

PART NINE

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COMBATING CRIME PROBLEMS

WHOSE JOB IS IT?

Property managers get frustrated very quickly when trying to report crime problems to the police. It just seems the police don't show enough interest. If they cared, they would arrest the troublemakers, right? Well, it's not that easy.

Some property managers are viewed as apathetic toward crime. It appears that property managers intentionally rent to anyone, as long as they pay the rent. Some police officers are viewed as apathetic toward problems that arise in rental communities. It appears the police are in too much of a hurry to get to the next call, or the next cup of coffee.

The truth is, there are some property managers and police officers that could do a better job. But the majority of police officers and property managers are doing their level best. There is just the issue of misconceptions about what the police can and cannot do, as well as what the property manager can and cannot do.



MANY MISCONCEPTIONS ABOUT THE POLICE DEPARTMENT AND PROPERTY MANAGEMENT CAN BE QUICKLY CLEARED UP WHEN POLICE AND MANAGERS OF RENTAL PROPERTY SIMPLY TALK ABOUT THEM.

The Displacement Theory

If management depends too heavily upon the police to deal with criminal activity on the property, they'll likely be disappointed. The police cannot do very much alone. For example, consider the balloon displacement theory.

If a balloon is squeezed from one side, all of the air is displaced to the other side. When the balloon is released, all of the air comes back again. The police have this same effect on crime. The police can respond to a crime problem, apply pressure, and displace the problem. But as soon as they move on to the next area, and they WILL have to, the problem returns.

If a property manager squeezes one side of a balloon, maintenance squeezes another side, the police another side, and residents squeeze from the top and bottom, the balloon will burst. This *TEAM* can have the same effect on crime. There is strength in numbers!

United against crime, the team will always win.

Police officers do not have sufficient training in civil laws regarding landlord/tenant disputes. Frequently, the police expect the property management to do things that just are not allowed. The reverse is true. Many times the police are asked to do things that they are not allowed to do either. Because there is not enough time spent on explaining why a particular action cannot be taken, the other sees this refusal as apathy.

CIVIL LAWS VS. CRIMINAL LAWS

To clear up the matter, we first have to see the differences between civil and criminal matters. They have very little in common. In fact, sometimes they have NOTHING AT ALL in common. Property managers work with civil laws (*the Forcible Entry and Detainer Act*) while the police work with Illinois criminal laws. The rules and the penalties are entirely different. The amount of evidence a police officer needs for probable cause to make an arrest is much higher than the preponderance of evidence you need as a property manager.

Criminal Law

When you think of criminal laws, think of Perry Mason, the judge and jury. When you think of civil laws, think of Judge Wapner and *The People's Court*. The issues and the procedures are quite different.



In criminal law, the police must have probable cause to arrest someone. Suspicion is not enough. Probable cause is where an officer knows a crime happened, and believes the perpetrator is the one being detained. When an officer begins to question the person who just got arrested, **they must tell the suspect about their Aright to remain silent. The police cannot search an apartment without a warrant, and they are not easy to obtain.**

If the officer is able to build enough evidence to arrest a suspect, there is still no guarantee the prosecutor's office will file charges. If charges are filed, there is no guarantee the person will be brought to a jury trial. If the person is brought to a jury trial, there is no guarantee the jury will convict. If the jury convicts, there is no guarantee the person will go to prison. If the person goes to prison, there is no guarantee they will stay there very long.

In many cases, plea bargains are made, probation may be given, or in some situations, the charges are just dropped. In most cases, the people that get arrested at rental properties do not go to prison. They are released very soon after being arrested, and they go right back home to their apartment.

Civil Law

In civil law, the procedure is much different. Property managers do not need probable cause to question a resident and they do not have to read them their rights. Property managers have the right to enter rental units (as provided by law), and they don't need a search warrant! If the resident has committed a breach of the rental agreement, you may serve notice to terminate the lease and the resident may need to appear in court or risk losing the judgment if they choose not to leave.



In civil court there is not the typical courtroom scenario. You might be surprised to not see a jury. Each person stands before a judge; the judge weighs out both sides of the issue based on the evidence presented, and renders judgment. That's it.

In criminal cases, a jury must be convinced **beyond a shadow of a doubt**. In civil law, the judge only needs to see a **preponderance of evidence**. A preponderance of evidence is MUCH less than proof beyond a shadow of a doubt. A preponderance of evidence could be only 51% to win. Proof beyond a shadow of a doubt requires virtually 100% to win the case.



Criminal Preponderance
98%-100%

vs.



Civil Preponderance
51+%

TAKING ACTION

If a resident is conducting illegal activity at the rental property, a criminal conviction may not be as expedient as taking civil action. For instance, if a resident is suspected of selling drugs or gang activity, you should contact the police, but also be prepared to take action yourself. There may not be a whole lot the police can do to help you in some cases. Document all of the activities you and others have observed, because you may have more ability to deal with the situation. For example:

DRUGS IN APARTMENTS

What will you do if ***an employee in a resident's unit discovers drugs?*** Some management companies may want you to take the drugs to the office, another company may recommend that you secure the apartment, and yet some companies may want you to get a witness. **In all cases you should notify the police.** Check with your company's attorney for legal advice in advance. In one case, a maintenance person took needles, which turned out to belong to an insulin dependent diabetic who was very angry with management. **Bottom-line, consider your actions!**

Drugs can be extremely dangerous; caution should always be exercised. It is not advisable to pick up or remove drugs, drug pipes, needles or other paraphernalia. At the very least, rubber gloves should be worn when touching any of these items. Needles are especially dangerous, not only because of the drugs themselves, but because of the likelihood of the transmission of Hepatitis or the H.I.V. virus. Because children and adults frequently crawl into dumpsters, this is not a good place to dispose of them. Maintenance and grounds keepers should also be on the lookout for needles and other stashes in remote areas of the property and inside broken sections of block fences.

GENERAL DISTURBANCES



Loud music, loud parties and just rowdy behavior can be very annoying. The police can ask residents to reduce the noise, but frequently they will start again once the police leave. **The management has the most power to deal with this noncompliance.** A resident should be served with a 10-day notice for each breach of the rental agreement, if appropriate. The manager can simply tell the resident to stop violating the rental agreement, or the next time the violation happens it will be grounds for eviction.

WHO HAS THE POWER?

The Fourth Amendment to the United States Constitution limits the power of the police. **The property manager has much more power to remove a resident from the property.** A resident can be free, awaiting trial for over a year. The criminal process is much slower than the civil one. You will need less evidence to remove the resident through the civil process. Having your paper work in order with thorough documentation will make the process quicker and easier. There are some things the police can do that managers cannot. But more often what the management can do, the police cannot. **Together the police and management** can work with responsible residents to solve virtually any problems. It takes a concerted effort, and both sides have to be willing to do as much as possible. Though it may seem easier for the police to deal with it, that is not always the case. Here is another example:

TRESPASSING

Mark Manager calls the police to report a trespasser. When the officer arrives, the suspect is waiting for the police. The manager tells the officer, "I want this man arrested for trespassing!" The officer talks to the man in question and finds out he is actually living in the unit. His clothes, television and other personal effects are in the apartment as well.

The officer explains to Mr. Manager, "The man is not trespassing; the resident is allowing him to live there."

"Aha!" replies the manager. "He is NOT on the lease!"

The officer responds, "The lease is a civil matter. You will have to serve notice to the resident who is allowing the unauthorized guest."



If a rental agreement has clearly stated policies regarding unauthorized occupants, the property manager can typically serve a notice for the resident to remedy the breach in 10 days, or face eviction. This is often the case with unauthorized pets.

(Refer to the APPENDIX for information on the Schaumburg Trespass Ordinance and how it can work for your property.)

ATTEMPTED MURDER

"9-1-1, what is your emergency?"

"It's my husband, he has a gun, and he says he's going to kill me."

"Okay, stay on the line. I have several officers responding to your apartment as we're talking."

"Please hurry."

"Which unit number are you in?"

CLICK-- Dial tone.

"Hello? Are you still there?"

(The line is busy on call back.)

The police respond at 1:40 a.m., set up a perimeter, and evacuate all of the neighboring units. It's the middle of the night, it's cold outside, but the neighbors could be in danger. They have to leave. For several hours the police negotiate with the gunman, but he refuses to put the gun down. The hostage negotiator is also unsuccessful.

At about 7:00a.m., the police fired tear gas into the unit, breaking the window and burning the curtains and carpeting. The rental unit smells bad. Fortunately, nobody is seriously injured. The S.W.A.T. Team takes the suspect into custody.

By 7:11 a.m. the suspect is handcuffed and placed into the back of a waiting patrol car. By 8:00a.m., he is in front of a judge; by 9:45a.m., he's released and has his guns back.



The manager is livid! She calls the police and insists in knowing why the police let this man go?

The response is, "The police did NOT let this man go, and the judge did." The police department's job is to take a suspect before a judge. After that, it is up to the judge! If the judge orders the police to release him, they have to do it.

The manager lashes back, "I want to know why the judge let him go?"

The response is, "It happens all the time. The courts are so busy, and the jails are overcrowded, so not everyone goes to jail.

If you call the sheriff, he'll tell you he doesn't have enough money or facilities because of budget cuts. It all comes back to the people who say, "No new taxes."

In a way, the people blame the police, the police blame the judge, the judge blames the sheriff, and the sheriff blames the people ... who blame the police, who blame the judge, who blame the sheriff, who blames the people...

The irony of this story is the manager was mad at the police for not doing their job, when in fact, they did all they could. The manager, however, did not do HER job. This was the third time the police were called to the same apartment unit in less than 10 months. The manager chose not to evict him the previous two times because she knew the resident was having personal problems. This story may sound strange, but consider your responsibilities to all your residents while considering "the big picture".



MANAGEMENT'S RESPONSIBILITY

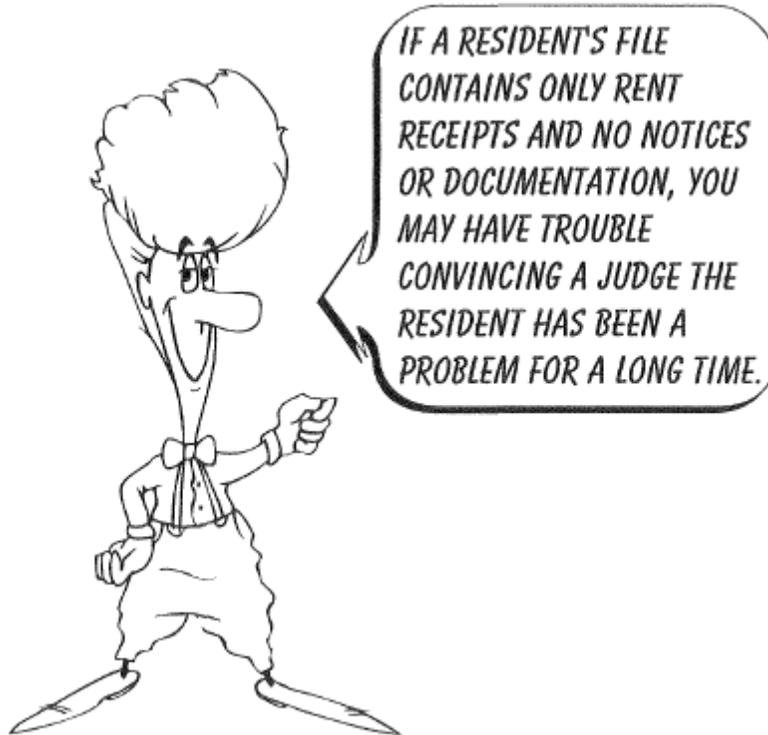
Frequently managers complain about all the problems they are having with a particular resident. They can tell many stories, but when asked to show written documentation of non-compliance, often times the manager has not kept records.

One manager was asked if he ever served a 10-day notice. His reply was "What's a 10-day notice?"

It is not uncommon to find managers who only know about the 5-day notice for nonpayment of rent. They feel they were hired only to collect the rent, and it is the police department's job to deal with undesirable behavior involving residents.



Granted, most apartment managers are familiar with the various notices, but far too many don't use them as often as they should. The three (3) keys to any successful eviction are "document... document... DOCUMENT".



RESIDENT'S RESPONSIBILITY

Train residents - to recognize and report illegal activity.

Empower residents - form Neighborhood Watches and resident councils.

Establish relationships/rapport- attend meetings, use suggestion boxes, have an open door policy.

Set goals - for residents.

- Smaller, short-term goals at first
people get discouraged
people need successes
people need a series of goals
remind residents of goals
advertise successes
- Larger, long-term goals later
more impact on community
more difficult, but more rewards

A TEN-STEP PROCESS

1. Contact all residents.
2. Arrange a timely meeting.
3. Provide handouts.
4. Follow up with newsletter to all residents who don't show up.
5. Have property manager facilitate meeting.
6. Arrange police/fire department presenter.
7. Present crime statistics.
8. Present reasons for crime.
9. Present resources.
10. Present solutions.

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