

This pamphlet has been prepared by the El Paso County Sheriff's Civil Office, in partnership with the Institute of Real Estate Management

NOTICE OF DISCLAIMER

NOTHING IN THIS PAMPHLET IS MEANT TO BE, OR SHOULD BE CONSIDERED LEGAL ADVICE, OR AS A SOLUTION TO YOUR SPECIFIC PROBLEM.

IF YOU HAVE QUESTIONS ABOUT YOUR LEGAL RIGHTS PERTAINING TO A PROBLEM, YOU SHOULD CONTACT AN ATTORNEY,

THE SHERIFF'S OFFICE STAFF ARE NOT AUTHORIZED TO GIVE LEGAL ADVICE TO ANYONE FOR ANY REASON.

Table of Contents

Introduction	Page 2
Preparing the Property	Page 4
Screening Future Tenants	Page 9
Rental Agreements	Page 15
Active Management	Page 19
Landlords Solving Problems	Page 22
Recognizing Illegal Activity	Page 26
How to Terminate a Lease	Page 32
Execution of Writs of Restitution	Page 36

INTRODUCTION

Landlords and Property Managers who do contracts and proper Rental History, Financial and criminal history checks prior to renting to a client rarely have to use the Sheriff's eviction services. By doing these simple things up front it could save you a lot of money, time, repairs and a lot of headaches. Getting a quality tenant takes hard work.

Caring and concerned landlords and property managers and property owners are indispensable to the vitality of our community. You are reading this pamphlet because you are a responsible member of our community.

Owners/Managers of rental properties play an important role in maintaining and sometimes reclaiming the integrity of our neighborhoods. When used thoughtfully, the contents of this pamphlet can make El Paso County a safer and more enjoyable place to live.

Chronic drug dealing, gang activity, and other illegal activities cause neighborhood decay, not to mention the depreciation of property values. By maintaining your property, you foster pride in the community and show respect for all the residence of El Paso County. Neglected buildings only invite illegal activity. Illegal activity invites neglect. Just one neglected property on a block encourages deterioration, which spreads rapidly through the surrounding neighborhood.

This pamphlet will hopefully help you avoid the blight that has taken over so many good neighborhoods in our county. This information will assist you in how to select the honest tenants and prevent dishonest tenants from abusing you rental property and our neighborhoods.

The El Paso County Sheriff's Office is committed to controlling crime and assisting in preventing declining property values. Law enforcement cannot change the underlying conditions causing the problems in El Paso County without active participation of property owners and managers, tenants, and neighbors. There must be a coordinated effort by the residents, owners and managers, and law enforcement in the following areas:

- **Owners and Managers must manage their properties in proactive ways that will prevent illegal activity on their properties.**

- **Owners and Managers must make a commitment to take immediate action when illegal activity begins.**
- **Tenants and Neighbors must learn to recognize illegal activity and report it to law enforcement.**
- **Law enforcement must work in cooperation with the owners, managers, tenants and neighbors in their effort to eliminate crime.**

PREPARING THE PROPERTY

THE BASICS:

Make the property safe and attractive to honest tenants and unattractive to dishonest tenants.

MAINTAIN HOUSING STANDARDS:

Honest tenants look for housing which is well maintained and livable. Maintaining property standards is important to the public welfare and is a protection against neighborhood decay. Dishonest tenants, on the other hand, look for housing which is substandard and in violation of housing codes. Substandard housing ultimately will attract illegal activity. The lawful eviction of a dishonest tenant from your property is most often a long and expensive process. If you are renting housing which is substandard, you have given up most of your eviction rights. By renting substandard housing, the owner/manager is subject to fines and civil liabilities. Remember, before you rent your property; ensure that it meets local and state housing codes.

PROPERTY VISIBILITY:

- **Lighting:** Manufacturers, sellers, buyers, users of illegal drugs, and dishonest tenants do not like to be seen. The front door, back door, and other entry points should be equipped with energy efficient floodlights that are either motion or light sensitive. Backyards, sidewalks, carports, driveways, parking lots, and alleyways should have similar illumination devices installed. However, such lighting should not harshly shine into tenants' or neighbors' windows.
- **Landscaping:** Keep bushes and shrubs well trimmed. Bushes should not impair the views of doors and windows. Bushes should be neatly trimmed to discourage the possibility of a person hiding behind or under them.
- **Fences:** Fences should not obscure the view of the property. Chain link or iron fences are best for front and side yards. Wooden fences are not recommended for the front of the property due to their concealing all activity behind them. If wood is used, leave large gaps between the boards to make your property visible to others. You might also consider

shorter fences (only three feet in height). Fences should be well maintained and kept attractive.

- **Addresses:** Post the address numbers clearly and in a contrasting color to the building. Numbers should be 4 to 6 inches in height. Apartment complexes which have large or multiple buildings should have the building numbers on all four sides. Addresses should also be illuminated at night. The address should be easily readable from the street and alley. Responding law enforcement, medical, and fire personnel need to quickly identify your property when emergencies occur. Neighbors and witnesses of illegal activity also need to be able to clearly see the address to report it correctly to emergency personnel. Only individuals involved in illegal activities will benefit if the address is difficult to read.

Property Appearance:

- **Graffiti:** Remove graffiti from all areas of the property as soon as it appears. Graffiti left for any period of time only encourages more graffiti. The sight of graffiti on the property will discourage honest tenants.
- **Trash:** The property, including alleys, easements, parking lots, and trash enclosures should always be kept clean. All debris should be removed, including abandoned appliances, and furniture. Do not allow major automotive repairs, disabled vehicles, or abandoned vehicles on the property. Clean up any automotive oil and other fluid spills immediately.
- **Walkways and Common Areas:** Walkways and common areas should be unobstructed and clean. Lawns should be cut regularly to provide a neat appearance.
- **Building Appearance:** The outside and inside of all buildings in the complex should present a neat and clean appearance. Building exteriors should be painted, broken windows repaired, screens repaired, and exterior doors maintained. Hallways and stairwells should be clean and well illuminated.

Property Security:

- **Security Gates:** Install security gates at the front and rear entrances of the building. Issue keys only to authorized tenants and make keys available to emergency service agencies. It is also a good idea to have all keys stamped “**DO NOT DUPLICATE**”, AND MAINTAIN A GOOD KEY CONTROL PROGRAM. Hold your tenants accountable for their keys. Repair security gates as soon as they become damaged.
- **Carports:** Post “Tenant Parking Only” signs in carports and driveways. Install proper security lighting, including motion sensitive lighting in carport and parking lot areas.
- **Laundry Rooms:** Install a self locking security door and issue keys only to authorized tenants. Ensure interior lighting is adequate and works at all times. Do not allow access to a laundry room from an alley.
- **Emergency Procedures:** Provide all tenants with a complete list of emergency phone numbers. Solicit interaction between your tenants and yourself, the management. Encourage your tenants to contact management day or night regarding illegal activity on the property.
- **Post Signs:** Post “No Trespassing”, “No Loitering”, and “No Drug Activity” signs on the property. Let the dishonest tenants and their guests know that illegal activity will not be tolerated.
- **Vacant Units/Houses:** Keep all vacant units/houses locked and secured. Conduct frequent checks of the property to ensure that trespassing and illegal occupancy is not occurring. Talk with neighbors around the property and let them know that you are concerned about the safety of the neighborhood and are willing to work with them.
- **On-Site Management:** A proactive on-site manager is preferable to an off-site manager. Managers should conduct frequent walk-through inspections of the property to keep informed as to the type of activity that is taking place. They should question anyone loitering on the property by asking, “Can I help you?” If they cannot give a legitimate reason for being on the property, then they should be escorted off the property. Remember, it is private property.

- **Security Guards:** Large apartment complexes or groups of apartments should consider hiring a security service to patrol the property, at least during the hours of darkness. Security services can be a valuable asset to the property and attract the honest tenants. The selection of security services should not be based on the fee they charge, but rather the service they deliver. They should be licensed and insured. Ask for references, as you would of your tenants. It is imperative that your security personnel have the authority to enforce your policies, and that your tenants know this.
- **Peepholes:** Install wide angle view peepholes in the doors of all rental units and houses. This will give the tenant a view of visitors without exposing them to potential danger.
- **Door Chains:** Door chains are great if they are installed properly. All too often they are mounted just to the door trim and this gives a false sense of security. Door/Night chains should be mounted with screws and hardware that will withstand medium force. Screws need to go through the door trim and into the wall frame at least 2 inches.
- **Dead Bolt Locks:** All entry doors should be equipped with a high quality dead bolt locking system.

Maintaining housing standards, appearance and security will attract Good reliable tenants. Dishonest tenants will be discouraged from considering your property as an operating center for their illegal activities. They will also tell others involved in illegal activity that they should look elsewhere to set up their illegal activities. Landlords benefit through lower vacancy rates and lower maintenance costs, which will create a better positive cash flow. It is very expensive for landlords to evict bad tenants and to repair the damage caused by their illegal activity.

Taken alone, any of these elements will have a significant impact. Taken together, they will deter criminals from wanting to move into your property, and make it easier for neighbors and police to observe and document illegal activity.

SCREENING FUTURE TENANTS

Conducting a thorough screening and background check on prospective tenants may be the most important step in renting your property. Owners and Managers who do not adequately screen prospective tenants are setting up themselves and their neighborhoods, for failure. Illegal activity can cost

the owners and managers thousands of dollars. There is a trend starting across the country where homeowners are collectively suing rental property owners and managers for not maintaining their properties and allowing their tenants to run down a neighborhood. The homeowners have experienced success with these lawsuits. Activity associated with drugs, gangs, and social misfits, leads to damaged property, loss of paying tenants and lawsuits filed against the property owners and managers. Property owners are obligated by law to ensure that activities on their rental property do not create a nuisance or interfere with the peace and quiet of neighbors. By being responsible and conducting thorough screening and background checks you can reduce the chance of renting to dishonest tenants and become a positive asset to the community.

Applicant Self-Screening: Applicant self-screening is used to eliminate, as early as possible, applicants planning illegal activity on your property. Clearly posting the rules and regulations on the property, where new applicants can clearly see them, will quickly show them that they are not welcome.

Advertising: Advertise to reach honest and law abiding tenants. Tell prospective tenants what you are looking for and what you expect. State in your advertisement that verifiable references are required and that criminal and drug activity will not be tolerated or accepted. This will eliminate many dishonest people who would have otherwise applied. A well written advertisement can save you time, money, and vacancies. Remember, your advertising must be presented in the exact same manner to every applicant who applies and must not imply unlawful discrimination.

EXAMPLE: FOR RENT; TWO BEDROOM, ONE BATH APARTMENT, NICE AREA. REFERENCES REQUIRED AND WILL BE VERIFIED. THIS IS A DRUG-FREE COMPLEX.

Application information: There are several preprinted landlord-tenant contracts currently available at area print shops. The information on these contracts will be crucial in screening applications. The contracts can be modified to address your needs. Have your attorney read and approve any application before you use it. Application should include, but is not limited to the following information:

- Full Name: First, Middle, Last, Maiden Names, and Aliases (**Always ask for some form of picture identification, and copy all the information that is on the card.**)
- Date of Birth:
- Drivers License Number and State:
- Social Security Number:
- Names, Dates of Birth, Relationship, Employment Information on everyone who will be occupying the residence.
- Employment History: Include the past two years. Request salary information, supervisor's name, telephone number, business address. Pay stubs will help to verify information. If individual is self-employed, ask for copies of their tax returns.
- Additional Income: This is necessary if the applicant is using this money to qualify to rent the property.
- Bank References: Bank name, address, telephone numbers, and account numbers (saving and checking). Use caution if an individual has courtesy or counter (blank non-printed) checks.
- Names, Addresses, and Telephone Numbers of last two landlords: This is very important information!! DO NOT accept "I forgot."

Again, applications can be modified to suit your personal needs. You may ask specific questions such as, "Have you or any person named in this application ever been arrested for possessing, using, or selling drugs?" and "Have you ever been evicted from a rental property?" Questions of this type are legal and you can require your applicant to answer them. The only legal requirement is that you ask **every** applicant the exact same questions. When the application is completed and given to you, make sure that every question has been answered to your satisfaction. Complete information is needed to effectively process the application.

How to Verify Application Information:

- **Contact the Previous Landlord:** The most important telephone calls you make will be to the previous landlords to verify the applicant's information. Telephone calls to the previous landlords can provide insight into the applicant's past behavior. Call the previous two landlords so you have two points of view. The applicant's second to last landlord is most likely to give you an accurate assessment of the applicant. Sometimes the applicant's last landlord will paint a positive picture of the applicant to get them out of their rental property. If possible, meet the previous landlords in person to discuss the applicant. This will allow you to confirm that you are talking to the previous landlord and not someone just claiming to be that person. Prepare a list of questions to ask the previous landlords. The most important question of all is, "Would you rent to this person again?". Most landlords fail to contact the previous landlords of an applicant. Do not fall into this trap. Information that you gain by talking to a Previous landlord can save you a lot of headaches and money.
- **Compare the Picture ID to the Applicant:** Make sure applicants have picture identification cards. Always compare the ID with the Application information for accuracy. If an applicant cannot explain why they do not match, turn this application down and move on to the next application. Take pictures of all adult applicants on the rental agreement and attach them to the rental agreement. Be sure the person in front of you is the same person on the ID.
- **Conduct a Credit Check:** Obtaining a credit report on an applicant provides a way to verify information. Credit checks show past addresses, court ordered evictions, past due bills, and overall credit status of the applicant. The telephone directory, under "Credit Reporting Agencies", lists providers of this service. Fees may vary and there is usually a one-time subscriber's fee. However, this is money well spent. If you cannot afford to have a credit check done through a private agency, at least check the applicant's bank information to ensure their check is good. If an applicant states they only deal in cash, be very cautious.

- **Verify Income Sources:** Always look up the telephone number of the applicant's employer in the phone book or get it from the operator. Employers are usually listed and do not have blocked, or unlisted telephone numbers. If an applicant is self-employed, get a copy of their last two tax returns. This will allow you to determine if the applicant can afford the rent payments, based upon the amount of reported income.
- **REMEMBER DRUG DEALERS LOVE TO DEAL ON A CASH ONLY BASIS.**

Accessing Public Records:

- **Criminal History:** Criminal history on applicants can be obtained at the Colorado Springs Police Department Sub-Station that serves the area you live or work in. This would also apply to un-incorporated areas of El Paso County. There is a service fee for obtaining this information.
- **Civil Case Information:** Civil case information which is filed in El Paso County can be obtained at the El Paso County Court House, 270 South Tejon Street. There is a service fee for obtaining this information.
- **Colorado Vehicle/Driver License Information:** Colorado registered vehicles and Colorado Driver License information can be obtained from the Colorado Department of Revenue, by going through the area Department of Motor Vehicle Registration Office. There is a service fee, a form must be filled out, which can be obtained from the Registration Office, and there is a waiting period for certain information.

The alternative to the landlord chasing down this information is to have the applicant furnish certified copies of all requested information. Keep in mind that if you require one applicant to furnish this information, you must require all of them to, whether you obtain it or the applicant furnishes it.

Public access information is intended for legal use only and is covered under the open records act.

How to Turn Down an Applicant:

- **Screen All Applicants by Fair Rental Guidelines:** To avoid legal problems, you need to establish fair guidelines in screening all applicants. You may reject an applicant who does not meet those guidelines. When you turn down an applicant based on a credit report, simply state, “Based on the information I received from your credit report, you do not meet our rental guidelines.” **When you reject an applicant based on information you have paid for (a credit report), you are required by federal law to supply the applicant with the name and address of the reporting agency.**

If you reject an applicant based on information received from previous Landlords, you are not required to tell the applicant who provided the information. Simply tell the applicant, “Based on a check of your application information you do not meet our rental guidelines.” If the applicant wants to know the reason for the application rejection, you can require the request to be submitted in writing to you within 60 days and you will respond to the request in writing. If you reject an applicant based on information provided by a personal reference, you are not required to tell the applicant in person why you rejected the application. You are required by law to tell an applicant that he has the right to submit a written request for that information within 60 days. It is a good idea to post the rental guidelines, disclosure information and regulations for turning down an applicant. This prevents problems that may occur from rejected applicants.

Miscellaneous Screening Suggestions:

There is **no** system which will guarantee the selection of good tenants. However, most problem tenants can be avoided by using thorough screening techniques. Take the extra time to conduct a personal interview with each prospective tenant. This can provide great insight into the person who wants to rent your property. Also, watch to see if the applicant inspects the rental property. Does he look closely at each room? If he quickly runs through the property without stopping to study room size or ask any questions, chances are he is not going to be a legitimate tenant. Remember, drug dealers do not

care what the property looks like, or what size it is. Screen everyone who will be living on the property.

ALWAYS look at how the application has been filled out. A legitimate applicant will fill in every box on the application and often provide more information than you request. An honest person has nothing to hide. If you receive an application that is only partially filled out, or the person cannot remember his last address or landlord, then investigate further. If you find discrepancies in the application, ask more questions. Remember, the reason for the screening process is to prevent problem tenants from ever renting your property. If you find out that an applicant has lied or given false information to you, turn them down and move on to the next applicant.

RENTAL AGREEMENTS

THE BASICS:

Minimize misunderstanding between you and your tenant to provide a basis for fair problem resolution down the road.

- **Use a contract consistent with current law or you will lose options.**
- **Point out key provisions that address “loopholes” and make sure tenants know you take them seriously.**
- **Always conduct a walk-through inspection with your tenant to protect yourself against false accusations. Have your tenants sign the rental agreement to verify property conditions and smoke detector inspection.**

USE A CURRENT RENTAL AGREEMENT:

Many property owners and managers continue to use the same rental agreement they started with years ago. Federal and State Law have and can change yearly, and case law is in constant evolution. Generally, you should change to an approved updated rental agreement at least every two years. With an outdated rental agreement, you may give up many of your options for a legal eviction. If a smart tenant chooses to fight, an outdated agreement could cost you not only the case, but a large amount of money.

Unless you are planning to work with your own attorney to develop rental agreement provisions, you may want to consider rental agreement forms provided by a rental management association. Various rental management companies furnish rental agreement forms. Be sure to read these agreements to ensure they contain what you need. Most print shops handle legal forms to include rental agreements; again, be sure they contain the verbiage that you require. Some people will sign anything, be sure your tenants acknowledge that they understand what they are signing

ELEMENTS TO EMPHASIZE:

Inspect the rental agreement you use and be sure it includes the provisions listed below. If they are not in the rental agreement, add them. Point out the provisions to your tenant and communicate that you take your rental agreement seriously. Note that this list is not comprehensive. It only represents elements that are occasionally overlooked, and are particularly important for preventing and/or terminating drug house tendencies.

- **The period of the rental agreement is month to month:** In some parts of the country, year long leases are standard. If you offer a month to month rental agreement, you retain the option of serving a 30 day no-cause notice to terminate. If you lock a tenant in for a year, you will need

to go through the legal eviction process, which will be covered later in this pamphlet. Remember, the longer the dishonest tenant stays, the more likely you will lose good tenants.

- **Sub-Leasing Is Not Permitted:** Make it clear that the tenant cannot assign or transfer the rental agreement, and may not sublet the dwelling. Or specify that a sub-lease is permitted only if the sub-lease candidate submits to the landlord a complete application and must pass all screening criteria. Keep in mind that all sub-lease tenants must meet the same requirements as a regular tenant, or you will be defeating your own policies.

You must maintain control over your property. Often the people who run the drug house are not the people who rented it. This provision will not stop all efforts to sub-lease, but it may prevent some and it will put you in a stronger legal position if you have to evict an illegal sub-leasee. You should have your legal advisor make the language in your rental agreement strong enough to discourage dishonest applicants.

(*) Only those persons listed on the rental agreement are permitted to occupy the premises. If the tenant wants another person to move in, that person must submit a completed application and pass the screening criteria. To make this provision work you must define the difference between a “guest” and a “resident”.

- **No Drug Activity:** Make is clear to the tenant that there is a NO Drug Policy on the premises. **Talk to your attorney about adding a “Crime Free Addendum” to your rental agreement.**
- **Tenants Are Responsible:** Tenants should understand that they will be held responsible for the conduct of themselves, their children, and all of their guests while on the property. Encourage your tenants to contact you should dangerous or illegal activity occur that is out of their control. This emphasizes that people who plan to “front” for illegal activity will be given as little room as possible to protect themselves. They will be held responsible.

Make it clear that the tenant will be held responsible for assuring that

all persons on the premises conduct themselves in a manner that will not interfere with the neighbors' peaceful enjoyment of the premises. Tenants who are the source of substantial complaints from their neighbors may constitute a nuisance or disorderly conduct under the law. A nuisance or disorderly conduct can be anything that substantially impairs a neighbor's enjoyment of life and property. Examples are noise during usual sleeping hours, being boisterous and intoxicated, loud and excessive quarreling and using the premises for an unlawful purpose.

- **Tenant Will Pay All Utilities as Set Forth in the Rental Agreement:** People who deal drugs are often inattentive to matters such as paying utility bills (particularly if they are also using drugs). When bills do not get paid, service is eventually discontinued, resulting in an increased risk to your property. When a utility bill payment is the tenant's responsibility, the rental agreement should clearly stipulate that failure to pay when due can result in termination of the agreement and eviction.
- **Property Condition Inspection Prior to Tenant Possession:** Prior to signing the rental agreement, conduct a walk-through of the property with the tenant and make a visual inspection together. Agree on what repairs need to be done. Write it down and each of you sign and date it. Give a copy to the tenant and you keep a copy in your files. Take pictures or videos of your property, be sure they are dated and signed. If the tenant damages the property after they take possession, you have proof of it being their responsibility. Unless it can be proven that the tenant received the property in satisfactory condition, it will be difficult to prove the damages were caused by the tenant if he claims it was a pre-existing condition. Your ability to evict a tenant is almost non-existent if the tenant has your property cited for habitability violations and you cannot prove the property conditions were satisfactory at the time it was rented.
- **Smoke Detectors:** It is the landlord's responsibility to ensure that all smoke detectors function properly. If the landlord or their agent does not test them, you must make sure that the tenant knows how to test the smoke detector. It is best to develop or purchase a form that describes how and when to test the detector and includes a space for the tenant to date and sign. This indicates his acceptance of this responsibility. Most importantly, this provides some assurance that your tenant will have an early warning if there is a fire. It can also reduce the possibility that a

dishonest tenant might seek retribution through fire, or might fabricate a suit against you by claiming the detector failed to work.

- **Key Pick Up:** As a precaution, require that only the person or persons listed on the written rental agreement may pick up the keys. This again establishes the possession of the property, and assures that those who signed the rental agreement take possession of the keys.

ACTIVE MANAGEMENT

THE BASICS:

- **Do Not Bend Your Rules:**
Demonstrate your commitment to your rules and regulations and the law. Once you establish your rules, abide by them. Make sure you meet your responsibilities and hold your tenants accountable for theirs.

Examples:

- If you are aware of a violation of the rental agreement, do not accept the rent without the violation being noted on the receipt and serving any applicable notices. Otherwise, you may lose your right to serve notice for the violation.
- Accept rent money only from the person(s) named in the lease.
- If your tenant does not pay the rent in accordance with the rental agreement, address the problem with them immediately.
- If there is a code violation on your property, make the necessary repairs or changes to comply with the codes immediately.
- If your property is in need of repair; repair it.
- If neighbors call to complain about a problem, address the problem immediately and let them know you have taken care of it.

THE BOTTOM LINE IS: IF YOU RESPECT AND ABIDE BY YOUR OWN RULES, YOUR TENANTS WILL TOO, ACCEPT NO LESS.

- **Know Your Responsibilities as a Landlord or Property Manager:**
- **Conduct Periodic Inspections, and Follow-Up on Any Problems:**
Inspect your property to be sure you are meeting your responsibility to provide decent housing. Make every effort to meet your responsibilities as a landlord and **always** document your actions. Maintaining habitable property protects your right to pursue an eviction if it becomes necessary. If it is clear that you made every effort to meet your obligations (and have documented them) a tenant will be less inclined to fight a valid eviction.
An inspection program done properly should be welcome by your

honest tenants. Steps include the following:

Set an inspection schedule for every three months, or at least every six months, and stick to it. Inspections will not stop all illegal activity, but will stop some of it. For example, marijuana growing needs 90 to 180 days to mature. Tenants are not going to start growing marijuana if they know you actively manage your property.

The law requires you to give a tenant at least a 24 hour advance notice before inspecting the property unit they are renting. The notice should be in writing. With such a notice the tenant may not “unreasonably” withhold consent to your entry onto/into the property.

When you inspect the property, check for maintenance issues and discuss any and all concerns with the tenant. Make agreements to repair what needs to be fixed in writing, date and sign. Remember this is your property.

NOTE: If a tenant is going to make repairs or do minor remodeling, be sure you specify the terms and conditions in writing. Document the tenants compensation, if any, for work to be done and specify completion and re-inspection dates. Be very sure that your insurance will cover a tenant who is given permission to make repair in case they are injured.

- **Watch for Unpaid or Unusually High or Low Utility Bills:**
- **Document all Agreements in Writing:**

Verbal agreements carry little weight in court. Keep records of **signed** and **dated** agreements; document any changes to agreements and have the tenant initial **each** change. Give a copy of all the agreements and changes to the tenant and have the tenant sign a receipt for all agreements and all changes. Ensure you keep copies.
- **Get to Know Your Neighbors:**

Trade Telephone Numbers with Neighbors: Property and tenant problems can often be prevented by establishing communications with reliable neighbors. Find neighbors who are responsible, concerned,

and reliable. Trade telephone numbers and ask them to advise you immediately of any problems pertaining to your property.

Promote a Sense of Community: Tenants and landlords are sometimes too frightened to report illegal activity. This diminishes once they discover there is “strength in numbers.” An organized landlord/tenant group has the power and ability to keep the neighborhood drug and crime free. Landlords must take a protective role to help tenants unite for their mutual benefit. This is an opportunity to establish or enhance a positive working relationship.

Organize a Landlord/Tenant Group: This will often result in the following benefits:

- Lower tenant turnover, resulting in considerable savings.
- Less damage to your property and lower repair bills.
- Reduction in crime.
- A safer, more relaxed atmosphere for all to live in.
- A positive reputation for your property, which leads to a higher quality of applicants and eventually increased property values.

LANDLORDS SOLVING PROBLEMS

Law enforcement often responds to numerous calls for service at the same location and traditionally view these calls as separate and unrelated incidents. This approach results in solving the immediate problem without changing the underlying conditions.

The El Paso County Sheriff’s Office does not share the aforementioned view, and we will take the necessary steps to address the cause of the problem and direct the people involved to the proper resources to hopefully keep it from reoccurring.

Landlords/property managers also respond to the same problems over and over. Example being: When a landlord repairs a security door over and over, this does not solve the problem, he is only repairing the damage. Why is the door being damaged in the first place?

Identifying and addressing the underlying condition is the basis of problem solving. You must first: **identify** the problem, second: **analyze** why it is a problem, third: **initiate a plan of action**, forth, **put your plan to work**, and fifth, **assess** the results.

The Problem Solving Process:

- Identifying a Problem: The first step is to determine if there are related or repetitive incidents occurring on your property. These incidents can be related by time, location of occurrence, people involved, or type of behavior. Determine if the incidents cause, or are likely to cause, harm to your tenants or property.

Signs that might indicate you have a problem may include: tenant complaints, discarded drug paraphernalia on the property, personal observations of suspicious activity, revenue loss, low occupancy rate, continual police presence on property, graffiti, property damage, excessive litter, and neighbor complaints.

After identifying the problem ask yourself these important questions:

- Who is affected by these problems?
- How have I responded in the past?

Analysis: Research the Problem:

- Analysis will provide valuable information concerning the problem(s). There are important questions that need to be thought through in order to understand: “Why me?” or “Why not the property next door?” Look at the big picture. What underlying conditions contribute to this environment? What makes your property attractive for criminal activity?

Example 1:

An apartment complex is experiencing an abnormal number of burglaries. Twenty-three percent of the residents have been burglarized during the previous year. Rampant crime and dilapidated conditions earned it a reputation as the worst complex in the county. Tenants identified the living conditions as equally troublesome. These factors make it easier for criminals to break into apartments.

To fix this problem a HUD loan was secured and the housing was improved. The results were a 35% reduction in burglaries and an improved reputation.

Example 2:

A landlord identified that the tenants were not using the laundry room because of the presence of drug users. The good tenants were moving out and drug users were replacing them. To combat the problem the landlord put a metal security door on the laundry room and controlled the access to the room. These actions resulted in a higher occupancy rate and increased tenant satisfaction.

You may face problems such as repairing a damaged gate. Instead of viewing the gate as the incident which needs your attention, look for the deeper issue. Why is the gate broken? A careful analysis might reveal the vandals are drug dealers living in the complex trying to make access easier for the drug buyers. The vandals might be gang members needing easy escape routes to hide in an apartment when running from the police. The corrective action in each case will differ based on analysis.

During your analysis of the problem(s), ask yourself these questions:

- What do I need to know about the problem?
- Where do I go to get this information?

Analysis can be as simple as asking a trusted tenant/neighbor: “What is going on here?” or as complex as surveying and interviewing all your tenants and neighbors. One landlord discovered that although his manager claimed to have a 50% occupancy rate, in reality all the apartments had been rented. Many of the apartments were rented to drug dealers and users. Accurate analysis determined the course of action. Had the owner simply evicted the dealers, the problem would have continued. Replacing the manager solved the problem.

Based on your analysis, set realistic goals. After setting goals, find creative methods and resources to solve the problems you have identified. There are no limits governing your ability to be creative. The only limitations you have are your ethics and the law. These are a few examples of how to use the problem solving process. As you eliminate the underlying conditions, you decrease the numerous problems the conditions create.

PROBLEM:	ANALYSIS:	RESPONSE:
Drug sellers use the cover of darkness.	Where are these dark places located?	Install motion sensor lights where they hide.
Drug sellers using the laundry room.	When and why do they use it?	Install security door and give keys to tenants.
Gang members gathering on property.	How do they gain access to the property?	Evict gang members, install security lights, hire security service.
Tenants have fear of being a victim on the property and in their own apartments.	What causes the fear?	Hire security service, install security lights, install peepholes, and install good dead bolts on entry doors.

Assessment: How effective was your response?

Evaluate your effectiveness to determine if you eliminated the problem, reduced the problem, or reduced the harm the problem was causing. If you achieved your goal and are satisfied with the results, celebrate your efforts. If you did not meet your goals or think you can increase your effectiveness, return to the **analysis phase** of the process.

RECOGNIZING ILLEGAL ACTIVITY

FIRST AND FOREMOST: IF YOU BELIEVE THAT THERE IS ILLEGAL ACTIVITY TAKING PLACE ON YOUR PROPERTY NOTIFY THE PROPER LAW ENFORCEMENT AUTHORITIES. AT NO TIME SHOULD YOU ATTEMPT TO TAKE MATTERS INTO YOUR OWN HANDS. ALWAYS BE SAFE.

Drug problems can come in many forms and all drug related problems present a very real threat. Blatant drug dealing from real property is very visible and extremely damaging to a neighborhood's **quality of life**. As an area develops a reputation, more and more decent people move out of the neighborhood and less desirable people replace them. The problems

continue to get worse as the vacancy rates go up and costly, time consuming, lengthy evictions begin.

If you think there is illegal activity occurring in your neighborhood, or on your property, report it immediately to the police. Keep accurate records regarding your observation. Take special care to note exact addresses, vehicle license plate numbers, and descriptions of people involved. Note the time of day the activity is at its peak. Drug traffickers will move locations quickly if they believe the police are informed of their activity.

Remember, do not expose yourself to any danger while obtaining information about illegal or criminal activity.

Neighbors May Observe the Following:

- A lot of traffic, such as cars and pedestrians stopping at the residence for only brief periods. Traffic may increase on weekends, late at night, or on pay days.
- Visitors who appear to be acquaintances rather than friends.
- People bringing valuables, such as televisions, stereos, VCRs, or cameras into the residence and leaving without them.
- “Lookouts,” frequently younger people who tend to hang around the property during heavy traffic hours. Drug dealers often hire people, even children, to look out for police cars.
- Obvious signs such as people exchanging small packets for cash and or people using drugs while sitting in their cars.
- Week night activity at extremely late hours may indicate drug activity. (Cocaine and methamphetamine are both stimulants and users tend to stay up all night).
- Drug related paraphernalia (i.e. Needles, vials, glass pipes, bent spoons, broken balloons, and condoms) scattered on or near the property.

Landlords May Observe the Following:

- Rent paid in cash, failure to pay utility bills, failure to maintain the residence in appropriate condition, general damage to property.
- Metal security bars installed on windows and doors.
- Tenants never work, but always able to pay rent.
- Several people loitering on and around the property.

Distributors:

Distributors are those who sell large quantities of drugs to individual dealers. They are the “wholesale” component, while dealers are the retail components. If the distributors are not using drugs themselves, they can be difficult to identify. A combination of the following indicators may be significant in identifying the distributors/sellers:

- Expensive vehicles owned by people otherwise associated with a lower standard of living. Some distributors make it a practice to spend their money on items which are easily moved. They might drive a \$60,000 car while seeking to rent a \$400 per month apartment or house.
- Regular car switching, especially at odd hours. People arrive in one car, leave it on the premises, and use keys already in their possession to drive off in another car.
- Pagers and cellular telephones used by people who have no visible means of support.
- A tendency to make frequent late night trips.

Most Common Drugs:

- **Cocaine:** Cocaine is a stimulant. Nicknames include: Coke, Nose candy, Blow, and Snow. At one time cocaine was quite expensive and generally out of reach for people of lower incomes. Today, the price has dropped to the point where it can be purchased by everyone. Cocaine in

powder form is usually snorted. It looks like and has the consistency of baking soda. Less frequently, it is mixed in water and injected. It is often sold in small folded paper packets.

- **Crack:** Crack is a smokable derivative of cocaine, produces a more intense but shorter high. It is commonly known as: Rock. Crack is manufactured from cocaine and baking soda. Because crack delivers a high using less cocaine, it costs less per dose, making it particularly attractive to drug users with low incomes. Crack looks like small pieces of old dried soap. Crack is often sold in tiny “ziplocked” baggies, little glass vials, folded paper, or sometimes hand to hand with no packaging at all. Crack is typically smoked in small glass pipes.

Signs of cocaine/crack use are not necessarily apparent to observe.

Usage maybe indicated by a combination of the following symptoms:

- Regular late night activity.
 - Highly talkative behavior.
 - Hyperactivity.
 - Profuse sweating.
 - Paranoid behavior.
 - Constant sniffing or bloody nose.
- **Heroin:** Heroin is an extremely powerful painkiller, both emotionally and physically. Nicknames include: Brown, Sugar, Mexican Tar, Chiva, Smack, Horse, “H”, and others. Heroin is typically injected. Tar heroin has the look of creosote off of a telephone pole, or instant coffee melted with only a few drops of water. The drug has a strong vinegar smell to it. It is typically sold in small amounts, wrapped in tinfoil, plastic or balloons. Powdered heroin is most commonly brown in color and has the consistency of powdered milk. Powdered heroin is often packaged in small balloons. Paraphernalia that might be observed includes; hypodermic needles with brown liquid residue, spoons or bottle caps that are blackened on the bottom, and blackened cotton balls.

When heroin addicts are on the drug, they appear to be disconnected and sleepy. They can fade out or even fall asleep while holding a conversation. Heroin addicts only care about their next fix and how to purchase it. A \$200 a day drug habit is average for most heroin addicts. An addict will have to burglarize two to three residences a day to supply their habit. When they are not high, addicts can become quite aggressive. Heroin users usually wear long sleeved shirts to cover their injection marks.

- **Marijuana:** Marijuana is also known as: Pot, Grass, Weed, Reefer, Joint, “J”, Mary Jane, Cannabis, and others. It is smoked from a pipe or a rolled cigarette. Marijuana is a green leafy substance and looks like oregano. Smoking marijuana produces a mellow high. The type and duration of the high varies significantly with the strength and strain of the drug. Users generally appear disconnected and non-aggressive. The users eyes may appear bloodshot.
Marijuana is general sold in small plastic “ziplocked” baggies or rolled into cigarettes. The smell of the smoke has been described as musty cigarette smoke, or a sickening smell.
- **Methamphetamine:** Methamphetamine is a stimulant. Nicknames include: Meth, Crank, Speed, Crystal, and others. Before its price dropped, meth was known as “the poor man’s cocaine.” Meth is usually ingested, snorted, injected and some types can be smoked.
“Pharmaceutical” grade Meth is a dry, white, crystalline powder. While some methamphetamine sold on the street is white, much of it is yellowish in color, or even brown. It sometimes has a consistency of damp powdered sugar. The drug has a strong chemical odor.
Methamphetamine is often sold in tiny “ziplocked” baggies, little glass vials, and folded paper similar to the methods used for cocaine packaging.
Hard-core Meth addicts get very little sleep. Chronic users and “cooks” (those who manufacture the drug) may have open sores on their skin, bad teeth, and generally appear unclean. Paranoid behavior combined with regular, late night activity are potential indicators.

- **Methamphetamine Laboratory:** There is very little that is consistent, standard, or predictable about the safety level of a methamphetamine laboratory. The only thing that can be safely said is that you will be better off if you leave the premises immediately if you believe you have located one.
 - How to Recognize a Lab: Methamphetamine “cooks” rarely pay attention to keeping the property clean. Dangerous chemicals are often stored on the property. These chemicals are rarely stored in their original containers. Often you will see plastic milk jugs or screw-top beer bottles containing unknown liquids. It is common to find bottles of lethal chemicals sitting on the same table with the “cooks” breakfast.
- Toxic Dump Sites are Common: Glass vessels become brittle with usage and they must be discarded. You will often find small dump sites of contaminated glass, needles, and other paraphernalia on the grounds surrounding a Meth Lab.
- Chemicals: Many toxic chemicals are used to make methamphetamines. The list of chemicals that have been found in methamphetamine labs is a long one. Some of the ingredients are standard household items such as baking soda. Others are extremely toxic or volatile, such as hydrochloric acid (**serious health hazard**), Methylamine (**extremely flammable and a serious health hazard**), Methanol (**very flammable**), and several other chemicals. All of which are extremely hazardous.
- Booby Traps: Booby traps are a common possibility when dealing with these types of illegal labs. Other Meth users and dealers may have an interest in stealing the product from a “cook.” Some “cooks” set booby traps to protect their product. A trap could be as simple as a trip wire that sounds an alarm, or as deadly as a wire that pulls the trigger of a shotgun. A door could be rigged to knock

two chemicals together which react to release hydrogen cyanide gas (the type used by some states in the gas chamber).

- What to do if you find a Lab: You will not know which chemicals are present or if the lab is booby trapped. **DO NOT** stay around to figure it out. **DO NOT** open any containers. **DO NOT TOUCH ANYTHING.**
Once you are away from the lab call your local law enforcement agency immediately and tell them what you have found.
- **Risk Considerations:** Use extreme caution when investigating rental properties which you believe are being used for illegal activities. You may be dealing with people who lack the ability to exercise self-control and good judgment. The nature of illegal activities such as the narcotic trade, have inherent dangers.

The property itself harbors many possible hazards. There is always the risk of explosions, fire, booby traps, or contamination from toxic or lethal chemicals. Do not put your hands in places you cannot see. Hypodermic syringes and contaminated broken glass and razor blades can cause serious injury and even death.

HOW TO TERMINATE A LEASE

General: The following information is intended to be informational and not legal advice. Always contact an attorney for proper filing and processing of an eviction.

In general there are twelve ways to terminate a lease in Colorado:

Expiration of the agreed term.

Stated condition in the lease.

Demand for possession under C.R.S. 13-40-104.

Notice to Quit under C.R.S. 13-40-107.

Agreement of the parties.

Merger of the estates if the property is purchased by the tenant.

Surrender of the leased premises by the tenant and acceptance by the landlord.

Declaration of forfeiture upon the landlord's or tenant's breach of the lease.

Condemnation.

Foreclosure of a prior recorded mortgage or lien.

Expiration of the landlord's estate.

Destruction of the subject matter of the lease.

FED, FD, FE, UD: These are a few of the acronyms which are used in eviction actions. Colorado Eviction Statutes are contained in C.R.S. 13-40-101 under the heading "Forcible Entry and Detainer," and are broken down into four categories of wrongful possession:

Forcible Entry and Detainer.

Forcible Detainer.

Forcible Entry.

Unlawful Detainer.

Without attempting to quote the law, and putting the definition in simple terms:

Forcible Entry and Detainer: C.R.S. 13-40-101(1) If you take and hold a person's property by force and fear, you committed forcible entry and detainer.

Forcible Detainer: C.R.S. 13-40-101(2): Is coming into possession of property peacefully but keeping the rightful occupant or owner out by force.

Forcible Entry: C.R.S. 13-40-101(3): Involves forcing your way into property and intimidating the rightful owner or possessor from returning.

Unlawful Detainer: C.R.S. 13-40-104: Holding over for nonpayment of rent, failure to comply with a condition of the lease, remaining in possession after foreclosure or a sheriff's sale, and failing to move on or after the end of the tenancy will constitute the bulk of eviction claims.

Crime Free Addendum: As a result of increased gang activity and drug activity, the Colorado legislature has recently passed legislation to add a new definition of unlawful detention, creating a mechanism to terminate a tenancy where there has been a "substantial violation." **You should contact your attorney regarding this addition to the eviction process for implementation into you lease agreements.**

Filing and Processing of your Eviction Case: Again, the eviction process should be handled through an attorney; however, should you elect to go forward alone:

Necessary Forms and instructions for filing may be purchased at the Combined Clerks Office, Room 105, 270 South Tejon Street; or, Ace Printing, 410 South Tejon; or, Inkspot Printing, 9 East Vermijo.

Basic Procedures for an Eviction:

The landlord must give the tenant a (three, ten, or number of days as stated in the rental agreement) written notice, which states the violation(s) of your agreement and what they (the tenants) have to do to resolve the violation(s):

Pay monies owed and move out by certain date, or

Must be moved out by a certain date.

The landlord then obtains the necessary paperwork from one of the above locations and files with the Court.

The court will schedule a hearing for the plaintiff and defendant to appear to hear both sides of the complaint. Should the defendant

not appear and the judge rules in the favor of the plaintiff, the plaintiff, after 48 hours may pick up the Writ of Restitution from the Court and bring to the Sheriff's Office, Civil Office, at 210 S, Tejon Street.

EXECUTION OF WRITS OF RESTITUTION

Sheriff's Office Responsibilities:

The El Paso County Sheriff's Civil Office is committed to serve all of our customers in a fair and impartial manner. All Writs of Restitution will be scheduled in the order they are received at the Civil Office, and as the deputy's workload permits. Because of the number of evictions this office services there is a **one-hour** time limit placed on all evictions. Residential evictions, the Sheriff's Office in accordance with Colorado State Laws will execute Writs of Restitution for a **full move out only**. Commercial evictions, the Sheriff's Office will standby for a **Lock out** if the landlord is assuming full responsibility for the tenant's property. The lockout will be annotated on the routing slip by the deputy. This procedure is the Sheriff's policy and his deputies are required to adhere to it.

Mobile home owners who are being evicted from a mobile home park or from the plaintiff's property shall be evicted at the same time the mobile home is removed from the property. Any finance company or individual that wishes to repossess the evicted mobile home must go through the proper legal process, which is separate from the eviction process. It should also be noted that the Sheriff's Office **will not** become involved in any landlord liens. The additional responsibilities will also apply:

- The deputy will keep the peace and oversee the execution of the Writ.
- The deputy will take possession of any illegal or dangerous items found during the eviction.
- The landlord or their representative will arrange with the Humane Society to pick up pets should the defendant not be present during the eviction.
- The deputy will ensure that the plaintiff or their representative removes all of the defendant's property to the nearest public egress. Broken furniture, clothing, bedding that is dirty or thrown around the residence is considered trash and need not be removed during the scheduled eviction.
- The deputies will safe guard the defendant's property as long as he/she is at the residence. **Under Colorado Law once the deputy departs the scene all property removed during the eviction is considered abandoned, if the defendant is not there to safeguard their property.**
- The deputy may cancel an eviction for weather related reasons, lack of sufficient manpower furnished by the plaintiff to remove all property within the allotted time, or other pertinent concerns, i.e. not having enough bags, boxes or plastic sheeting to remove the property or to protect it from inclement weather.
- The deputy cannot postpone an eviction because of partial payment of rent. The eviction can either be executed or canceled.
- The deputy is **prohibited** from giving legal advice or opinions.

Plaintiff's Responsibilities:

Property owners, landlords, and property managers are responsible for obtaining the Writ of Restitution through the legal process and pay the necessary fees for service. The original Writ of Restitution must be presented to the Sheriff's Civil Office for service. Under Colorado Law, during the eviction process all of the defendants' property **must be** removed

from the premises. Neither the Sheriff's Office, nor the Plaintiff, has **any** obligation to inventory the defendant's property that is being removed. The Sheriff or his deputies **will not** participate in any landlord liens. Under Colorado Law a plaintiff **cannot** legally lock a tenant out of their residence without a court order (Writ of Restitution) and this **can only be served** by the Sheriff's Office. The additional responsibilities apply:

- The Plaintiff must have enough manpower present to remove all of the defendant's property from the premises. **Remember that the defendant is not obligated to assist in the removal of their property.**
- Inform the Deputy of any **Officer Safety Issues**.
- Notify the appropriate law enforcement agency as to any criminal activity prior to the eviction being executed. **If the defendant is damaging the property or committing other criminal acts, this is not part of the eviction civil process and should be reported separately.**
- Have enough containers, plastic bags, tarpaulins or plastic sheeting, to pack clothing, dishes, pots, pans, and other small items. During inclement weather you must have some type of weather-proof covers to protect the property from damage.
- Have tools to dismantle beds, drain water beads, washers, dryers, etc.
- Highly recommend that all external door locks be changed out during the eviction.
- Have a locksmith or keys available to gain entry into the property.
- Coordinate with a tow company in the event there are abandoned vehicles on the property.

Plaintiff's Responsibilities for Mobile Home Removals:

If you only wish to remove tenants from the mobilehome and leave the mobile home, then the above stated procedures will apply. However, if the defendant owns the mobilehome it will have to be removed also and the following must be accomplished by the plaintiff:

- The plaintiff must furnish the Sheriff's Civil Office with the original Writ of Restitution and Notice of Judgment.
- The plaintiff is responsible for arranging with a mobile home moving company to have the mobile home removed. **The actual removal of the**

mobile home must be accomplished in the presence of the Sheriff's Office.

Legal Eviction Completed

Once an eviction has been executed by the Sheriff's Office and should the tenant attempt to gain entry, or gains entry into the premises, or harasses the plaintiff, staff members or other tenants; you should contact the appropriate law enforcement agency immediately and file criminal charges.