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PART ONE

WHAT IS THE
CRIME FREE MULTI-HOUSING PROGRAM?

WHERE IT BEGAN

The CRIME FREE MULTI-HOUSING PROGRAM began in Mesa, Arizona in July 1992. It has spread across the United States and to Canada in a very short time. It was designed to be law enforcement driven.

HOW IT WORKS

The CRIME FREE MULTI-HOUSING PROGRAM is a unique, three-phase certification program for rental properties of all sizes, including single family rental homes. The first phase is the completion of an eight-hour program taught by attorneys, police and fire personnel. Frequently, guest speakers will also attend to address specific topics relating to rental properties. This police-sponsored program is designed to be very easy, yet extremely effective, at reducing criminal activity in rental properties.

The CRIME FREE MULTI-HOUSING PROGRAM addresses these topics:

- Understanding Crime Prevention
- C.P.T.E.D. Concepts
- The Application Process
- Common Sense Self Defense
- Community Rules/Leases
- Apartment Communities/Not Complexes
- Active Property Management
- Combating Crime Problems
- Police: To Serve and Protect?
- Partnership with the Fire Department
- Dealing with Non-Compliance

Typically, the CRIME FREE MULTI-HOUSING PROGRAM is taught during a single eight-hour day. We will also, on occasion, sponsor Saturday and evening sessions. The program is designed to be flexible so that we can meet the needs of our community.

WHO SHOULD ATTEND

Property owners, managers, leasing staff, maintenance personnel and others in the management team should attend the entire 8-hour training program. It is also recommended that police officers attend the training to understand the civil nature of rental communities, and to establish a rapport with managers of rental properties.

PHASE ONE: TRAINING

After completion of the eight-hour training program, each participant will receive a ***green certificate*** that has been signed by the Chief of Police. The certificate is also signed by the program coordinator of the CRIME FREE MULTI-HOUSING PROGRAM, who sponsors the training.

This certificate is to be immediately framed and displayed in the leasing office, or in a prominent place where applicants are sure to see it. **Prospective residents should be told as soon as possible that the property management is working with the police** to keep the community healthy. If there is no leasing office, a certificate can be displayed in a 3-ring notebook with other materials used in the CRIME FREE MULTI-HOUSING PROGRAM. The manager or owner should show the notebook to prospective residents.

Participating managers should also begin immediate implementation of the Crime Free Lease Addendum, which is the backbone of the CRIME FREE MULTI-HOUSING PROGRAM. This addendum to the lease cites specific actions that will be taken by management if a resident, or somebody under the resident's control, is involved in illegal or dangerous activity on or near the rental property.

If the management is conducting a background check that includes credit and criminal information, the applicant should be informed <u>before</u> they turn in the application or pay any fees or deposits. Every prospective resident must be treated exactly the same as the others. It is important to develop office policies to ensure this.

PHASE TWO: C.P.T.E.D. INSPECTION

In the second phase of the program a representative of the police department will inspect the rental property to assess physical security and general appearance of the property. If the property meets the agency's requirements, management will be given a second certificate signed by the Chief of Police.

This ***red certificate*** will certify the property has met (or has implemented a timetable to meet) the minimum-security recommendations of the CRIME FREE MULTI-HOUSING PROGRAM. The minimum-security recommendations are:

C.P.T.E.D. SECURITY RECOMMENDATIONS:

1._____ 4.

2._____ 5.

3._____ 6.

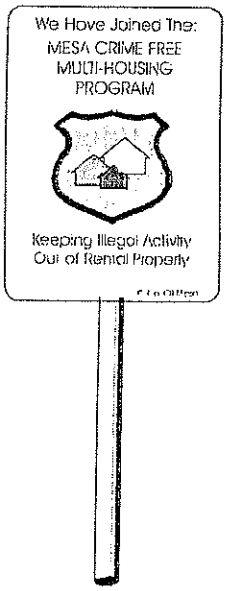
PHASE THREE: SAFETY SOCIAL

In the third and final phase of the program, the sponsoring law enforcement agency will conduct a Safety Social for residents at the rental property. This will include information about general safety principles and crime prevention, including Neighborhood Watch information. This will also give law enforcement the opportunity to explain the CRIME FREE MULTI-HOUSING PROGRAM to the residents of the rental community.

Management may choose to provide food, non-alcoholic drinks and entertainment to add to the success of this event. It is also recommended that property managers raffle door prizes as an added incentive to draw residents to the meeting. **It is necessary to conduct at least one (1) meeting per year to maintain membership** in the CRIME FREE MULTI-HOUSING PROGRAM.

A ***blue certificate*** will be issued at the Safety Social to demonstrate to the residents that management is committed to the Crime Free Multi-Housing Program, and has completed all three (3) phases of the program.

FULL CERTIFICATION



Once fully certified, the property manager will receive a ***gold certificate***. (This certificate is the only certificate that has an expiration date. It is renewed each year after the subsequent Safety Social has been conducted.)

After completion of the first safety social, management can post the CRIME FREE MULTI-HOUSING PROGRAM signs on the property. It is recommended that one sign be posted at each entrance to the property where prospective residents will see them.

SIGN REGISTRATION

There may be minimal one-time registration fee for each sign (to cover posts). **The use of the sign is granted by the Village of Round Lake Beach**, and permission to display the sign can be revoked if the property is sold or the management no longer wishes to participate in the CRIME FREE MULTI-HOUSING PROGRAM.

An added incentive to reach full certification is being granted permission to use the logo of the CRIME FREE MULTI-HOUSING PROGRAM in all appropriate advertisements, as well as on company letterheads, business cards and associated paperwork.

This logo has achieved a very high level of recognition in the United States and Canada. It has proven very effective in attracting honest residents looking for safe housing. It has worked equally well to discourage those looking for an apartment unit in which to conduct criminal activities.

Copyrighted LOGO

International Crime Free Multi-Housing Program

PHONE-IN REQUESTS

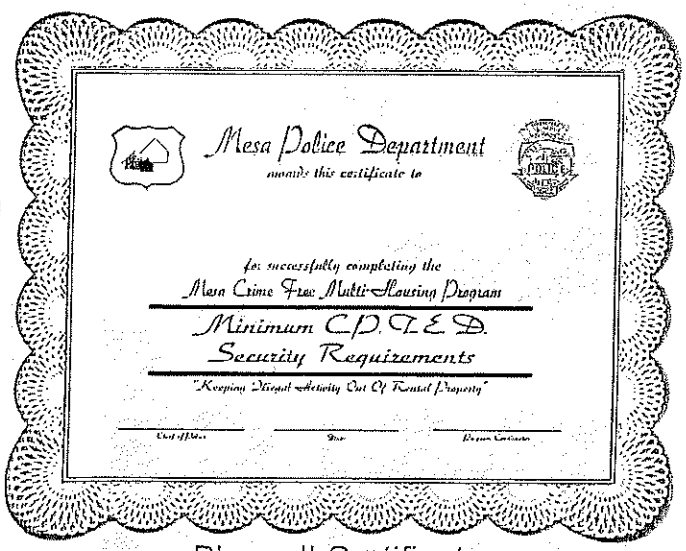
An additional advantage to being fully certified is that people can call the police department for a list of fully certified properties.

MAINTAINING CRIME FREE SIGNS

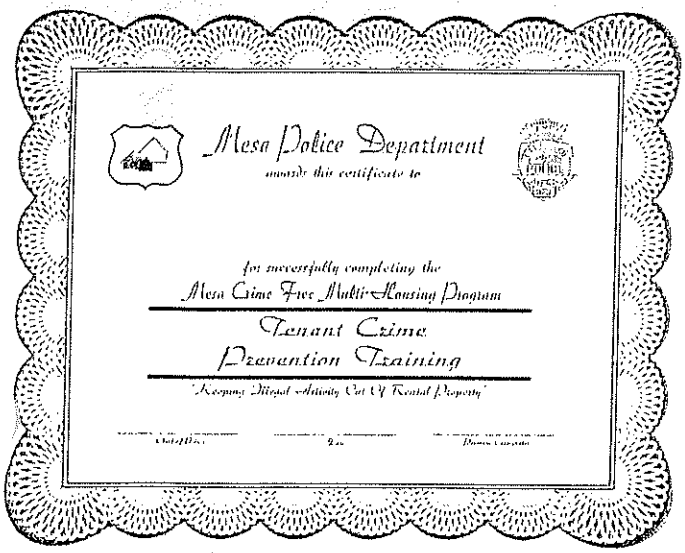
It is the responsibility of the management to maintain and replace all lost or damaged signs. Contact the Crime Free Program Coordinator if this occurs. Carefully consider how each sign is installed to prevent easy removal. Through bolts can be bent or stripped to prevent removal. Signs can be attached with liquid nails and/or bolted to a building at a height that cannot be easily reached.

EXAMPLE CERTIFICATES and CRIME FREE SIGNS

Phase I Certificate

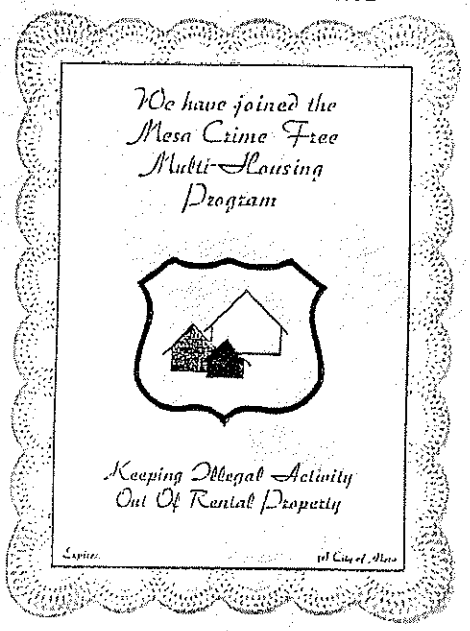


Phase II Certificate

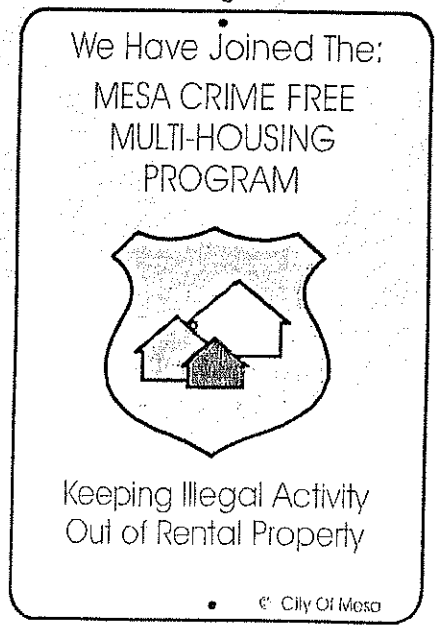


Phase III Certificate

Annual Certificate



Crime Free Multi-Housing Sign



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SAFETY MEASURES

Get with the Program

...a Crime Free Multi-Housing Program, That Is.

BY JANICE MYERS

A partnership of property managers, residents, law enforcement and state government officials can reduce crime in a community.

Normally, crime is nothing to celebrate, but the Crime Free Multi-Housing Program has apartment residents doing just that in 1,700 cities in 43 states. A three-phase certification process that has decreased police calls to some properties by as much as 67 percent, the Crime Free Multi-Housing Program culminates in a "social" for apartment residents that may feature free food, music and door prizes. This event introduces residents to the crime reduction program while fostering a sense of community.

"Property managers and residents indeed have something to celebrate when they are certified by the Crime Free Multi-Housing program, which was created in 1992 by Tim Zehring, a former police officer in Mesa, Ariz.

"I noticed that 70 percent to 75 percent of my patrol time was spent at about one-third of the housing on my beat. The rest of my area was getting shortchanged," Zehring said.

Repeat calls to particular units consumed an inordinate amount of law enforcement time and resources. Other officers shared Zehring's frustration, but not his insistence, his persuasive personality and his creative drive. The Mesa Police Department gave Zehring the go-ahead to develop a multi-housing crime reduction program.

Zehring distilled the complex task to three simple phases. In each of these steps, the program's success depends on establishing and maintaining communication, cooperation and coordination between property managers, law enforcement, state governments and property residents.

"To be perfectly honest," he said, "when I was on the beat, I thought the average property manager didn't want to deal with these problems."

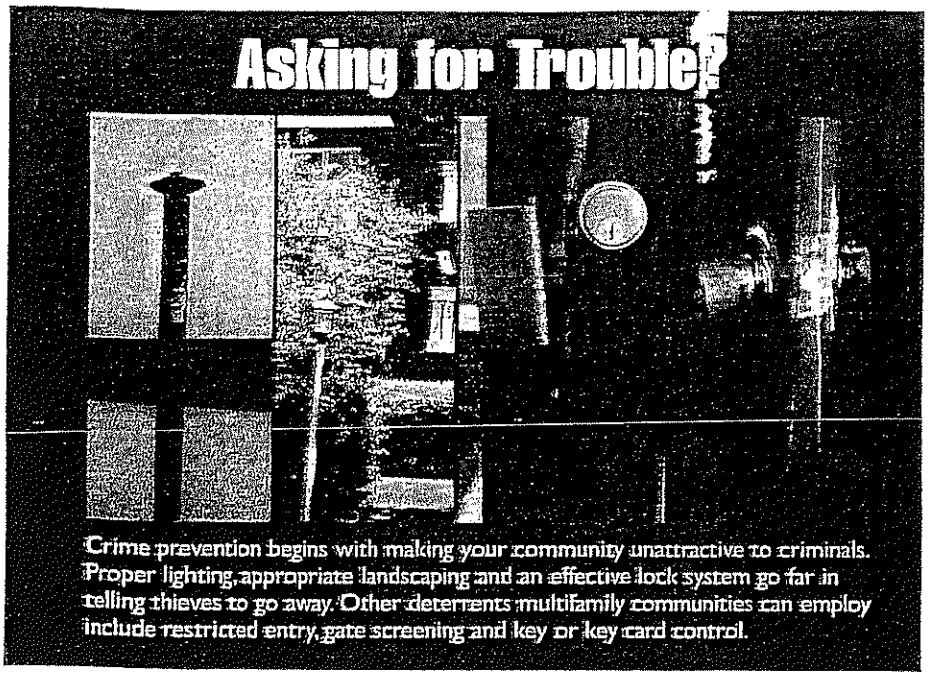
The managers generally held law enforcement in similarly low esteem. But when he started working with property managers, Zehring was surprised to find that he had been "wr—wr—wrong" (he laughingly choked on the word). "Property managers do care, and they do want to reduce police calls. Often they were unaware that a crime had even been committed."

No 'Neighborhood' to Watch

In single-family residential neighborhoods, the Neighborhood Watch program has proven effective. But as property managers know, the culture of multifamily housing is unique. Whereas the typical homeowner is both financially and emotionally invested in his or her property and neighborhood—often "inspired" by a 30-year mortgage—multifamily residents tend to have a more nomadic mind set. When the lease expires, unhappy residents can pack up and move on.

"What I hoped to do in the program," said Zehring, "was to squeeze this lemon into lemonade" to capitalize on the unique characteristics of multifamily properties. "Home buyers qualify on financial terms, but would-be multifamily residents can be screened and denied residency based on a history of criminal activity."

Property managers have an edge in controlling the nuisance factor, as well. A homeowner generally cannot be evicted for having loud parties or for excessive traffic in and out of the home.



Crime prevention begins with making your community unattractive to criminals. Proper lighting, appropriate landscaping and an effective lock system go far in telling thieves to go away. Other deterrents multifamily communities can employ include restricted entry, gate screening and key or key card control.

Multifamily residents do not enjoy the same immunity.

Taking Away the Welcome Mat

Despite the peculiar nature of multifamily housing, in many respects, crime is crime. "Three elements are present in the commission of every crime," said Zehring, "and we wanted to address all three." The unsavory trio consists of target, desire and opportunity.

Phase I of the Crime Free Multi-Housing Program is an eight-hour educational seminar conducted by local law enforcement officers for property owners and managers. "It's an intense class in crime prevention," Zehring said.

Crime prevention starts with target hardening. Proper lighting, appropriate landscaping and an effective lock system go far in telling thieves to go away. Other weapons in the multifamily security arsenal include restricted entry, gate screening and key or key card control.

The seminar advocates a disarmingly simple means for reducing desire and opportunity: not renting to criminals: "Criminals attract crime. There are fair housing laws that prohibit discrimination in rental properties," Zehring said, "but fortunately, criminals are not a protected class."

Property managers have some powerful new tools for screening applicants right at their fingertips. In addition to the traditional credit check, they can search the criminal records of many states at www.crimetime.com. Some credit reporting agencies will perform these criminal record checks for a fee.

After property managers complete the initial crime free seminar, they may invite police to evaluate their individual properties in terms of security. If the property has more than 20 apartment homes and passes the inspection, there is only one more step before it is certified "crime free." Where shortcomings are noted, if the owner/manager implements the suggestions of the police, the property can then be certified. Signage declaring the certification is posted prominently throughout the community.

But police and property managers c only do so much on their own. The la phase of the program, if required, is securing resident "buy-in." Management pulls out all the stops in a celebration bash that elicits a feeling of shared responsibility among residents. After they've noshed and boogied together, residents find it hard to be indifferent to their "neighbors." (No statistics have been gathered about the matchmaking implications of this phase of the program.)

The Crime Doctor Seal of Approval

Zehring's background in law enforcement inspired the creation of the Crime Free Multi-Housing Program. But Chris McGoey (The Crime Doctor™), a former property owner and an 18-year veteran consultant, expert witness and author on security-related litigation, heartily endorses the program, too.

"The Crime Free Multi-Housing Program is worth its weight in gold," he said. "I'm not aware of any fully certified apartment property anywhere in the country that has lost a premises liability su From that standpoint alone, Crime Free Multi-Housing certification is a must-have. And the amount of time, expense and effort involved is relatively modest."

The Web site www.crimedoctor .com provides a wealth of information related to apartment security, including his analysis of the relative effectiveness of security guards and gated communities in controlling crime. The Web site, designed by McGoey, also features a description of the Crime Free Multi-Housing Program.

"Unfortunately, most criminals live in apartments," McGoey said. "But security problems in rental properties are entirely controllable." The security consultant, who has appeared in a professional capacity on numerous national television shows, has authored what he hopes will become the ultimate reference book for property managers, "Apartment Security: Ten Steps to Safer Multi-Famil Housing." The book can b purchased through The Crime Doctor Web site.

If you are...

Upper-Level Management

You can find out how to prevent a property management company's name from being tarnished by media reports of criminal activity.

Property Managers

You can find out how strong rapport can be built among staff when working together to make a property crime-free.

Leasing Professionals

You can find out how a crime-free program impresses residents and potential residents by showing that property management cares about onsite safety.

Maintenance Staff

Quick and inexpensive routine preventive maintenance can discourage some crime activity.

In My Backyard, Please!

Star Corporal Tracy Walden of the Savannah Police Department oversaw the implementation of the Crime Free Multi-Housing Program in her city in 1998.

"The program was much stronger in the West at the time," she said. "Because so many crime reduction programs had come and gone here in the East, people were at first reluctant to even consider another one."

Walden admits that even she was skeptical at first. "My co-workers and I thought taking the seminar would get us on the day shift for a few days," she chuckled. "But Tim sold me in the first hour." It took three or four years to get the program to run smoothly, but now, said Walden, "Everybody wants on-board."

Why the rush to get certified? Look at the numbers. In just one mixed-income community of 300 apartments, said Walden, approximately 110 "Part I" crimes (a category that includes the seven most serious crimes, such as murder, rape, assault, aggravated assault and auto theft) were reported annually. "The property was certified by the Crime Free Multi-Housing Program in August 2002. The number of Part I crimes for 2003, as of December, was just 17."

Customizing the Program

Also in 1998, Schaumburg, Ill., police officer John Nebl hopped on the Crime Free Multi-Housing Program bandwagon. The town, incorporated in 1956, presents an atypical housing profile. Its 21,000 multifamily residences account for a whopping 65 percent of the town's housing.

"We didn't have an inordinate amount of apartment crime," said Nebl, but, like Zehring, he found himself spending half the night at the same two or three apartment communities. "I remember thinking, 'Not this place again,' " he said.

Tim Zehring

Schaumburg has a lot of single-family and condominium rental properties whose owners have no experience in dealing with problem residents.

"For example, most of the owners had no idea how to carry out the eviction process," Nebl said.

When the original Crime Free Multi-Housing Program was running smoothly in this Chicago suburb, Nebl wrote and lobbied for the adoption of the Residential Rental Ordinance, which requires that every rental property owner—even if they rent out just one unit—attend or send a representative to attend the eight-hour crime prevention seminar. Those who fail to comply can be denied licensure or license renewal.

Officer John Nebl
Photo courtesy of Schaumburg Police Department.

The Schaumburg ordinance gives the rental property owner and neighbors additional muscle. The regulation clearly defines what constitutes a "nuisance" rental property.

In October, Nebl received honorable mention in *Parade* magazine's annual Police Officer of the Year award competition. "For once, I was speechless," he laughed. Although he's proud of his work as Crime Free Coordinator for Schaumburg, he felt humbled to be among what he considers exalted company. "The other officers had been involved in some very dangerous situations," he said. This is just the sort of thing that Nebl has helped prevent.

Clearly, however, Nebl was honored for expanding on the basic Crime Free program, as well as incredible dedication to the 400 property owners in Schaumburg. Among his more practical innovations is presenting the initial crime prevention seminar days, weekends and evenings. "I want to make it as convenient as possible for the managers," he said. The seminar is publicized and promoted on the village cable channel.

Nebl has helped spread the Crime Free Multi-Housing Program to neighboring suburban communities, including Rolling Meadows, Forest Park, Naperville and Palatine. Even some individual officers from the Chicago Police Department have expressed an interest in implementing the program in their districts.

The Consummate Coordinator

Property certification is only the first part of the Crime Free Multi-Housing Program. Another part of the program is selecting a local coordinator to help property managers and rental property owners deal with difficult situations as they occur.

This coordinator's personality is at least as critical to the program's success as his or her work experience. Zehring, Nebl and Walden possess the magic mix of qualities that make up the ideal Crime Free Coordinator: They are articulate (no shrinking violets here), personable, flexible and passionate about the program.

Nebl, for example, has cultivated working relationships with legal, health, real estate and social service professionals, and he doesn't hesitate to call them in on a case when he thinks they can help. He joined a Schaumburg property inspection team that evaluates properties for compliance with local ordinances and identifies problem residents for possible eviction.

Nebl was thrilled when Zehring invited him to become one of only four individuals who "train the [Crime Free Multi-Housing Program seminar] trainers" throughout the country. "I never realized that a program like this could be as rewarding and successful as chasing burglars," he laughed. "But you know what the most satisfying thing is? It's when officers who have been around for a long time, who have become sort of jaded, say, 'Hey, this program works.' "

A Property Manager's Perspective

Property owners and managers know that investing in rental housing—or any real estate—comes with its own set of risks. Tom Hanlon manages his family's portfolio of about 100 rental units in Baton Rouge, La. Although he wasn't aware of the Crime Free Multi-Housing Program until the middle of 2002, he's been fighting the good fight against multifamily housing crime for at least a decade.

"This isn't a challenge I expected to face in our rental properties," said Hanlon. A unique confluence of factors, however, drew him into the fray. "The early '80s represented the high-water mark of the oil boom," he explained. "In southeast Baton Rouge, the area near Louisiana State University and Jimmy Swaggart Bible College, developers built scores of fourplexes, which they marketed aggressively to the

In Schaumburg, Ill., a banner adorns the apartment clubhouse during the "Safety Social."
Photo courtesy of Schaumburg Police Department.

parents of students as investment properties. The idea was that their college students could live in the apartments until they graduated. While the purchase would create a negative cash flow, parents would benefit from the tax benefits of fast depreciation over 10 to 15 years."

Alas, in the mid-1980s, the Baton Rouge real estate market sustained what Hanlon called "a triple whammy." "A 1986 revision to the federal tax code extended the depreciation period to 27.5 years, which decreased the incentive for parents to buy these properties," he explained. "The entire country was experiencing a recession, and the oil business—which accounts for a huge sector of the Baton Rouge economy—was in a major slump, as well. A lot of people lost their jobs." These circumstances, exacerbated by the boom-and-bust cycle of overbuilding and the savings and loan scandals of the mid-1980s, led to the repossession or seizure of many rental properties. Even the Jimmy Swaggart sex scandal affected the rental housing market in Baton Rouge, as disillusioned students left the Bible College in droves.

Fourplex owners were devastated to find that, in some cases, their property values had plummeted in less than a decade from more than $160,000 to less than $60,000. Some of the repossessed buildings in this formerly desirable part of town, suddenly for sale at bargain-basement prices, attracted what Hanlon derisively termed "slumlords"—owners or management companies with no interest in keeping up the property. As a result, southeast Baton Rouge, where more than 70 percent of available housing consists of multifamily rentals, became a hodge-podge of well-maintained buildings interspersed with rundown "nuisance" properties. Crimes in the neglected properties escalated from domestic disturbances and spilled over into the well-maintained communities.

In 1992, committed property owners in the area formed the GSRI-POA (www.gsri-poa.com), a civic organization dedicated to eradicating crime in their rental communities. "We're not interested in displacing crime a few blocks," said Hanlon. "We want to get rid of it." The association counts among its current membership the owners of 25 southeast Baton Rouge multifamily communities.

When Law Enforcement Fails

The flip side of Tim Zehring's initial frustration with property managers, said Hanlon, is GSRI-POA members' feeling that many of Baton Rouge's law enforcement agencies are apathetic about crime in their rental communities. "Rental properties don't enjoy the same tax breaks that single-family homes do," he said. "So ironically, we pay twice as much in taxes for half the protection."

Sometimes the problem has been an inappropriate response rather than no response. "Here's an example," said Hanlon. "A resident witnesses the commission of a crime. He knows it's wrong and he wants to help, but he's afraid to report it for fear of reprisal. So he calls the police and tells them he wants to remain anonymous." Often, Hanlon related, the police arrive only to knock on the door of the "anonymous" caller, clearly identifying the individual who reported the crime. No wonder residents stopped calling the authorities.

GSRI-POA members have taken security matters into their own hands. A membership fee of $3 per door a month provides properties with the services of Guardpoint, a private security company whose "extremely polite" but reassuringly sturdy guards carry guns and are authorized to detain suspected offenders. "Yes, it sticks in our collective craw that we have to pay for security," Hanlon said. "But Guardpoint really works, and the residents love it." In addition to patrolling the grounds, Guardpoint runs criminal background checks on applicants. (Unlike many states Louisiana doesn't maintain an online database of criminal convictions.)

When Hanlon discovered the Crime Free Multi-Housing Program early last year, he attempted to interest the Baton Rouge sheriff's office and city police in attending the program's annual conference. He received no reply. The Louisiana Real Estate Commission has been similarly unhelpful. "Incredibly, the REC requires that a seller inform potential buyers of previous 'psychic disturbances'—i.e., ghosts—but doesn't mandate that they disclose the criminal history of a property."

While Hanlon would love to fully implement the Crime Free Multi-Housing Program immediately, complete "buy-in" by local politicians, administrators and reluctant property owners is something he cannot as yet deliver. He has made some progress in opening communication with the police and disinterested rental proper-

FYI

Tim Zehring's Crime Free Association *www.crime-free-association.org*
Chris McGoey *www.crimedoctor.com*
GSRI Property Owners Association (southeast Baton Rouge) *www.gsri-poa.com*

ty owners, however. In fact, the sheriff's office, which at first didn't think Guardpoint was needed, now welcomes these guards to "roll call" every night. In the summer of 2003, the local Blight Elimination Ordinance was passed, which will speed up the condemnation process.

Despite the lag in Baton Rouge's full participation in the Crime Free Multi-Housing Program, Zehring and others have enthusiastically welcomed Hanlon's participation in the International Crime Free Association. With passion, persistence and intelligence to spare, he's obviously their kind of guy. "I was honored to be the sole 'civilian' at one of their training programs for law enforcement professionals," he said.

Slowly but surely, Hanlon is making headway in the fight against crime in multifamily housing. For example, he and the Baton Rouge Apartment Association teamed with a recently formed Baton Rouge crime council to take the first step: implementing a three-day property owner training session.

Southeast Baton Rouge has begun to attract new investors, and former renters have become owners and managers themselves—a trend, Hanlon said, that bodes well for the future. "A street of educated and proactive owners working with renters instead of an absentee corporation is better for all the stakeholders," he said. He added that Chris Crochet, a former renter, is now an owner and treasurer of the Property Owners Association. One of Crochet's residents even helped form a Resident Action Committee to advocate for additional improvements for the community.

With the zeal shared by Crime Free Multi-Housing Program participants, Hanlon said, "We're going to move Baton Rouge forward to 21st century housing standards. Everyone has a right to safe and clean housing. Everyone has a constitutional right not to live next door to criminals and drug dealers."

Circular Reasoning?

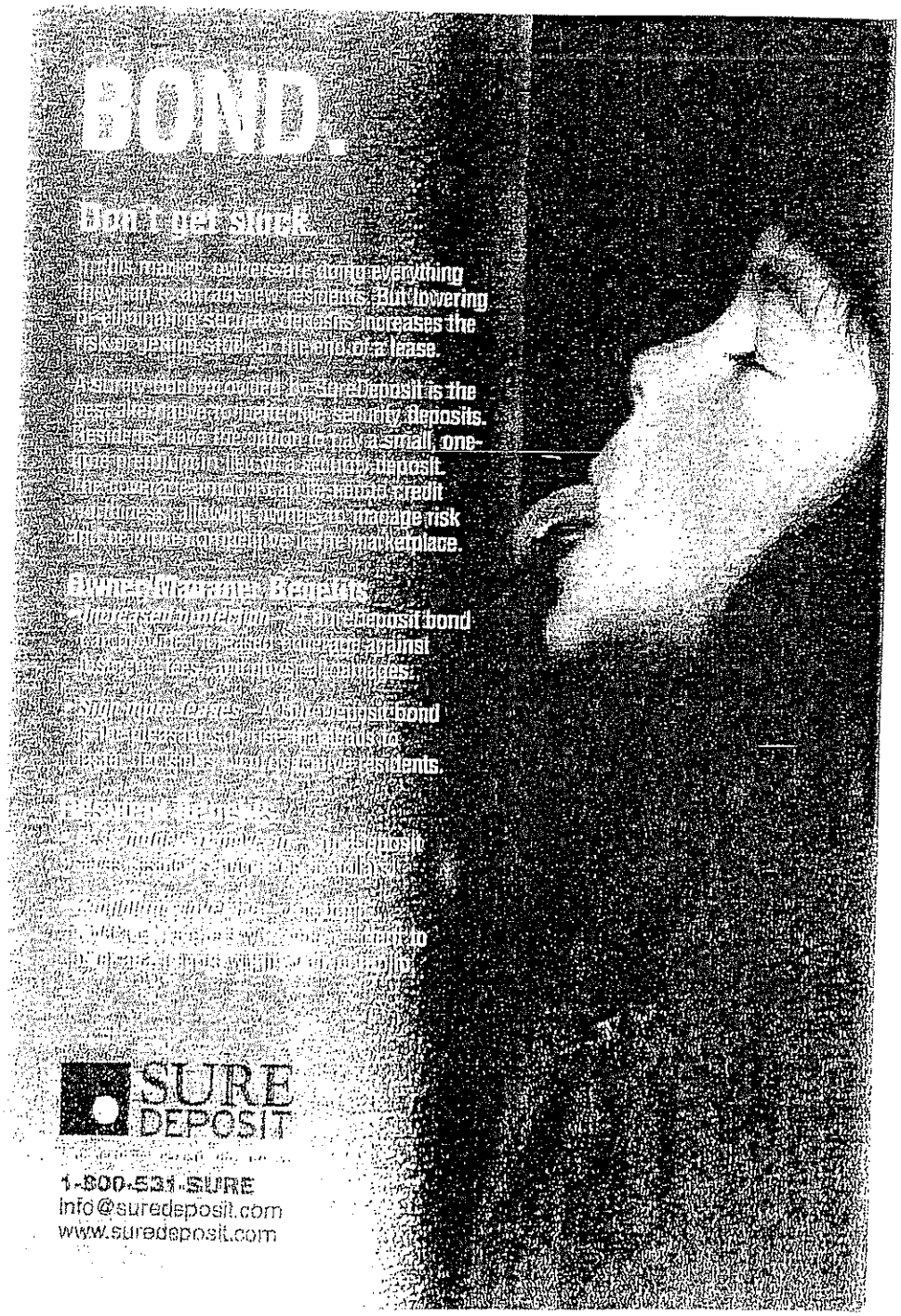
Like a puppy chasing its tail, property owners and managers sometimes run in circles for fear of litigation. Those reluctant to use criminal background checks often [illegible] fear they might be sued for discrimination or failure to prevent all crimes.

Such reasoning, Zehring said, is not only fallacious, it's self-defeating. "If you don't implement the Crime Free Multi-Housing Program," he said, "you're almost certain to be sued by a resident who falls victim to a crime. Is your goal to live a cancer-free life, or do you just want to have cancer a couple of times?"

Walden, of the Savannah Police Department, provided another example to illustrate the program's effectiveness in defusing crime-related litigation. "A lot of Savannah's rental property is military housing," she recounted. "A few years ago, one of these properties, which was certified by the program, experienced two major crimes back to back—a drug-dealer shootout and an INS raid. Residents of 13 of the apartments filed a class action suit against the owner of the property. But when I proved that reasonable security measures had been taken, and that eviction papers had been filed on both of these residents, the group dropped their suit."

Can you afford to implement the Crime Free Multi-Housing Program in your community? Statistics say you can't afford not to.

Janice Myers is a freelance writer based in Albuquerque, N.M.



PART TWO

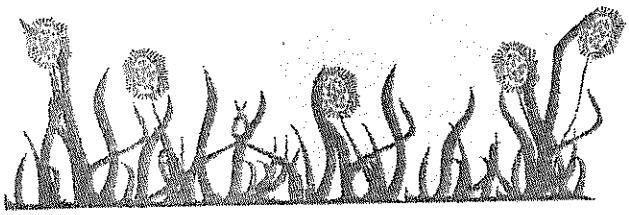
CRIME PREVENTION

DOES IT WORK?

Many people feel helpless against crime, because too often crime is seen as an inevitable part of our society. It has been said, "If a criminal WANTS to get you, he'll get you!" This belief leads to helplessness, fear and apathy. Apathy is one of the most dangerous elements in society today. When law-abiding citizens refuse to go outside after dark, they have voluntarily turned over their neighborhoods to the ones perpetrating crimes.

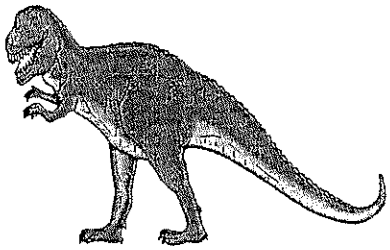
Criminals Are Like Weeds

Many times a community will not battle crime because they feel they cannot be successful. Often, people view dangerous criminals like a large rock that cannot be moved, or even be budged. Dangerous criminals are NOT like rocks; they are more like plants. Unlike an inanimate rock, a plant will grow. A weed can best illustrate this. As a weed grows, it roots, it sprouts and it chokes out healthy plants. A single weed quickly overtakes an entire garden. When criminal activity is allowed to flourish, the effect is the same.



The typical police approach to crime is **REACTIVE**. Once a crime has been committed, the police officer responds, writes a police report and begins the preliminary investigation. It is certainly more humane and cost effective to prevent a crime from even occurring. Crime Prevention is the **PROACTIVE** side of law enforcement. Crime **Prevention** is more desirable because is addresses the potential for crime before it becomes a serious problem.

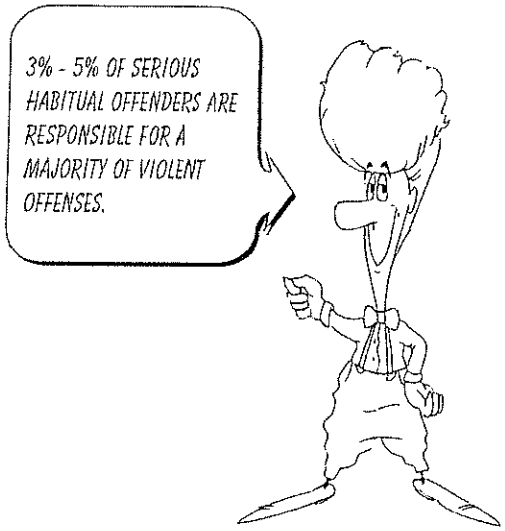
Unfortunately, many people don't address crime situations until it is too late. (A good example is the victim of a burglary that suddenly becomes interested in home security systems.)



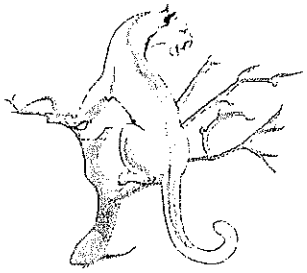
Once a crime problem has gotten too large, it is often easier to run away than face it. Equate the crime problem to killing a dinosaur. The easiest way to kill a dinosaur is while it is in the egg. Once the dinosaur is given the opportunity to grow, it will become progressively harder to defeat. The same is true regarding criminal activity.

UNDERSTANDING CRIME PREVENTION

To prevent crime, you need to understand crime, and you need to understand the criminal mind. When you think of criminals, think of predators. Most criminals are like predators, looking for easy victims.



When you think of predators you might think of the lion. When the lion is hungry, she will go out to stalk her prey. The lion knows the watering hole is a good place to find food, as this is where all the animals come to get water. The lion is a skilled hunter. She knows the best approach is from downwind. This way she can smell the herd, but they cannot smell her. The lion is also careful to approach slowly, staying low in the tall grass to avoid detection.



At just the right moment, the lion pounces into the herd. The lion does not run past the injured, the diseased or slowest ones in favor of the strongest one at the lead of the pack. In fact, it usually is the one that is injured, sick or simply NOT PAYING ATTENTION that gets attacked. This is called *survival of the fittest* or *thinning the herd.*

The two-legged urban breed of predator, the criminal, works the same way. They stalk their victims, looking for the easy prey. To be successful against an attack, you don't necessarily have to be the strongest one, but you don't want to be the weakest!

Lions only hunt when hungry; but criminals are always a danger. This is why crime prevention is so important. Crime prevention is a shared responsibility. It cannot be imposed upon a community. Crime is a community problem -- crime prevention must be a community effort.

RISK (LOSS) MANAGEMENT

When assessing the potential for crime, it is important to decide whether to accept the risk (risk acceptance), without investing in counter measures, or to take sometimes costly steps to reduce the risk (risk transference). Transferring the risk may involve spending a little money now to save much more later on.

There are other less expensive ways to prevent crime. This includes the removal of the elements necessary for a crime to occur (risk avoidance). There are also ways to reduce the risk, or spread the risk to reduce losses. The following page demonstrates the types of risk management.

MANAGING YOUR RISKS

1. SEVERAL TYPES OF RISK MANAGEMENT:

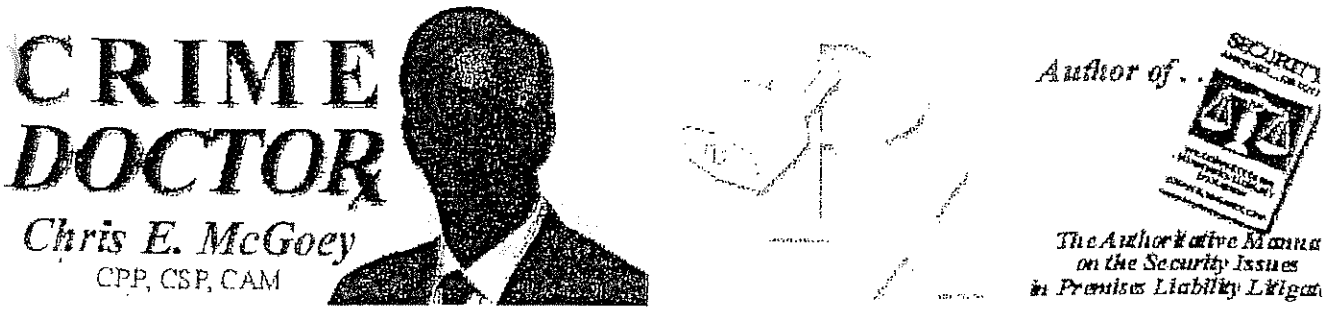
2. RISK AVOIDANCE:

3. RISK REDUCTION:

4. RISK TRANSFERENCE:

5. RISK SPREADING:

6. RISK ACCEPTANCE:



Crime Foreseeability

Statistical Concept

crime foreseeability, security expert, premises liability, security survey, crime analysis, risk analysis, security expert, foreseeability, litigation

by Chris E. McGoey, CPP, CSP, CAM

the Crime Doctor™

The concept of crime foreseeability has been the subject of great confusion for business operators around the country. For years they have been barraged with information of how businesses have been sued for millions of dollars because they failed to provide adequate security for their invitees. Because of this, most large companies who are open to the public, now incorporate a security plan into their operations manual. However, many companies have become frustrated in this regard because of the courts who have an ever-changing interpretation of the definition of crime foreseeability and legal duty.

How is a business to know what security measures will be deemed adequate should a violent crime occur? How is a business to know how to determine if assaultive crime is reasonably foreseeable? These questions, and others, will be discussed in this paper in an effort to relieve the frustration and reduce confusion in this complex area.

Part of the confusion lies in a lack of understanding of the criteria required to develop the data necessary to determine crime foreseeability. These criteria, when applied, will give the business operator the tools necessary to develop a security plan that has a fighting chance of being deemed reasonable and adequate later on in a court of law.

Foreseeability is a Statistical Concept

For the purposes of this type of litigation, crime foreseeability can be described as a statistical concept. A statistical concept, in the broad sense used here, is an evaluation of potential, which relies on experience and interprets it using both quantitative and qualitative methods. Such an evaluation need not be based solely on numerical data and calculations, but it must employ a balancing process that weighs all relevant data in a prescribed manner. The purpose of this model is to present a framework in which relevant data can be recognized and assigned weight in a final evaluation. The emphasis is not on presenting a complete discussion of foreseeability in every situation but on developing a cohesive methodology, which, intelligently applied, will result in a sound assessment of whether crime in a particular situation is reasonably foreseeable.

First, a brief discussion of what is meant by quantitative and qualitative methods of evaluation in this context is in order. Quantitative evaluation involves the analysis of numerical data describing the crime history of a site and often the surrounding area. While extremely valuable in assessing high rates of foreseeability, this type of analysis can comment only on incidents that have been reported in the past. The weakness is that it can be insensitive to considerations such as changes in the use of a facility, new management, new construction, and rapid changes in the character of neighborhoods; it thus may not provide a completely reliable picture of the foreseeability of crime.

Quantitative Analysis

Quantitative analysis involves a decision making process for processing crime statistics. Criteria are established that limit the type of crimes to be evaluated, as well as the geographic area, class of assailants, and periods of time. A widely read paper, which has been put forth as a standard, states flatly that the proper method for assessing foreseeability is to research all stranger-to-stranger crimes, within a one mile radius of the crime site, within the last two years.

As attractive as such a method is for its simplicity, crime foreseeability cannot always be evaluated by uniform time and distance criteria. In an urban area, a one-mile radius would generally be too broad, losing the relevant data among useless statistics. One mile could extend past the boundaries of a city, county, or police-reporting zone, resulting in invalid data comparisons. Crimes committed eight blocks away from a site are of little use in relation to many premises, especially if major physical or psychological barriers exist, such as a freeway or railroad track between the two areas. Time periods suffer from the same decay factors. Neighborhoods and conditions can change drastically in less than a year. By the same token, static neighborhoods may reflect little change for five years or more. There is a danger inherent in the arbitrary determination of flexible parameters, and this is a problem to which untempered quantitative analysis is especially vulnerable.

Qualitative Analysis

Qualitative evaluation essentially includes lifelong experience of land occupants, instinct, intuition, and physical observations of similar environments, which provide the basis for the ordinary estimates of a location's safety, that we routinely make. Among the considerations here are the physical attributes of a property and the reputation of the property and its surrounding area. Cold statistics cannot provide this information. Qualitative analysis is best conducted in person by a skilled security practitioner, who will survey the site and neighborhood and interview area inhabitants. This type of survey often provides clues to the type and amount of unreported crime and the level of fear regarding crime, as well as noting physical conditions at a site and surrounding areas. This type of evaluation best lends itself to the examination of a site from a criminal's point of view and enables one to realistically analyze the potential effects of various attributes of the site on the future behavior of criminals in the absence of a history of crime.

Components of a Crime Foreseeability Evaluation

There are three easily distinguishable components of a premises, called factors here, to consider when assessing crime foreseeability. Certain elements exist within these factors that may or may not contribute to foreseeable crime.

The three factors are (1) nature of the premises, (2) crime demographics, and (3) location. If investigation of any one of these factors points to foreseeable crime, then it is impossible to escape the issue of foreseeability. However, to determine the level and type of crime

foreseeability, all three factors must be considered. For example, assume that a popular nightclub catering to young people has a rear parking lot, where prior assaults have occurred. The elements associated with these three factors in this case serve to enhance rather than to diminish assaultive crime potential. In this example, it is probable that assaultive crime is foreseeable, and further investigation is thus warranted.

Conditions

Affecting the three factors are various conditions. Examples of conditions are lighting, frequency of security patrols, an unlocked door, and a large hole in a fence. A condition may only aggravate or mitigate the tendency of an factor element to increase or decrease crime foreseeability. These conditions cannot in themselves prove or preclude crime foreseeability, but only serve to affect the overall impact of a given element on the level of foreseeability. For example, overgrown shrubbery on the ground level is a condition that would not normally affect the foreseeability of a sexual assault inside of a third floor apartment unit. Litigants on both sides of a dispute frequently overestimate the potential persuasive force of their crime foreseeability arguments by allowing the entire case to hinge on one or more of these conditions without pursuing the complete analysis presented here.

The most effective approach to assessing foreseeability is to first consider the nature of the premises, then crime demographics, and lastly location.

What follows is a brief discussion regarding each of the three component factors in the order in which they should be considered and an examination of a few of the main elements associated with them. A more complete discussion of each component factor and its associated elements will follow in subsequent chapters.

Nature of Premises

It is essential to the evaluation of crime demographics to first have a complete understanding of the elements associated with the nature of the premises. The premises type and usage will impact the probative value of different crime classifications to be considered during the analysis. For example, property crimes inside a shopping mall are often excluded when evaluating the foreseeability of an abduction and rape in the parking structure.

The major elements involved in the nature of the premises factor are whether the premises is a business or a residence, the hours of operation, the extent that the premises is open to public, type of clientele, and type of service or product available. A business that remains open to the public twenty-four hours a day will have foreseeable crime types different from a limited hour operation that is semiprivate. For example, an apartment complex in a retirement community should usually anticipate fewer assaults than an apartment complex near a college campus simply due to the nature of its tenants and guests. Bars and nightclubs that provide alcoholic beverages and live entertainment and that cater to younger crowds can be expected to have more crime problems than a subdued establishment and older age group.

A judge went on the record to once to flatly state that in his opinion convenience stores and urban parking lots, by their nature, provided a special temptation to crime. Following that logic, it seems reasonable to predict that certain types of crimes are foreseeable simply by the mere nature of a premises. For example, shopping malls and parking lots should expect auto-related crimes (e.g., auto burglary, vandalism, auto theft). Whether this criminal activity on site escalates to personal assaults is another issue. A twenty-four hour convenience store with a single clerk on duty should anticipate that robbery is foreseeable. Various conditions, discussed later, will help determine what level of foreseeability exists for robbery

and other violent crimes.

Crime Demographics

Elements involved in evaluating previous crime are a determination of which crime classifications are relevant, the relevant radius around the incident, the proper time frame, the type and precision of data available, and an estimate of the proportion of crimes that are officially documented. The consideration of above criteria into an analysis is called crime demographics. It is a complete breakdown of statistics that is more precise and informative than raw, whole numbers. In certain cases where the other two factors, nature and location of premises, do not produce strong and compelling indicators, the absence of significant and relevant crime demographics can eliminate the possibility of a finding of crime foreseeability.

Location

The location of the premises is the factor that in itself would give rise to the least substantial determination of crime foreseeability of the three. Also, its relative importance is generally subject to what has been found through investigation of the other two factors, and it is the most likely to be influenced by conditions.

The major elements within this factor are general location in the city, relationship to other businesses and residences, population density, economic demographics of the relevant area, and proximity to major traffic arteries. More specific elements include whether the incident location is on the ground floor or an upper floor, in a public common area or semiprivate area.

The concept of location as a major factor causes us to focus on the "where" issue in crime foreseeability. All crime types are not foreseeable everywhere. A rapist who gained access through a fourth floor exterior window of a high-rise apartment by using mountain climbing gear and superior skill would not be reasonably anticipated and therefore not normally foreseeable. However, a recently constructed 24-hour convenience store in the center of the highest crime zone in the city should anticipate a variety of property and personal crimes because of its location alone. Its level of crime foreseeability should be considered as potentially moderate to high from opening day. Its actual level and type of crime foreseeability will be modified later and affected by the actual nature of the business and its ability to control criminal activity though use of security techniques.

Conditions

Conditions can be broken down into two main categories, physical conditions and procedures. Physical conditions would include lighting, noise, hardware (e.g., fences, locks, alarms, video cameras), foliage, signage, visibility, and pedestrian and vehicle traffic flow. Procedural conditions would include cash handling policies, a schedule for locking certain doors and turning on lights, a key control system, and security guard patrol methods, as well as procedures for reporting incidents and repairing any problems.

Mere conditions, even if present in great numbers, cannot be used to determine crime foreseeability alone. Even though certain conditions may seem to have had much to do with the actual commission of a crime, this in itself does not address the issue of crime foreseeability. To avoid this problem, conditions should be considered not merely for their role in a particular crime, but for those attributes that affect crime foreseeability. For example, lighting may be on or off, brightly illuminated or dim, located effectively or not; door locking hardware may be locked or unlocked; and guard patrols may be scheduled only for six hour shifts on weekends.

Frequently in premises liability cases, a plaintiff will allege that the proximate cause of a client's assault and injuries was poor lighting or a lack of uniformed security patrol in a parking lot. Both lighting and frequency of security patrol issues are mere conditions, yet cases have been won and lost based solely on these issues. Surely there are thousands of parking lots, with similar lighting and no security patrols, which have operated safely for many years. Therefore, the effect of poor lighting and guard patrols alone cannot indicate that assaultive crime was foreseeable just because a single incident occurred. However, when one applies the above issues to a parking lot in a high crime location, whose adjacent business nature attracts young people to a site where crime demographics show a history of personal assaults involving young people, then conditions of inadequate lighting and infrequent security patrols aggravate the above factors and become relevant in supporting an allegation of inadequate security.

Determining Levels of Crime Foreseeability

Merely to say that crime is foreseeable on a particular premises is not enough. For property owners and business operators to function within the scope of their legal duty to protect their land entrants, they must know what crimes types are reasonably foreseeable, at what expected frequency, and what steps can be taken that will later be deemed adequate should a criminal incident occur.

Actual crime demographics can be expected to differ in frequency and crime type for each premises and location within a premises; it is therefore necessary to analyze the statistics to distinguish between them. The results of this analysis should enable a security expert to determine a relative level of crime foreseeability for each premises surveyed. The analysis should further identify what crime types are more foreseeable than others and in what specific locations within the premises is crime likely to occur.

Levels of Crime Foreseeability

The analysis of the three crime foreseeability factors should generate an opinion that will assign the potential for crime into one of four levels.

Crime potential will be either (1) not foreseeable, (2) low, (3) moderate, or (4) high.

These levels of foreseeability must have elastic values to allow the business community and/or trier-of-fact (jury) to have a range in which to categorize their understanding of the information at hand. It is conceivable that a particular crime type could fall on the borderline between low and moderate or moderate and high.

The level of "not foreseeable," however, is not as flexible, by design. If a particular crime on a premises is believed to be not foreseeable by the court, to the extent that it finds that no reasonable jury could find otherwise, then the issue becomes a matter of law, not fact, and can be dismissed by the court in response to a motion for summary judgment.

The three remaining levels of foreseeability are designed to identify that amount of security that is required for the premises owner or operator to meet and discharge their legal duty of care. Precise values for each level are not used because of variables such as accuracy of data, uniqueness of the premises, and the fact that criminals cannot be counted on to act in consistent manner. However, the assessment of risk and vulnerability has always been validated by human experience. Security experts trained in the litigation avoidance field have an advantage of having a basis of comparison from performing thousands of previous security surveys and crime demographic studies. Some experts will have libraries of previous studies and local crime statistics to aid in their analysis.

A respected author on risk analysis wrote:

"These consultants, and others, realize that three separate levels of crime foreseeability are necessary to allow premises operators to gauge their security effectiveness relative to that of the outside environment and against commonly used security practices or industry guidelines." What has been missing historically from these evaluations is the impact of existing security measures on the external crime demographics. For example, a crime demographic survey of an apartment complex may indicate a moderate to high assaultive crime rate in the surrounding area. However, due to superior security measures in place, the actual crime history of the premises may be quite low by comparison.

What level of crime foreseeability does one assign? What level of security is required to meet the legal duty imposed by each level of foreseeability? These questions and more will answered in the discussion that follows.

Low Crime Foreseeability

Low crime foreseeability is defined as a level such that after considering the nature, location, and crime demographics, a reasonable and thoughtful person would not anticipate assaultive crime while on the premises. This opinion would be supported by the absence of any previous assaultive crimes during the past several years; any crimes preceding that period would be too statistically remote in time.

Whole regions in a city can be considered low crime areas due primarily to their socioeconomic makeup and zoning. Moderate and high crime regions can have pockets of low crime areas, and even individual businesses can obtain a low crime foreseeability level by operating with effective security controls in place. As discussed earlier, certain premises could be assigned the level of low foreseeability prior to being open just by the nature and sometimes the location of the property.

A low crime foreseeability level has an upward limit that will be tested as assaultive crime occurs. If the quantitative and qualitative data still support a low probability of crime reoccurring, then current levels of security could still be deemed adequate. This data should be supported by an absence of fear of crime by the premises inhabitants and the presence of feelings of control over their environment. Most premises in the United States fall into the low crime foreseeability level, with the possible exception of certain sections

Moderate Crime Foreseeability

Moderate crime foreseeability is defined as a level such that after considering the nature, location, and crime demographics, a reasonable and thoughtful person would anticipate the possibility of assaultive crime while on the premises. This opinion should be supported by crime demographics on the site and surrounding area that indicate some previous assaultive crimes over the past several years but that do not fit any identifiable pattern or trend. The number of assaultive crimes is still too statistically uninformative to warrant any single radical response to prevent future occurrence. However, a moderate level of crime foreseeability should have originally generated a combination of security precautions to prevent future crimes of a similar nature or location from reoccurring. A moderate level of crime foreseeability should be evidenced by a average amount of awareness and fear of crime while on the premises. The reasonable person will take advantage of available security measures and will use common sense to limit exposure to potential danger.

It is possible for a premises to implement effective security precautions that will reduce exposure to the level of low crime foreseeability. Many urban premises are at this moderate

level, and operators attempt to maintain security precautions to reduce crime to its lowest possible level. Unfortunately, the success of a sound security plan can backfire if one decides to cut back on security expense or fails to maintain the existing level of security precautions believing the problem to be solved. When this occurs, patrons and tenants sometimes become angered by the cutback in security and apparent disregard for their personal safety. In my experience, these victims make up the largest class of premises liability litigants.

High Crime Foreseeability

High crime foreseeability is defined as a level such that after considering the nature, location, and crime demographics, a reasonable person would actually anticipate that an assaultive crime might occur at any time. This opinion would be supported by crime demographics that showed a pattern of assaultive and other crimes on the premises and in the surrounding area continuously for several years. The prior number of assaultive crimes would statistically suggest a high probability of continued assaults if radical security precautions are not implemented, or if the nature of the premises remains unmodified. The physical premises usually shows signs of vandalism, burglary attempts, and general disrepair. The neighborhood exhibits physical security precautions such as bars on the windows, alarm boxes, and perimeter fences. Inhabitants experience an elevated fear of crime, together with a feeling of losing control over their environment. The premises will typically have a bad reputation in the eyes of the surrounding neighbors and law enforcement personnel. The premises operator may feel that the costs of security precautions are not affordable and would have little effect on crime anyway.

A continuing level of high crime foreseeability is unacceptable in our society because it is against public policy to allow a dangerous condition to exist in premises accessed by the public for the benefit of the premises owner and operator. A business or residence in a high crime area can implement radical security precautions to control their incidence of assaultive crime. If successful, it is possible to reduce exposure to a moderate crime foreseeability level. However, the outside threat will continue, waiting for a break down in security. A premises owner may have no choice but to consider changing the nature of the business or relocating.

Variables in Crime Foreseeability

Often a premises liability litigation will focus on a specific location within a property and alleged inadequate security based on a design or mechanical defect in a security device. When this occurs, it becomes necessary to evaluate the crime foreseeability level for a specific factor such as a particular location, type of crime, or time of day. It is possible to have two or more different levels of crime foreseeability on the same property. For example, a convenience store in a moderate crime location during the day can increase its crime foreseeability level to high between the hours 10:00 PM and 2:00 AM when all surrounding businesses are closed and traffic counts are reduced; ground floor apartments in a building can have a high burglary history compared to a very low crime experience on upper floors, due primarily to accessibility.

Additionally, it would be difficult to reasonably foresee, for example: a rape inside a third floor apartment of a security building when adequate door and window locks were provided but not used; the possibility of a person firing an automatic weapon inside a convenience store at midday with several customers inside; or the accidental shooting of customer in the parking lot of a shopping mall by rival gangs who do not frequent the area.

Any premises liability evaluation must be prepared to specify a level of crime foreseeability for the site, the surrounding area, and in particular locations within the property. In addition,

the evaluation should draw attention to the crime types to be anticipated. Once this is achieved, an analysis of existing security measures can be made. The question is not whether the crime at issue could have been prevented or not, but rather if the security precautions in place were adequate to prevent the type of crime that should have been reasonably anticipated.

Conclusion

Established criteria for determining a level of crime foreseeability must be utilized in order to provide a sound basis for your security plan. Otherwise, your security plan may be based on guesswork, uncertain predictions, and whim. The criteria outlined here will allow for a complete analysis, which can be presented to a jury in an understandable fashion, and which should be viewed with a high degree of credibility. The results of your analysis will demonstrate that your security plan is based on a sound assessment that can then be used to show that your security measures were designed to reasonable and adequate, under normal foreseeable circumstances.

I hope you found these ideas helpful

For more information on Premises Liability see the book written by Chris E. McGoey entitled, Security: Adequate...or Not? The Complete Guide to Premises Liability Litigation available on this web site.

Check out our Crime Prevention Tips pages

Visit the Crime Doctor™ home page

HOME	**AGG. ASSAULT occurs every 31 seconds**	**AUTO THEFT occurs every 23 seconds**

Feedback or Questions? e-mail: cmcgoey@crimedoctor.com

Chris E. McGoey, CPP, CSP, CPS, CPI, CAM
McGoey Security Consulting

Northern California Office **San Francisco** (415) 225-9500	Southern California (Main Of **Los Angeles** (909) 461-8950

- Use anti-lift devices such as through-the-door pins
- Use highly visible alarm decals, beware of dog decals, or block watch decal, if applicable

WINDOWS

Windows are left unlocked and open at a much higher rate than doors. An open window, visible from the street or alley, may be the sole reason for an apartment to be selected by a criminal. Ground floor windows are more susceptible to break-ins for obvious reasons. Upper floor windows become attractive if they can be accessed easily from a stairway, tree, fence, or by climbing on balconies. Windows have latches, not locks, therefore should have secondary blocking devices to prevent sliding them open from the outside. Inexpensive wooden dowels and sticks work well for horizontal sliding windows and a through-the-frame pin works well for vertical sliding windows. For ventilation, block the window open no more than 6-inches and make sure you can't reach in from the outside and remove the blocking device. These window-blocking devices should be capable of being removed easily from the inside to comply with fire codes. Like sliding glass doors, anti-lift devices are necessary for ground level and accessible aluminum windows that slide horizontally. The least expensive and easiest method is to install screws halfway into the upper track of the movable glass panel to prevent it from being lifted out in the closed position. Place highly visible decals on the glass door near the latch mechanism that indicates that an alarm system, a dog, or block watch/operation identification system is in place, if applicable. Apartment managers should be careful not to misrepresent that these devices are in place if they are not. The Landlord should supply these additional security devices and request, in writing, that the residents use them. Of course, you should document this important step because it is proof of you acting reasonably.

- Secure all accessible windows with secondary blocking devices
- Block accessible windows open no more than 6-inches for ventilation
- Use anti-lift devises to prevent window from being lifted out
- Use crime prevention or alarm decals on accessible windows, if applicable

Key Control

In Texas, a jury awarded a woman $18 million after being raped and abducted by a man who gained access to her apartment unit using a back-up key. The rapist broke into the management office and found the correctly numbered back-up keys hanging unsecured on a hook.

Many other very large jury awards have been made to former residents because of negligent control and use of the master key. The negligence issue is always the same. If you require a resident to supply an extra key to their apartment unit, then you must take reasonable steps to safeguard that key. If you maintain a master key that unlocks all the units, you must take even greater steps to control access to this key.

The legal theories are simple. A resident gives up some rights when they move onto a rental property. On most properties, the resident, per lease agreement, cannot add or replace the deadbolt on their door unless management is given an extra key. By doing this, the property manager assumes the responsibility of key control. The other legal theory is one of reliance. The landlord supplies the locks and keys and therefore, a resident must rely on management to have re-keyed the door lock and to have secured the back-up and master key. Key control, by definition, requires restriction and documentation of those who use the back-up keys and master keys. Of course, you should document this important step

because it is proof of you acting reasonably.

Here are 10 proven steps to follow for better key control and resident security:

- Always re-key or replace the unit door locks at turnover
- Always eliminate or limit the use of the master key
- Always keep the back-up keys in a locked key box
- Always code the keys not to reflect the unit number
- Always secure the code sheet and key box key separately
- Always keep a log of who checks out a back-up key
- Always keep two keys on a hook for quick visual inventory
- Always keep the key cutting machine and blanks secure
- Always lock the room that houses the key box
- Always set the office burglar alarm after hours

I hope you found these ideas helpful

Attend the Third International Crime Free Conference in Seattle, August 21-23, 2001

For more information on this subject see the book written by Chris E. McGoey on this web site entitled, Security: Adequate...or Not? The Complete Guide to Premises Liability Litigation.

A new book entitled, Apartment Security available on this web site in the Summer of 2001

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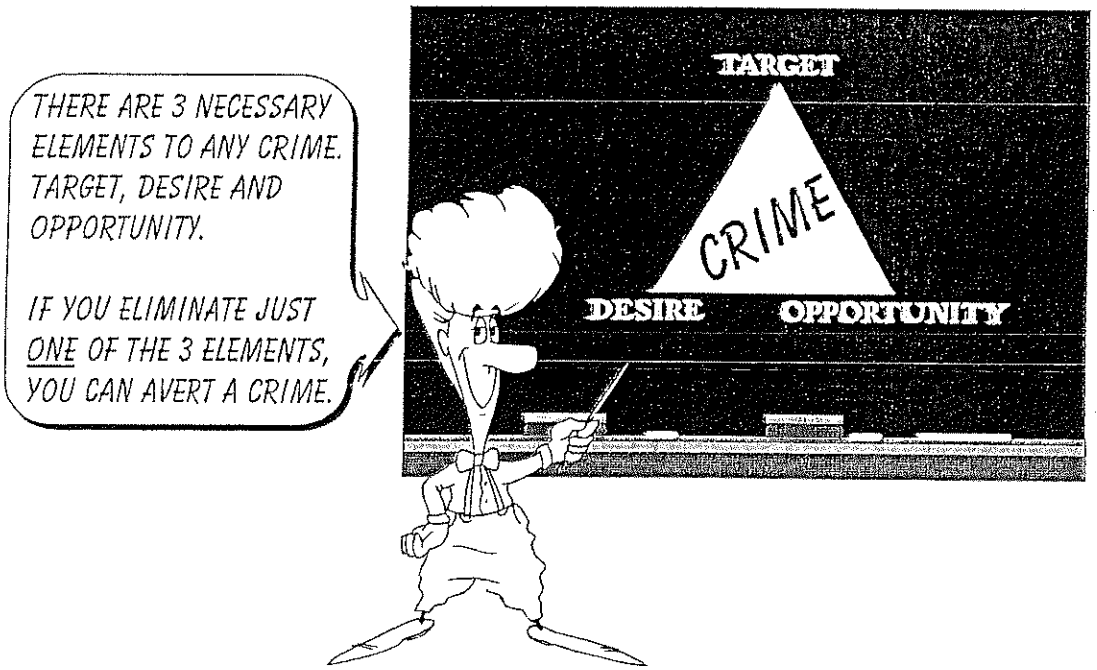
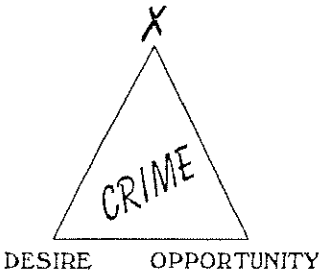


SCENARIO ONE
(Eliminate TARGET)



If a car thief comes to an apartment community to steal a Corvette, the **DESIRE** is there. If all of the residents are inside their rental units, now the **OPPORTUNITY** is there. But if there is not a Corvette on the property, you will not have a crime because there is no TARGET.

SCENARIO TWO
(Eliminate DESIRE)

If a person sees a Corvette, the **TARGET**, and all of the residents are in their apartments, allowing the **OPPORTUNITY** for crime, but the person who sees the Corvette has no DESIRE to steal the car, again, you will have no crime.

SCENARIO THREE
(Eliminate OPPORTUNITY)

If a person comes to the property with the **DESIRE** to steal the Corvette, and sees the perfect **TARGET**, but the residents of the apartment community are out in the recreation and common areas, this will reduce or eliminate the OPPORTUNITY.

The CRIME FREE MULTI-HOUSING PROGRAM is effective because it addresses all three (3) elements: TARGET, DESIRE ***AND*** OPPORTUNITY. To eliminate the TARGET, we teach how to "target harden". To eliminate OPPORTUNITY, we train residents to be the "eyes and ears" of the community, and to eliminate the DESIRE, a concerted effort is made to keep those with criminal intent from trespassing, visiting or living at the property.

SET RULES

If a person knows that rules are clearly stated and enforced, they are less likely to move into a community to commit criminal activity. Have a back-up plan to discourage the more determined individuals.

By careful screening and active management principles addressed in the CRIME FREE MULTI-HOUSING PROGRAM, the criminal activity among residents and visitors can be greatly reduced if not virtually eliminated.

Safety Socials, which incorporate the principles of Neighborhood Watch, will encourage residents to become an organized group of eyes and ears for the property.

It is not uncommon to see once distressed properties show a 70% - 90% ***decrease*** in police calls for service, as a result of the CRIME FREE MULTI-HOUSING PROGRAM.

TARGET HARDENING

Sometimes you cannot remove a target. However, you can harden the target. Target hardening involves the use of locks, electronic devices, or other hardware that will **DETECT**, **DENY**, **DELAY** or **DETER** the criminal (away from the intended target). Target hardening is directed to all structures, vehicles and personal property within the rental community.

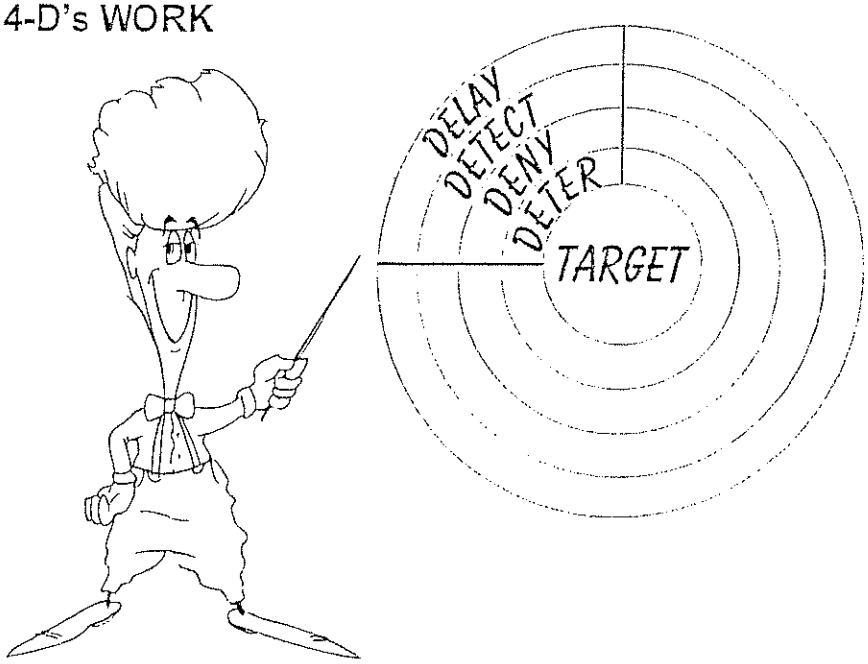
- DETECT:
  By utilizing good security techniques, you can cause the person to make more noise, which will **increase the risk of detection**. This may also persuade the person not to commit the crime.

- DENY:
  By engraving valuables, using security electronic equipment, or by moving other valuables out of view, you can **remove the rewards received from a crime opportunity**. If the rewards are not there, this may persuade the person not to commit the crime.

- DELAY:
  Many times crimes are committed because of an easy opportunity. By using good crime prevention techniques you can **increase the time and effort needed to commit the crime**. This may persuade the person not to commit the crime.

- DETER:
  By utilizing the previous three techniques, you may prevent a crime from happening by **deterring the criminal from entering or remaining the property** and cause them to seek an easier target elsewhere.

HOW THE 4-D's WORK



MANAGING CRIME PROBLEMS

1. How to encourage crime:

2. How to discourage crime:

NOTES □ NOTES □ NOTES □ NOTES □ NOTES

PART THREE

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

C.P.T.E.D. ELEMENTS

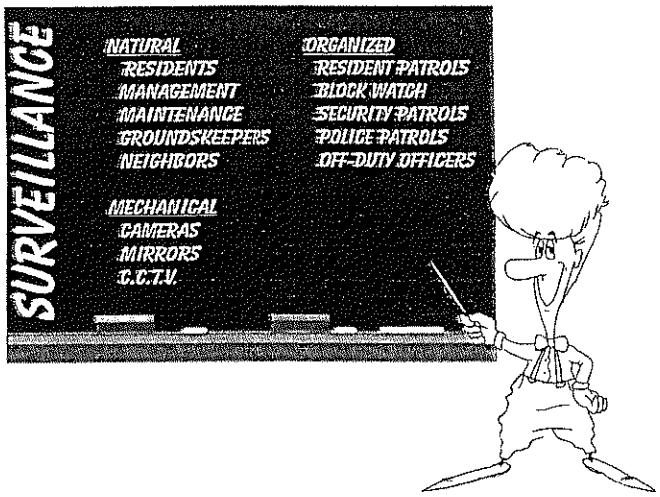
Crime Prevention Through Environmental Design (C.P.T.E.D.) is comprised of four (4) key elements: **Surveillance**, **Access Control**, **Territoriality**, and **Activity Support**. Using C.P.T.E.D can eliminate a substantial amount of property crime.

IMPROVE SURVEILLANCE

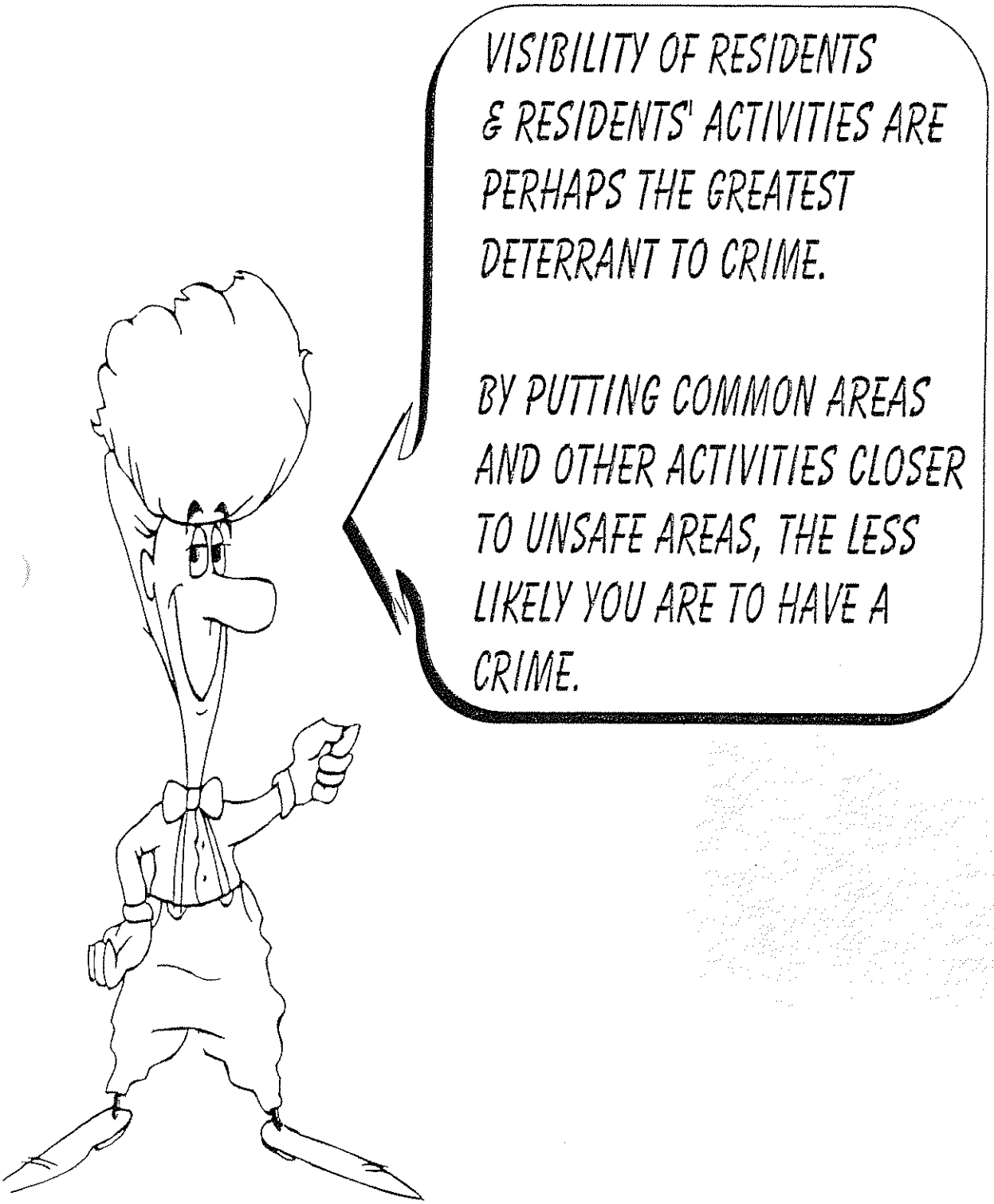
SURVEILLANCE is the first element of C.P.T.E.D. **Surveillance is the ability to look into an area, and the ability to look back out.** It can be formal or informal. **Formal surveillance** is generally organized, while **informal surveillance** is naturally occurring. ***NOTE: You should observe your property from all locations, keeping in mind whether you can see into and out of the property. Keep in mind that residents and staff are formal surveillance partners, and that neighbors or visitors to your property will conduct informal surveillance of your property. Remove anything that hinders surveillance.*** There are three types of surveillance to consider. *Natural, Mechanical* and *Organized*. The best plan will involve some combination of all three types of surveillance.

Natural Surveillance is naturally occurring. As people are moving around an area, they will be able to observe what is going on around them, provided the area is open and well lighted. Natural Surveillance is typically free of cost, but observers should choose not to get involved in any situation that may pose a potential threat to themselves or others.

When considering surveillance of your property, remember that casual observers from neighboring properties might be willing to report suspicious activity. All you need to do is ask! It is a great idea to ask them to join with your Neighborhood Watch meeting and safety socials.



Mechanical Surveillance employs the use of cameras, mirrors and other equipment that allows an individual to monitor a remote area. Mechanical


VISIBILITY OF RESIDENTS & RESIDENTS' ACTIVITIES ARE PERHAPS THE GREATEST DETERRANT TO CRIME.
BY PUTTING COMMON AREAS AND OTHER ACTIVITIES CLOSER TO UNSAFE AREAS, THE LESS LIKELY YOU ARE TO HAVE A CRIME.

Surveillance usually involves the purchase of equipment ranging from moderately inexpensive mirrors to more expensive electronic devices, such as closed circuit television (CCTV). Additional questions to ask yourself, "Are they effective only when being monitored" and "Do they provide a false sense of security"?

NOTE: Once the equipment is purchased, maintenance of the devices must be considered.

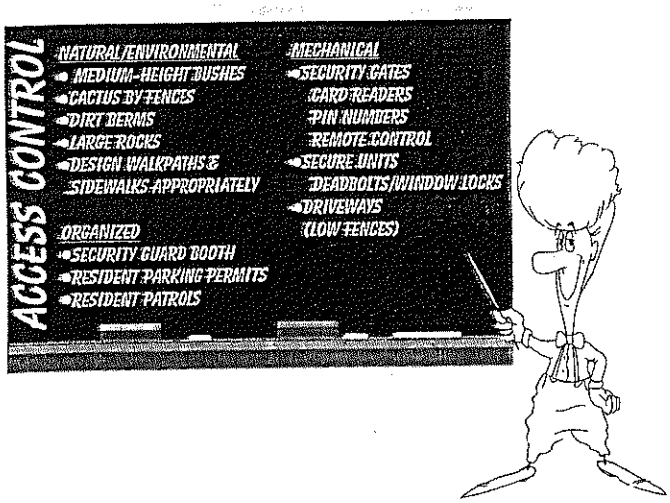
Organized Surveillance includes security patrols and other people who are organized to watch a targeted area. While this is the most effective deterrent to crime, it is also the least cost effective. While it may be necessary to employ security patrols, once the patrols are discontinued there is generally nothing left to show for your investment.

IMPROVE ACCESS CONTROL

ACCESS CONTROL is the second element in C.P.T.E.D. Because many criminals look for an easy escape, **limiting access into an area and back out again is a great way to deter criminal activity**. Access Control can be demonstrated by having one way into and out of a location, such as a security post or the use of mechanical gates. Others, who use alternative methods to enter an area look suspicious, risk detection and sense an increased risk of apprehension.

It is important to assess how the intended users are entering the property. It is equally important to assess how the non-intended users are entering the property as well. Look at perimeter fencing for damage. Look for footprints in the dirt and gravel. Check for wear patterns in grassy areas. Determining the weak points will be the first step to correcting the problem.

There are three (3) types of Access Controls to consider: *Natural* (or *Environmental*), *Mechanical* and *Organized.*



Natural / Environmental Access Control involves the use of the environment. To keep trespassers from climbing over walls for instance, you could use thorny type plants in the area where they will be highly visible. The use of dirt berms or large rocks can also keep unwanted visitors from entering onto private property and vacant lots.

Mechanical Access Control includes the use of security gates, which have proven very effective at reducing auto thefts, burglaries and drive-by shootings. Most perpetrators of these crimes do not want to exit the way they entered as it gives witnesses the opportunity to record license plates and get better suspect information.

Organized Access Control entails the use of security or courtesy patrol to monitor those entering the property. Distribution of parking permits, affixed to registered vehicles, will identify which vehicles belong to the residents. *Vehicles should not be allowed to back into parking spaces, so that parking permits will be visible at all times.*

IMPROVE TERRITORIALITY

TERRITORIALITY is the third element in C.P.T.E.D. Territoriality is a psychological impression that people get when they look at the property. If management displays good territoriality, it will influence the community to respect the property as well. Good territoriality demonstrates a sense of ownership, alerting potential offenders that they don't belong there and they will be seen and reported, because undesirable behavior will not be tolerated. **It has two (2) principle components: Defensible Space and Maintenance.**

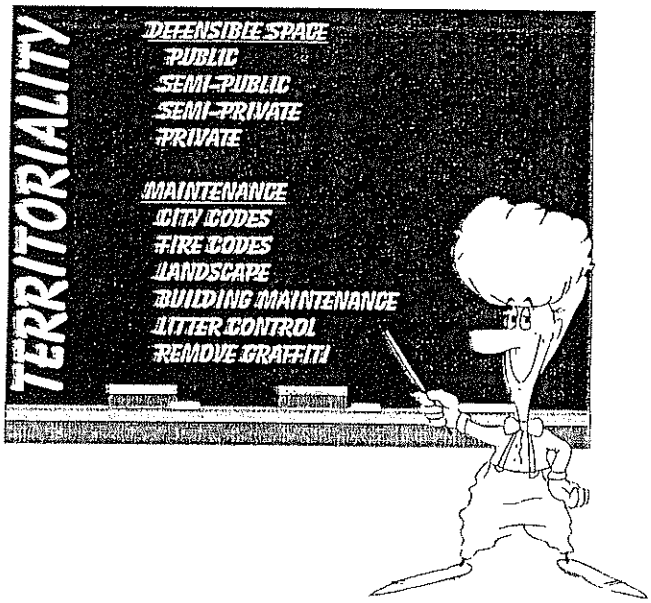
Defensible Space is divided into four (4) categories: Public, Semi-public, Semi-private, and Private.

1. *Public* areas are typically the least defensible. A car driving on a public street would not automatically arouse suspicion.

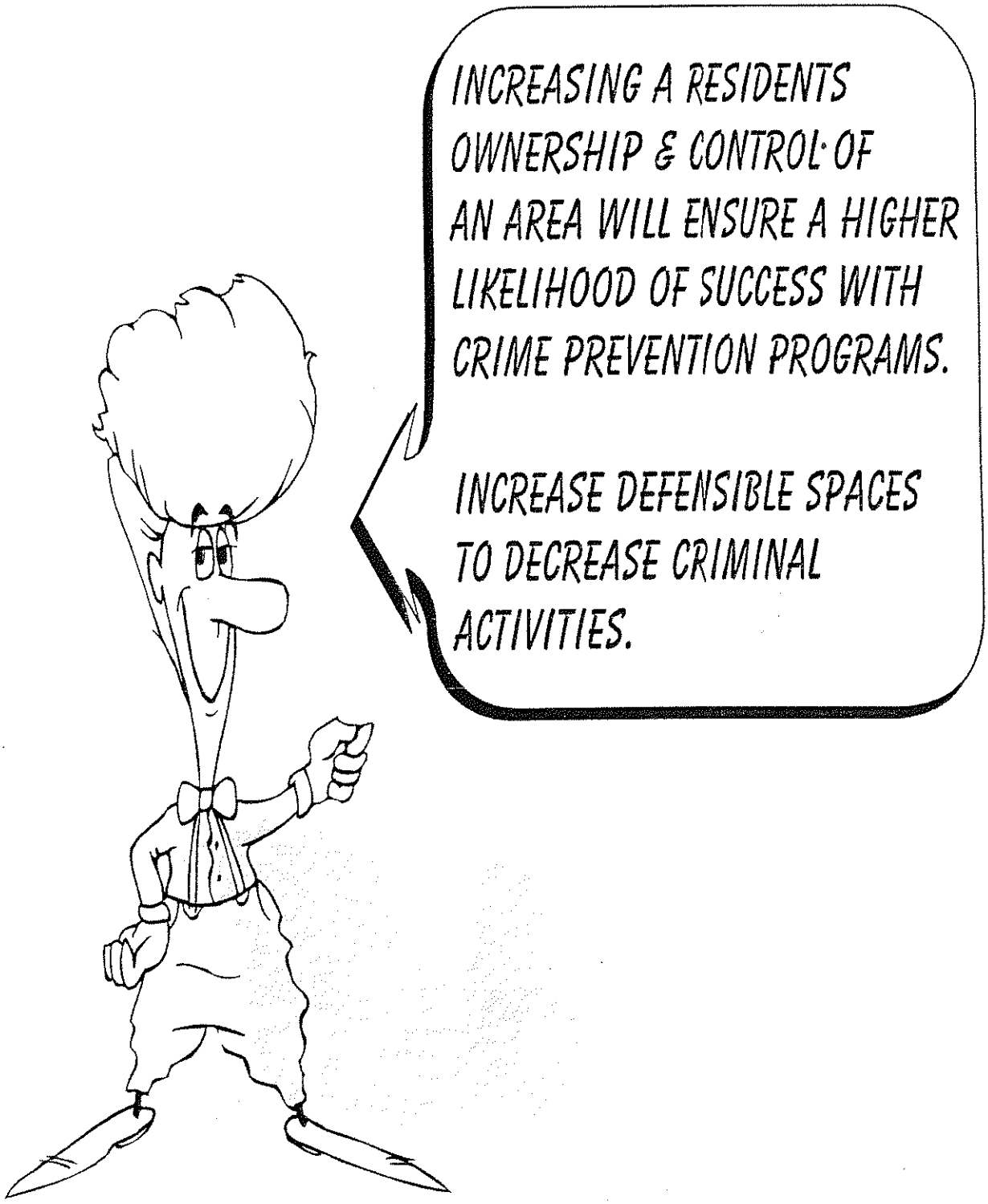
2. *Semi-public* areas might include a cul-de-sac. If there are only five homes in the circle, a driver would be expected to stop at one of the five homes or leave the area.

3. *Semi-private* areas might include sidewalks or common areas around residential areas. While most people may not confront a stranger in a common area, they are likely to call the police if the person does not appear to belong there.

4. *Private* areas are different in rental communities than in single-family home neighborhoods. In a typical apartment the private area may not begin until you actually enter into the unit. This is especially true if several units share a common balcony or stairways. In a single-family home neighborhood, many owners consider their front yard to be private or defensible space.



There are many ways to establish defensible space. By planting low growing hedges or bushes, you will show a defined property line. By posting signs such as "No Trespassing" or "No Soliciting", you have established the area as defensible space.


INCREASING A RESIDENTS OWNERSHIP & CONTROL OF AN AREA WILL ENSURE A HIGHER LIKELIHOOD OF SUCCESS WITH CRIME PREVENTION PROGRAMS.
INCREASE DEFENSIBLE SPACES TO DECREASE CRIMINAL ACTIVITIES.

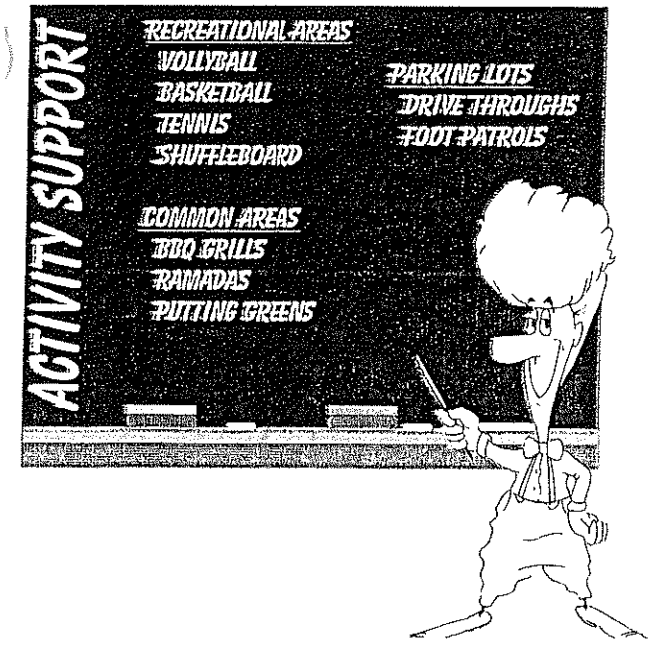
Maintenance is another key issue for Territoriality. Properties that are clean and well maintained are more likely to attract residents who take pride in their community. This also promotes confidence in the management team.

If you and a resident agree to improvements or repairs on the rental unit, make sure the details are in writing and signed by both parties. The landlord must approve all improvements to the property ahead of time. If the tenant expects to be reimbursed for materials and/or labor, this is especially true. Keep receipts and records of the time and money spent.

IMPROVE ACTIVITY SUPPORT

ACTIVITY SUPPORT is the fourth element in C.P.T.E.D. This involves the appropriate use of recreational facilities and common areas. The objective is to **fill the area with legitimate users so the abusers will leave.**

It may be difficult to believe that filling an area with legitimate users will cause the deviant users, or abusers, to leave. But the opposite is also true. If you fill an area with deviant users, the legitimate users will withdraw.



To promote Activity Support, utilize common areas effectively. By incorporating gazebos, picnic areas and other amenities into open areas, the legitimate users will maintain ownership of the property.

In recreational areas, utilize proper lighting techniques and establish community rules to encourage the proper and safe use of the facilities. Unobscured visibility for the intended users of laundry facilities, exercise and game rooms is of paramount importance.

TROUBLESHOOTING

When you consider an area, ask yourself:

-
-
-

Also ask yourself:

-
-
-

THE 3 "D" CONCEPT OF C.P.T.E.D.

1. D

2. D

3. D

CONFLICTS WITH C.P.T.E.D. CONCEPTS

SURVEILLANCE	ACCESS CONTROL
Concept: *Conflict:* *Solutions:*	*Concept:* *Conflict:* *Solutions:*
TERRITORIALITY	**ACTIVITY SUPPORT**
Concept: *Conflict:* *Solutions:*	*Concept:* *Conflict:* *Solutions:*

NOTES □ NOTES □ NOTES □ NOTES □ NOTES

C.P.T.E.D. LIGHTING

Lighting by itself does not prevent crime. Many times cars are burglarized while parked under a light. Lighting provides the opportunity for choice; the choice to walk forward because you can see clearly that the path is clear AND free of danger. IF the user can see a potential danger (person hiding, a gang of kids at the corner), they may choose to walk a different way. Lighting can illuminate a target as easily as it provides a legitimate user the ability to see a potential threat or criminal.

Lighting is a powerful tool that management and residents can use to control and reduce the fear of crime as well as the opportunity for crimes to occur.

Unless you have formal or informal surveillance of an area, lighting may not always prevent crime. In fact, good lighting without surveillance may actually encourage criminal activity in some cases.

GOALS OF LIGHTING

UNIT LIGHTING SHOULD BE:

5 Energy efficient (used consistently)

5 Non-tamperable (use special screws)

5 Break Resistant Lens (Polycarbonate-Lexan)

BUILDING LIGHTING SHOULD:

5 Illuminate building numbers

5 Illuminate building accesses

5 Illuminate front and back areas

5 Illuminate porch lights under control of building, Not apartment user.

GROUNDS LIGHTING SHOULD:

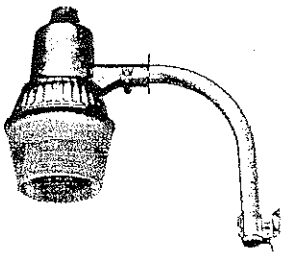
5 Provide a cone of light downward to walkways

5 Provide a level of lighting between buildings to distinguish forms and movement.

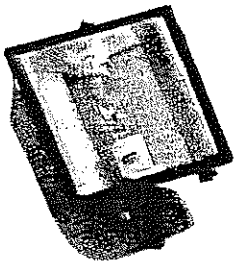
NOTES □ NOTES □ NOTES □ NOTES □ NOTES

TYPES OF OUTDOOR LIGHTING

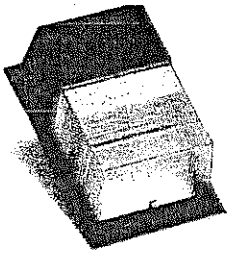
Energy-efficient lighting fixtures help you cut your electric bill. Plus, most products are easy to install because many models come pre-wired and pre-assembled. Each style comes with a lamp and you can also choose to add a photocell on some designs.



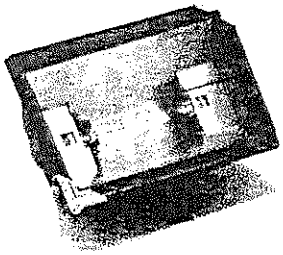
Dusk-To-Dawn
High-Pressure Sodium
150 watt



High-Pressure
Sodium Flood
150 watt



High-Pressure
Sodium Wall Light
70 watt



Quartz Light Metal
Halide
500 watt

TYPES OF LAMPS

High Pressure Sodium, Metal Halide, Mercury Vapor and Self-Ballasted Mercury Lamps are all high-intensity electric discharge lamps. Except for self-ballasted lamps, auxiliary equipment such as ballasts and starters must be provided for proper starting and operation of each type, in accordance with American National Standards Institute (ANSI) specifications.

Low Pressure Sodium lamps, although technically not high intensity discharge lamps are used in many similar applications. As with HID lamps they require auxiliary equipment for proper starting and operation. These lamps, which have efficacies up to 200L/W, have a mixture of neon and argon gas plus sodium metal in the arc tube and an evacuated outer bulb. When voltage is applied to the lamp the arc discharge is through the neon and argon gas. As the sodium metal in the arc tube heats up and vaporizes, the characteristic yellow amber color of sodium is achieved.

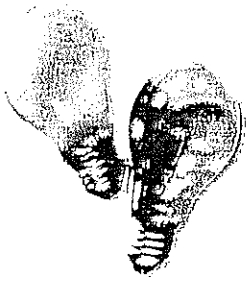
Nominal Wattage of Lamps

Lamp wattage varies during life, because of ballast and lamp characteristics. Ballast data should be reviewed for actual wattage levels.

Voltage Control

An interruption in the power supply or a sudden voltage drop may extinguish the arc. Before the lamp will re-light, it must cool sufficiently, reducing the vapor pressure to a point where the arc will re-strike with available voltage. Instant re-strike lamps re-strike immediately with the resumption of power providing approximately 5% of steady state lumens and a rapid warm-up. Other lamps require approximately one minute cooling before re-lighting. Still other HID types take 3 to 20 minutes, depending on type of lamp and luminaire.

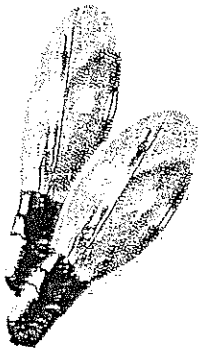
Incandescent Bulbs



Supreme incandescent bulbs are rated at 5000 hours compared to 750 for regular bulbs. Cooler burn with 85% longer lamp life. Withstands voltage fluctuations, and its brass base offers reduced socket freezing. Frosted or clear, available in watt varieties.

Flood Light

One-piece weatherproof construction with a brass base to reduce socket freezing. Cooler burn.



High Pressure Sodium

Hermetically sealed, this high-pressure sodium lamp offers 24,000 hours of dependable life. Built for outdoor uses, it absorbs wind and vibration, is insulated against high voltage pulses and has minimal freezing or rusting in the socket. Clear or coated. (For use in high pressure sodium fixtures only.)

COLOR RENDERING

Another key performance characteristic, *color rendering*, is the ability of a light source to represent colors in objects. The relative measure of this ability is color rendering index or CRI which rates lights sources on a scale of 0 to 100.

The higher the CRI, the more vibrant or close to natural the colors of objects appear. For example, a CRI of 0 would come from a source that provides light without color, much like a black and white television. A CRI of 100 would represent a source that has the rendering capabilities of incandescent light (for sources below 5000K) or Adaylight= (for sources above 5000K). CRI is especially important when evaluating fluorescent and HID sources because they have a wide range of CRI's.

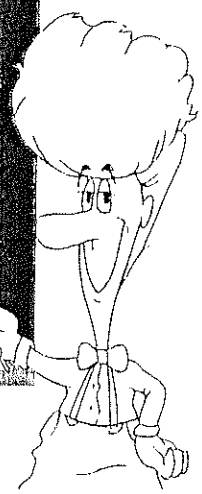
Fluorescent Tubes

Cast cool, bright, economical light indoors.

Pictured: Circular, one of the many fluorescent tubes available.

PROPER USE VARIOUS LIGHTS

- METAL HALIDE: RECREATION AREAS, PARKING LOTS
- HIGH PRESSURE SODIUM: PARKING LOTS, COMMON AREAS
- FLUORESCENT: COVERED PARKING, PORCH LIGHTS, WALK PATHS
- INCANDESCENT: PORCH LIGHTS, INSIDE UNITS
- LOW PRESSURE SODIUM: DUMPSTERS, MAINTENANCE SHOPS



SECURITY LIGHTING

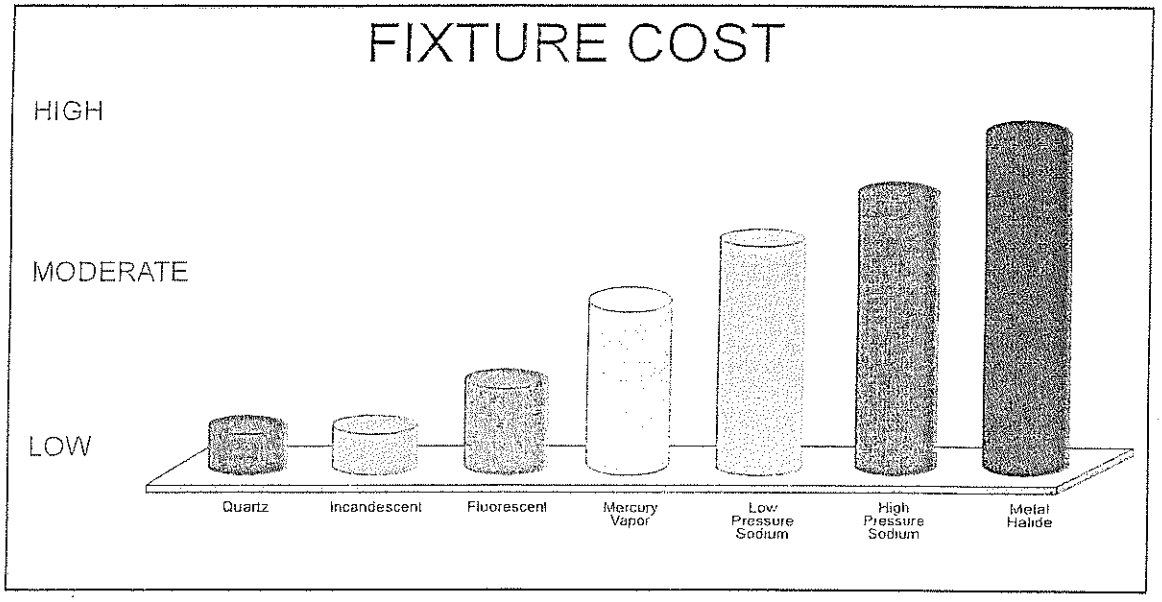
1. Purposes of lighting.

2. Lighting terminology.

3. Three types of lighting.

PROS AND CONS

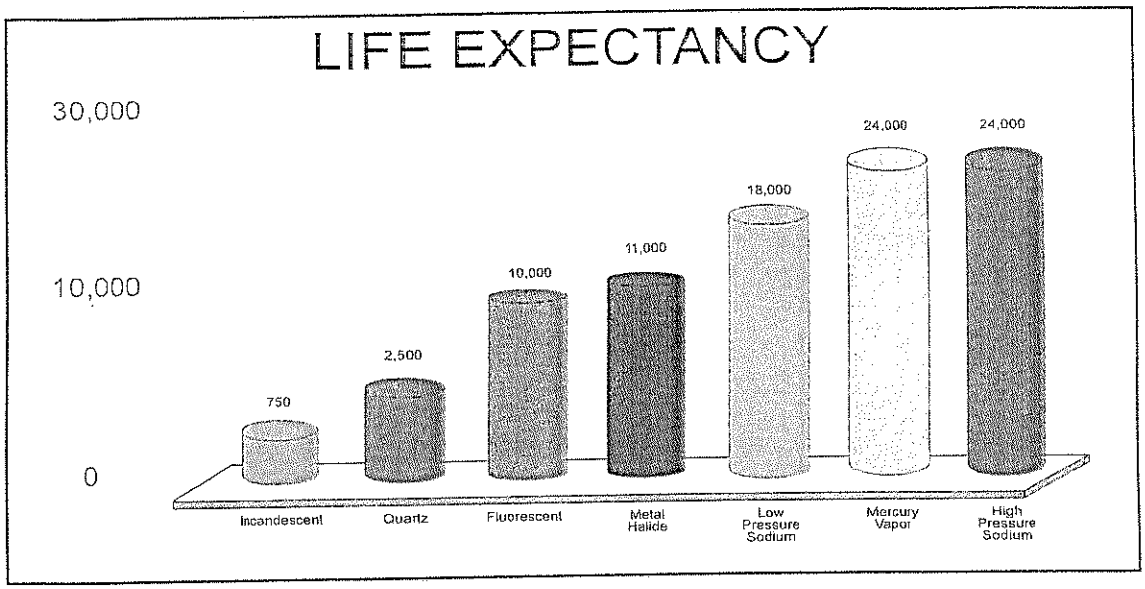
1. Type One:



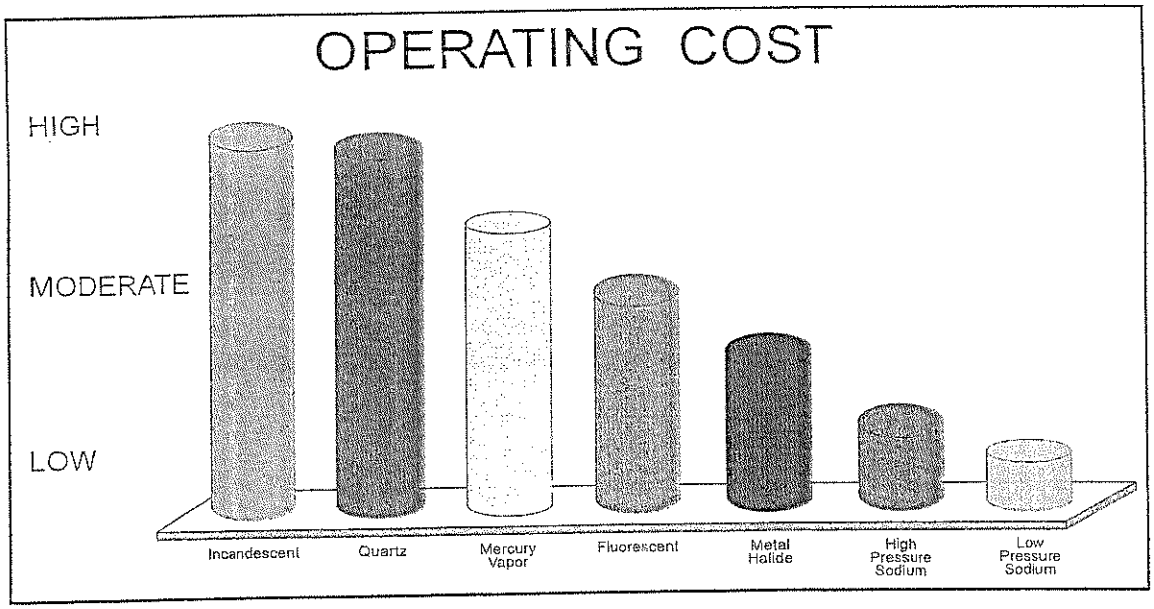
2. Type Two:

3. Type Three:

LIGHT and LAMP COMPARISON



While many lamps will offer varying degrees of efficiency and effectiveness, this is a general guide to discuss advantages and disadvantages with certain lamps. Contact a professional lighting consultant if you have any questions. Performance and costs may vary greatly from manufacturer to manufacturer. These charts are provided to show there are more considerations than just the cost of lighting.



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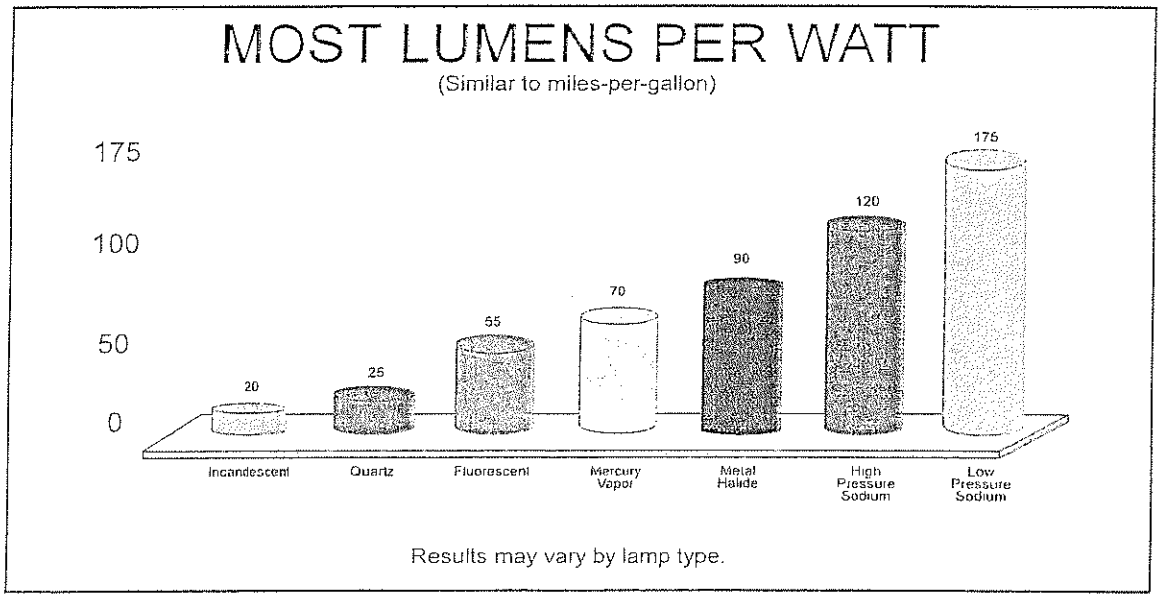

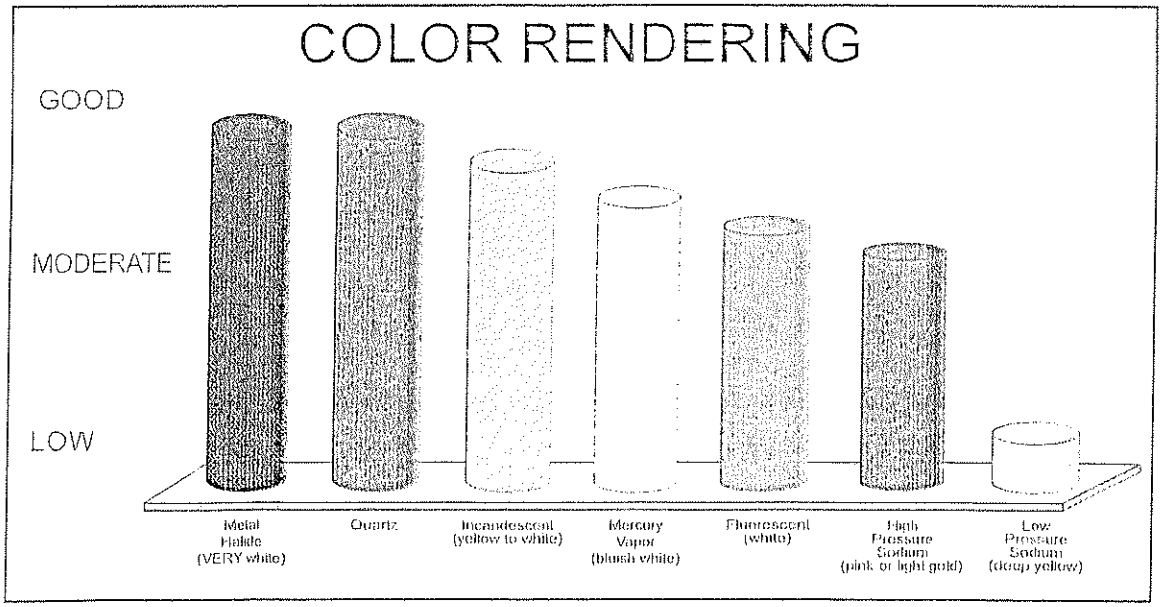

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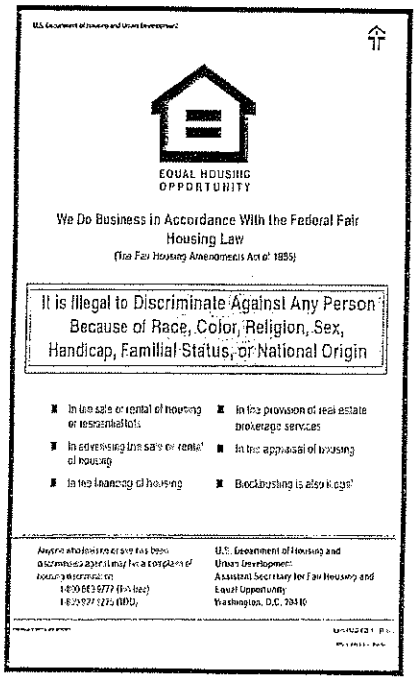
PART FOUR

THE APPLICATION PROCESS

IT'S WORTH THE EFFORT

Property managers have differing views on how, or *if*, they should screen prospective residents. Some property managers have rigid guidelines established by their management company or owners. Other property managers may feel that calling references or checking prospective residents is not worth the effort. It is important to understand the application process and Fair Housing Laws.

WHAT ARE PROTECTED CLASSES?



EQUAL HOUSING OPPORTUNITY

We Do Business in Accordance With the Federal Fair Housing Law

(The Fair Housing Amendments Act of 1988)

It is Illegal to Discriminate Against Any Person Because of Race, Color, Religion, Sex, Handicap, Familial Status, or National Origin

- In the sale or rental of housing or residential lots
- In advertising the sale or rental of housing
- In the financing of housing
- In the provision of real estate brokerage services
- In the appraisal of housing
- Blockbusting is also illegal

Anyone who believes he or she has been discriminated against may file a complaint of housing discrimination:

1-800-669-9777 (Voice)

1-800-927-9275 (TDD)

U.S. Department of Housing and Urban Development

Assistant Secretary for Fair Housing and Equal Opportunity

Washington, D.C. 20410

Federal Fair Housing Laws strictly prohibit any discrimination against protected classes. Those protected classes may include these and others:

- race
- color
- religion
- sex
- handicap
- familial status
- national origin
- source of income
- sexual preference

What most people may not be aware of is that EVERYONE is in a protected class! Everyone has a race, a color, a sex and a national origin. No one can discriminate against an applicant based on their color, regardless of what color they are. No one can be denied residency based on their national origin, regardless of where they were born.

NOTE: You should keep an "Equal Opportunity Housing" sign in the office to remind prospective residents that you do not discriminate against those protected by the Fair Housing Laws.

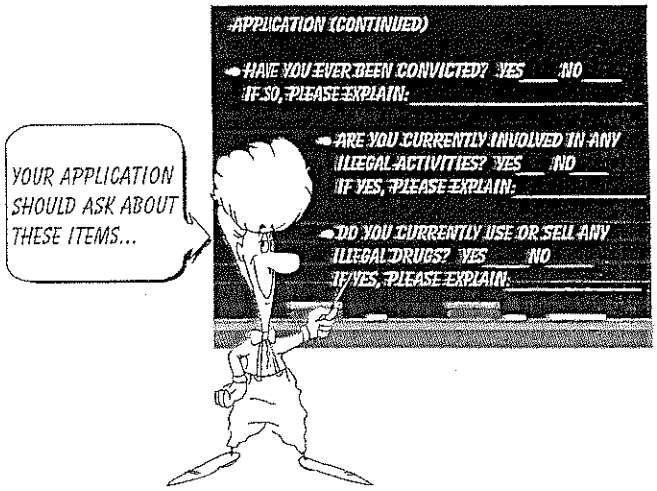
WHAT ABOUT NON-PROTECTED CLASSES?

While discrimination against non-protected classes is not necessarily illegal, it may not be profitable either. For example, a property manager may discriminate against pet owners (provided that the applicant is not dependent upon the animal for a particular disability), but not allowing pets may turn away a large number of applicants. Another example is the property manager who chooses to rent to only non-smokers. Here again, it may be legal, but it may not be profitable.

WHAT ABOUT CRIMINAL BEHAVIOR?

At this time it is not illegal to deny residency to an applicant based on their criminal history. Keep in mind, you should not deny an application on the basis of an arrest; but only on a conviction. If an applicant says they were not convicted, but they made a plea bargain instead, it is **still** a conviction.

Behavior is not one of the federally protected classes. An applicant can be denied residency for behaviors at previous rental properties. For example, you could refuse residency to an applicant who has repeatedly disturbed or threatened previous neighbors, sold or manufactured drugs, or damaged properties they previously rented.



When looking at the criminal history of prospective residents, ask yourself, "Is this a crime that poses a threat to my residents"? A felony embezzlement charge may not be a threat, but a misdemeanor charge for assault may constitute a threat.

Notes:

MAKE CRIME FREE MULTI-HOUSING A COMMITMENT!

It is important to convey to all prospective residents your intention to participate in the Crime Free Multi-Housing Program. Some property managers will attach a copy of the Crime Free Addendum to each application, while other property managers will display a poster-sized copy of the addendum in an area where prospective residents fill out their application.

Be certain to treat *all* applicants equally and fairly. **Also be certain to tell them about your participation in the Crime Free Multi-Housing Program before they fill out the application.** This gives them the opportunity to continue looking for other options.

NOTE: If an applicant refuses to live in a Crime Free Community, you won't have to deny their application!

DISCLOSURE

If an applicant discloses a previous criminal history of convictions on the application, you should decide immediately whether or not to accept the application. If you accept the application, you may lose the right to deny the application later for any information they have disclosed.

Check with your Management Company and/or attorney to be certain of your company's policy in this regard.

Bottom line...check each application thoroughly before accepting it or any processing fees.

Notes:

THE APPLICATION FORM
(EXAMPLE ONLY)

PROPERTY:

APPLICATION FOR RESIDENCY

NAME_____SOCIAL SECURITY #_____DATE OF BIRTH_____PLACE OF BIRTH_____SPOUSE=S NAME_____SOCIAL SECURITY #_____DATE OF BIRTH _____PLACE OF BIRTH_____TOTAL NUMBER OF MINORS TO OCCUPY UNIT_____ LIST AGES

CURRENT ADDRESS_____ SINCE

CITY_____ STATE_____ ZIP_____ PHONE

LANDLORD=S NAME_____ PHONE

PREVIOUS ADDRESS_____ SINCE

CITY_____ STATE_____ ZIP

HAVE YOU EVER BEEN EVICTED OR HAD A FORCIBLE DETAINER FILED AGAINST YOU?

REASON

DRIVERS LICENSE #_____ STATE_____ EXP. DATE

SPOUSE=S DR.LIC. #_____ STATE_____ EXP. DATE

VEHICLES - YOU OWN, ARE BUYING, AND/OR WOULD BE PARKING ON THE PROPERTY:

MAKEMODELYEARCOLORLICENSE PLATE #EXP. DATESTATE

EMPLOYER=S NAME

ADDRESS_____ CITY_____ PHONE

DATED STARTED_____ POSITION_____ SUPERVISOR

GROSS INCOME_____ PER

SECOND/FORMER EMPLOYER

ADDRESS_____ CITY_____ PHONE

EMPLOYED FROM_____ TO _____ POSITION

GROSS INCOME_____ PER _____ SUPERVISOR

SPOUSE=S EMPLOYER

ADDRESS_____ CITY_____ PHONE

DATED STARTED_____ POSITION_____ SUPERVISOR

GROSS INCOME_____ PER

ANY ADDITIONAL INCOME - STATE SOURCE AND AMOUNT

Application for Residency - Page 2

NAME OF BANK BRANCH/ADDRESS TYPE OF ACCOUNT ACCOUNT NUMBER

CREDIT REFERENCES:

CREDITOR=S NAME	TYPE OF ACCOUNT	ACCOUNT NUMBER	MONTHLY PMT.	IN WHO=S NAME

TWO PERSONAL REFERENCES:

NAME

ADDRESS

CITY

PHONE

RELATIONSHIP

Have you ever been convicted of a crime, placed on probation/parole, is there a current warrant for your arrest, or are you currently involved in any criminal activity?_____ Explain:

All information furnished on this application is to the best of my knowledge, complete and accurate. Discovery of false or omitted information constitutes grounds for rejection of this application. You or any agent of your choice may verify any and all information from whatever source you choose. I authorize all persons/or firms named in this application to freely provide any requested information concerning me and hereby waive all right of action for any consequence resulting from such information.

I acknowledge payment of $_____ as a nonrefundable fee for the purpose of processing this application.

YOU ARE HEREBY INFORMED THAT A FREE COPY OF THE AARIZONA LANDLORD AND TENANT ACT≅ IS AVAILABLE TO YOU THROUGH THE ARIZONA SECRETARY OF STATE=S OFFICE.

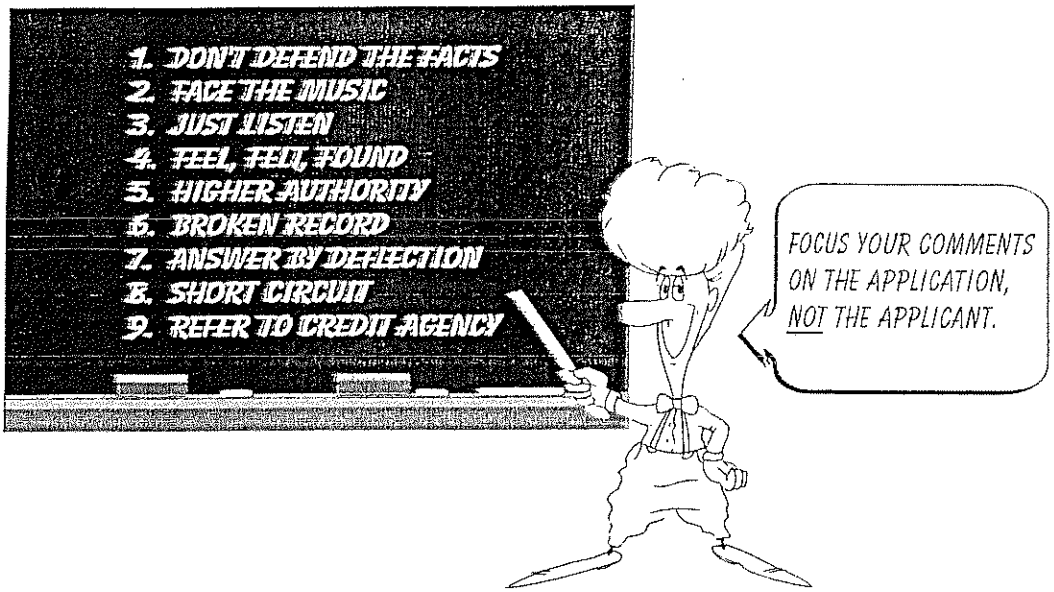
Applicant_____ Date

Spouse_____ Date

NOTES □ NOTES □ NOTES □ NOTES □ NOTES

REFUSING AN APPLICATION

Try to resolve the applicant's questions by using as few of these techniques as possible.



1. Don't Defend the Facts
2. Face the Music
3. Just Listen
4. Feel, Felt, Found
5. Higher Authority
6. Dumb Broken Record
7. Answer By Deflection
8. Short Circuit
9. Refer Applicant to Credit Agency

BOTTOM LINE:

PLAN YOUR WORDS VERY CAREFULLY --

DISCRIMINATION SUITS ARE FILED WHEN MANAGERS SAY TOO MUCH!

Note: This is derived from an article that appeared in Property Management Magazine October 1992

The **WORST** time to screen your residents is..... during the eviction process !!!

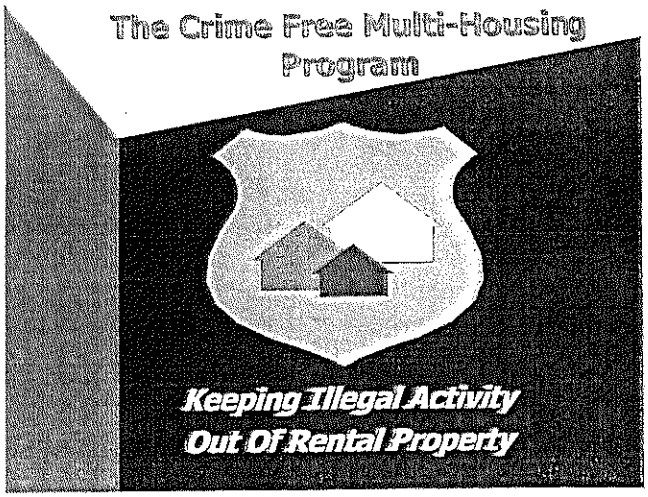
As a rental property owner, or manager, in many respects you have more power than the police. You have the power to prevent problems from moving into your property and *you have the power* to move them off.

You should use the most thorough process possible to screen prospective tenants. Financial institutions measure a person's "credit worthiness" before issuing a loan. You should be measuring for an applicant's "tenant worthiness" (a predictor of what kind of resident they will be). This can be accomplished by not only checking the applicants credit history , but also their criminal history and their rental history. The rental history includes evictions, lease violations, and rental background (do they change apartments often, or before the lease expired, and contact with previous landlords).

J. Denton Dobbins, a prominent Arizona attorney, advises that if property managers utilize better screening procedures they can expect:

- Good tenants
- Deferred maintenance costs
- A better living environment
- Residents who notify you of problems....not create problems
- A waiting list for prospective tenants

Chris McGoey, The Crime Doctor, a nationally known crime prevention expert relates that a "good application" can be an *effective* screening tool in and of itself.



(EXAMPLE ONLY)

STATEMENT OF RENTAL POLICY

THIS COMMUNITY WILL NOT DISCRIMINATE AGAINST ANY PERSON BASED ON RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, FAMILIAL STATUS, OR DISABILITY.

OCCUPANCY STANDARD: TWO (2) PERSON MAXIMUM OCCUPANCY PER BEDROOM

RENTAL APPLICATION EVALUATION GUIDELINES:

T Age Requirement: Lease holder(s) must be 18 years or older. All occupants 18 years or older will be required to complete an application (even if living with parent or guardian). Co-signers are not accepted.

T Income Requirement: The gross monthly income of all lease holder(s) will be considered jointly and must equal ____ times the rental amount on the apartment. All income must be verifiable.

T Employment Verification: *Lease holder(s) must be currently employed, or provide written evidence of regular income sufficient to at least ____ times the rental amount on the apartment, for the lease term.

T Self Employment: Must provide the previous year's personal income tax return and the previous two (2) months personal bank statements as evidence of sufficient income. Persons who hold jobs that are commission only, or base salary plus commission, or tips, bonuses will be considered self employed.

T Residency: Up to two (2) years residency history will be reviewed and must exhibit no derogatory references. Any debt owed to a Concierge property must be paid before lease can be approved.

T Credit Requirements: The credit history will be reviewed and no more that ___% of the total accounts reported can be over 60 days past due, or charged to collection in the past two years.

T Pets: All pets are subject to property policy.

T Application Fee: A $_____ non-refundable application fee is required per application.

T Criminal History: Must exhibit no criminal conviction involving violence, fire arms, illegal drugs, theft, crimes involving theft, or destruction of property, or any crime involving a minor.

This will include person(s) who have received deferred adjudication and/or have not yet satisfied the probationary period of a deferred adjudication for any of the above mentioned offenses.

ADDENDUM TO THE APPLICATION:

Are you a current illegal abuser of a controlled substance?_____ Have you ever been convicted of the illegal use, manufacture, sale or distribution of a controlled substance?

I UNDERSTAND AND ACCEPT THESE QUALIFYING STANDARDS AND HAVE TRUTHFULLY ANSWERED ALL QUESTIONS. FURTHER, I UNDERSTAND THAT FALSIFICATION OF RENTAL APPLICATION INFORMATION WILL LEAD TO DENIAL OF RENTAL. CONCIERGE MANAGEMENT CORPORATION=S RENTAL POLICIES ARE GUIDELINES, WHICH ENABLE US TO ACCEPT AS PROSPECTIVE RESIDENTS THOSE INDIVIDUALS WHO ARE CREDITWORTHY AND DO NOT HAVE A CRIMINAL BACKGROUND. THIS RENTAL POLICY DOES NOT INSURE THAT ALL INDIVIDUALS RESIDING ON OR VISITING THE PROPERTY CONFORM TO THESE GUIDELINES.

_____ /		_____ /	
Prospective Resident	Date	Prospective Resident	Date
_____ /		_____ /	
Prospective Resident	Date	Agent For Owner	Date

Grounds for Denial

Applicants will be denied if they do not meet the community owner's screening criteria. Applicants may be denied for any, and or a combination of any, of the following reasons:

1. Any convictions or pending charges that constitute a misdemeanor or felony, including but not limited to crimes against persons or property, theft/burglary, theft by check, theft of services or materials, prostitution, history of violence, illegal controlled substances, and harboring a fugitive.

2. History of allowing unauthorized occupant(s) to reside in your apartment/townhouse/home as evidenced by landlord's verification(s).

3. History of being an unauthorized occupant on another person's lease where management problems, late payments, evictions, skips, or damages occurred as evidenced by landlord's verification(s).

4. Poor housekeeping as evidenced by landlord's verification(s).

5. History of drug abuse as evidenced by landlord's verification(s).

6. History of paying rent late or poor rental background as evidenced by landlord's verification(s) and/or credit report.

7. Derogatory credit report.

8. History of property damage to apartments/townhouse/home or common areas as evidenced by landlord's verification(s) and/or credit report.

9. History of lease violations as evidenced by landlord's verification(s).

10. History of violence and interference with management's duties and responsibilities as evidenced by landlord's verification(s), government or social agency verification(s), police reports, and/or criminal background checks.

11. No approval code from company used for check writing verification.

Applicants will not be denied on the basis of race, color, religion, national origin, sex, handicap, or familial status.

_____ _____

Applicant Signature Date

_____ _____

Applicant Signature Date

(This sample is provided for informational purposes. You should create your own policies for the benefit of your residents and employees. You should seek legal review and approval from YOUR attorney.)

Application Criteria

All applicants for residency will be processed through a credit-reporting agency. All responsible parties under 18 years of age or older must complete and sign an application. Unauthorized occupants are strictly forbidden.

In reviewing the application, all or part of the following areas will be taken into consideration.

1. CREDIT
   All credit status for the last 2 years will be checked through the appropriate *Credit Bureau.* The credit history must be free of any outstanding debt to previous landlords, and creditor.

2. RESIDENT/RENTAL HISTORY
   The last 2 years resident/rental history is required. All appropriate phone numbers and addresses, where this information may be *VERIFIED*, must appear on the occupancy application. All resident history must be free of rental housing evictions, skips and all delinquencies.

3. EMPLOYMENT INCOME
   Applicants *local employment* must be verified, including salary amount. Monthly rent cannot exceed a certain percentage of the gross monthly income.

4. CHECK WRITING HISTORY
   Code must be acceptable.

5. CRIMINAL HISTORY
   The criminal records of all household members over the age of 18 will be checked and reviewed for felony and misdemeanor offenses. The information gathered as the result of this check would effect the approval of the application.

This community is committed to CRIME-FREE and DRUG-FREE HOUSING. The lease agreement prohibits criminal activity, including drug related criminal activity on or near our premises.

(This sample is provided for informational purposes. You should create your own policies for the benefit of your residents and employees. You should seek legal review and approval from YOUR attorney.)

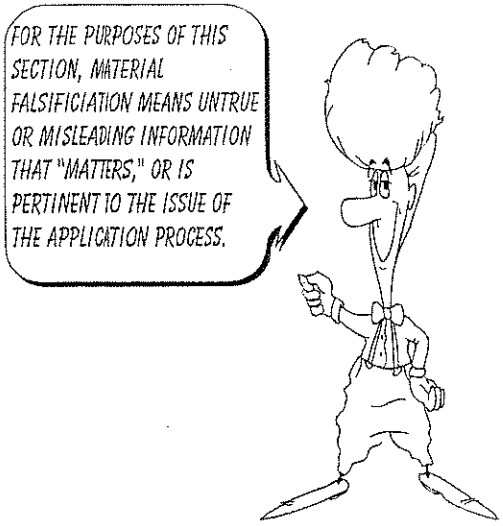
CREDIT REPORTING AGENCIES

Many credit reporting agencies will offer to search local or county court records for criminal data pertaining to your prospective tenants. While many of these companies make claims, the results they get may vary as greatly as the costs.

It is important to *shop around* for the best results, using a control group of names currently being processed. In most cases, you will see the best results from companies that use licensed private investigators, and search multiple courts and jurisdictions.

Notes:

MATERIAL FALSIFICATION



If there is a material falsification of the information provided on the rental application, the manager may serve a 10-day notice to the resident to terminate the rental agreement if the information is not corrected. If the corrected information provided would have disqualified the applicant in the beginning, the manager may proceed with the 10-day written notice (for violation of lease agreement).

Ensure that the applicant understands a false application constitutes a lease violation. Have this in writing. Check with your attorney or management company on the best way to accomplish this, whether on the application, on the lease, or as part of an addendum.

If the mistake was unintentional and the resident would have qualified anyway, the manager should void the 10-day notice.

PART FIVE

COMMON SENSE SELF DEFENSE

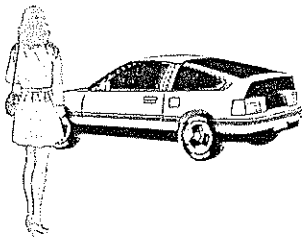
AWARENESS IS THE KEY

Most crimes can be prevented if there is careful consideration given to measures proven to reduce the likelihood of criminal activity. It is important to assess the types of crimes that have occurred on the property, as well as crimes that have been committed on similar properties. To discount the possibility of crime because "It has never happened before" is not using good sense.

It is imperative to understand the potential for many crimes exists and that steps to prevent those crimes should be taken before they occur. Many times, crime prevention involves keen awareness of the surrounding area, and that doesn't cost a lot of money. Using a buddy system after hours is one inexpensive way to reduce the likelihood of an attack.

WORKING AFTER DARK

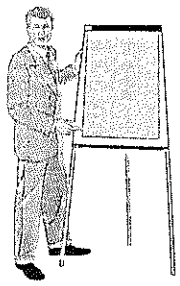
When working late, it is a good idea to have another person in the office or nearby. A person walking to a car alone is much more likely to be attacked than a person who is walking with somebody else. There is strength in numbers!



If a person must walk out to their car alone, it is a good idea to have the car as close to the office as possible, reducing the walking distance. Whenever possible, employees (especially employees who may leave after dark) should be given assigned parking spaces closest to the office area, or be allowed to move their vehicles closer before it gets dark.

If this is not possible, assign an area as close as possible which has excellent security lighting that cannot be easily disabled. It is also essential, when trimming bushes or trees, to keep in mind the casual observers who may live or be visiting in the general area. Keeping bushes and trees trimmed and/or removing any objects that may block surveillance of the area or offer a hiding place for an attacker will also allow the casual observer an open field of vision into the area.

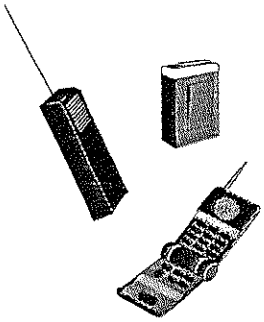
EMPLOYEE TRAINING PROGRAMS



Employees should receive training to prepare themselves for all types of crime situations. Typically, police departments will offer free classes that deal with common sense self defense. There are also private firms that can take the training one step further, even offering chemical sprays or other devices to discourage an attack.

When working alone in an office an employee should be certain that all doors and windows have been secured. It is a good practice to notify another person when working late as well. There should be a telephone nearby, should they need to call the police or another person for assistance.

STAY IN TOUCH



Cellular telephones and two-way radios are another good way to stay in touch, not only when someone is in the office, but when they have to step out for a moment as well. Pagers are another good way to summon help from maintenance people or grounds keepers. Many property managers have established special codes that can be entered into digital pagers to quickly identify problem situations that may occur.

ARMED ROBBERY PREVENTION

Armed robbery is a serious concern not often recognized by property managers or leasing staff. It is not uncommon for managers to collect thousands of dollars during the first part of the month. Keep in mind, an armed robber will kill a convenience store clerk for $50.00 in cash. Many property managers keep much more than this available in the form of petty cash alone.

Earlier, we addressed Risk Management and the option of Risk Acceptance, or accepting the risk. In this case, Risk Transference would involve transferring that risk by purchasing a good safe with a special courier service.

Risk Spreading is a third option in risk management. This involves keeping money in different locations, so even if one safe area is found, the money in other safe areas may go undetected. Another way to spread the risk is to make frequent deposits with smaller amounts per deposit.

Risk Avoidance is a fourth option. Make a ANo Cash Accepted" policy in the office. This can also help to prevent internal theft and embezzlement, by avoiding a situation entirely.

At the very least, property managers should place signs in highly visible areas that say the management will not accept cash and they keep no cash on the premises. Recommended areas are at the front door and at reception or desk areas.

The potential for an armed robbery is not only in the office, but at the night drop as well, and everywhere in between. The potential for the money to be left behind, dropped or stolen is considerably high. The risk to employees who carry the money may be even higher.

(See next page for an example.)

MEMO

CRIME FREE ACRES

Apartment Community

TO: All Employees

FROM: Molly Manager

RE: Safety Policy

- ☐ All applicants shall be **required to show a state issued or military photo identification card**. This card shall be photocopied and placed in a secure place while the applicant looks at the unit. The identificationwill be returned immediately afterwards.

- ☐ Property managers and agents shall require the applicant to **complete a Guest Information Card** in the applicant's own handwriting. This should include their current address and phone number. (This policy should be posted as well.)

- ☐ Property managers and agents shall **notify another person about the showing** before you go and tell them what time you expect to return. If, for whatever reason, you feel in danger, do not take any risks! Trust your instincts! Reschedule the showing for another time when you are more comfortable.

- ☐ When showing an apartment to a prospective resident, allow them to enter first. **Position yourself by the nearest exit**. Leave the door open wide until you leave, but be aware for suspicious people lurking outside the unit. NEVER follow the prospect into another room. **If you feel threatened, leave immediately** and call for help.

- ☐ Always **keep vacant apartments or model units well secured**. When entering vacant units by yourself, lock the door behind you. It is a good idea to carry a radio or cellular phone with you. If possible, have a staff member accompany you when you make your appointed rounds.

- ☐ At the very least, agents should **consider carrying a whistle, personal alarm or self-defense spray**, and know the hazards and limitations of whichever method they choose. Self-defense classes may be another option to consider.

- ☐ **Report all suspicious activity** to police and management immediately!

(It is a good idea to have a written policy posted where all applicants will see it.)

PART SIX

COMMUNITY RULES AND LEASE AGREEMENTS

LEASES

Property managers should routinely have their leases reviewed by their attorneys to insure that they remain current and accurate. As federal and state laws change and court decisions are issued, some aspects of your current "standard" leases may become outdated. This could then affect your options should a lease violation or other incident occur which would possibly have you considering an eviction of the tenant. You may wish to review the following points with your attorney or management company and if needed consider revising or adding to your current lease or lease addendum.

A. Subleasing

Subleasing should not be permitted without authorization of management and then only upon completion of the applicant screening process. The person(s) who wish to sublease an apartment should receive the same approval as a standard tenant.

B. Unit Occupancy

Only those people noted on the lease may occupy the rental unit. Community rules governing residents should specify the length a guest may visit or stay and under what circumstances (length or number of guests) that management permission should be obtained. Any violation of this could constitute a lease violation allowing you to serve notice to terminate the lease agreement if the situation is not resolved. This is done to prevent your tenants from allowing others to "move-in" to your community without your knowledge. You may even wish to take a "family picture" (Polaroid type) of those people noted on the lease and authorized to occupy the unit. You can also explain the photo will be kept in the rental file for such instances as issuing a spare key in the event the tenant is locked out. The management can then insure that entry is not granted to unauthorized people for the security of the residents and their property.

C. Drugs and/or Criminal Activity

All prospective tenants, before leasing, should have a clear understanding that **drug or criminal activity related to the unit, it's occupants, or guests <u>will not be tolerated</u>.** This should be addressed in the community rules and even more importantly in a signed Crime Free or Drug Free Lease Addendum.

D. Nuisance Complaints

Reducing the opportunity for criminal activity is not the only goal of this program. Nuisance situations often cause disruptions to the quality of life within a multi-family housing community. Residents should not unduly or repeatedly disturb their neighbors. Again as part of the lease, an addendum, or in the community rules, you should clearly spell out what constitutes a violation. A certain number or type of nuisance complaints within a certain period of time (clearly specified) would constitute a lease violation and thus be

grounds to serve a 10-day notice of termination. Additionally tenants should understand that they would be held responsible for their own conduct, the conduct of their children and of their guests while on or near the property. You may also suggest to your tenants that they should contact the police for assistance should dangerous or illegal activities occur that is out of their control.

Note: The Illinois Supreme Court has ruled that property owners/managers may ban non-tenants from their property.

MAKING RULES

Property owners or managers may choose to develop a booklet that lists guidelines for expected behavior, restrictions on excessive noise or nuisance violations, and other matters that are unique to your property and facilities. These items should be explained and the applicant may be asked to sign an addendum (or have it clearly noted in the rental agreement itself) indicating that community rules will be followed. If such groundwork is prepared, then rules violations could constitute a lease violation and serve as grounds to issue a 10-day notice of lease termination. As with all such matters, you should obtain legal assistance in reviewing and developing any such written materials prior to implementing them. Lastly, you should routinely review all materials and make necessary revisions to keep your paperwork "up to date".

CRIME FREE LEASE ADDENDUM

If your current lease agreement does not contain sections pertaining to drug or criminal activity, you may wish to strongly consider using a Crime Free or Drug Free Lease Addendum. Such an addendum, when signed by the tenant, makes criminal or drug activity a LEASE VIOLATION in addition to a police matter. You can then terminate a lease based on drug and criminal activity. The following page has a sample lease addendum.

Notes

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Jump to: [Opinion]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT *v.* RUCKER *etal.*

certiorari to the united states court of appeals for the ninth circuit

No. 001770. Argued February 19, 2002Decided March 26, 2002*

Title 42 U.S. C. 1437d(*l*)(6) provides that each public housing agency shall utilize leases provid[ing] that any drug-related criminal activity on or off [federally assisted low-income housing] premises, engaged in by a public housing tenant, any member of the tenants household, or any guest or other person under the tenants control, shall be cause for termination of tenancy. Respondents are four such tenants of the Oakland Housing Authority (OHA). Paragraph 9(m) of their leases obligates them to assure that the tenant, any member of the household, a guest, or another person under the tenants control, shall not engage in any drug-related criminal activity on or near the premises. Pursuant to United States Department of Housing and Urban Development (HUD) regulations authorizing local public housing authorities to evict for drug-related activity even if the tenant did not know, could not foresee, or could not control behavior by other occupants, OHA instituted state-court eviction proceedings against respondents, alleging violations of lease paragraph 9(m) by a member of each tenants household or a guest. Respondents filed federal actions against HUD, OHA, and OHAs director, arguing that 1437d(*l*)(6) does not require lease terms authorizing the eviction of so-called innocent tenants, and, in the alternative, that if it does, the statute is unconstitutional. The District Courts issuance of a preliminary injunction against OHA was affirmed by the en banc Ninth Circuit, which held that HUDs interpretation permitting the eviction of so-called innocent tenants is inconsistent with congressional intent and must be rejected under *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842843.

*Held:*Section 1437d(*l*)(6)s plain language unambiguously requires lease terms that give local public housing authorities the discretion to terminate the lease of a tenant when a member of the household or a guest engages in drug-related activity, regardless of whether the tenant knew, or should have

known, of the drug-related activity. Congress decision not to impose any qualification in the statute, combined with its use of the term any to modify drug-related criminal activity, precludes any knowledge requirement. See *United States* v. *Monsanto*, 491 U.S. 600, 609. Because any has an expansive meaning*i.e.*, one or some indiscriminately of whatever kind, *United States* v. *Gonzales*, 520 U.S. 1, 5*any* drug-related activity engaged in by the specified persons is grounds for termination, not just drug-related activity that the tenant knew, or should have known, about. The Ninth Circuits ruling that under the tenants control modifies not just other person, but also member of the tenants household and guest, runs counter to basic grammar rules and would result in a nonsensical reading. Rather, HUD offers a convincing explanation for the grammatical imperative that under the tenants control modifies only other person: By control, the statute means control in the sense that the tenant has permitted access to the premises. Implicit in the terms household member or guest is that access to the premises has been granted by the tenant. Section 1437d(*l*)(6)s unambiguous text is reinforced by comparing it to 21 U.S.C. 881(a)(7), which subjects all leasehold interests to civil forfeiture when used to commit drug-related criminal activities, but expressly exempts tenants who had no knowledge of the activity, thereby demonstrating that Congress knows exactly how to provide an innocent owner defense. It did not provide one in 1437d(*l*)(6). Given that Congress has directly spoken to the precise question at issue, *Chevron, supra,* at 842, other considerations with which the Ninth Circuit attempted to bolster its holding are unavailing, including the legislative history, the erroneous conclusion that the plain reading of the statute leads to absurd results, the canon of constitutional avoidance, and reliance on inapposite decisions of this Court to cast doubt on 1437d(*l*)(6)s constitutionality under the Due Process Clause. Pp.411.

237 F.3d 1113, reversed and remanded.

Rehnquist, C.J., delivered the opinion of the Court, in which all other Members joined, except *Breyer, J.,* who took no part in the consideration or decision of the cases.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, PETITIONER

001770 *v.*

PEARLIE RUCKER *etal.*

OAKLAND HOUSING AUTHORITY, *etal.*, PETITIONERS

001781 *v.*

PEARLIE RUCKER *etal.*

on writs of certiorari to the united states court of appeals for the ninth circuit

[March 26, 2002]

Chief Justice Rehnquist delivered the opinion of the Court.

With drug dealers increasingly imposing a reign of terror on public and other federally assisted low-income housing tenants, Congress passed the Anti-Drug Abuse Act of 1988. 5122, 102 Stat. 4301, 42 U.S.C. 11901(3) (1994 ed.). The Act, as later amended, provides that each public housing agency shall utilize leases which provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on

or off such premises, engaged in by a public housing tenant, any member of the tenants household, or any guest or other person under the tenants control, shall be cause for termination of tenancy. 42 U.S.C. 1437d(*l*)(6) (1994 ed., Supp. V). Petitioners say that this statute requires lease terms that allow a local public housing authority to evict a tenant when a member of the tenants household or a guest engages in drug-related criminal activity, regardless of whether the tenant knew, or had reason to know, of that activity. Respondents say it does not. We agree with petitioners.

Respondents are four public housing tenants of the Oakland Housing Authority (OHA). Paragraph 9(m) of respondents leases, tracking the language of 1437d(*l*)(6), obligates the tenants to assure that the tenant, any member of the household, a guest, or another person under the tenants control, shall not engage in [a]ny drug-related criminal activity on or near the premise[s]. App. 59. Respondents also signed an agreement stating that the tenant understand[s] that if I or any member of my household or guests should violate this lease provision, my tenancy may be terminated and I may be evicted. *Id.*, at 69.

In late 1997 and early 1998, OHA instituted eviction proceedings in state court against respondents, alleging violations of this lease provision. The complaint alleged: (1) that the respective grandsons of respondents William Lee and Barbara Hill, both of whom were listed as residents on the leases, were caught in the apartment complex parking lot smoking marijuana; (2) that the daughter of respondent Pearlie Rucker, who resides with her and is listed on the lease as a resident, was found with cocaine and a crack cocaine pipe three blocks from Ruckers apartment;[1] and (3) that on three instances within a 2-month period, respondent Herman Walkers caregiver and two others were found with cocaine in Walkers apartment. OHA had issued Walker notices of a lease violation on the first two occasions, before initiating the eviction action after the third violation.

United States Department of Housing and Urban Development (HUD) regulations administering 1437d(*l*)(6) require lease terms authorizing evictions in these circumstances. The HUD regulations closely track the statutory language,[2] and provide that [i]n deciding to evict for criminal activity, the [public housing authority] shall have discretion to consider all of the circumstances of the case. 24 CFR 966.4(*l*)(5)(i) (2001). The agency made clear that local public housing authorities discretion to evict for drug-related activity includes those situations in which [the] tenant did not know, could not foresee, or could not control behavior by other occupants of the unit. 56 Fed. Reg. 51560, 51567 (1991).

After OHA initiated the eviction proceedings in state court, respondents commenced actions against HUD, OHA, and OHAs director in UnitedStates District Court. They challenged HUDs interpretation of the statute under the Administrative Procedure Act, 5 U.S.C. 706(2)(A), arguing that 42 U.S.C. 1437d(*l*)(6) does not require lease terms authorizing the eviction of so-called innocent tenants, and, in the alternative, that if it does, then the statute is unconstitutional.[3] The District Court issued a preliminary injunction, enjoining OHA from terminating the leases of tenants pursuant to paragraph 9(m) of the Tenant Lease for drug-related criminal activity that does not occur within the tenants apartment unit when the tenant did not know of and had no reason to know of, the drug-related criminal activity. App. to Pet. for Cert. in No. 01770, pp. 165a166a.

A panel of the Court of Appeals reversed, holding that 1437d(*l*)(6) unambiguously permits the eviction of tenants who violate the lease provision, regardless of whether the tenant was personally aware of the drug activity, and that the statute is constitutional. See *Rucker* v. *Davis,* 203 F.3d 627 (CA9 2000). An en banc panel of the Court of Appeals reversed and affirmed the District Courts grant of the preliminary injunction. See *Rucker* v. *Davis,* 237 F.3d 1113 (2001). That court held that

HUDs interpretation permitting the eviction of so-called innocent tenants is inconsistent with Congressional intent and must be rejected under the first step of *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842843 (1984). 237 F.3d, at 1119.

We granted certiorari, 533 U.S. 976 (2001), 534 U.S. ___ (2001), and now reverse, holding that 42 U.S.C. 1437d(*l*)(6) unambiguously requires lease terms that vest local public housing authorities with the discretion to evict tenants for the drug-related activity of household members and guests whether or not the tenant knew, or should have known, about the activity.

That this is so seems evident from the plain language of the statute. It provides that each public housing authority shall utilize leases which provide that any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenants household, or any guest or other person under the tenants control, shall be cause for termination of tenancy. 42 U.S.C. 1437d(*l*)(6) (1994 ed., Supp. V). The en banc Court of Appeals thought the statute did not address the level of personal knowledge or fault that is required for eviction. 237 F.3d, at 1120. Yet Congress decision not to impose any qualification in the statute, combined with its use of the term any to modify drug-related criminal activity, precludes any knowledge requirement. See *United States* v. *Monsanto*, 491 U.S. 600, 609 (1989). As we have explained, the word any has an expansive meaning, that is, one or some indiscriminately of whatever kind. *United States* v. *Gonzales*, 520 U.S. 1, 5 (1997). Thus, *any* drug-related activity engaged in by the specified persons is grounds for termination, not just drug-related activity that the tenant knew, or should have known, about.

The en banc Court of Appeals also thought it possible that under the tenants control modifies not just other person, but also member of the tenants household and guest. 237 F.3d, at 1120. The court ultimately adopted this reading, concluding that the statute prohibits eviction where the tenant for a lack of knowledge or other reason, could not realistically exercise control over the conduct of a household member or guest. *Id.*, at 1126. But this interpretation runs counter to basic rules of grammar. The disjunctive or means that the qualification applies only to other person. Indeed, the view that under the tenants control modifies everything coming before it in the sentence would result in the nonsensical reading that the statute applies to a public housing tenant under the tenants control. HUD offers a convincing explanation for the grammatical imperative that under the tenants control modifies only other person: by control, the statute means control in the sense that the tenant has permitted access to the premises. 66 Fed. Reg. 28781 (2001). Implicit in the terms household member or guest is that access to the premises has been granted by the tenant. Thus, the plain language of 1437d(*l*)(6) requires leases that grant public housing authorities the discretion to terminate tenancy without regard to the tenants knowledge of the drug-related criminal activity.

Comparing 1437d(*l*)(6) to a related statutory provision reinforces the unambiguous text. The civil forfeiture statute that makes all leasehold interests subject to forfeiture when used to commit drug-related criminal activities expressly exempts tenants who had no knowledge of the activity: [N]o property shall be forfeited under this paragraph by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner. 21 U.S.C. 881(a)(7) (1994 ed.). Because this forfeiture provision was amended in the same Anti-Drug Abuse Act of 1988 that created 42 U.S.C. 1437d(*l*)(6), the en banc Court of Appeals thought Congress meant them to be read consistently so that the knowledge requirement should be read into the eviction provision. 237 F.3d, at 11211122. But the two sec-
tions deal with distinctly different matters. The innocent owner defense for drug forfeiture cases was already in existence prior to 1988 as part of 21 U.S.C. 881(a)(7). All that Congress did in the 1988 Act was to add leasehold interests to the property interests that might be forfeited under the drug

statute. And if such a forfeiture action were to be brought against a leasehold interest, it would be subject to the pre-existing innocent owner defense. But 42 U.S.C. 1437(d)(1)(6), with which we deal here, is a quite different measure. It is entirely reasonable to think that the Government, when seeking to transfer private property to itself in a forfeiture proceeding, should be subject to an innocent owner defense, while it should not be when acting as a landlord in a public housing project. The forfeiture provision shows that Congress knew exactly how to provide an innocent owner defense. It did not provide one in 1437d(*l*)(6).

The en banc Court of Appeals next resorted to legislative history. The Court of Appeals correctly recognized that reference to legislative history is inappropriate when the text of the statute is unambiguous. 237 F.3d, at 1123. Given that the en banc Court of Appeals finding of textual ambiguity is wrong, see *supra*, at 46, there is no need to consult legislative history.[4]

Nor was the en banc Court of Appeals correct in concluding that this plain reading of the statute leads to absurd results.[5] The statute does not *require* the eviction of any tenant who violated the lease provision. Instead, it entrusts that decision to the local public housing authorities, who are in the best position to take account of, among other things, the degree to which the housing project suffers from rampant drug-related or violent crime, 42 U.S.C. 11901(2) (1994 ed. and Supp. V), the seriousness of the offending action, 66 Fed. Reg., at 28803, and the extent to which the leaseholder has taken all reasonable steps to prevent or mitigate the offending action, *ibid.* It is not absurd that a local housing authority may sometimes evict a tenant who had no knowledge of the drug-related activity. Such no-fault eviction is a common incident of tenant responsibility under normal landlord-tenant law and practice. 56 Fed. Reg., at 51567. Strict liability maximizes deterrence and eases enforcement difficulties. See *Pacific Mut. Life Ins. Co.* v. *Haslip*, 499 U. S. 1, 14 (1991).

And, of course, there is an obvious reason why Congress would have permitted local public housing authorities to conduct no-fault evictions: Regardless of knowledge, a tenant who cannot control drug crime, or other criminal activities by a household member which threaten health or safety of other residents, is a threat to other residents and the project. 56 Fed. Reg., at 51567. With drugs leading to murders, muggings, and other forms of violence against tenants, and to the deterioration of the physical environment that requires substantial governmental expenditures, 42 U.S.C. 11901(4) (1994 ed., Supp. V), it was reasonable for Congress to permit no-fault evictions in order to provide public and other federally assisted low-income housing that is decent, safe, and free from illegal drugs, 11901(1) (1994 ed.).

In another effort to avoid the plain meaning of the statute, the en banc Court of Appeals invoked the canon of constitutional avoidance. But that canon has no application in the absence of statutory ambiguity. *United States* v. *Oakland Cannabis Buyers Cooperative*, 532 U.S. 483, 494 (2001). Any other conclusion, while purporting to be an exercise in judicial restraint, would trench upon the legislative powers vested in Congress by Art. I, 1, of
the Constitution. *United States* v. *Albertini*, 472 U.S. 675, 680 (1985). There are, moreover, no serious constitutional doubts about Congress affording local public housing authorities the discretion to conduct no-fault evictions for drug-related crime. *Reno* v. *Flores*, 507 U.S. 292, 314, n.9 (1993) (emphasis deleted).

The en banc Court of Appeals held that HUDs interpretation raise[s] serious questions under the Due Process Clause of the Fourteenth Amendment, because it permits tenants to be deprived of their property interest without any relationship to individual wrongdoing. 237 F.3d, at 11241125 (citing *Scales* v. *United States*, 367 U.S 203, 224225 (1961); *Southwestern Telegraph & Telephone Co.* v.

Danaher, 238 U.S. 482 (1915)). But both of these cases deal with the acts of government as sovereign. In *Scales*, the United States criminally charged the defendant with knowing membership in an organization that advocated the overthrow of the United States Government. In *Danaher*, an Arkansas statute forbade discrimination among customers of a telephone company. The situation in the present cases is entirely different. The government is not attempting to criminally punish or civilly regulate respondents as members of the general populace. It is instead acting as a landlord of property that it owns, invoking a clause in a lease to which respondents have agreed and which Congress has expressly required. *Scales* and *Danaher* cast no constitutional doubt on such actions.

The Court of Appeals sought to bolster its discussion of constitutional doubt by pointing to the fact that respondents have a property interest in their leasehold interest, citing *Greene* v. *Lindsey*, 456 U.S. 444 (1982). This is undoubtedly true, and *Greene* held that an effort to deprive a tenant of such a right without proper notice violated the Due Process Clause of the Fourteenth Amendment. But, in the present cases, such deprivation will occur in the state court where OHA brought the unlawful detainer action against respondents. There is no indication that notice has not been given by OHA in the past, or that it will not be given in the future. Any individual factual disputes about whether the lease provision was actually violated can, of course, be resolved in these proceedings.[6]

We hold that Congress has directly spoken to the precise question at issue. *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S., at 842. Section 1437d(*l*)(6) requires lease terms that give local public housing authorities the discretion to terminate the lease of a tenant when a member of the household or a guest engages in drug-related activity, regardless of whether the tenant knew, or should have known, of the drug-related activity.

Accordingly, the judgment of the Court of Appeals is reversed, and the cases are remanded for further proceedings consistent with this opinion.

It is so ordered.

Justice Breyer took no part in the consideration or decision of these cases.

FOOTNOTES

Footnote *

Together with No. 001781, *Oakland Housing Authority etal.* v. *Rucker etal.*, also on certiorari to the same court.

FOOTNOTES

Footnote 1

In February 1998, OHA dismissed the unlawful detainer action against Rucker, after her daughter was incarcerated, and thus no longer posed a threat to other tenants.

Footnote 2

The regulations require public housing authorities (PHAs) to impose a lease obligation on tenants:

To assure that the tenant, any member of the household, a guest, or another person under the tenants control, shall not engage in:

(A) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the PHAs public housing premises by other residents or employees of the PHA, or

(B) Any drug-related criminal activity on or near such premises.

Any criminal activity in violation of the preceding sentence shall be cause for termination of tenancy, and for eviction from the unit. 24 CFR 966.4(f)(12)(i) (2001).

Footnote 3

Respondents Rucker and Walker also raised Americans with Disabilities Act claims that are not before this Court. And all of the respondents raised state-law claims against OHA that are not before this Court.

Footnote 4

Even if it were appropriate to look at legislative history, it would not help respondents. The en banc Court of Appeals relied on two passages from a 1990 Senate Report on a proposed amendment to the eviction provision. 237 F.3d, at 1123 (citing S.Rep. No. 101316 (1990)). But this Report was commenting on language from a Senate version of the 1990 amendment, which was never enacted. The language in the Senate version, which would have imposed a different standard of cause for eviction for drug-related crimes than the unqualified language of 1437d(*l*)(6), see 136 Cong. Rec. 15991, 16012 (1990) (reproducing S. 566, 101st Cong., 2d Sess., 521(f) and 714(a) (1990)), was rejected at Conference. See H.R. Conf. Rep. No. 101943, p. 418 (1990). And, as the dissent from the en banc decision below explained, the passages may plausibly be read as a mere suggestion about how local public housing authorities should exercise the *wide* discretion to evict tenants connected with drug-related criminal behavior that the lease provision affords them. 237 F.3d, at 1134 (Sneed, J., dissenting).

Respondents also cite language from a House Report commenting on the Civil Asset Forfeiture Reform Act of 2000, codified at 18 U.S.C. 983. Brief for Respondents 1516. For the reasons discussed *supra* at 67, legislative history concerning forfeiture provisions is not probative on the interpretation of 1437d(*l*)(6).

A 1996 amendment to 1437d(*l*)(6), enacted five years after HUD issued its interpretation of the statute, supports our holding. The 1996 amendment expanded the reach of 1437d(*l*)(6), changing the language of the lease provision from applying to activity taking place on or near the public housing premises, to activity occurring on or off the public housing premises. See Housing Opportunity Program Extension Act of 1996, 9(a)(2), 110 Stat. 836. But Congress, presumed to be aware of HUDs interpretation rejecting a knowledge requirement, made no other change to the statute. *Lorillard* v. *Pons*, 434 U.S. 575, 580 (1978).

Footnote 5

For the reasons discussed above, no-fault eviction, which is specifically authorized under 1437d(*l*)(6), does not violate 1437d(*l*)(2), which prohibits public housing authorities from including unreasonable terms and conditions [in their leases]. In addition, the general statutory provision in the latter section cannot trump the clear language of the more specific 1437d(*l*)(6). See *Green* v. *Bock Laundry Machine Co.*, 490 U.S. 504, 524526 (1989).

Footnote 6

The en banc Court of Appeals cited only the due process constitutional concern. Respondents raise two others: the First Amendment and the Excessive Fines Clause. We agree with Judge OScannlain, writing for the panel that reversed the injunction, that the statute does not raise substantial First Amendment or Excessive Fines Clause concerns. *Lyng* v. *Automobile Workers*, 485 U.S. 360 (1988), forecloses respondents claim that the eviction of unknowing tenants violates the First Amendment guarantee of freedom of association. See *Rucker* v. *Davis*, 203 F.3d 627, 647 (2000). And termination of tenancy is neither a cash nor an in-kind payment imposed by and payable to the government and therefore is not subject to analysis as an excessive fine. *Id.*, at 648.

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PART SEVEN

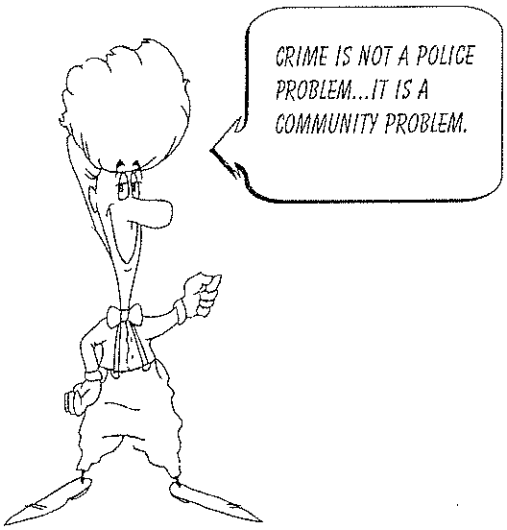
COMMUNITIES, NOT COMPLEXES!

NOT A COMPLEX

Rental properties are not complexes. ***Complexes are disorders!*** Rental properties are small communities where people live, and many raise a family. It is important to view each property as a community within a community. Residents need to feel they are a vital part of a healthy community. When residents feel at home, they are more apt to take pride and ownership of the area.

If residents of a rental property are fearful or not familiar with others in that community, many problems can result. Residents will be less likely to report suspicious or illegal activity, and that causes apathy. When apathy pervades, soon drug dealers and other undesirables will begin to take over the area. The only thing necessary for these activities to flourish is for good residents to do nothing to stop it. It doesn't take long for those who perpetrate illegal activity to realize no one is going to report them.

NOT A POLICE PROBLEM



Crime is NOT a police problem. It is a COMMUNITY problem. The police ARE a part of the community, so this does not exclude the police. It certainly is the police department's role to arrest people involved in illegal activity, but if the management re-rents to others committing criminal acts, the problem does not go away.

For example, if neighbors complain that various types of illegal activity are making a park unsafe for children to play in, this is not necessarily a police problem. The police can remove the persons committing crimes in the park, but if the residents don't follow-up by using the park for legitimate uses, other illegal activities will soon begin again.

PROBLEM SOLVING

1. Identify

2. Identify

3. Identify

4. Identify

5. Identify

6. Identify

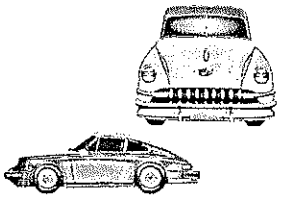
HOW TO BEGIN

Start with residents that care about their environment. If you promote a strong sense of community concern, residents will not tolerate illegal activity, and are even willing to testify in court about abhorrent behavior among other residents. Remember that criminals are like predators, seeking the easy target. If they are able to scare residents into silence, they can perpetrate the crimes.

As previously stated, one of the most violent elements in society today is apathy. Ignoring a crime problem will allow it to flourish more rapidly. It works the same way as weeds. Ignoring a problem will not make it go away. Usually it will get worse.

FORM VS. FUNCTION

While a small sports car may be very attractive, it does not offer much protection in an accident. The 1955 sedan that weighs twice as much (or more) will offer better protection. The point is, **it doesn't matter how pretty something is. If it isn't safe, it isn't practical.**

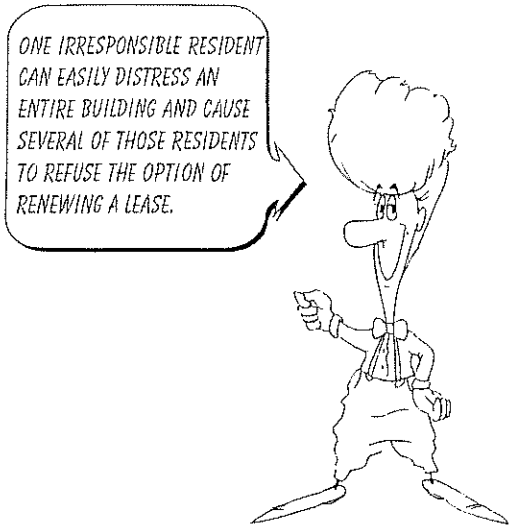


Property management may spend tens of thousands of dollars to beautify a property, but might not invest in security lighting. A person looking for a safe place to live may shy away from a property that is too dark, but a drug criminal may choose a property for that very reason.

The key to having a nice apartment community begins with attracting the right residents. If your property is clean and attractive, you are more likely to attract residents who will keep their rental units clean as well. Trimming trees and bushes doesn't have to be expensive. Responsible applicants will come if they feel responsible management is running the property

Notes:

It is difficult to attract good residents if you have current residents loitering in the parking lots or common areas drinking alcohol or using drugs. People who conduct this kind of behavior will not only prevent good residents from moving in, they will influence your best residents not to renew their lease.



It is a good idea to visit the property at all times of the day and night to see how the residents behave. Feel free to have your beat officer or CFMH coordinator join you during these "off-hours" visits. This is especially important for properties with off-site management or absentee owners. Don't rely on independent management companies that contract their services. Many times they are chiefly concerned only with collecting the rent.

THE NEXT STEP

Once you have attracted the right applicants, be sure to sell them on the benefits of your particular property. It is a great idea to highlight the best features of the property. But keep in mind, many properties have great amenities. You need to appeal to their concerns about safety and security.

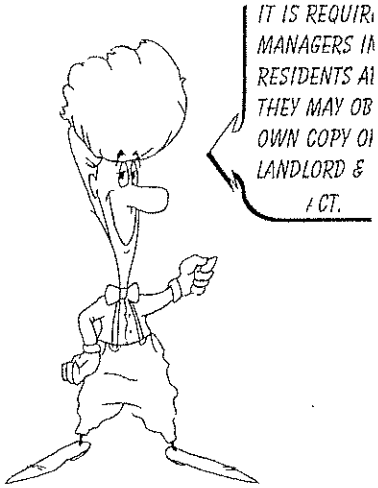
While no property manager can guarantee a resident will not be affected by crime, a resident will take great comfort in knowing the property has established a good rapport with the local police. Good prospects will be happy to hear management is a member of the CRIME FREE MULTI-HOUSING PROGRAM. **Prospects with a history of drug or other illegal activity may simply say, "Thank you, there is one other place I want to look at first."**

Be fair, but be firm in your residency requirements. It's your right. One property manager notorious for her strict guidelines was reported to the Arizona attorney general's office for possible discrimination. People from various classes were sent to the property to audit the manager. The report concluded the manager was equally rude to everyone; there was no discrimination, she was just very strict.

Once a resident shows interest in the property, let them know that all residents at the property have been required to sign the Crime Free Lease Addendum and pass a criminal background check. While this is no guarantee, it does show that management is doing everything they can legally do to reduce the likelihood of criminal activity on the property.

CLOSING THE DEAL

Once an applicant has been approved for residency, they will come into the office to review community rules and sign the rental agreements. This is a good time to explain management and resident responsibilities.



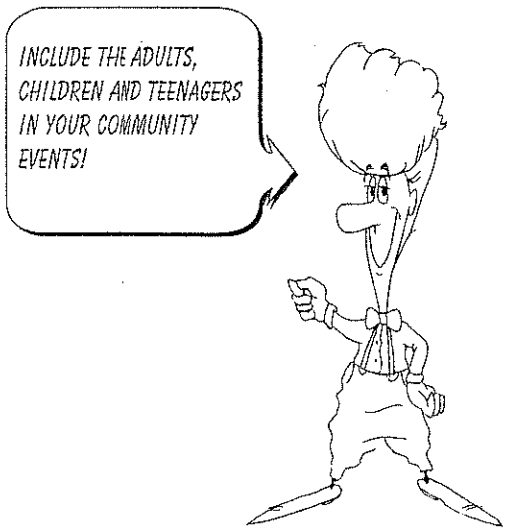
Managers may choose to supply a "move-in" packet containing a copy of the signed lease and all other signed documents including the community rules.

Make sure to explain everything clearly and insure understanding. If the resident understands what a "violation" is and what can / can't be done by the resident **AND** management, dispute resolution will be simplified (should one occur). This is a great way to establish a professional, yet personal, rapport with the new residents.

Note: **Be sure to give the residents a photocopy of their signed, Crime Free Lease Addendum.**

KEEP IT GOING

The Crime Free Multi-Housing Program requires community activities at least annually. Try to plan various activities that are sure to draw as many residents as possible. Food, drinks, door prizes and music are sure to draw large turnouts.



When residents feel they are a part of a community, they are more likely to work out differences with neighbors. Residents who don't associate with neighbors are much more likely to make complaints to management. People who use rental properties to promote illegal activity prefer to live in properties where residents keep to themselves, and community activities are less frequent.

To attract residents it may be necessary to invite

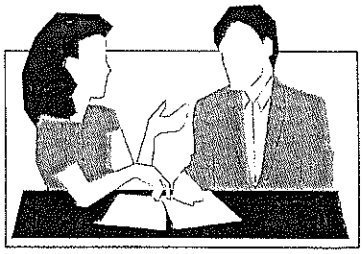
a band, disc jockey, or sponsor a night of karaoke. This is likely to draw a lot of residents, especially if you have free food, drinks and giveaways to raffle off. By having functions that include all ages, residents begin to put names with faces, and faces with unit numbers. Residents will be less likely to cause problems in an area where they are well known.

NOTES □ NOTES □ NOTES □ NOTES □ NOTES

PART EIGHT

ACTIVE PROPERTY MANAGEMENT

TAKING A COMPLAINT



An apartment community needs active management to deal with the daily problems that can arise among residents and guests. A manager should always be fair and impartial when hearing about resident complaints. It is good management to hear both sides of the story whenever possible. Calling both residents into the office may be one way of resolving small problems between residents.

In cases where there is a potential for violence, it may be necessary to call the police, or at the very least try to keep the residents apart. If the complaint amounts to a breach of the rental agreement or the Crime Free Lease Addendum, and one resident is willing to write a complaint and testify in court, you may want to serve the notice even though you were not an eyewitness to the event. Let the judge decide.

When property managers show a genuine interest in the residents concerns, it encourages the residents to take ownership of the community. If residents feel their concerns will fall on deaf ears, they will stop bringing issues to management. This is not a good thing, as small problems will progress to larger ones, and those problems can lead to catastrophes.

ROUTINE PROPERTY INSPECTIONS

Management access to a rented apartment may be necessary to effect repairs or to inspect conditions (if you choose to employ such proactive management practices). Such entries should be specifically noted in the lease, lease addendum, or community rules. They should be clearly explained and understood by all residents as to the type of entry and the type of notice issued by management prior to such entry.

In some larger properties it may not be possible to inspect every unit on a quarterly or semi-annual basis, but for smaller rental properties it could be a valuable use of time. Routine property inspections should be conducted for all residents equally and fairly.

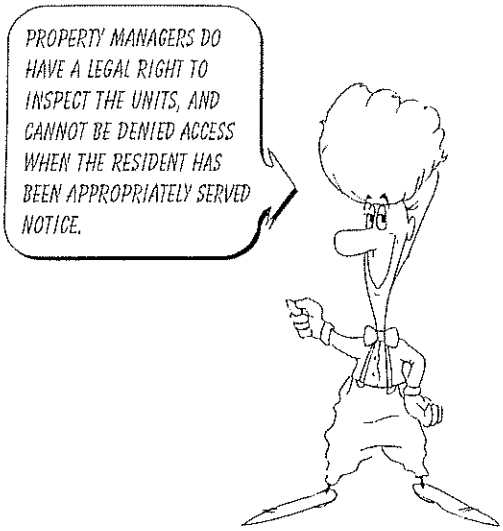
Routine inspections may be conducted for the purpose of replacing air conditioning filters or inspecting a property for damage, when reasonable grounds exist that a problem has occurred (such as roach infestation or water damage).

Inspections should never be conducted for the purpose of singling out a particular resident without cause. It should never be done for personal reasons or for retaliation on the part of

the management.

If residents refuse to allow the manager or an agent to inspect the unit or any part of the unit, the manager may serve a ten-day notice for non-compliance. Residents can not install interior deadbolts or refuse you to inspect a part of the unit.

In an emergency situation, such as fire or water damage, a manager may enter the unit without serving notice to protect the property from excessive damage. If the manager has reason to believe a resident may be injured or ill, they may enter the unit to check the welfare of the resident if other attempts do not work.



GOOD PROPERTY MAINTENANCE

Building Maintenance - The building should have a bright colored paint to reflect ambient light. Keep it looking cared for.

Stairs/Balconies - Stairs & balconies should not have a cluttered appearance. They should appear clean and safe.

Courtyards - Keep trees and bushes trimmed. Maintain good lighting and litter control.

Common Areas - Laundry and recreational areas should be clean, well lit and promote a sense of safety.

Parking Lots - Maintain lighting, asphalt and signage. Paint speed bumps and fire lanes as necessary.

Perimeter Fencing - Inspect for damage to structures and repair immediately. Paint over graffiti ASAP (after making a report with the Schaumburg Police per village ord.).

Litter Control - All members of the management team should pick up litter or debris whenever they see it. Encourage residents to help keep Atheir community clean.

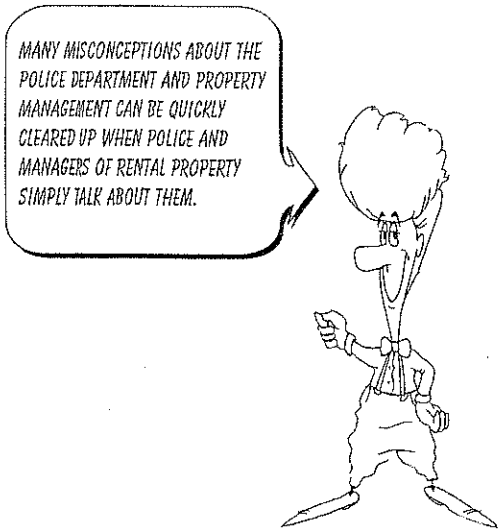
PART NINE

COMBATING CRIME PROBLEMS

WHO'S 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.

The Displacement Theory

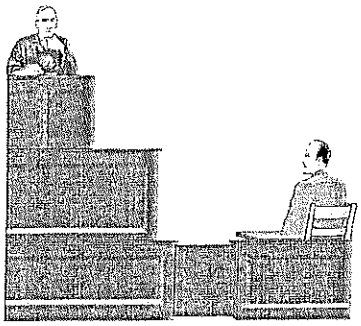
If management depends too heavily upon the police to deal with criminal activity on the property, they'll likely be disappointed. The police cannot do very much alone. For example, consider the balloon displacement theory.

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

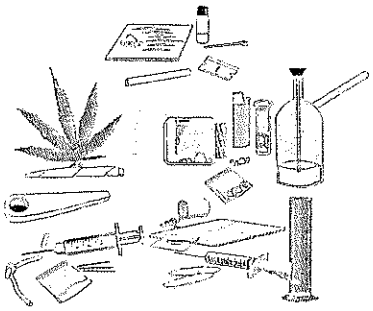
When you think of criminal laws, think of Perry Mason, the judge and jury. When you think of civil laws, think of Judge Wapner and *The People's Court.* The issues and the procedures are quite different.

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.

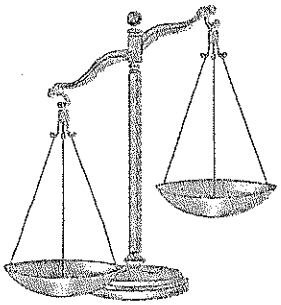
Civil Law



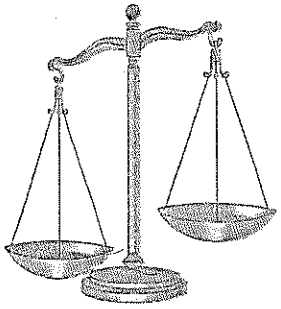
In civil law, the procedure is much different. **Property managers do not need probable cause to question a resident and they do not have to read them their rights. Property managers have the right to enter rental units (as provided by law), and they don't need a search warrant!** If the resident has 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 judgement 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 judgement. 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.



VS.



Criminal Preponderance
98%-100%

Civil Preponderance
51+%

TAKING ACTION

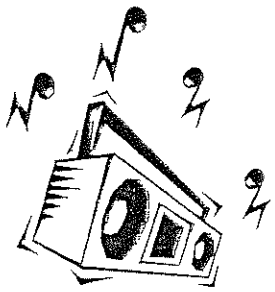
If a resident is conducting illegal activity at the rental property, a criminal conviction may not be as expedient as taking civil action. For instance, if a resident is suspected of selling drugs or gang activity, you should contact the police, but also be prepared to take action yourself. There may 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 non-compliance.** 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!"

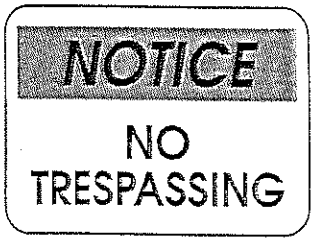
The officer talks to the man in question and finds out he is actually living in the unit. His clothes, television and other personal effects are in the apartment as well.

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?"

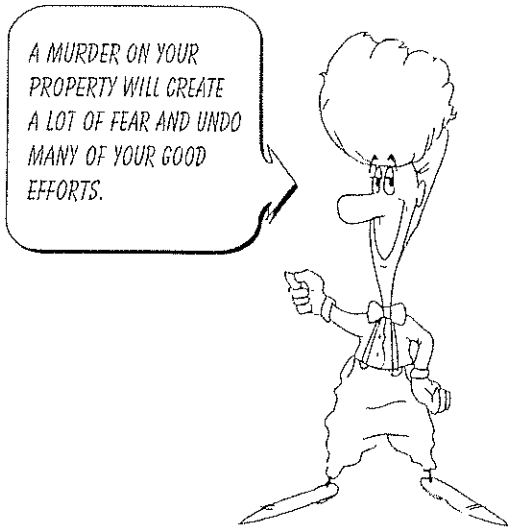
"It's my husband, he has a gun, and he says he's going to kill me."

"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 7:00 a.m., the police fire 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 8:00 a.m. he is in front of a judge; by 9:45 a.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, 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.

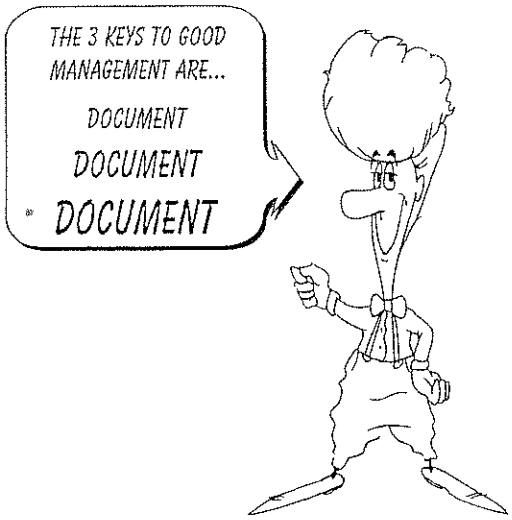
The manager lashes back, "I want to know why the judge let him go?"

The response it, "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".

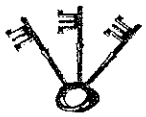


MANAGEMENT'S RESPONSIBILITY

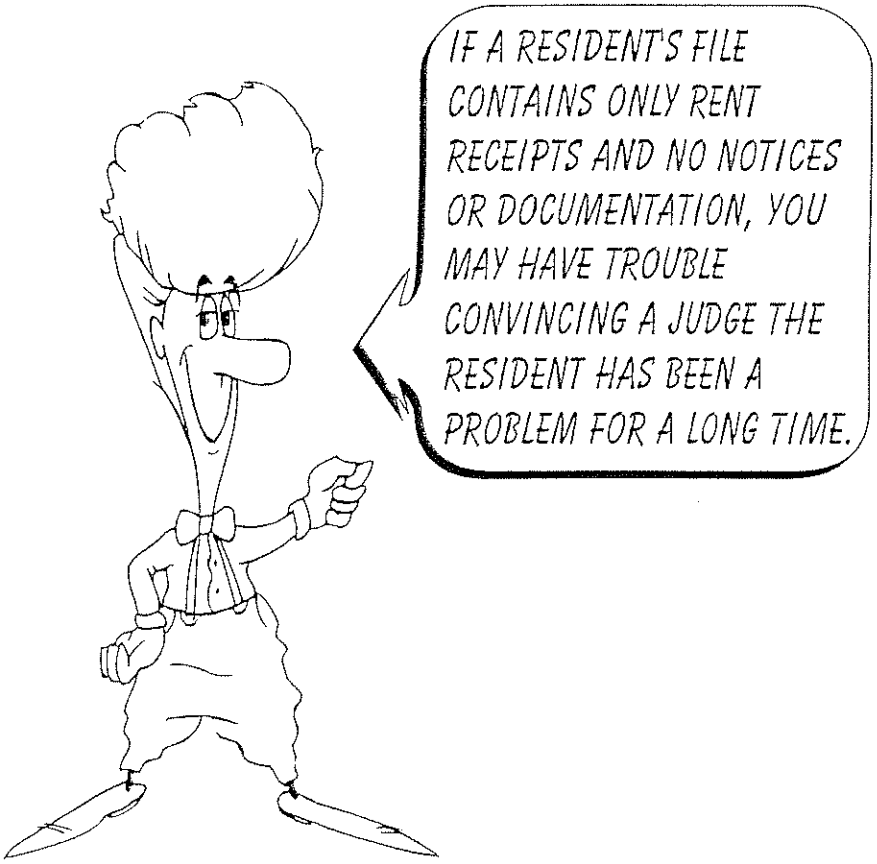
Frequently managers complain about all the problems they are having with a particular resident. They can tell many stories, but when asked to show written documentation of non-compliance, often times the manager has not kept records.

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 non-payment 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".


IF A RESIDENT'S FILE CONTAINS ONLY RENT RECEIPTS AND NO NOTICES OR DOCUMENTATION, YOU MAY HAVE TROUBLE CONVINCING A JUDGE THE RESIDENT HAS BEEN A PROBLEM FOR A LONG TIME.

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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PART TEN

TO SERVE AND PROTECT?

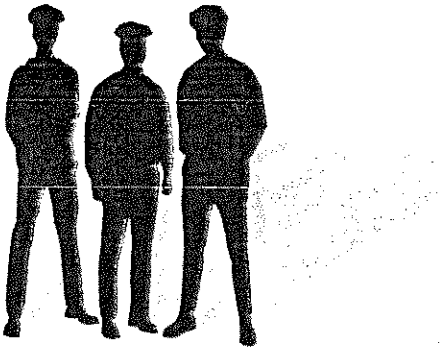
THE POLICE WON'T TALK TO US

Frequently managers will complain that the police don't stop at the office to report why they are called to the property. There are some very legitimate reasons why.

- Some problems are so minor, the officer may not feel it warrants reporting. For example, a couple has a verbal dispute, as many people do, but no one is hurt; the situation is minor, and there is no reason to "air the dirty laundry" to the neighbors.

- Though it may be the manager who walks up to the officer asking about the call, the officer may not feel it is appropriate to disclose the information. It is also possible the officer isn't certain the person is really the manager.

- Many times the officer is in a hurry to clear the call and get on to the next one that is waiting. Domestic calls take a lot of time in and of themselves, and officers are always being criticized about their response time by the next person who is waiting. The time it takes to locate a manager (and re-tell the whole story) can easily amount to 15 minutes, a half-hour or more. This is especially true when the manager has a lot they want to say to the officer as well.



- Some officers feel the manager isn't going to follow through anyway. Though it may be hard to believe, there are property managers that are nosey. They never follow through with the appropriate notices; they just want to know everybody's business.

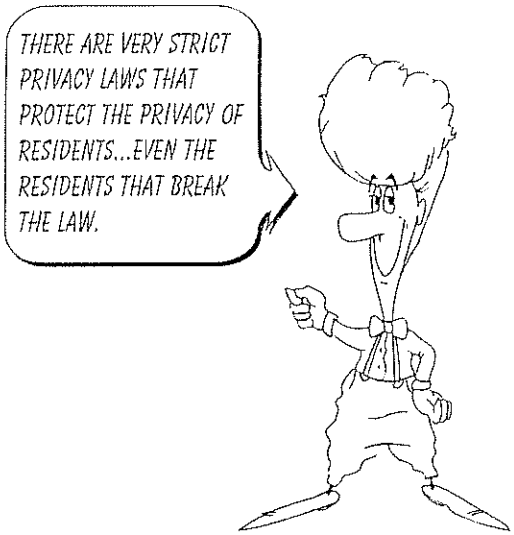
If a police officer knows the property manager actually follows through with an appropriate course of action, there is greater incentive to talk with the manager. The officer really doesn't want to have to keep coming back for the same problem over and over again.

Meet with the officer, even if you have to call the beat coordinator to schedule an appointment. When the officer arrives, let them know you are an active member of the CRIME FREE MULTI-HOUSING PROGRAM and you are willing to work with the police. Meeting the officer is the first step.

Keep in mind, one officer works day shift, one works the afternoon shift, and one works the midnight shift. Also, other officers fill in on the regular officer's days off! It could take a while to meet them all.

PRIVACY LAWS

There is another very key issue to be addressed. That is the issue of privacy laws. A police officer cannot stop by in person, or leave a card in the office telling you the "who, what, when, where, why and how."



The officer is more likely to give you a case number, and as a matter of public record, you can request a copy of the police report. Always try to get the case number if you get nothing else. While the officer may not be able to give you the names of the persons involved, they may be able to give you the unit number they went to.

One of the benefits of being a **fully certified member** of the CRIME FREE MULTI-HOUSING PROGRAM is that you can contact the Crime Free Coordinator to discuss police calls to your property.

HOW TO APPROACH THE OFFICER

If you see a police officer at one of your rental units, don't interfere -- stay back. The situation may become very volatile at any moment. The officer may order you to stand back for your own safety.

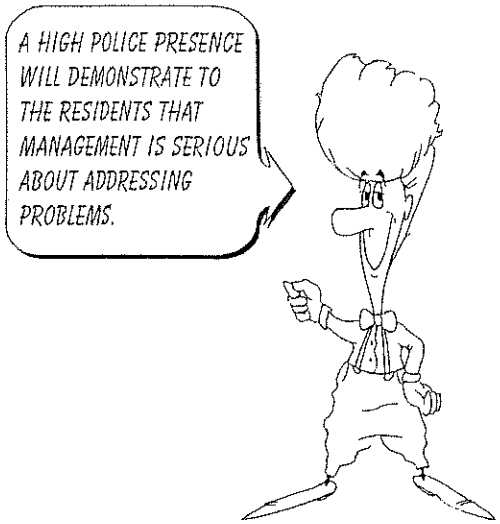
If you are certain things are settled, you can get the officer's attention and introduce yourself as the manager and ask to see the officer when they are through with the call. The less you say at this point, generally the better. Stand at a safe distance, but wait for the officer. Don't go back to the office.

When the officer is finished, let them know you are working with the CRIME FREE MULTI-HOUSING PROGRAM, and get a case number. Sometimes, a case is not drawn up and no report will be written. The officer will let you know.

If the officer is able to give you more information, it will help you follow through with the necessary steps you must take. If not, get a copy of the report. Let the officer know that you do plan to follow through, and you would appreciate working with them in the future.

ESTABLISHING MORE

If a property manager has a **serious** problem with crime, they may choose to consider some type of security officer to patrol the property. This could be an effective way to solve serious problems with residents.



REQUESTING "EXTRA" PATROL

Frequently managers will call requesting "extra" patrol. While it never hurts to ask, it may not help either. There are many, many multi-family developments in Schaumburg. Many more properties than we have patrol officers. One thing they all have in common is, they want extra patrol visits through their property.

Then there are the industrial parks and office buildings. They all want extra patrol, too.

And don't forget the managers of the shopping centers that call the police looking for extra patrol because a customer had a purse stolen, or a car was stolen from the lot. There are more stores than there are patrol officers.

And, of course, there are thousands of residents that want extra patrol in their residential neighborhoods. Everyone wants to see more police patrols in their neighborhoods.

There are still others that feel the police ought to spend more time writing tickets for speeders and people who don't use turn signals. There just aren't enough police officers to fill all those needs.

Unfortunately, the police officers cannot provide security for everyone who asks. Even if they could visit the property a couple of times per day, the likelihood that they would be at the right place at precisely the right time is very slim. The best efforts will include officers that can spend hours at the property. Obviously that would not be possible. We will make every effort to work with you, your residents, and your beat team (patrol officers and beat coordinator) to address your problems and work toward a solution.

NARCOTICS SURVEILLANCE

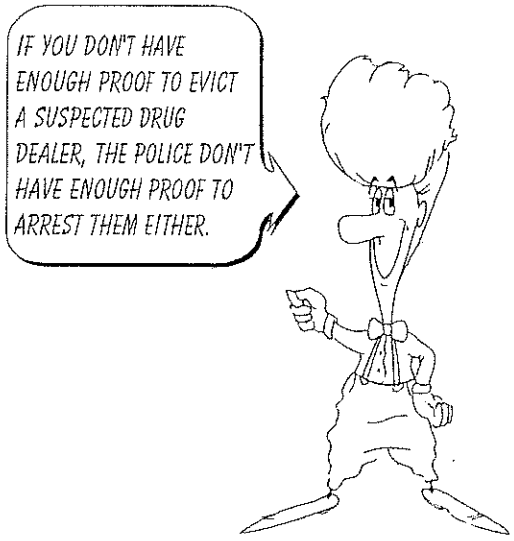
Property managers will also call the police requesting a narcotics detective to set up surveillance on a resident they suspect of using drugs. While managers are aware the detectives are not sitting by the phone hoping somebody will call soon, managers may also not realize how many cases the detectives are actively working either.

Narcotics detectives are highly trained and do excellent work because they have methods that work so well. Typically, they rely on a person to introduce them to a suspect whenever possible. If they can get close to an operation, they are more likely not only to make an arrest, but also to arrest several people. If the quantities are high, they are likely to get prison time for the offender. The higher up the supply line that they penetrate, the more successful the operation.

The end user is not going to get the prison time or produce all of the other results the detectives are after. They want the "bigger fish to fry." They work the more serious cases. There are more calls than the police have detectives. It is a matter of prioritization.

MANAGEMENT SURVEILLANCE

You should call to report the drug activity, because you may be providing the very key information the police have been looking for. You should also document other behaviors associated with the drug activity, and serve the appropriate notices. **There are usually a string of other evictable offenses that managers overlook, trying to prove somebody is into drug activity.**



Rarely have property managers confronted residents with their suspicions, yet they call the police. When asked why they haven't confronted the resident they say, "I don't have any proof." Think about that. **The police need a whole lot more proof than the manager does. The police can't do anything without the proof either.**

Why can't the police just watch and get the proof? There just isn't enough time or available detectives. The better question is "Why don't the property management teams watch the resident and get the proof?" It is much easier for those who live and work on the property to watch what is going on. They know who lives at and belongs on the property; the police don't. Because management needs a lot less proof than the police do, they will get faster results civilly.

Setting up video cameras or recording license plates may provide clues, but they may also spark retaliation from the resident. Whatever action is taken, safety should always be foremost.

"BUT I'M SCARED!"

Because the potential for danger is there, **property managers should be more selective and forceful with prospective residents.** If policies are not strictly stated in the beginning, they will be harder to enforce in the end. Prevention is the key.

Most residents will stop drug activity if they find out the manager is onto them. The reason

most people continue this activity is because they know the manager is afraid to confront them. Even if the police arrest a resident, you will have to evict them and others on the lease. They will come back awaiting trial in most cases.

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