

VOLUME I: NUMBER 1: WAYS TO CATCH A THIEF

by Rabbi Aron Tendler

Question:

In a certain factory there has been a lot of theft lately. The manager suspects one of the workers. The manager wants to invite the worker to a private meeting in his office, and to leave a wallet full of money in an open drawer, in clear view of his worker. He would then leave the worker alone in his office for a while, to see if the worker would attempt to steal the wallet.

Is this permissible, or could the manager possibly be transgressing the prohibition of "Lifnei eever lo siten michshol" ("Before a blind man you should not put a stumbling block")? [This prohibition forbids a person from causing someone else to sin.]

What is the Halacha?

Answer:

- A. The factory owner is allowed to do this, however he should be Mafkir (render ownerless) the wallet and its' contents in front of three people, so as not to cause the thief to stumble on the sin of theft.
2. If you invite a guest or a worker into your home, and are concerned that they may steal from you, you do not have to be Mafkir your possessions to save them from the sin of theft.
3. The above (A) also applies to a principal who has a rash of thefts in his school. However, if there have not been any incidents of theft, and he wants to do this "test" in order to check out the Yiras Shomayim [Fear Of Heaven] of his students, for educational purposes, (or even parents that may want to test their children in this way,) - there is a difference of opinion among the Rishonim regarding whether or not this would be permissible. Therefore, since it is a sofek D'Oraysoh [the halacha is in doubt regarding a prohibition of the Torah (as opposed to a sofek D'Rabbonon, where the halacha is in doubt regarding a prohibition that was decreed by the Rabbis)], it should not be done.

Sources:

The Gemara in Kiddushin (32a) says that Rav Huna wanted to test Rabbah his son, to see if he would lose his temper. (Look at the explanation of the Chochmas Shlomo [Maharshah] and the Ya'avetz.) He therefore tore clothing in front of him when he was upset, to see if his son would yell at him. The Gemara asks, "If he would get angry and yell at his father, he would be stumbling on the mitzvah of Honor Your Father and Mother, and Rav Huna would be transgressing the prohibition of "Lifnei eever lo siten michshol?" The Gemara answers that before the test, Rav Huna was "mochel" (forgave) on his honor.

Tosafos (D"H D'mochil) writes that we must say that Rav Huna had informed his son ahead of time that he had forgiven his honor, because if the son had been unaware of this he would still be transgressing a prohibition.

This is similar to the case in Kiddushin (81b) of someone who intends to eat non-kosher meat and accidentally eats kosher meat. Such a person must still atone for what he did.

Therefore Rav Huna (above) would still be transgressing the prohibition of "lifnei eever."

From the above Tosafos we can derive, that even though Rav Huna's intention was to educate his son, if it is in any way possible that he would be causing his son to transgress a prohibition, he would be restricted from doing so by the prohibition, of "lifnei eever."

However, the Ritva over there also asks Tosafos' question, and answers differently: Since the test is ultimately being done for the good of the son, we cannot say that Rav Huna will be transgressing "lifnei eever," as long as the son is not really doing anything wrong, since Rav Huna had already forgiven his honor. In other words, if you can prevent the son from sinning by forgiving your honor, this must be done. However, since informing the son of this could jeopardize the entire educational lesson, for the sake of his education you can run the test and not tell him that the father had forgiven his honor, and the father would not be transgressing "lifnei eever."

According to this, in our case, if the educators or parents would want to run this test to challenge the child's honesty, it would really depend on the above argument between Tosafos and the Ritva. Since it would be impossible to run the test if you tell him that the wallet is "hefker," if they would do so, they would be transgressing "lifnei eever" according to Tosafos.

It appears, however, that if your intention in running this test is to protect your property and prevent further theft, it would be permitted.

Proof to this is from the Gemara in Mesechta Derech Eretz Rabbah, in the fifth perek, where

Rabbi Yehoshua invited a guest into his home, gave him to eat and drink, and provided him with a place to sleep in his attic. After the guest went to sleep, Rabbi Yehoshua removed the ladder from the lower floor to the attic. That night the guest helped himself to whatever was in his room, and tried to flee. Thinking that the ladder was still there, he fell to the floor and broke his ribs. The Gemara relates that Rav Yehoshua decided that what he had done was Halachically correct, and this is the proper way to conduct yourself if you have guests that are suspect.

In the above case, the actions of Rabbi Yehoshua caused a "stumbling block in front of a blind person" according to the simplest interpretation (according to most Rishonim, look at Minchas Chinuch Mitzvah 232:4), and it is permitted to do this to prevent a loss to your possessions.

Therefore, in our case also, if there had been a rash of thefts and you want to find out who the thief is, this would be permitted. However, if you are laying a trap, you should first be Mafkir the money, so that if he stumbles, he stumbles on the lesser prohibition (i.e. thinking he is stealing). However, if you are not specifically laying a trap, there is no obligation to be Mafkir your possessions when taking suspect people into your home, just as Rabbi Yehoshua was not Mafkir his possessions.

This class is translated and moderated by Rabbi Aaron Tendler of Yeshivas Ner Yisroel in Baltimore. Rabbi Tendler accepts full responsibility for the accuracy of the translation and will be happy to fax originals of the articles in Hebrew to anyone interested.

Feedback is appreciated! It can be sent to atendler@torah.org.

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Please Note: The purpose of this column is to make people aware of Choshen Mishpat situations that can arise at any time, and the Halachic concepts that may be used to resolve them. Each individual situation must be resolved by an objective, competent Bais Din (or Rabbinic Arbitrator) in the presence of all parties involved!