

# Sticky Fingers

The next few 'Ask an Ethicist' columns will deal with scenarios that have been submitted by readers. The scenario will be presented and itinerant ethicist Dr. Robert Butcher will provide his comments.

## The scenario

*Resident Mr. B. has 'sticky fingers' and has been known to take belongings from other residents while they are out of their bedrooms. These items have included books, candies, pillows, letters and so on. Staff can typically recover the items, but it tends to result in having to search Mr. B.'s room. Staff are unsure if this is an appropriate approach and feel that they are violating Mr. B.'s rights if they search for and recover the items.*

*Other residents are fed up with the constant pilfering and demand that Mr. B. be moved to another home area so they don't have to deal with this ongoing behaviour. Mr. B. has generally stated that "I was in the wrong room," "I thought that was mine," and "He took it from me first, I'm just taking it back." There is no dementia.*

Those of you who have read these columns before will know by now that you will almost never get a straight 'You should do this' answer from an ethicist. But there is a good reason for this. In any difficult (or interesting) situation there are good reasons for doing one thing and well-balanced, good reasons for doing another. The dilemma exists precisely because we have competing values, competing principles or competing interests that come into conflict. So I will remain true to form and not give a straightforward answer. Instead, let's look at some of the issues.

## Rights and interests

One of the difficulties in talking about 'rights' is that any mention of a 'right' is usually taken to mean that all discussion should stop. Rights are often viewed as 'trumps' that beat other ethical considerations. But what happens when rights conflict? Residents presumably have some sort of right to their own property. We often think of ourselves as having a right not to have our things taken from us without good

cause. In this situation, residents are having their property taken from their rooms without their consent. But what about Mr. B.'s right to not have his room searched? In this scenario, rights seem to be in conflict.

In general, if someone has a right then someone else has a corresponding duty to ensure that right is honoured. Here, the responsibility seems to rest with the home—staff are stuck because they have to decide what to do when different rights come into conflict. Talking about rights in this scenario doesn't really get us any further ahead.

We could just talk about 'interests' in this case. All residents have an interest in ensuring that their property is safe and all residents have an interest in maintaining the privacy of their rooms and property.

The scenario concludes with the statement that 'There is no dementia.' Presumably this means that Mr. B. is capable of making his own decisions and recognizes that what he is doing is wrong. So we could be quite hard-nosed about this.

If Mr. B. takes someone else's property without that person's permission, his actions could meet the definition of 'theft' in the criminal code. It would be quite possible for the home—or the other residents—to involve the police and have the thefts investigated.

So, why does this seem heavy-handed?

I think the puzzling piece here is why Mr. B. has not stopped taking other people's things. There are three broad possibilities: he knows what he is doing and thinks he can get away with it; he does not know what he is doing; or he is somehow incapable of preventing himself from doing it. Clearly, this issue needs further discussion and exploration. What, exactly, is going on here?

I said at the outset that I would not give a straight answer. But I can give a little advice.

This long term care home needs a process: a process for determining what to do in situations like this; a process that would allow the presentation of the facts and a thoughtful exploration of different opinions and views; a process that would lead to

actionable recommendations. The worst situation is one in which a staff member feels forced to do something that he or she feels is wrong (search Mr. B.'s room) without anywhere to turn to check that feeling. Maybe that process could involve a multi-disciplinary team (and perhaps the home's ethicist) that would meet to explore the behaviour and try to come up with good solutions for dealing with it.

What would transpire during that discussion?

First, team members would explore the facts: what has happened and what steps have been taken up to this point? The team would try to understand what is going on, and in that search for understanding the question of Mr. B.'s awareness of and responsibility for his actions would inevitably arise.

If Mr. B. knows what he is doing and is capable of stopping himself from doing it—but simply chooses not to—then it is unclear why the home and other residents should not seek to limit his behaviour, for instance through engaging the police and criminal code.

If Mr. B. is viewed as somehow not responsible then the task becomes more difficult. Persuasion rather than coercion might be the most appropriate course of action—and perhaps a plea for tolerance from the other residents.

Long term care facilities face unique challenges. They are 'home' to their residents, but they require those residents to live together and share living space in ways that may be completely unfamiliar. Add to that the dependence factor and need for care and long term care managers and staff are frequently faced with seemingly intractable conflicts between competing interests, needs and rights. Is there a 'right' answer in all of these conflicts? Sometimes, yes. But far more often, the way forward is a thoughtful, respectful balancing of competing interests in a set of workable compromises.

So how do we get there? The best route is a genuinely open process in which people of good will work together to achieve the best outcomes they can. **LTC**

### by Dr. Robert Butcher

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