has been trained on lesbian and gay issues. I find it therefore more likely than not that the alleged assault was not motivated by homophobia.

***Decision 4***

* The complainant stated that she was taken to hospital where she remained overnight. She believes her nightmares and sleeplessness are a result of the alleged assault. In support of her allegation, the resident on duty at the hospital, on the date of the alleged incident, testified to the effect that the complainant suffered lacerations and bruises on her arms and legs. Her attending psychologist also testified, to the effect that she is suffering from post-traumatic stress disorder consistent with the reported incident of gay-bashing. I find, therefore, that she was indeed gay-bashed.

**Exercise Two:**

***Assume that you are the decision-maker and that you have heard all of the evidence disclosed in all four decisions. What additional evidence would you seek in deciding the case?***