



Ethics in Crisis Management

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Overview



- **What is Ethics?**
- **What affects our behavior of calling things “Ethical” or “Unethical?”**
- **Ethics and restraint reduction goals**
- **Ethics and procedural risk/restrictiveness and the right to effective treatment**
- **Ethics as it relates to an individual’s ability to control the restrictiveness of a procedure and its termination (dynamic physical assistance as opposed to static restraint)**
- **Ethics as it relates to knowledge of medical contraindications for the use of physical assistance**
- **Ethics as it relates to continued restraint in the face of a lack of treatment as opposed to the judicious use of restraint as a part of treatment**



Overview



- Ethics and the practice of accepting individuals that an organization is ill-equipped to serve
- The ethics of restraint as it relates to an unwarranted restriction of civil rights
- Ethics as it relates to a failure to use physical assistance when it's warranted
- Ethics as it relates to physical assistance and common child rearing practices
- Ethics in physical assistance as it relates to responsibilities for behavior analysts, direct-care staff/teachers and administrators



What is Ethics?





What is Ethics?


- ▶ Webster's dictionary defines Ethics as:
- ▶ Rules of behavior based on ideas of what is morally good and bad
- ▶ The principles of conduct governing an individual or group
- ▶ From a behavioral perspective you might think of ethics as defining conduct in terms which kind of conduct is *aversive* to a group of people.
- ▶ Ethics are somewhat similar to laws but do not carry the weight of law and are perhaps less black and white than laws.
- ▶ In fact there is a sort of "hierarchy" of right and wrong, and the different categories may be distinguished from each other based on how clear the distinction between right and wrong and the consequences for doing what is considered to be wrong...



What is Ethics?


Degrees of right and wrong

- ▶ **1 Unlawful:** Although laws still require interpretation by judges, these are perhaps the most black and white form of right and wrong and the consequences for law violation are typically the most formal and the most severe
- ▶ **2 Unethical:** More subject to interpretation, context, the passage of time, socio-cultural factors, etc. In many instances, an accusation that someone is behaving in an unethical manner carries with it nothing more than mild social disapproval. With more formal ethical guidelines, the violation may result in a formal social censure or even loss of credentials
- ▶ **3 Unprofessional:** A clear step down from unethical, often involving judgments about one's appearance/attire, level of emotion, tardiness, language, or quality of work. You could do something seen as unprofessional by some, but this is a far cry from unethical
- ▶ **4 Inappropriate:** Often referring to an unspoken social norm that has been violated, yet it is a softer form of right and wrong and the consequences are typically not formal nor severe. You could say something that is inappropriate, but it is not necessarily unprofessional
- ▶ **5 Ill-advised:** Refers to behavior that (in at least one person's opinion) is not likely to produce good outcomes, but is perhaps not "wrong" in any philosophical sense of the word




What affects our behavior of calling things “ethical” or “unethical”

- In the same way that many things can affect whether or not we find something aversive, contextual variables can affect whether or not we say something is ethical or unethical.
- To make things even more confusing, it could be argued that “ethical” does not have to be black and white and that we may speak of things that are more ethical or less ethical.
- Laws, which also deal with right and wrong, often require interpretation by judges. There may be “mitigating” factors that causes a judge or jury to view behavior as slightly less bad. That is, “manslaughter” is still murder, but it is a less bad form of murder that (typically) carries with it a lesser sentence



What affects our behavior of calling things “ethical” or “unethical”

- Information, experience, religion, personal biases and cultural beliefs all can affect whether or not we call a practice “ethical” or “unethical”
- Medical practices once considered ethical, in light of new information, would now be considered highly unethical
- Homosexuality used to be listed as a disorder in the DSM. It would now be considered unethical to say someone has an “illness” because that person is attracted to the same sex



What affects our behavior of calling things “ethical” or “unethical”

- ▶ **Some people will label things as unethical because of a personal aversion to the behavior in question, unsupported by facts. “It’s just plain wrong to immobilize people with disabilities against their will when they don’t know what they did that was wrong.” Often individuals will use the “just plain wrong” argument when there is no general consensus or data to back up their argument**
- ▶ **Some parents believe it is unethical to spank their children. Others believe it is unethical NOT to spank children. No doubt, parents on both sides of the debate have different experiences with spankings.**
- ▶ **Even though there may be no written guidelines for some conduct, sometimes people will label behavior as “unethical” because; 1) They personally find it aversive, and 2) They know that most people don’t like to be called “unethical!” That is, it used as a means of controlling others. Karen Wagner calls this “ethical bullying”**




The ethics of “restraint reduction” goals

- ▶ Due to the increased scrutiny on restraint practices, many organizations, both large and small, have developed formal restraint reduction goals
- ▶ Although this may seem like a good thing to do, it can easily be construed as an unethical practice
- ▶ The reason that it can be viewed as unethical is that, depending on how it’s done, it is possible to reduce restraints in a manner that in no way benefits individuals with special needs, and only benefits the administration
- ▶ Some schools, for the sake of avoiding the possible need for restraint, will just let students sleep all day, or in some other way the school will dodge its educational responsibilities in the name of keeping restraint rates low
- ▶ Some places will simply let their clients do whatever they like all day long so that no one has to say “no” to them. Under these conditions of getting everything they want the individuals tend to be very stable and the need for restraint falls.



The ethics of “restraint reduction” goals

- ▶ Sometimes individuals are given increased doses of psychotropic medications which may result in a decrease in all behaviors (including adaptive ones)
- ▶ Sometimes the organization has a “hands off” policy and the police are called. If the police arrest someone, it isn’t considered a “facility restraint” and again restraint rates plummet
- ▶ Sometimes procedures that are actually causing a restriction of movement are not defined as restraint, and the decision is entirely arbitrary. For example the department of education does not define “escorts” as restraint, yet escorts force individuals to leave certain areas and enter into others. Escorts take away a person’s ability to walk where they want to.
- ▶ Renaming restraint procedures as “not restraint” will result in a reduction of restraints (at least on paper)
- ▶ Restraint reduction goals can easily be accomplished without truly helping persons with special needs.
- ▶ Restraint reduction goals take the emphasis off of effective treatment and the acquisition of new skills in favor of “lower numbers”
- ▶ This practice illustrates how one person’s “ethical” could easily be another person’s “unethical”



Ethics and procedural risk/restrictiveness and the right to effective treatment

- ▶ From the Association for Professional Behavior Analysts:
- ▶ There is widespread consensus among professionals who treat individuals with severe challenging behaviors that more restrictive interventions should be used only when less restrictive interventions have failed, or are determined to be unsafe or insufficient. In some cases, however, severe problem behaviors can be resistant to positive interventions, and carefully designed and monitored restraint or seclusion procedures can be essential for minimizing the risk of harm.
- ▶ Many people see restraint as posing only risks while providing no benefits. They only see restraints as restrictive procedures and nothing more. Risks and benefits are things that are carefully evaluated in medical procedures, and certainly many medical procedures pose the risk of death.
- ▶ In fact, anyone undergoing general anesthesia will be at risk of dying. The physician helps to evaluate that risk and then goes over the benefits of doing the procedure and the risks involved in foregoing the procedure



Ethics and procedural risk/restrictiveness and the right to effective treatment

- If it is clear that the patient will die without the procedure, then it is far easier to make a decision regarding the use of general anesthesia and surgery
- What if, however, the exact risk of dying during the procedure is unknown?
- What if the benefit of the procedure is entirely questionable (like a new, experimental medical procedure)?
- What if the patient is in no current danger (like cosmetic surgery)
- Under these conditions, it may be more difficult to assess risks and benefits
- One problem with restraint use is that restraints are highly varied from one system to another and what is allowable is very different from one state to another. We do not have actuarial tables involving various restraints and various injuries (like insurance companies have regarding medical procedures).
- Because of this, actual risk of various procedures is difficult to assess
- Because of the lack of research actual potential benefits are also difficult to assess



Ethics and procedural risk/restrictiveness and the right to effective treatment

- ▶ Which is more ethical?
- ▶ Using a 3-person face-down hold 3 times in the course of treatment
- ▶ Using a 2 person standing hold 57 times in the course of treatment?
- ▶ If you take an extreme position and say all face down holds are deadly, and all are equally risky (with no actual information on real risk, only relying on perceived risk), then (clearly) using the standing hold is more ethical
- ▶ If you believe the face-down hold to have a low risk of danger, then you would probably say that the face-down hold would be more ethical as it required fewer restrictions of the individual's freedom
- ▶ If you cannot answer the questions “how risky is the procedure?” and “how beneficial is the procedure?” and “what are the risks of treatment that takes longer?” then it is virtually impossible to say if the procedure is “ethical”




Ethics as it relates to the individual's ability to choose and terminate restraint

- ▶ Some types of restraint are performed without respect to the magnitude of the behavior of the individual
- ▶ That is, if staff only know one primary procedure then regardless of the level of the aggression or self-injury, all individuals will be subject to the same procedure
- ▶ Crisis management systems that contain a hierarchy of procedures from least to most restrictive allow the individual to dictate which procedures will be used. Mild aggression produces less restrictive procedures and severe aggression produces more restrictive procedures.
- ▶ Systems arranged in a hierarchy allow the individual to choose the procedure that is used
- ▶ Our legal system uses the concept of “reasonable force” in self-defense situations. The force is determined to be reasonable based on the damage or potential for damage being inflicted by an assailant.
- ▶ When individuals see force that is not reasonable to them you will often see public outcry (recent police shootings)



Ethics as it relates to the individual's ability to choose and terminate restraint

- ▶ **Some applications of restraint have pre-determined criteria for termination, like 5 minutes of calm behavior or something less objective like when staff are comfortable or the individual is “calm” which may be poorly defined**
- ▶ **Some individuals are no longer being aggressive, but may be still be screaming and this screaming may prevent a release**
- ▶ **Using a release criteria that is based on the individual's behavior (the act of relaxing), and is easily achievable (relaxing for only 3 seconds) effectively allows the individual to terminate the procedure at any moment**
- ▶ **As a contrast, in law enforcement, individuals do not determine when handcuffs are removed, even if they are relaxed and totally compliant. Handcuffs are removed based on police policy, not the moment to moment behavior of the individual.**



Ethics as it relates to knowledge of medical contraindications for the use of physical assistance

- ▶ **No matter which system is used or which kind of procedure, individuals subject to any kind of restraint will be struggling against resistance, sometimes at very high levels for minutes at a time.**
- ▶ **Crisis management systems should indicate potential medical contraindications and organizations should consider obtaining physician approval for individuals who have been subject to restraint use or who very likely will need to be restrained at some point due to their histories.**
- ▶ **Some organizations and/or state regulatory agencies make medical screening mandatory (The agency for person's with disabilities in Florida requires medical screening). Other organizations require no screening of any kind. Typically schools do not require any sort of medical screening for possible contraindications**



Ethics as it relates to continued restraint in the face of a lack of treatment

- ▶ **Most organizations must take data on the number of restraints used, but not all entities use that information to help make decisions regarding programmatic changes**
- ▶ **Even if the organization uses the best system and has well trained staff, the continued use of restraint for any given individual, with no changes over time raises ethical issues**
- ▶ **Certainly, some individuals don't show behavioral improvements as quickly as others, and for some it may be difficult to reach a point where no restraints are ever needed**
- ▶ **However, organizations need to acknowledge that the individual's behavior is not improving and must make changes to the individual's treatment plan and document those changes**




Ethics as it relates to continued restraint in the face of a lack of treatment

- ▶ The greatest ethical issue is perhaps not that it may take a long time to see improvement, but that the organization/treatment team chooses no new course of action in the face of unchanging restraint data
- ▶ Quite simply, if restraint continues at the same rate it's because there are continued behavior problems
- ▶ If there are continued behavior problems at the same rate then the treatment is not effective
- ▶ Does the organization document attempted treatment changes (new functional assessment, new behavior plan, re-training staff, investigating medical variables) or does the treatment team simply note that treatment is “ongoing”
- ▶ When describing treatment, “Ongoing” is often a code word for “What we’re doing hasn’t worked yet, but we’re hoping that it will someday.”
- ▶ Taking restraint data is necessary, but taking restraint data yet showing no evidence of having acted upon that data is nothing more than a liability for the organization and it is also an unethical practice.



Ethics and the practice of accepting (and retaining) individuals that an organization is ill-equipped to serve

- ▶ Although the situation is arguably different for public schools, private schools/clinics and behavior-focus group homes and larger facilities typically get a higher rate of reimbursement for accepting individuals with challenging behaviors
- ▶ Some individuals may truly believe that their agency can serve an individual that they accept, and certainly this could happen to anyone.
- ▶ The more problematic issue, however, is continuing to attempt to treat individuals when the organization does not have the staffing or expertise necessary to serve the individual safely
- ▶ Many organizations can barely keep the individual and their staff safe, let alone move the individual forward in their treatment



Ethics and the practice of accepting (and retaining) individuals that an organization is ill-equipped to serve

- ▶ **Other factors that may contribute to an organizations inability to properly serve challenging individuals may include a restriction of the types of “reactive strategies” that can be used during a crisis.**
- ▶ **Some organizations cannot do prone holding**
- ▶ **Some organizations cannot do any “floor procedures” whatsoever**
- ▶ **Some organizations cannot use seclusion time-out**
- ▶ **Most organizations cannot use mechanical restraint**
- ▶ **Because of many of these restrictions, typically imposed by national, state, and local legislation, the top policy makers are unwittingly setting up facilities for failure.**
- ▶ **This becomes an ethical issue at the legislative/administrative levels as it affects client and staff safety and even the safety of other members of the larger community AND may make proper treatment difficult or even impossible**



The ethics of restraint as it relates to an unwarranted restriction of civil rights

- ▶ If restraint is deemed unwarranted by parents, attorneys, advocates and others, then many will claim that restraint use constitutes a civil rights violation/battery/false imprisonment.
- ▶ Most people would not have an issue with transporting (escorting) the individual out of the room when that person is destroying the entire room
- ▶ What about forcing someone to leave a room (using a restraint in the form of an escort) because the individual simply doesn't want to leave when it's time to leave?
- ▶ As we all know, it is a simple matter to turn "non-compliance" into a full-blown crisis resulting in the need for restraint. The ethical question is when is it acceptable to restrict someone's freedom of movement?
 - ▶ When dangerous behavior is immediately life-threatening?
 - ▶ When dangerous behavior is occurring continuously?
 - ▶ When dangerous behavior occurs just once?
 - ▶ Only when there a high probability of imminent dangerous behavior?
 - ▶ Only when the individual's noncompliance prevents treatment?
 - ▶ Whenever the individual refuses to do as told?



The ethics of restraint as it relates to an unwarranted restriction of civil rights

- ▶ There are clearly ethical decisions to be made in deciding upon the criteria for the use of restraint
- ▶ Some governmental entities attempt to make a definition irrespective of the particular needs of an individual
- ▶ If clear criteria are not used, staff use of restraints may be capricious and highly idiosyncratic from one person to the next
- ▶ If these criteria are “set in stone” then clinicians will not have the flexibility needed to maximize safety
- ▶ If staff can ONLY intervene DURING an episode, this means that the judicious use of restraint for what is clearly imminent dangerous behavior cannot be used. Staff must wait for the person to actually start injuring himself or others
- ▶ For example, clear pre-cursor behaviors that precede a single instance of severe self-injury. If staff are free to use restraint when dangerous behavior is imminent, more injuries can be prevented




Ethics as it relates to a failure to use physical assistance when it's warranted

- This is sort of the “flip side” of an unwarranted violation of civil rights
- Many individuals with special needs harm themselves and others (repeatedly) and staff fail to intervene because of a “hands off” policy
- Many advocates who speak out against restraint never mention individuals who have been harmed because no one acted
- None of us, **NONE OF US**, would allow our own children to repeatedly punch themselves in the face
- Yet there are staff who will fail to do so because of fear of the repercussions of using restraints
- Staff are often fearful of litigation, being the focus of an angry parent, or the focus of an administrator who is “under the gun” to reduce all restraints




Ethics as it relates to a failure to use physical assistance when it's warranted

- ▶ **Isn't it likely that restraints are overused more than they are underused?**
- ▶ **Yes, it's quite likely the case, but we cannot ignore restraint underuse completely**
- ▶ **Some may argue that it's better to underuse restraints because restraints have the potential to do great harm**
- ▶ **The problem is that all restraint techniques are not equally safe and all behavior problems are not equally dangerous**
- ▶ **If the consequence of NOT using restraint is that a book gets ripped apart then perhaps a failure to act does not constitute an ethical dilemma**
- ▶ **What if the consequence of NOT using restraint is a trip to the emergency room? Especially when the restraints have a high degree of safety and are implemented by well-trained staff?**




Ethics as it relates to physical assistance and common child rearing practices

- ▶ Many “anti-restraint” individuals make arguments that restraints (at worst) are nothing more than poor attempts at punishing bad behavior. At best, restraints are viewed as “necessary” for emergencies only
- ▶ What most people fail to realize is that restraints also allow us to set limits in a humane manner
- ▶ Limits can also be set verbally, but all individuals are not controlled by verbalizations alone
- ▶ Limits can also be set physically (one reason why we have the police; everyone doesn't follow the rule of law)
- ▶ Parents, **ALL PARENTS**, set physical limits on the behavior of small children as those children are not yet controlled by verbal limit setting



Ethics as it relates to physical assistance and common child rearing practices

- ▶ **Every child, EVERY CHILD has been restrained or transported (escorted) or even placed in seclusion. MOST children have been subjected to all of the above**
- ▶ **When children fail to comply with requests to leave, parents pick them up, screaming and crying, and transport them away from the store/park/TV**
- ▶ **When children continue to attempt to interact with dangerous items, parents will often place them in a crib FROM WHICH THEY CANNOT ESCAPE**
- ▶ **Sometimes the children are placed in cribs in rooms with closed doors (seclusion)**
- ▶ **If children attempt aggression, parents will limit their movement against their will (restraint). They will arrest the movement of arms or legs or sometimes wrap their arms completely around the child**




Ethics as it relates to physical assistance and common child rearing practices

- **Without the ability to set limits on individuals, even with mild restraint, we are unwittingly setting them up for social failure**
- **Many individuals with special needs, if not supervised closely, will violate any of a variety of societal rules and will have difficulty integrating into the community**
- **Individuals with a history of having limits set on them are better equipped to navigate society rules (which are largely about what you can and cannot do in public)**
- **A FAILURE to set limits on individuals, physically (yet humanely) when necessary, creates an artificial world where no one stops the individual from doing bad things**
- **Is it ethical to create this type of “half-real” existence for person’s with special needs?**



Ethics in physical assistance as it relates to responsibilities for behavior analysts, direct-care staff/teachers and administrators

- ▶ **Behavior analysts must understand how the inability to stop problem behavior can affect treatment outcomes**
- ▶ **Behavior analysts must understand how the inability to stop people from accessing the reinforcers that strengthen problem behavior can affect treatment outcomes**
- ▶ **Behavior analysts must understand the importance of setting limits on behavior (physically in this case) if individuals are going to become properly socialized and a functioning member of society.**
- ▶ **Direct-care staff/teachers must understand their role as being one of setting limits and providing for safety and that their role is not that of police officer or “bouncer”**
- ▶ **Direct care staff/teachers must understand the importance of following established criteria for the use of restraint in order to prevent over and under-utilization**



Ethics in physical assistance as it relates to responsibilities for behavior analysts, direct-care staff/teachers and administrators

- ▶ **Administrators must understand the ethics involved in trying to reduce restraint in ways that are NOT in the individual's long-term best interest**
- ▶ **Administrators must understand the importance of support staff in their appropriate use of restraint and must avoid setting up a culture in which people are heavily criticized for the use of restraint**
- ▶ **Administrators have a responsibility to recognize and admit when they have accepted an individual who is beyond their ability to appropriately serve.**