



# Solving Chronic Nuisance Problems

A Guide for  
Neighborhood Leaders



THE ENTERPRISE FOUNDATION

SAFETY AND NEIGHBORHOOD LEADERSHIP DIVISION

John H. Campbell, Campbell DeLong Resources, Inc.

# Solving Chronic Nuisance Problems: A Guide for Neighborhood Leaders

by John H. Campbell, Campbell DeLong Resources, Inc.  
[www.cdri.com](http://www.cdri.com)

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Questions and requests regarding usage of these materials should be sent to:  
Community Safety Program  
The Enterprise Foundation  
10227 Wincopin Circle, Suite 500  
Columbia, Maryland 21044  
410.964.1230  
mail@enterprisefoundation.org  
www.enterprisefoundation.org

Questions for the author should be directed to John H. Campbell at: Campbell DeLong Resources, Inc., 319 SW Washington Street, Suite 802, Portland, OR 97204, 503.221.2005, www.cdri.com.

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*John Campbell* of Campbell DeLong Resources, Inc. is a national community policing trainer and consultant who teaches police officers, residents, and landlords the skills necessary to revitalize impacted neighborhoods. He is the author and national director of the *Landlord Training Program: Keeping Illegal Activity out of Rental Property* and has both written and taught extensively on problem solving, crime prevention, and citizen involvement. Mr. Campbell is also a drug elimination technical assistance consultant to the U.S. Department of Housing and Urban Development. He has worked on nuisance abatement efforts in many states, and in many neighborhoods, including his own. Additional information regarding John Campbell and Campbell DeLong Resources, Inc. can be obtained online at [www.cdri.com](http://www.cdri.com).

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# Foreword

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**S***olving Chronic Nuisance Problems: A Guide for Neighborhood Leaders* identifies barriers to solving chronic nuisance problems, discusses ways that experienced leaders find solutions, and provides a set of references for pursuing specific nuisance abatement goals.

Whether the nuisance is *physical* (such as blighted property) or *behavioral* (such as a drug house), the best solutions focus on the core elements that have allowed its continuing existence. Nuisances become chronic when the dysfunctional behavior of a few and the enabling behavior of many combine with key weaknesses in a community's system for responding. With greater understanding of these dynamics comes a better opportunity for lasting results.

The most effective solutions are based on such an understanding. They balance the need for rapid relief with the importance of changing the enabling factors. The problem-solving approach discussed in this manual includes five questions intended to guide the community leader through a series of escalating steps to reach a solution. Step one begins with trying the simplest, most cooperative approaches. The final step concludes with invoking the power of civil law. By following the steps in order, effective leaders can ensure that most solutions are reached before the final step is necessary.

The references listed in the Resources section (beginning on page A8) will lead you to a variety of nuisance laws and case studies that cover how one town, one community, one neighborhood, or even one person has solved chronic nuisance problems.

What is more difficult to find is a description for how community leaders approach such problems — that is, the way they think about them — in order to achieve success. This manual is intended to provide such a description. It introduces the reader to the dynamics of chronic nuisances and ways that problem solvers approach finding solutions.

In this manual you will find:

- 1. Definitions and explanations of key terms**, including physical and behavioral nuisances, enablers, and guardians.
- 2. A discussion of the thinking required to achieve success**, including the challenges, barriers, and solutions that are common to effective nuisance abatement work..
- 3. A good set of references for pursuing nuisance abatement goals**, which are listed in the Resources section, including addresses for websites that provide more detailed information.

*Written for those community leaders — regardless of rank, title, or position — who are committed to removing chronic neighborhood nuisances, showing others how to do the same, and doing the hard work necessary to make sure their neighborhoods are decent, safe, and healthy for all.*



# Part I: The Dynamics of the Problem

## Nuisance and Other Related Terms Defined

*Solving a chronic nuisance problem requires understanding the factors that enable the nuisance. With greater understanding comes a greater chance for effective, lasting solutions.*

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Ask a community leader to define *nuisance* and the answer might sound different from the definition you'll find in a dictionary. A dictionary will explain that a nuisance exists when the use of a property, or a person's behavior, interferes with the rights of others by causing damage, annoying others, or inconveniencing others. A *chronic* nuisance exists when the problem continues over time.

To a community leader, a chronic nuisance is all of that and something more. It is a situation at another's property that could cause tolerant, responsible neighbors to move away or prevent caring, responsible citizens from moving in. Community leaders see a chronic nuisance as an active threat to a neighborhood's health, safety, and welfare.

There are two types of property-based nuisances in America's cities today.

- 1. Physical:** These include violations of local building, housing, health, or sanitation codes and are often described as eyesores, health hazards, or blighted property. At the simplest level, such nuisances are often the result of the owner's lack of maintenance combined with the property users' irresponsible behavior — whether they are owner-occupants, tenants, or visitors.
- 2. Behavioral:** These generally include violations of criminal law. Descriptions range from the merely bad neighbors up to the drug house, gang house, or shooting gallery. Such nuisances are typically the result of the criminal behavior of a few and the enabling behavior of many who permit the problem to continue.

While there are distinctions in law between these types of nuisances, each supports the other. Commonly, where one type takes root, the other has provided fertile ground. For example, overgrown lots and long-neglected housing can attract drug activity, prostitution, or illegal gang behavior. And criminal behavior can lead directly to specific physical nuisances and indirectly to many more: As the behavior continues, property values decline and responsible rent-paying tenants are harder to keep — making it harder to pay for needed repairs.

### *Enablers, Guardians, Leaders, and Perpetrators*

**Enablers:** People who are in a position to help prevent (or stop) a chronic nuisance, who have, by virtue of their inaction, allowed the nuisance to continue. Enablers may be roommates, friends, siblings, parents, grandparents, neighbors, property owners, property managers, or any

number of individuals from local government agencies and nonprofit service providers. Enablers become guardians by changing their behavior regarding a chronic nuisance.

**Guardians:** People who are in a position to help prevent or stop a chronic nuisance and *do so*. While obvious examples are police, parole and probation officers, school staff, religious leaders, code enforcers, and political leaders, many private citizens are natural guardians as well. Next-door neighbors, parents, and roommates often act as guardians. Landlords and property managers have a significant guardianship role — they can repair property, improve screening, enforce leases, evict problem tenants, and take a range of other steps.

**Leader:** Any person who takes responsibility for solving a problem and is able to convince others to help in the solution. Community leaders can come from any category where enablers and guardians can be found, including housing authorities, community development organizations, neighbors, relatives, police officers, neighborhood activists, property managers, religious leaders, elected officials, and many others.

**Perpetrators:** People who are the direct cause of the nuisance. They *commit crimes, harm property, or disturb the peace*.

## **Defining Success: The Best Practices Solution**

*The best practices solution is quick enough to keep residents from moving and complete enough to change factors that helped cause the nuisance.*

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In cities and towns across the United States frustrated neighbors can be heard telling variations on the same story. The details change, but the themes are constant:

- The local government seems either powerless or reluctant to stop a neighborhood nuisance.
- Efforts to stop a chronic nuisance too often are too little and too late to help the people most harmed by the problem.
- Impacted communities are often visual testimonies to the inability of housing maintenance codes — law alone — to ensure that housing stock is decent, safe, and livable.
- Neighbors find that while police may show up when called, they rarely solve the problem. Meanwhile, police express frustration that neighbors don't understand the limits of police power.

To further complicate the story, local government leaders in those same communities will speak of the new and innovative tools being used and cite many instances of nuisance properties abated with tremendous success.

The conflict lies in the difference between the local government's and the community's definition of success. The government measures how much more is being done today than was being done a decade ago. Residents measure whether the problem still exists.

There are three common approaches to chronic nuisance problems that reflect these different definitions of success: the *buying time approach*, the *after-the-fact approach*, and the *best practices approach*. Each has some benefit, but only the best practices approach solves the problem.

The buying time approach stops only the immediate problem, but leaves enabling behavior in place. For example, if police arrest a drug dealer, short-term relief for the neighborhood is provided. However, if the drug dealer's enabling roommates remain, or a landlord with poor property management skills does not change behavior, the odds of the problem remaining solved are very low.

The after-the-fact approach, as the name implies, isn't attempted until the neighborhood has declined to the point that major reinvestment may be required to jumpstart neighborhood renewal. Long after the only responsible residents left are there because they cannot afford to move, drug houses are raided, buildings are demolished, and plans are made to revitalize the neighborhood. Although commonly used, these after-the-fact approaches are expensive. Unfortunately, once chronic nuisance problems have destroyed the economic diversity of a neighborhood, after-the-fact approaches must be considered and the road back can be long.

The best practices approach is oriented to the community's definition of the problem, which recognizes that both the speed and quality of the solution matter to neighborhood livability. It meets two standards:

- ✓ **It is fast enough to prevent long term harm to the community.** The solution is rapid enough to prevent otherwise tolerant, responsible neighbors from leaving and to avoid contributing to a reputation that could keep caring, responsible neighbors from moving in. Some nuisances can last for years before reaching this critical point. Others have a severe impact much more quickly.
- ✓ **It impacts key enabling factors that permit the nuisance to continue.** The best practices solution begins with stopping the immediate nuisance (e.g., arresting the drug dealer or repairing the property). Then, with the immediate problem abated, it goes on to address conditions that have allowed the nuisance. For example, this might involve changing property management approaches, raising neighbors' understanding of steps they can take, or improving communication between residents and property owners or managers.

Achieving the best practices solution requires understanding the enabling factors and enabling beliefs that allow nuisances to exist. The next two sections of this manual explore those issues and suggest guidance on possible solutions.

## **Weak Links in the System**

*Unintended flaws in the way helping agencies set priorities and individuals thinking they have a limited responsibility to help stop a nuisance offer nuisances the chance to grow.*

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Chronic nuisance properties take advantage of weak links in a community's ability to solve nuisance problems. This section describes some of these weak links.

### ***Multi-agency responsibility can result in diluted priorities.***

Nuisance properties exist in part by having violations that cross boundaries of agency responsibility. Consider a property with the following observed chronic conditions and behaviors:

- |   |  |
|---|--|
| <input type="checkbox"/> Littering                        | <input type="checkbox"/> Late-night shouting matches |
| <input type="checkbox"/> Vandalism                        | <input type="checkbox"/> Fire hazards                |
| <input type="checkbox"/> Broken windows                   | <input type="checkbox"/> Barking dogs                |
| <input type="checkbox"/> Trespassing on adjacent property | <input type="checkbox"/> Animal abuse                |
| <input type="checkbox"/> Reckless driving                 | <input type="checkbox"/> Curfew violations           |
| <input type="checkbox"/> Blocked parking spaces           | <input type="checkbox"/> Petty theft                 |
| <input type="checkbox"/> Foul odors                       | <input type="checkbox"/> Truancy                     |
| <input type="checkbox"/> Drug abuse                       | <input type="checkbox"/> Intimidating behavior       |

For the police officer taking a call about a blocked parking space or barking dogs, the housing inspector following up on a broken window complaint, or the child protection worker taking a call about a possible truancy, this is a low priority call. It also might be a low priority call for those who work in animal control and fire prevention. Yet the combined impact suggests a priority much higher than any individual agency is able to assign to it.

Because the combined impact of these behaviors is much more harmful than the individual items, such a property can have a serious community impact without ever becoming a priority for the agencies responsible. In effect, chronic nuisances survive by having characteristics that stay below the radar of each agency. Repairing this weakness requires coordinated responses on multiple fronts.

The groundbreaking work of the City of Oakland in the 1980s in coordinating police and code enforcement response is just one of many examples of efforts to coordinate a response among agencies with different enforcement roles.<sup>1</sup>

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<sup>1</sup> See Resources section for contacts to Oakland's Beat Health Unit.

### ***Best Practices Example:***

#### ***Repairing Weak Links in our Multi-Agency Systems***

A review of abatement success stories (see the *Resources* section of this manual for examples) reveals common themes for improving the community-based priorities in our multi-agency system. Each success story:

- ❑ Includes significantly improved coordination between two or more groups (whether from the private or public sectors) with responsibility for addressing part of a problem.
- ❑ Involves at least one catalyst agency or person who came to understand that a community-harming problem could not be solved without a coordinated response by two or more groups.
- ❑ Involves that same agency or individual deciding to do what is necessary to solve the *entire* problem rather than just that portion which their agency is traditionally expected to address.
- ❑ Involves that agency or individual helping to change the thinking of others whose habits or training have left them resistant to viewing a problem beyond the traditionally defined scope of their agency's responsibilities.

These multi-agency success stories are not limited to improved coordination between government agencies alone. For example, success can lead directly from improved coordination from as few as any *two* of the following groups: neighbors, community-based organizations, religious organizations, public housing agencies, prosecuting attorneys, parole and probation officers, police departments, housing maintenance inspectors, schools, property owners and private developers, business owners, and child welfare and other social service agencies.

### ***The isolation of civil from criminal law results in missed opportunities.***

The conventional view of the criminal justice system is that criminal and civil law are separate arenas for unrelated problems. Yet a chronic nuisance is often the result of the combined impact of both civil and criminal violations. As with the multi-agency issue, responding to a host of lesser violations as individual civil or criminal events leads to ineffective enforcement against the overall problem, which contributes to an enabling environment, where perpetrators learn they are free to operate. Writing for the National Institute of Justice on this subject, authors Finn and Hylton describe the conflict:

Most justice system practitioners view civil and criminal law as offering two distinct sets of remedies for very different behavior. For prosecutors, this dichotomy is driven home at the very beginning of their legal training by the divisions of the law school curriculum into civil and criminal categories and courses. . . .By the time they graduate, new lawyers cannot help but become imbued with the notion that civil and criminal law are entirely separate entities.

Similarly, police academies train recruits exclusively in how to deal with criminal, not civil, matters. Recruits may even be informed that civil work is unethical because it involves siding with some citizens against other citizens in what is a private matter.<sup>1</sup>

In their advice to prosecutors and police officers, the authors suggest a different frame of mind that challenges this level of thinking:

Thus, you do not have to feel you are breaking new ground or tampering with an inviolate principle in seeking ways to use civil remedies to address criminal behavior. Rather, the key is to abandon the view that only the civil law is appropriate for compensating wronged individuals and the criminal law alone is applicable for sanctioning offenses against the State. Instead, think of antisocial behavior as a problem to be met, managed, and resolved by *whatever* tools will do the job—and not necessarily just criminal prosecution or civil remedies, but also code enforcement and community involvement.<sup>11</sup>

By viewing problems through the legal compartments into which the violations fit without considering the combined effect of those violations, this institutionalized frame-of-mind enables nuisances to exist much longer than if all violations had been criminal or all had been civil.

***Best Practices Example:***

***Changing the Police-Community Partnership***

Too frequently, the originally intended partnership between the police and the public, with each playing a vital role in ensuring civil behavior, has degenerated to the point that the police and public are separated into isolated camps, neither having significant understanding of the other's role and each harboring the suspicion that the other isn't doing enough to help.

Police working under the traditional model may believe that if criminal enforcement action is not an option, then little else can be done to solve the problem. This results in a lack of interest in explaining to citizens the significant breadth of available options that go beyond traditional "eyes and ears" involvement models.

Fortunately, with the national movement toward community policing, many police departments are working to repair this rift — enforcement and problem-solving priorities are being re-evaluated and officers and police managers are asking citizens to play a more involved role in ensuring civil behavior throughout a community. The road to effective police-community partnerships is a long one, which can be made shorter by community leaders pushing from their civilian side for more frequent discussion regarding the shared priorities of police departments and the communities they serve.

For those just discovering the challenges of realigning traditional policing approaches, a good starting point to begin reading is *Fixing Broken Windows* by James Q. Wilson and George Kelling. Originally published in March 1982 in the *Atlantic Monthly*, it is reprinted in: *Critical Issues in Policing: Contemporary Readings*, Third Edition, Edited by Roger G. Dunham and Geoffrey P. Alpert. © 1997 Waveland Press: Prospect Heights, IL

***Landlords' willingness to assume that criminal behavior of tenants is exclusively a police concern slows the problem solving process.***

The traditional view of property management holds that a landlord's job is to profit from managing property and that it is the job of police, and only police, to address criminal activity. Indeed, the idea that a landlord should bear responsibility for stopping illegal activity on rental property often raises concerns about whether it should be legal to evict a drug-dealing tenant who has not been convicted.

Yet, it is difficult to argue that drug dealers deserve greater protection from eviction than do people who violate their lease *without* committing a crime. Yet requiring *conviction* ("proof

beyond a reasonable doubt”) prior to *eviction* (“proof by a preponderance of the evidence”) would do just that. This is why it is possible for a landlord to have enough evidence to evict a drug dealer when prosecuting attorneys do not have enough to get a conviction.<sup>2</sup>

Landlords, public or private, who treat tenant-caused criminal behavior as an exclusively police issue remove themselves from their appropriate role as one of many community guardians who can influence behavior before a criminal case can be made. The landlord who gives up this responsibility contributes to the enabling factors that permit chronic nuisances.

***The tendency of some citizens to expect results without getting involved leads to giving up too quickly.***

A limited-responsibility view of citizenship holds that a responsible citizen is one who obeys the law and votes, but who is otherwise a relatively passive consumer of government services. Yet our form of government is built on the principle that the active involvement of the governed is required. The Constitution of the United States is full of restraints on government to limit over-reaching without the people’s consent. At the neighborhood level, this translates to local government systems, designed and funded by those governed, that are relatively unresponsive until the people request action.

The profile of a responsible citizen, therefore, is not that of a passive, law-abiding voter but of a vigorously involved individual willing to lead as necessary to make sure that what needs to be done to keep a neighborhood livable *is* done. Neighbors who assume the limit of their role is that of a passive voter (and occasional 911 caller) contribute to the enabling environment that allows chronic nuisances to thrive. On the other hand, those who are aware of, and act upon, the many options available to neighbors to force action against offending property are part of the solution.

*The profile of a responsible citizen is not that of a passive, law-abiding voter but of a vigorously involved individual willing to lead when necessary to keep a neighborhood livable.*

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<sup>2</sup> As a practical matter, most evictions of drug dealers done *without* police involvement are conducted on the basis of other lease violations that often, though not always, accompany drug dealing, simply because it is easier to prove the existence of those violations than that of drug dealing. We encourage any landlord considering eviction for the specific cause of drug activity to get good legal advice *and* to identify one or more police officers who can provide supporting testimony — in most states it is not required, but in every state it helps.

## **Pressure Points: Beliefs of Enablers and Perpetrators**

*Those who are the direct causes of the nuisance — the perpetrators, their friends, and associates — operate out of a collection of beliefs that range from the misguided to the malevolent. Efficient solutions are easiest to find when leaders understand these enabling beliefs.*

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Both the perpetrators of the nuisance and the enabling third parties (roommates, property owners, or perhaps very passive neighbors) rely on a collection of beliefs that contribute to the problem. It is the community leader's job to determine which of the following beliefs are involved and then to determine if there is a meaningful way to address them:

### ***Do the enablers and perpetrators know they are causing harm?***

- ❑ Some drug dealers and their friends genuinely believe their behavior is harmless.
- ❑ Some property owners perceive trash, broken windows, or even rat-infested basements as nothing more than a personal choice about maintenance level on private property.

When a person allows a nuisance because he or she doesn't know it causes harm, there is an opportunity to change that person's behavior simply by teaching. As naïve as it may sound, this means that some nuisances may be solved by finding a successful way to educate enablers about the harm they allow.

### ***Are they aware of applicable law?***

- ❑ Roommates and relatives who allow criminal activity from rented dwellings may not be aware that, by allowing the behavior, they risk their own eviction.
- ❑ Property owners sometimes find out the hard way that certain lax maintenance practices are illegal. Because there is generally no prerequisite for ownership beyond the ability to buy property, education about local maintenance codes often doesn't happen until violations are cited.
- ❑ Occupants who contribute to physical nuisances may be unaware that their property modifications or lack of maintenance violate the law.

To the degree that lack of awareness of the law is a barrier to solving the problem, some chronic nuisance problems can be addressed, or prevented, by finding ways to teach enablers about applicable laws.

### ***Do they know they have the power to stop the nuisance?***

- ❑ Roommates, parents, or grandparents at dwellings from which the perpetrators of a nuisance behavior work may believe they have little power over the behavior. The actual level of control the enabler has is typically greater than believed.

Unfortunately, the process for teaching this lesson can be painful. Sometimes the lesson is not learned until people strongly believe that they may lose their home through eviction or closing because they failed to exercise control.

- Property owners and managers may also misunderstand the scope of their ability to regulate behavior. Such beliefs are not limited to a few misguided mom-and-pop landlords but are occasionally part of the institutional culture of large property management organizations, community development corporations, and even public housing authorities.

As with the example of enabling roommates and friends, changing a property manager's belief in a lack of control is not easy. Sometimes it can be done through leadership by example and sometimes by finding a skilled manager who can teach the reluctant landlord a different way. Particularly in larger institutions, the change in belief sometimes doesn't occur until there is a change in leadership.

***Do they understand the business of property management well enough to see the cost of permitting a nuisance?***

Rental property that is home to nuisance behavior is often managed by a landlord who doesn't understand the cost of renting to problem tenants. With the unfortunate exception of properties being held for very short terms in a rapidly rising market, the financial benefit of removing problem tenants, improving property reputation, and stabilizing one's tenant base around appropriate, lease-compliant behavior far outweigh the short term savings of avoiding an eviction.

Landlords who lack enough property management education may hold properties for years, while the quality of tenants declines. As a result, the landlord makes considerably less money than he or she could have made. Those who believe a nuisance property exists because the landlord doesn't care may have it wrong. More often it is because the landlord doesn't understand how to act in his or her own best financial interests.

If you work for a private, nonprofit, or public landlord, this means that your first obligation is to make sure your own house is in order. Set an example with your organization's ability to maintain and manage property consistent with the values of healthy neighborhoods *and* the financial goals of property management. This helps the concerned landlord build the necessary credibility to ask others to do the same. The task isn't always easy, but the tools are available to all landlords and, when applied well, result in both safer communities for residents and greater financial success for the landlord.

The subject of applied property management techniques has been thoroughly addressed in various publications, including one by this manual's author: the *Landlord Training Program: Keeping Illegal Activity Out of Rental Property*.<sup>iii</sup>

***Have they taken an honest look at the economics of their investment?***

The most difficult nuisance properties, where deferred maintenance has grown into a list of health and safety hazards, are those where the economic equation will not pencil out. Examples of potential causes:

- ❑ **An Economic Downturn Harming Impacted Neighborhoods** When housing prices drop, those who purchased at the peak may be stuck with property whose rents cannot support the required maintenance.
- ❑ **Mistakes in Purchasing Or Expensive Surprises After the Sale** Buyers who discover, after the sale, that required repairs are far greater than originally anticipated may also find themselves with a losing investment.
- ❑ **Too Many Years of Making a “Profit” From the Deferred Maintenance** The financial incentive, in the short term, to avoid maintenance while collecting market-rate rents can be attractive. Over time, this pattern catches up to the current owner, or a future one, who must invest significantly to bring the housing stock back to habitability standards. At that point, unless the housing market is very strong, the investment may be hard to justify.
- ❑ **A Downward Spiraling Reputation for a Neighborhood.** This can drag down values and tip past the point where easy solutions are attainable. The result is the same: The rent that can be collected for the property may not justify the cost required to maintain it.

Unfortunately, unlike a losing investment in the stock market, when a property investment fails, the result has a community impact.

***Do they fear being caught?***

In the case of behavior-based nuisances, the perpetrators, along with their friends and associates, often believe they can avoid penalty for their actions. In the case of physical nuisances, some property owners may have similar beliefs.

For example, if a buyer believes he or she can get away with renting poorly maintained property, the buyer may not consider the cost of repairs in the investment decision. This belief can result from poor education by those who enforce maintenance codes combined with a general reputation for weak enforcement of those codes.

The more property investors believe that the right to own property comes with the responsibility to make sure it meets local maintenance standards, the more they will factor the cost of compliance to those standards into the investment decision.<sup>3</sup>

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<sup>3</sup> Significantly, the financial motivation of sellers is in conflict with this outcome — the highest price is more likely to be paid by a buyer who hasn't considered all costs of ownership. This means that a purely market-driven solution to this problem is unlikely, which in turn means that education about maintenance requirements and penalties by building maintenance enforcers is particularly important.

## **Section Summary**

From the preceding examples one might conclude that, with such an overwhelming number of weak links and enabling beliefs, the odds of success are poor. While the challenge is considerable, despair is not warranted. The web of individual behaviors and missing priorities that allows a nuisance to exist has many weak strands. In fact, these elements are so interdependent that changing the level of thinking of any *one* component can collapse the enabling environment that permitted the nuisance. To be sure, the desired solution does come more easily with each individual, or agency, who makes the change and considers all appropriate steps to solving a chronic nuisance.

## Part II: The Path to Success

### Preparation

*Decide to lead, keep the mission focused, and involve many.*

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#### **Overview**

The steps offered in this section are applicable to the chronic nuisance property that is relatively new as well as to those which have been a problem for a decade or more. Any community leader can apply these steps. The position of the person who decides to solve the problem is less important than that person's ability to influence others to act.

*The position of the person who decides to solve the problem is less important than is that person's ability to influence others to act.*

Although this section is relevant to problem-solvers in many roles, certain sections address specific agencies' roles. We have also provided extra advice for the emerging community organizer who may need more information than an experienced leader might require.

For brevity's sake, we assume that the community leader has taken any available direct action and that such action alone has not solved the problem. This is why the following discussion does not look at how to control misbehaving children or roommates; how to screen rental applicants; how to enforce a lease; how to repair property; or even how to make an arrest — all direct actions available to potential leaders in different roles. Instead, the purpose of the following discussion is to help the community leader find the right formula for causing others to take such actions when they have not done so before.

#### **Basic preparation**

For the experienced leader, the following steps might be a 10 minute exercise. For those new to leadership, these steps will be revisited more than once before achieving a solution.

1. **Assume responsibility.** The journey to success is fueled by the strength of the leader's conviction that he or she has the ability to solve the problem. The leader must start by taking full responsibility for the problem, viewing the nuisance as something that exists only because the leader has not yet done enough to solve it. This is easy to do at first. The test of leadership is in the ability to continue embracing such an opinion in the face of the likely setbacks to come.

Perhaps paradoxically, this level of thinking can be adopted by more than one person about the same problem. Indeed, the more who do adopt it, the sooner the problem will be solved.

2. **Define victory: review the problem definition and keep the mission focussed.** For most community leaders, the core task at hand is to abate a specific problem at a specific property. As obvious as this may seem, two pitfalls must be avoided to accomplish the goal.

- **Don't Let Your Organization's Tools Limit The Definition Of The Problem.** Define the problem in terms of neighborhood impact and remember that the problem is not solved until that impact is abated. This type of community-oriented problem definition comes naturally to community leaders who live next door to the problem, but is not as easy for those who work in a different role. For example, those who construct housing must resist the tendency to see the issue as limited to finding redevelopment funding, while those who cite building code violations must see beyond the housing maintenance issues involved.
- **Don't Make The Problem Bigger Than It Is.** Just as there can be a tendency to define the problem too narrowly, there can also be a willingness to be too broad. Start by saving *one* block or solving *one* problem. The tendency, particularly for the first-time community leader, is to want to solve every problem that contributes to the nuisance, whether this involves changing zoning laws, adjusting the local property tax structure, transforming the culture at the local police department, rewriting property maintenance code, or teaching parenting skills. All may be worthy goals. However, each is probably beyond the task necessary to solve the chronic nuisance next door, or even chronic nuisances over a series of blocks.

Unless your particular leadership position allows you to oversee work at multiple levels, you run the risk of spreading too thin and accomplishing little. *Spend your time on the problem at hand and solve it.* Then, after you have achieved success with that problem, apply what you have learned to a bigger or different problem.

**Best Practices Example:**

***Boston's Focused Approach to Gun Violence***

An example of the applied use of this focusing technique is the work done in Boston, Mass., to reduce gang gun violence. A crucial first step was when leaders decided to make reducing gun violence the goal, rather than attempting to stop the entire drug trade or eradicate all gang-related behavior.

*For more about Boston's "Pulling Every Lever" approach, see the reference in the Resources section.*

3. **Understand the chronic nuisance problem in terms of both emotional impact and apparent violations.** Using the example of a drug house, the emotional impact may be that neighbors are experiencing fear, interrupted sleep, heightened tensions, and short tempers. The apparent violations are those specific behaviors or conditions that violate local codes and law — for example, in addition to illegal drug sales, there may be drug use, graffiti, speeding cars, disturbances of the peace, excessive garbage build-up, housing maintenance code violations and, if it is rental property, violations of landlord-tenant laws or lease conditions.

Drawing this distinction between impact and violation will help the leader think in the terminology that matters to helping agencies. Police officers can do more with reports about

suspected illegal drug traffic, graffiti, or speeding cars than they can with complaints from neighbors that it is hard to sleep. Likewise a landlord can do more with documentation of specific violations of leases and landlord-tenant laws than with reports that tenants are acting suspiciously or disrespectfully.

4. **Plan to lead, not to do it alone.** The final results are never achieved by just one person acting alone, but are the result of many individual acts of leadership along the way. Ultimately, neighborhood-changing results always spring from a roughly coordinated effort of a variety of people in differing roles who share a willingness to lead. Effective community leaders know that half the battle is finding and encouraging others to lead as well.

This advice is particularly important for the citizen leader. Multiple neighbors following the same course of action will magnify the credibility of the effort. For example, several neighbors calling a government agency separately about the same problem can raise the seriousness of the problem in the agency's eyes.

5. **Plan for inclusive involvement, reflecting the community's diversity.** Make sure the neighborhood's racial and ethnic diversity are represented in the effort. A problem-solving effort that includes the diversity of cultures and races in a neighborhood makes an important long-term contribution to further unifying a community. A problem-solving effort that appears to pit one racial or ethnic group against another runs the risk of doing more harm than good.

*A problem-solving effort that appears to pit one racial or ethnic group against another runs the risk of doing more harm than good.*

6. **Keep personal safety concerns in mind.** Behavior-based chronic nuisances represent a personal risk for those who work to stop them. It is not uncommon for community leaders to change from being unnecessarily afraid to becoming excessively bold. Beware of both tendencies. Those who are not experienced in balancing such risks should seek the guidance of local mentors who have developed such skills.

For citizen leaders, it is important to remember that increasing the number of responsible neighbors involved in solving the problem increases both your credibility and your level of safety. People involved in illegal activity may target a single individual acting alone, but are less likely to seek retribution against a large, diverse group of people.

**Basic Preparation Steps:**

1. Assume responsibility.
2. Define the problem and focus the mission.
3. Recognize the difference between legal violations and emotional impacts.
4. Plan to lead others, not act alone.
5. Build inclusive coalitions.
6. Consider personal safety with each action.

## Introduction to the Civil Force Continuum

*“There is, however, a limit at which forbearance ceases to be a virtue.”<sup>iv</sup>*

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With the basic preparation complete, the leader is ready to proceed to level one of the civil force continuum.<sup>4</sup> The concept behind the civil force continuum is this: Try the simplest solutions first, moving on, only if necessary, to applying greater pressure and more adversarial tactics. The key is to attempt the simpler, non-adversarial options with care before assuming that more aggressive action is required. The civil force continuum is built on five questions that should be answered in order.

### ***Five Questions of the Civil Force Continuum***

*Answer each question completely before advancing to the next level.  
That is, try the simplest solutions first.*

- 1. *Communicate*:** Can the problem be solved by getting enough credible information to the right people — the enablers or potential guardians of the situation? If not...
- 2. *Educate*:** Can the problem be solved by educating an individual or offering to assist a particular guardian? If not...
- 3. *Raise the stakes*:** Can the problem be solved by involving more people who can exercise leverage over reluctant enablers, guardians, or both? If not...
- 4. *Issue a final warning*:** Could the problem be solved by communicating that legal action may be considered if the problem escalates further? If not...
- 5. *Take civil action*:** Can the problem be solved by lawsuit, and if so, who should bring the suit?

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<sup>4</sup> Why it's called a *civil force continuum*: The civil force continuum is a system of decision-rules for behavior management options. It is similar to the force continuum taught to police officers, a set of rules for deciding how to control the behavior of potentially hostile persons, with the intent of solving such problems with the lowest level of force that safety concerns will permit. We have intentionally echoed the terminology to emphasize an important similarity between these two behavior management tools. Just as police officers learn to use verbal communication in a way that can reduce the need for higher levels of physical control, efficient problem solving is achieved by community leaders who understand that, for example, one should not attempt a level five solution (e.g. suing an enabling party) when a level two solution (educating) would suffice.

## **Level one: Communicate**

*Find out if the problem can be solved by getting credible information to the right people.*

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It may be tempting to start by asking “How quickly can we sue someone?” But many solutions should be explored before applying the force of civil law against property occupants, owners, or managers. The simplest answers should be checked first. For example, regardless of what else has contributed to the nuisance, it is likely that part of the problem is a lack of regular communication with those who have the greatest leverage to address it. So start there.

*The simplest answers should be checked first. Conspiracies born of mere apathy and silence are often the major cause.*

Too often, for every 10 stories neighbors tell about a chronic nuisance, only one has been logged and documented by a neighbor. For every 10 instances of suspected criminal activity neighbors describe, only one was reported to police. And for every 10 violations of property condition codes at the property, only one has been reported to code enforcers.

The list could go on and would cover lack of information delivered to police, code enforcers, other neighbors, property owners, and others.

A similar list could be developed within most agencies as well. For example, if neighbors on all four sides of a drug house call and report, over time, 10 different suspected criminal acts associated with the location, a police records search on the location might yield information on only three calls. The reason being that the report about drug dealers fighting in front of the neighbor’s house is cross-referenced to the caller’s address, not the problem property.

The call about drug dealing at the property was filed in the narcotics office and not dispatched to regular patrol. The threatening behavior called in didn’t get a report because the situation had calmed down by the time officers arrived, the suspects had left, and the caller wished to remain anonymous. These examples are common and contribute to the gulf between what the neighbors believe police know and the information the average officer is actually working with.

For these reasons, begin by ensuring that appropriate guardians are fully aware of the nuisance. There is no best order for these contacts — in one instance it will be highly appropriate to speak with occupants first, while in another it may not be appropriate at all. Examples of whom to speak with include:

### ***Occupants, with condition***

There can be a personal safety risk associated with approaching occupants of chronic nuisance property, particularly where behavioral nuisances exist. After all, some of the occupants may be more than mere enablers. They may be perpetrators who don’t want to be stopped. Therefore, personal safety issues must be considered. Nevertheless, we begin by listing the people closest to the problem because, for behavior-based nuisances, they have the greatest leverage to abate the

problem. Also, sooner or later, the solution to the problem will require communication by *someone* with the occupants (whether it is done by a neighbor, a relative, a landlord, a police officer, or others). So the opening question must be “Has someone spoken with the occupants, and if not, who is the most appropriate person to do so and how can that be arranged?”

Whether to pursue this course depends on the nature of the nuisance at hand, the potential risk involved, and significantly, on the diplomacy skills of the persons making the contact. Experienced problem-solvers know how to weigh such decisions. Those without such experience should get competent advice regarding the specific situation before taking this action.

### *Owners and managers, with condition*

The next question is, “Does the owner or manager know there is a problem?” Don’t assume that just because “everybody knows” that the landlord does. While the owner may have been informed repeatedly and steadfastly by neighbors, police officers, and code enforcers, all too often each party assumes the other has made contact, when none have. Effective leaders avoid making assumptions about who has talked with whom.

The person making the call should also help connect the owner to others with relevant information. For example, there is much more value in telling an owner the name and phone number of specific officers who were at the property on specific dates than merely informing an owner that “The police have been out many times.” Property owners who wish to enforce lease requirements need information that is as specific as possible.

While personal safety considerations also apply to contacting property owners and managers, the potential danger of contacting a landlord is generally less than that of contacting a person known to be directly engaged in a problem behavior. Nevertheless, the same concerns apply and inexperienced leaders or those without solid diplomacy skills should find a person with greater skills and experience to make the contact.

Property ownership is public record and can generally be determined by checking with a local property tax assessor’s office. While most nuisance property is owned by an individual who can be readily identified, some nuisance properties have ownership trails that can be extremely difficult to unravel. In such a case, ask your tax assessor’s office for advice or check with a local housing maintenance inspection department, who may have already done the work necessary to identify the responsible owner.

#### **Best Practices Tip:**

*Property ownership is public record. Check with a local tax assessor’s office to find out who owns the property.*

### *Neighbors*

Contact impacted neighbors and find out what information they have and what steps each has taken. While you may discover a wealth of good information, more often you will discover that, while frustrations are high, hard data is scarce. Where documentation is available, collect it in one place or note who has it, so it can be found later. Every neighbor with stories to tell who

lacks dates, times, and other specific detail should be coached and prodded to write down significant incidents and document each disturbance.

Note that this step illustrates the difference between the analyst who researches a problem and the problem solver who takes the lead. Both gather data, but the leader teaches, inspires, and encourages each person along the way, thus already beginning the process of reversing some of the enabling behaviors (in this case by neighbors) that allow a nuisance to survive.

**Best Practices Tip:**  
***Basic Neighborhood Involvement***

*Neighbors must be motivated, at minimum, to do the following:*

- ❑ **Document:** Keep activity logs about the property, including behavioral disturbances and property maintenance concerns. Each neighbor should encourage other neighbors to do the same. Such documentation is valuable for establishing proof should police, landlords, or courts need supporting information.
- ❑ **Report:** Whether it is calling building inspectors, housing managers, or police, neighbors must know the people to call and the importance of doing so. Neighbors should never assume that someone has already called — if they are not positive a credible call has been made, they should do it. Some don't call because they believe it won't help. Others fear getting involved. Still others are too shy or too polite — they don't want to inconvenience police or other public servants. Encourage all of them to call anyway.

Also, remind neighbors that calls about the same issue from different people can help. Do not ask neighbors to call and repeat another person's report. Do ask them to assess the problem independently and, if they also consider it a problem, to report it as well.

### ***Guardian Agencies***

Make calls to agencies and individuals with the ability to impact chronic nuisance property — obvious examples are police and building maintenance inspectors. Others will depend on the situation — public housing agencies, a public works department, and child welfare workers are common examples. Also, agencies that oversee specific types of businesses may be worth contacting. For example, if the nuisance is based in a tavern, contact liquor license regulators. The key to every call is locating the person in the organization who has the best combination of knowledge about the situation and ability to address the problems there. That means each call to a guardian agency will likely be multiple calls until a person can be located who is knowledgeable of the area where the nuisance is located and has responsibility for addressing such problems.

The experience of many community leaders confirms that most problems require many calls and multiple meetings. The transition for the citizen-organizer in this regard is most apparent. Neighbors who have yet to begin in earnest will speak of calling “the police” — meaning one call to 911 or to an officer at a precinct desk. Those who have worked on these issues for sometime will speak of calling a specific person, by name, who has a responsibility and interest in solving problems in a specific area.

## **Section Summary**

Having completed the initial level of the civil force continuum, the leader has developed a clear understanding of the problem, the level of communication among potential guardians, and the degree to which guardians and enablers are willing to elevate their behavior. The results at this point may be anything from resolution of the problem, to partial improvement, to no change at all. Regardless of the progress, unless the problem is solved, the leaders will have built an important base of information that adds clarity to understanding how to approach level two.

### **Level two: Educate**

*Find out if the problem can be solved by educating a person  
or offering to assist a particular person with necessary action.*

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At this point, the fog over the landscape of enabling factors should be lifting and the unique contours of the terrain becoming clear. Assumptions and speculations about the reasons a chronic nuisance exists have given way to facts about the attitudes, intents, and involvement levels of the various perpetrators and enablers. The next level of the civil force continuum must now be explored. This is the first level in which the leader addresses enablers' beliefs that they are powerless to stop the problem behavior. To the degree that such beliefs are the cause of the problem, the solution may involve teaching the necessary skills. Two examples:

#### ***Teaching Occupant Enablers***

Though difficult to arrange, solutions can be achieved by coaching roommates, parents, or relatives of perpetrators who have enabled the activity by their unwillingness or inability to stop the nuisance. This approach is most available to responsible landlords or property managers who can meet with residents and discuss such issues. Public housing agencies and other nonprofit housing providers commonly explore ways to help tenants regain control over their households in order to avoid eviction. In various situations, this solution may also be available to neighbors, police officers, parole and probation officers, social workers, and others who are in a position to influence occupants and perpetrators.

#### ***Teaching Landlords And Property Managers***

Very few owners or managers of chronic nuisance property maintain it as such out of a purely harmful intent. Many landlords and property managers with chronic nuisance property will improve management approaches simply by being shown how. This can be as simple as teaching lease enforcement procedures or as involved as arranging for an experienced landlord to step in

for the short term to coach and manage. The National Landlord Training Program is an example of a programmatic approach to this solution.<sup>5</sup>

Remember, there is no prerequisite for owning rental property other than the ability to pay for the property or the chance to have inherited it. A mixture of inexperience, fear of the legal system, lack of training, poor business sense, and misinformation about the law have led many landlords to let problems get out of hand. Community leaders who are not familiar with rental management techniques should find allies who are — competent property managers who have sufficient public spirit to help out when the ignorance-based barriers are met.

### **Level three: Raise the Stakes**

*Find out if the problem can be solved by increasing the pressure on enablers, either by finding influential guardians or by increasing the number of people calling for change.*

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**H**aving attempted the friendlier approaches, the leader is now looking for additional leverage to cause occupants to behave, property owners to make repairs, or new buyers to purchase the property. At this point, the problem solving tone becomes much more insistent. The first two levels of the continuum work when enablers are well-intentioned but lack information or skill. The next steps begin to force a solution by methodically raising the inconvenience level for enablers. As the amount of civil force increases, the goal is reached when enablers, or perpetrators, decide that the cost of maintaining the nuisance exceeds the cost of stopping it. This is accomplished by locating available pressure points and pushing.

*The civil force increases until enablers or perpetrators understand that the cost of maintaining the nuisance exceeds the cost of stopping it.*

From this point forward, a leader’s ability to organize significant numbers of responsible citizens comes strongly into play. If results have not been achieved by the efforts of one community development organization or a few neighbors speaking with authorities informally, then an organized effort is required to make sure each relevant agency is kept completely informed of the issues at hand. Remember, credibility is enhanced through the demonstrated support of many people.

The techniques involved in organizing neighbors, encouraging those who are skeptical of involvement, and promoting responsible reporting by neighbors are beyond the scope of this manual. In short, neighborhood leaders must have the ability to motivate concerned neighbors to get involved and the ability to show them how to do that. This is hard work, yet it can be done. At the third level of the civil force continuum any of the following options could be appropriate.

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<sup>5</sup> See discussion on page A-12 in the Resources section for more on this program.

***Meet with concerned neighbors and make sure that all are documenting and reporting to appropriate authorities.***

If this is not occurring, make sure that it is now. If organizational meetings have not already happened, then now is the time. Every neighbor should be taking the action described under Basic Neighborhood Involvement in the discussion of level one in this manual.

***Meet with property owners, making sure they are fully informed of all issues.***

If safety concerns are significant, then such contact should be done through local police. It therefore becomes the leader's job to support, encourage, or participate in whatever form is necessary to help that occur. In most situations, contacting a property owner is something that can and should be done by multiple people and agencies involved in the effort to solve the problem. At this point, an owner of a chronic nuisance property who has not acted has either discounted the credibility of the reported problems or, more likely, simply doesn't believe that the organizing effort to date has the strength to force a change.

**Best Practices Tip:**

***Police-Landlord Information Sharing and Civil Burdens of Proof***

Police officers working on chronic nuisances should recognize that, if a nuisance has reached the third level of the civil force continuum, it is time to inform the owner of virtually every problem documented by police at the property. The need for speed-of-resolution argues strongly for complete information sharing at this point, if not earlier.

Remember, the landlord's burden of proof for eviction is lower than the levels of proof police typically deal with, so a landlord does not need to wait for a conviction, or even an arrest, to take action. The landlord will require enough information to show, by a preponderance of the evidence, that lease violations have occurred — whether the violations are crimes or not.

***Meet with the Public Housing Authority (PHA).***

If the residents, or the property, receive public assistance, contact the local PHA, reporting the problems observed and find out what can be done. Do this in person. Section 8 tenants may be removed from rent assistance programs for serious and repeated lease violations. If property is not properly maintained, PHAs can remove a landlord's property from the program as well. Depending on their relationship with the property, PHAs may also be able to influence management of private Section 8 housing (subsidized properties). Of course, if the problem is on PHA property itself, then the PHA is the landlord and all recommendations for contacting a property manager apply.

***Meet with housing code inspectors.***

If the nature of the problem is physical nuisances, then housing inspectors should take the lead. Municipal codes commonly address a range of violations, including exterior building structure and appearance, interior structure and appearance, as well as nuisances in yards such as abandoned cars, trash, and neglect. Most chronic nuisance property will violate these codes.

*Bring photographs of the property to the meeting with building inspectors. This will help convince them of its importance. Also, they may notice violations more serious than those less experienced.*

This far into the process, phone calls alone have not worked. At minimum, the next step is to bring photographs of the problem property to an in-person meeting with inspectors. Photographs can give inspectors a better idea of the problem and show that it will be worth the trip. Further, inspectors may notice violations more serious than a less knowledgeable person would notice.

While some cities have coordinated code enforcement across many areas, in other cities, different departments and different inspectors may enforce each of the following: fire code, building code, housing maintenance code, PHA-enforced housing quality standards, property nuisance code, dangerous building code, and abandoned and derelict automobiles. The leader's job is to make sure the right information is in the hands of the right enforcer. Some cities will make it easy to do this. In others, it will be difficult.

***Consider contacting the mortgage holder.***

The lending institution holding the mortgage may have the power to intervene as well. For example, a loan agreement may require minimal levels of property care and forbid illegal activity. In this context, a mortgage holder may be seen as another potential guardian of the impacted property. Generally, if a bank holds a mortgage, the bank's name will appear on the title records, kept by the local assessor's office. Major lending institutions, concerned about their reputation in the community, sometimes take an active role in motivating property owners to correct problems. Anecdotal evidence suggests that calls to these institutions placed by representatives of government agencies are more likely to get results than are calls placed by community leaders from the private, commercial, or nonprofit sectors.

*Some lenders will require owners to clean up nuisance problems in order to keep their loans. If the owner isn't cooperating, sometimes calling the lender can help.*

***Write letters or make contacts that move up the chain of command.***

When lack of follow-up by a local agency is part of the problem, the leader's task is to raise the likelihood of getting help. Address the first letters to those who can take direct action — a police officer, code inspector, or other person tasked with addressing such problems. Don't write to

managers or political leaders until you have given the chain of command a chance to work. Then write to them — your credibility at that point will be greater. As necessary, follow up your calls and letters with personal appointments. When drafting your letter, keep the following best practices letter writing tips in mind.

**Best Practices:**

*Letter Writing Tips*

*When writing a letter to helping agencies:*

- ❑ **Describe the legal violations at the property.** The challenge is to separate emotional impact from legal violation. For example, the fact that friends of a drug dealer damage a neighbor's flower garden may be, for that neighbor, the breaking point when he or she stops tolerating the activity next door. Meanwhile, observed drug dealing, illegal weapons, truancy, curfew violations, and traffic violations may have, up to that point, seemed less important because none occurred on the neighbor's property. The letter should focus on the most serious violations of the law, while keeping lesser violations, despite sometimes greater emotional impact, in perspective.
- ❑ **Describe how long the problem has persisted.** A sense of the location's history can support arguments that it's time to act.
- ❑ **Give a brief history of what has already been done to address the problem.** It is important to document that the letter being written is not the first effort to address the problem.
- ❑ **Respectfully request specific action by a specific date, such as a meeting with decision makers.** Keep the tone reasonable, but insistent — the intent is to encourage action, not to distribute blame.
- ❑ **Make sure each statement is accurate and supportable.** Efforts to stop a nuisance can stall while the credibility of the parties is evaluated. There is a human tendency to embellish facts to fit one's level of anger — rumors can be stated as truths and suspicions stated as facts. For example, if a letter states that neighbors have called police many times, such a statement should be supportable from neighbors who can describe specific instances.

While a long letter may seem appropriate, similar results are possible by documenting the statements without going into lengthy, incident-specific detail.

***Consider media coverage, but weigh the risks.***

After a thorough effort to get results through other means, discussing the problem with the news media can focus attention — and sometimes resources — on a problem. While speaking with the media is an option, remember that timing is important and personal safety risks must be weighed in advance. Taking a complaint to the media before communicating clearly to accountable organizations is a poor idea. It can cause justifiable resentment in public officials who feel

blindsided by an issue about which they had no warning. If the nuisance involves criminal activity, attracting media attention to individuals working to stop the nuisance is not recommended for personal safety reasons.

#### **Level four: Issue a Final Warning**

*Find out if the problem can be solved by suggesting the possibility of legal action against perpetrators or enablers.*

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**A**t this point, all reasonable efforts to solve the problem through concerned communication have been exhausted and there is a paper trail that documents such efforts. Those people who persist in supporting a nuisance at this level of the civil force continuum do so for few reasons other than their twin beliefs that they can get away with it and that the cost of abatement exceeds the cost of letting the nuisance continue. As a last stop before starting a lawsuit, it is worthwhile to communicate that a suit is being considered.

For such communication to be effective it must have the credibility of thorough preparation behind it. This is why the steps described in the first three levels should be conducted first, and why careful research on the available legal options should be done prior to issuing a final warning.

At this point the options available become sharply dependent on the position of the leader taking the action. Two examples are provided here, one for the community leader and one for people in law enforcement.

##### ***For the community leader***

The first steps involve identifying available nuisance law that could be applied by private organizations (such as community development corporations or other nonprofit organizations) and then meeting with a competent attorney.

At this point, the goal is not to sue, but to raise the possibility. Community leaders have succeeded after the earlier solutions have failed, by delivering a letter that:

- ❑ Documents the history of the problems at the property and the community's efforts to solve it.
- ❑ Describes the community organization's awareness of applicable law and willingness to bring legal action.
- ❑ Emphasizes the community organization's preference to avoid such an approach, if the problem is resolved in a timely manner.

Ideally, an attorney retained by the community-based organization should write the letter. As a weaker alternative, the letter should plainly indicate that a copy of the document has been copied to an attorney identified by name.

**Best Practices Tips:***“Folk Law” and Reality*

Each state has a unique set of nuisance abatement laws. Often, because such laws are used infrequently, local “folk law” may hold that such legal options do not exist. Community leaders who are initially told this should get a second opinion or spend time reviewing state and local statutes that address nuisances directly.

Examples of approaches that have been used with effect include the “bawdy house” laws of New York State and Wisconsin, nuisance abatement law in Oregon and Hawaii, and the right of citizens to sue in small claims court over a nuisance problem in California made popular by the organization Safe Streets Now! References to these and other types of available laws are provided in the Resources section.

***For law enforcement agencies***

For law enforcement agencies, a good final warning model is the approach developed by the city of Portland, Ore., with its “Specified Crime Ordinance” created in 1987.<sup>v</sup> Many communities have created similar laws that allow the jurisdiction to take civil action against a property owner if the owner does not abate problems associated with drugs, prostitution, and other types of illegal activity on the property. Such laws typically allow for substantial fines, property closure for a defined period of time, or complete forfeiture of property.

Portland’s original ordinance allowed for closing the property for up to one year and levying substantial daily fines against property owners who did not abate problems associated with drugs, prostitution, or gambling. However, what made the Portland ordinance unique was not what the ordinance said, but how it was applied.

While the city of Portland brings suits against property owners who are in violation of the ordinance, it also sends warning letters to owners whose property has been reported to be in violation. The letters report to the owner, with a copy to the occupant, the fact that complaints have been received and that, should police confirm the complaints, such a finding could result in legal action. The letters simply inform the reader that complaints have been received — they do not state that illegal activity is occurring. An excerpt from Portland’s letter:

The Portland Police Bureau Drugs and Vice Division has received complaints from citizens and/or police personnel alleging illegal activity at the above listed property...

At this point, these complaints have not been verified by a police investigation. You should be advised that the Police Bureau views drug activity occurring on the premises as a very serious matter. If drug activity is occurring and you fail to take remedial action, the City may commence civil proceedings...

No formal action has been started at this time. We do request that you or your representative contact [officer name and phone number] to discuss the nature of these complaints and any action you have taken or are planning to take.<sup>vi</sup>

The Portland Police Bureau sends warning letters only when sufficient credible complaints are logged, or when patrol officers report credible suspicions and request that a letter be sent.<sup>vii</sup>

In a typical year in the early 1990s, the city would begin legal action against only 15 to 20 property owners, but would send as many as 500 warning letters.<sup>6</sup> Because of the city

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<sup>6</sup> Portland has a city population of approximately 500,000.

government's willingness to report having received complaints to both owners and occupants, many neighborhoods in Portland have gained relief well before the neighborhood's deterioration became extreme, a factor crucial to effective problem solving (see discussion of the best practices solution on page 2).

By using the warning letter process, and its later variations, the city of Portland has implemented a system that intervenes earlier in the destructive cycle of neighborhood decay, avoiding one of the biggest problems associated with over-reliance on traditional enforcement strategies: having the solution arrive too late to benefit the community that once thrived but has long since moved away. The variations that have been introduced since include a similar process that can be directly implemented by precinct officers attempting to solve problems at other types of chronic nuisance properties, not just those associated with drugs, gambling, or prostitution.

## **Section Summary**

The warning letter approach is available, in most areas, to both local governments and motivated community groups. It should be considered as a last step before bringing a civil suit.

## **Level five: Take Civil Action**

*Sue enabling parties or perpetrators.*

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**I**n the final analysis, even the most neglectful property owners or occupants will act when the force of law is applied. This should be considered only as a last resort, both because of its difficulty and because the appropriate role of civil suits is that of a last resort, not a first step. The number of problem properties that resist all solutions described in advance of suing are very small. Unfortunately, those resistant problems that require a lawsuit take up a large part of the leader's time, which can fuel the false impression that legal action is required to abate the majority of nuisances.

At this point, the steps needed are specific to the legal options available to the community leader's organization. Laws allowing citizens to take direct action against property nuisances are not new. For example, the "bawdy house" laws in some states date to the mid-1800s. What changed in the intervening time was not the laws, but the people's inclination to use them.

The following list is intended to provide guidelines for locating current applicable law. For a more comprehensive list of references, see the Resources section.

### ***Property nuisance abatement, targeting property conditions***

Many cities have nuisance codes addressing property conditions that constitute a health, fire, or safety hazard. Often distinct from building and housing maintenance issues, property nuisance

codes address problems severe enough to warrant summary abatement steps to fix the problem and bill the owner for the cost. Examples of such violations include:

- ❑ Open holes, tanks, and other possible child traps
- ❑ Unprotected structures
- ❑ Blockage of emergency access routes
- ❑ Conditions that harbor rats and other vermin
- ❑ Obstructions to sidewalks, streets, and other rights of way
- ❑ Outdoor storage of indoor items
- ❑ Disabled vehicles
- ❑ Trash and debris

While most code violations include penalties, such as closing the property and significant fines, some contain more interesting variations. In Syracuse, N.Y., for example, a “slum landlord” ordinance uses a type of public shaming as part of the penalty. It permits the city to place a sign in front of property that has met the ordinance’s criteria for unabated chronic code violations. The sign identifies the landlord by name, home address, and phone number.<sup>viii</sup>

### ***Narcotics nuisance abatement, targeting specific criminal behaviors***

Popular with law enforcement agencies, these laws are often narrow in scope — for example, targeting only drug houses (dealing, manufacturing, or growing) to the exclusion of all other nuisance behavior and are sometimes enforceable only by the local municipality.

### ***Chronic nuisance abatement, targeting many types of behavioral nuisances***

Similar to the narcotics nuisance abatement laws, these laws will generally provide a more comprehensive list of possible nuisance behaviors or otherwise attempt to cover more broadly the definition of a nuisance. In effect, they are the great-grandchildren of the “bawdy house” laws and will typically allow for such remedies as giving third parties the ability to evict occupants, close the property, and levy various financial penalties against property owners.

### ***General nuisance abatement***

These are typically statewide laws, with the older versions tending to encompass a broad array of possible nuisance behavior. Attorneys sometimes find them easier to apply than newer laws restricted to a few, very specific violations of criminal code. The possible penalties and solutions built into the different laws vary substantially. The “bawdy house” laws are often available to both local governments as well as owners or occupants of property located within a specified distance from the nuisance property. Two examples of such laws:

- ❑ The State of New York’s Real Property Actions and Proceedings Law (Article 7, Section 715) has a process for the harmed parties to conduct an eviction as if they were the owner, should the owner fail to do so.
- ❑ An innovative variation has been pioneered by Safe Streets Now!<sup>ix</sup> founder Molly Wetzel of Oakland, Calif. She determined that, in California, while a small claims action for a limited amount could be brought by a neighbor against an owner of a drug house, similar actions

from multiple neighbors could be combined, significantly raising the potential financial penalty.

## **Section Summary**

The preceding are just some examples of the options available. Others may include applying ordinances that permit demolishing dangerous buildings or using Federal forfeiture law<sup>x</sup> to seize real property “which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of,” specified violations of controlled substances laws.

While the likelihood of success depends on many factors, the community leader will be in the strongest possible position if he or she has already taken the following steps, which are all part of the first four levels of the Civil Force Continuum:

- ❑ Documented the level of nuisance at the property
- ❑ Conscientiously attempted the recommended less confrontational resolutions
- ❑ Done the work necessary to build partnerships with a breadth of impacted citizens, government agencies, and private organizations

The lawsuit is a difficult step in a long process that begins with an individual who is willing to lead and able to motivate others to get involved. The process is never easy and a lawsuit as a means to resolve conflicts should be pursued only when all other reasonable options have been tried and exhausted, and then only if the community leader can find a competent attorney who will handle the case.

## **Conclusion**

*“The only thing necessary for the triumph of evil is for good people to do nothing.”<sup>xi</sup>*

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Pursuing the steps in this guide will require patience and a tremendous amount of hard work. Staying motivated to complete such an effort is undoubtedly a test of leadership. Part of the inspiration to do so can spring from knowing that the survival of a healthy democracy depends on citizens who are willing to exercise their freedom to get involved and make a difference.

To all of those people who have decided to lead, The Enterprise Foundation thanks you for your dedication and for your willingness to see a free society, governed by its own people, not as a fading right of citizenship handed down by previous generations, but as a bold promise owed by all of us to generations yet to come.

# Appendix



# What Makes Good Abatement Law

*Nuisance abatement law should be enforceable by any legitimately harmed party against all legitimate perpetrators and enabling parties. Designed well, its impact will be great; its use infrequent.*

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*This section contains an overview of some key elements in effective nuisance abatement law and is intended for those in a position to write, advocate for, or otherwise influence revisions to those laws. Provided here are broad principles to be considered, not specific language for specific laws. In particular, this section focuses on those issues that are sometimes overlooked in the design of nuisance abatement law in order to assist you in sorting out the many examples and models of laws that are available to choose from.*

*There are many references already published that suggest specific language and application approaches for local governments. One of the more practical and readable references is a publication by the National Institute of Justice: Using Civil Remedies for Criminal Behavior: Rationale, Case Studies, and Constitutional Issues.<sup>xii</sup>*

At one end of a spectrum are abatement laws that can be implemented only by a government agency and require an arrest or conviction before civil action can be taken. Such laws force all abatement work through bottlenecks at a municipal or district attorney’s office, which in turn does not become aware of the problem until the nuisance has become a top priority for a police department, which in turn has had to balance time-consuming chronic nuisance work against the need to focus resources on more immediately threatening crimes. In such a system, many community-impacting nuisances get overlooked. Further, such laws effectively turn burdens of proof upside down by requiring criminal levels of proof before civil nuisance abatement work can begin.

At the other end of the spectrum are approaches that allow for impacted citizens and community-based organizations, as well as government agencies, to develop the appropriate set of factual evidence and force abatement at a civil level of proof. While use of such legal tools by persons outside of government are the exception, the fact that such power exists with the citizenry can be significant leverage by itself.

## Guidelines

Somewhat ironically, the laws researched for this manual that come closest to meeting each of the criteria listed in this section tend to be the older ones. The “bawdy-house” and common nuisance laws created in the 19<sup>th</sup> century in some states are sometimes more enforceable, by more parties, against more types of nuisances, than are many of the newer, more narrowly crafted nuisance abatement laws created in the last two decades of the 20<sup>th</sup> century.

The following guidelines are intended to outline some common elements that can help ensure nuisance abatement law is best targeted to serving the entire solution. A caution about the examples cited in this section: *the fact that a specific part of a state or local jurisdiction’s law is*

referred to does not mean that the law necessarily meets all of the qualities recommended in this section.

***The definition of the problem should cover conditions that impact livability and not stay limited to narrow definitions of one or two specific crimes.***

For example, as suggested earlier, neighbors may dislike a drug house because it generates a combination of some of the following behaviors:

Shouting matches	Curfew violations	Sanitation dangers
Fist fights	Truancy	Illegal dumping
Intimidation	Possession of illegal weapons	Dangerous animals
Threats	Illegal discharge of a weapon	Trafficking in stolen goods
Physical harm	Sexual assault	Drunk driving
Petty theft	Child abuse	Speeding cars
Burglary	Domestic violence	Reckless driving
Disturbances of peace during sleeping hours	Juvenile delinquency	Blocked parking spaces
Excessive littering	Rat harborage	Driving on private lawns
Vandalism	Car clouts	Use of obscene language near small children
Trespassing	Fire hazards	Chronic violations of local noise ordinances
Graffiti	Foul odors	
Health hazards		

As long as the above list is, it does not cover all the possibilities. It is worth noting as well that the same list of behaviors could be found, in varying combinations, at a gang house, the home of a seriously dysfunctional family, or the residence of a chronic alcohol abuser.

Further, the *behaviors* listed above constitute violations of competently written leases; the *physical nuisances* are conditions against which many cities have the right to take summary abatement action, and of course, the *crimes* are ones for which arrests could be made. A compartmental approach might argue for leaving enforcement of the whole problem to the individual steps required to enforce against each individual crime or civil violation. But, as described in this manual, such an approach misses the impact of the whole.

There is a fundamentally different impact on a neighborhood when one or two of the above behaviors occurs in a year's time than when multiple examples occur every month.

Given that neighborhood ire about drug houses goes far beyond the singular issue of drug crimes, it is surprising how often drug house abatement laws focus exclusively on violations of controlled substances law. While one of the causes of the above listed conditions can be the sale of illegal drugs, violation of drug laws is

*Because neighborhood ire about drug houses usually goes far beyond the issue of drug trafficking, drug house abatement laws should not be limited to violations of controlled substances law.*

rarely the only illegal act involved. This is why the first recommendation is to define the nuisance in the terms that neighbors experience it.

The City of Portland, Ore.'s "Specified Crime Property" ordinance (discussed earlier) is a good example of a lesson learned on this issue. The specified crimes in the original ordinance were limited to drug dealing, manufacturing or growing; prostitution; and gambling. While the ordinance proved effective, it didn't go far enough — locations where terrible behavior harmed a neighborhood were not abated because the specified crimes were not among the documented problems.

Recognizing the problem, the city created a "Chronic Nuisance Property" ordinance in 1992, listing a broader range of behaviors and stipulating that the city could take action when three or more factual instances of such behaviors had occurred in a 30-day period.

Within a few years, the two ordinances were merged into one. Under this revised ordinance, properties that have continuous or repeated instances of a range of violations could qualify as a chronic nuisance property. Examples of the violations that are now covered by the ordinance include the following, each of which are cross-referenced to their legal definitions under applicable state and local laws:<sup>xiii</sup>

- Harassment
- Intimidation
- Disorderly conduct
- Assault or menacing
- Public indecency
- Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct
- Prostitution or related offenses
- Alcoholic liquor violations
- Offensive littering
- Criminal trespass
- Arson or related offenses
- Possession, manufacture, or delivery of a controlled substance or related offenses
- Theft
- Illegal gambling
- Criminal mischief
- Any attempt to commit, and/or conspiracy to commit, any of the listed activities, behaviors or conduct
- Fire or discharge of a firearm
- Unlawful operation of sound producing or reproducing equipment and/or excessive noise as defined by municipal codes
- Unlawful drinking in public places
- Violation of curfew
- Indecent exposure

Plainly, this is a much expanded list over the original specified crimes. Note, however, that separate code altogether is still used to address physical conditions on property that would constitute property nuisances.<sup>xiv</sup>

***The proof should not be contingent on the professional eyes, ears, or actions of any agency.***

One state recently took note that its landlord-tenant laws did not allow for no-cure evictions of drug dealers and manufacturers, something most states do permit.<sup>7</sup> Unfortunately, that state elected to limit the landlord's right to conduct a no-cure eviction for drug activity to those situations in which police have provided written notice to the landlord of drug delivery or manufacturing at the property. In effect, this limits the application of the statute to the bottleneck represented by available police resources. Landlords cannot act independently of police to enforce their leases on this issue.

From the viewpoint of a police officer looking to address a problem that has become a police priority, this law is not a limitation. From the viewpoint of the community leader looking to allow all enabling parties to exercise their responsibility, the approach undermines the concept that multiple guardians have the power to act and further reinforces false impressions that police have extremely broad powers (even in the *civil* realm) that citizens lack.

The better approach, as many states have done, is to allow no-cure evictions of drug dealers, provable at a civil level of proof, period. This gives drug dealers the same burden-of-proof protection as any other lease violator. Police still can, and should, notify landlords after they have made an arrest at a landlord's property, but the civil options available to the landlord should not be wholly contingent on the availability of police to do so.

***The proof should be at the civil level, preponderance of the evidence, and not limited to situations where criminal enforcement action has already occurred.***

The following brief discussion is for those who are concerned about the fairness of holding a person civilly liable for a crime when the courts have not found the person criminally guilty.

The Constitution of the United States sets a high burden of proof for criminal conviction for the purpose of keeping innocent people from going to prison. The result is that while few innocent people are convicted, many guilty people are also not convicted. In fact, many guilty people are never arrested because an officer does not believe that the necessary level of proof can be established.

*Our system for creating just outcomes was never intended to be a one-legged stool where criminal conviction is the sole behavior modification tool.*

Thankfully, our system for creating just and fair outcomes was not intended to be a one-legged stool, with criminal conviction as our sole behavior modification tool. While many guilty people go free, some still pay lesser penalties for their behavior — civil judgments, including eviction, being one of them. Because personal freedom is not at risk, the proof in a civil case is typically by a “preponderance of the evidence,” a still significant level of proof designed to ensure appropriate due process and a balance between the plaintiff's and the defendant's rights.

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<sup>7</sup> A “no-cure” eviction occurs when a tenant is not given the option to stop (i.e., “cure”) the behavior to prevent the termination of the lease. The tenant is simply notified that, because of the seriousness of the violation, the lease will terminate on a given date. In most states, drug dealing is a serious enough *civil* offense under local landlord-tenant law that a landlord may terminate a tenancy without giving an option to cure. Proof in these cases is also at the civil level.

The temptation in drafting nuisance abatement law is to require specific criminal enforcement action by police to have been taken before the civil nuisance abatement law can be applied. These laws are perhaps written in this manner out of the frustration that police and prosecutors feel when they observe that, even after they have taken criminal enforcement steps, property owners sometimes fail to act. The mistake, however, is in limiting application of the law to times when criminal enforcement action has occurred.

***The best nuisance laws will be enforceable by the citizens.***

Any incorporated entity or private citizen who is harmed by the problem should have the authority to bring a suit, subject to the same due process and evidence guidelines. The temptation is to ensure that these fundamentally civil laws are written to be enforced exclusively by a narrow set of responsible parties (the local city attorney or local prosecuting attorney's office, for example). While it is quite likely, and quite appropriate, that the great majority of such cases will be brought by state, county, and municipal attorneys, there are key drawbacks to limiting responsibility to these parties. For example:

- ❑ **Many prosecuting attorney's offices are already well past capacity to enforce the laws they already have before them.** It is common for prosecutable cases to be given light attention simply because caseload limitations result in decisions to avoid pursuing cases for lesser crimes. Therefore, forcing all nuisance cases through the workload bottlenecks at prosecuting attorney's offices will result in those cases entering the same decision matrices, resulting in nuisance abatement laws being applied only in very extreme cases — often well after the significant devastation to the surrounding neighborhood is complete.
- ❑ **The principle of resumption of responsibility argues against creating law that reinforces limited-responsibility by citizens.** Consider, in particular, that one of the enabling factors for a nuisance may be a failure by impacted citizens to take action. It is therefore valuable to have a solution available that can reinforce the citizen's power to act. Far better to show citizens, should their local government fail to act, that they have a similar power subject to identical due process requirements. To be sure, in those areas where citizens do have such power, such suits remain rare. But the fact that the power does exist is inspirational to citizens and a preventative reminder to property owners who might consider skirting the law.

Two examples of definitions regarding who can take the action (the italics are added):

**State of Hawaii Penal Code, §712-1271. Suit to Abate.** Whenever there is reason to believe that a nuisance as defined in this chapter is in existence, kept, or maintained in any county, the attorney general of the State or the prosecutor or prosecuting attorney of the respective counties shall, *or any citizens of the State residing within such county* may in the citizen's own name, *or any organization, including but not limited to a tenant organization within such county* may in the organization's own name, maintain a suit to abate and prevent the nuisance and to perpetually enjoin the person or persons causing the nuisance, or the owner, lessee, or agent of the building, premises or place in the or upon which the nuisance exists from directly or indirectly causing, maintaining or permitting the nuisance.

**State of New York Real Property Actions and Proceedings Law Article 7, §715: Grounds and procedure where use or occupancy is illegal.** 1. *An owner or tenant, including a tenant of one or more rooms of an apartment house, tenement house or multiple dwelling, of any premises within two hundred feet from other demised real property used or occupied in whole or in part as a bawdy-house, or house of place of assignation for lewd persons, or for purposes of prostitution, or for any illegal trade, business or manufacture, or any domestic corporation organized for the suppression of vice... [that meets specific criteria]..., or any duly authorized enforcement agency of the state or of a subdivision thereof, under a duty to enforce the provisions of the penal law or of any state or local law, ordinance, code, rule or regulation relating to buildings, may serve personally upon the owner or landlord of the premises so used or occupied, or upon his agent, a written notice requiring the owner or landlord to make an application for the removal of the person so using or occupying the same. ...[The text goes on to specify the available remedies if the owner does not follow through in good faith within time limits specified.]*

***The law should be broadly enforceable against those with direct influence over property.***

No party with legal control over property maintenance and management decisions should be exempt and exemptions by property type should be rare. This means:

- ❑ **Virtually any property should be included.** Owner-occupied property, commercial property, hotels and motels, mobile home parks, residential rentals of all types, and public housing properties should all be included. Exemptions should be rare or not provided at all. Nuisance abatement laws that target only rental property miss roughly half the dwelling units in most communities. Exemptions for public housing should certainly be avoided. Many public housing agencies have demonstrated that public housing can be as safely managed as private market rentals and it does a disservice to the reputation of public housing to treat it otherwise in law.
- ❑ **The entire ownership and management chain should be included.** This includes managers of the property, owners of the property, and mortgage lenders for the property. Responsible lenders don't permit property to be abused, if for no other reason than because it is in the lender's best financial interest. Property managers must understand that their obligation to insist on sufficient maintenance and to enforce leases adequately enough to prevent chronic nuisances is not merely contingent on whether the owner wants it done — but that a minimum level of management can be required by law. Property managers have the right to turn down owners who wish to avoid maintenance responsibilities or retain tenants who are harmful to a community.

***There should be an initial, easy-out, low-cost resolution for those who do the right thing promptly.***

The point of creating an effective nuisance abatement law is to solve the problem as completely, quickly, and least-expensively as possible. The law should allow for rapid resolution of the problem leading to minimal penalty, with the option to pursue more severe penalties (such as

property closure, seizure, or heavy fines) if early resolution is not implemented. The intent is twofold: 1) Such an approach is inherently most fair to the many property owners who are likely to see tremendous benefit in resolving the problem without additional legal battles, and 2) Such a law is likely to be used more frequently because it has options built in for the penalties to be light if rapid cooperation is gained. In practice, the best solutions are often settlements that involve stipulated agreements covering changes in management practices, maintenance modifications, or removal of specific tenants.

***Cost recovery and good faith considerations should be well balanced.***

On the one hand, it is popular to structure citizen-driven suits with a “loser pays attorney fees” approach so that neighborhood groups can recover the cost of hiring an attorney. As a practical matter, these clauses can do as much to dampen enthusiasm to bring suit as they do to encourage it — if the neighbors lose the suit, they will be faced with the cost of paying attorneys on both sides. For this reason a balance that allows attorney fees to be awarded by the court, without mandating it, may be the most workable solution, allowing the court to take into consideration the special circumstances related to each case.

## Resources

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### **THE ENTERPRISE FOUNDATION: Enterprise Resource Database™**

*W*[www.Enterprisefoundation.Org](http://www.Enterprisefoundation.Org)

In addition to the resources listed in the remainder of this section, The Enterprise Foundation maintains an online best practices database, called the Enterprise Resource Database™. The ERD provides model documents, case studies, how-to resources and more on safety and other community-related issues. Visit the ERD at: [www.enterprisefoundation.org](http://www.enterprisefoundation.org).

## Finding Laws

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**FINDLAW.COM** *http://lawcrawler.findlaw.com/*

A website to begin searching for laws when you know the subject area or type of law you need to find.

**LEGAL INFORMATION INSTITUTE, CORNELL UNIVERSITY** *www.law.cornell.edu/*

A comprehensive set of links to federal and state laws, associated with Cornell Law School.

**NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS** *www.natlalliance.org*

Includes the “Community Mobilization” model laws described in the *Sample Laws* section, as well as other model laws, links to state legislative sites for research on pending anti-drug laws, and references to relevant documents and articles about drugs or crime.

National Alliance for Model State Drug Laws  
333 North Fairfax St., Suite 201  
Alexandria, VA 22314  
703.836.6100

**NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE** [www.ncjrs.org](http://www.ncjrs.org)

A gateway website to thousands of federal documents, articles, news releases, research studies, and agency bulletins on hundreds of crime and justice topics that you can download or have mailed to you.

National Criminal Justice Reference Service  
1600 Research Blvd  
P. O. Box 6000  
Rockville, MD 20849-6000  
800.851.3420

## Sample Laws

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The following are references to a selection of laws that represent some of the options being implemented today. There is no attempt to be comprehensive here as access to states' statutes is readily available on the web and cross-references to nuisance law can be found through institutions such as the National Alliance for Model State Drug Laws ([www.natalliance.org](http://www.natalliance.org)). Following each description is a bulleted list of sources for more information about the specific law.

### Federal Forfeiture Laws

Government seizure of property connected to illegal activity is regulated by U.S. Code and a variety of criminal forfeiture federal laws as well.

- Specific U.S. Code on Civil Forfeiture: [www4.law.cornell.edu/uscode](http://www4.law.cornell.edu/uscode)
- Background on all forfeiture laws: [www.law.cornell.edu/background/forfeiture/](http://www.law.cornell.edu/background/forfeiture/)

### Hawaii Penal Code

§712-1270. *Nuisance Abatement* law: Permits citizens, tenants and other organizations, or the prosecutor or attorney general to bring suit to abate nuisances.

- [www.capitol.hawaii.gov/hrs1998html/penal/PENAL\\_712-1270.html](http://www.capitol.hawaii.gov/hrs1998html/penal/PENAL_712-1270.html)

### Maryland Annotated Code

*RP §14-120. Drug Nuisance Abatement:* Any type of "controlled dangerous substance" activity at any type of property can be subject to an action to abate a nuisance brought by a local prosecutor, a civil attorney for the political subdivision, or a community association.

*RP §14-123. "Community Bill of Rights" or Nuisance Actions Within Baltimore:* This 1996 legislation empowered Baltimore community associations to enforce city code violations. (For

details about the nuisance abatement action process for both laws, see §4-401 of the Court's Article in Maryland statutes.)

- At the following site, enter a search term such as “nuisance” and check the box next to Statutes: 2000 Regular Session: <http://mgasearch.state.md.us/verity.asp>
- Community Law Center, Inc., 2500 Maryland Ave., Baltimore, MD, 410.366.0922
- Community Law Center's *Summary of Civil Legal Remedies for Community Organizations in Baltimore City*: [www.baltimoremd.com/community/claw/civremedy.html](http://www.baltimoremd.com/community/claw/civremedy.html)

### **Michigan Statutes Annotated 600.3801-600.3840**

*Nuisance; injunction; abatement; guilt*: A public nuisance law aimed at locations for prostitution, unlawful gambling, controlled substances violations and unlawful liquor sales. Online at [www.michiganlegislature.org/law](http://www.michiganlegislature.org/law)

### **Model Laws from the National Alliance for State Drug Laws**

*Model Drug Nuisance Abatement Act*: Describes a model state statute declaring places involved in drug activity in defined ways a public nuisance, and authorizes a neighbor, a nearby employee, a neighborhood organization, or a municipal or prosecuting attorney to bring a nuisance abatement action.

*Model Crimes Code Provisions to Protect Tenants and Neighbors*: Model language for the creation of a civil process directing a suspected drug dealer to stay out of a specified problem area.

- [www.natlalliance.org](http://www.natlalliance.org)
- National Alliance for Model State Drug Laws, 333 North Fairfax St., Suite 201, Alexandria, VA 22314, 703. 836.6100

### **New York State Consolidated Laws: Real Property Actions & Proceedings Article 7, Section 715**

*“Bawdy house” law*: Older public nuisance law that allows neighbors or prosecutors to eventually evict as though they are the owner or landlord of the premises. Fines are paid to the municipality.

- <http://findlaw.com/11stategov/ny/nycl.html>
- Manhattan District Attorney's Office, Special Projects Bureau/ Narcotics Eviction Program, 1 Hogan Place, New York, NY 10013, 212.335.4370

### **Portland City Code Chapter 14.110**

*Chronic Nuisance Property*: This law allows the city to bring suit to close a property for specified time periods when certain nuisance conditions are met. Nuisance activities are defined as personal behaviors rather than property conditions (which are addressed separately in PCC 29.20).

- <http://bpc.iserver.net/codes/portland/>

- City of Portland Office of City Attorney, 1221 SW 4th Ave., Suite 430, Portland, OR 97204, 503.823.4047

### **Revised Code of Washington 59.18.075**

This is a single paragraph of the State of Washington's *Landlord and Tenant* law that requires police to inform landlords of certain criminal enforcement actions taken on rental property. A simple addition to the law and a very good idea.

- [www.leginfo.leg.wa.gov/rcw\\_59\\_18\\_060](http://www.leginfo.leg.wa.gov/rcw_59_18_060)

### **Wisconsin Statutes, Chapter 823, Sections 823.01 - 823.215**

The core law in section 823.02 covers a range of disturbances and behaviors and contains broad concepts of public nuisance.

- [www.legis.state.wi.us/statutes/97stat0823.pdf](http://www.legis.state.wi.us/statutes/97stat0823.pdf)
- Office of the City Attorney, City of Milwaukee, 200 East Wells St., Room 800, Milwaukee, WI 53202, 414.286.2601

## **Programs**

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### **Alexandria, Va., Blighting Influences Program**

A program for rapidly turning over uninhabitable vacant property to the city or nonprofits to rehabilitate.

- Documents available: *Information Statement Explaining the City of Alexandria's Blighting Influences Program; Alexandria Office of Housing Blighting Influences Program Administrative Guidelines*
- City of Alexandria Office of Housing, Program Implementation Division, 2 Herbert Street, Alexandria, VA 22305, 703.838.4622

### **Baltimore Community Law Center: Self-Help Nuisance Abatement**

Community lawsuits against nuisance property that rely on tort law, whereby ordinary citizens bring a lawsuit under common law that can be applied to any vacant property that creates a nuisance to neighbors.

- [www.baltimoremd.com/community/claw/civremedy.html](http://www.baltimoremd.com/community/claw/civremedy.html)
- Document available online: *Self-Help Nuisance Abatement: What is Self-Help Nuisance Abatement?*
- Community Law Center, Inc., 2500 Maryland Avenue, Baltimore, MD, 21218, 410.366.0922

### **Boston Gun Project: Cease-fire Strategy**

Boston police, corrections officials, prosecutors, and community leaders targeted gangs involved in serious gun and knife violence and used a coordinated, multi-agency approach to reduce such violence.

- Article available: *Pulling Levers: Getting Deterrence Right*, by David Kennedy, *National Institute of Justice Journal*, July 1998. Article may be viewed online at [www.ojp.usdoj.gov/nij](http://www.ojp.usdoj.gov/nij) or ordered by phone at 800.851.3420.

### **Detroit, Mich.: Campaign Push-Off and Operation Save Neighborhoods**

The Forfeiture and Nuisance Abatement Unit of the Wayne County prosecutor's office attacks street drug traffickers and street-level prostitution by declaring the cars involved in these crimes to be a public nuisance and seizing them under Michigan law.

- *Campaigns Push-Off & Save Neighborhoods* is available by fax. For more information contact: Wayne County prosecutor's office, Push-Off/ Nuisance Abatement Programs, 1441 St. Antoine St., Frank Murphy Hall of Justice, suite 1200, Detroit, MI 48226, 313.224.5777

### **Jackson County, Mo., Prosecutor's Office: COMBAT Program**

The Drug Abatement Response Team of the Jackson County prosecuting attorney's office sends warning letters to property owners of places with a record of drug activity and has implemented other abatement action.

- Jackson County Prosecuting Attorney, C.O.M.B.A.T. Program, Drug Abatement Response Team, 415 East 12th Street, 11th Floor, Kansas City, MO 64106, 816.881.3555

### **Los Angeles: FALCON Program**

FALCON (Focused Attack Linking Community Organizations and Neighborhoods) is a multi-agency task force comprised of police department officers, city attorney's office assistant attorneys, and Building and Safety Department inspectors. The FALCON Narcotics Abatement Unit of the city of Los Angeles uses California Health and Safety Code 11570-11587 to send warning letters and commence actions against property owners.

- FALCON Narcotic Abatement Unit, L.A. City Attorney's Office, 1800 City Hall East, Los Angeles, CA 90012, 310.575.8500

### **National Landlord Training Program: Keeping Illegal Activity out of Rental Property**

Residential landlords are trained in resident screening, lease enforcement, resident relations, police partnerships, environmental design, and crisis resolution to prevent crime and strengthen neighborhoods. Designed to be adapted and implemented by local agencies or organizations, the program is currently licensed for use by over 400 jurisdictions across the U.S., as well as jurisdictions in both Canada and the United Kingdom.

- *Keeping Illegal Activity out of Rental Property: A Police Guide for Establishing Landlord Training Programs*. A monograph published by the Bureau of Justice Assistance, Office of

Justice Programs, U.S. Department of Justice. The text is copyrighted 1993-1999 by Campbell DeLong Resources, Inc. Available online at the following site (where you will need to click on *More Issues* and then *Crime Prevention*): [www.ncjrs.org](http://www.ncjrs.org)

- Additional information, as well as a PDF version of the participants' manual, can be found online at [www.cdri.com/cp\\_index.htm](http://www.cdri.com/cp_index.htm)
- Campbell DeLong Resources, Inc., 319 SW Washington, Suite 802, Portland, OR 97204, 503.221.2005, [LTPinfo@cdri.com](mailto:LTPinfo@cdri.com)

### **Oakland, Calif.: Police Department Beat Health Unit**

Special units mandated to reduce drug and disorder problems use civil remedies, in coordination with other city departments, to solve chronic problems.

- Article: *Controlling Drug and Disorder Problems: Oakland's Beat Health Program* (NIJ Research in Brief number NCJ 175051); available online at [www.ojp.usdoj.gov/nij](http://www.ojp.usdoj.gov/nij)
- Oakland Police Department Beat Health Unit, 455 Seventh Street, Oakland, CA 94607, 510.615.5808

### **Oakland, Calif., and other cities: Safe Streets Now!**

Neighbors seek damages in small claims court as a group in order to abate chronic nuisance properties. At time of publication, 17 cities in six states had established Safe Streets Now! programs, and won more than \$1 million in judgments for neighborhood activists.

- Drug Abatement Institute, 408 13th Street, Suite 452, Oakland, CA 96412, 510.836.4622
- [www.toolbox.org/Tvtools/ssn-drugabatement.html](http://www.toolbox.org/Tvtools/ssn-drugabatement.html)

### **Syracuse, N.Y., Chronic Code Violations: "Slum Landlord" Signs**

In the event of a history of repeated housing or sanitation violations which have not been corrected by a property owner, the City of Syracuse may, in effect, publicly shame the landlord by placing a sign in front of the landlord's home indicating that the occupant owns property with serious housing violations.

- City of Syracuse Department of Community Development, 201 E. Washington St, Room 101, Syracuse, NY, 13202-1430, 315.448.8706

## **Research References**

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### **Case Studies of Community Anti-Drug Efforts**

Saul Weingart, Francis X. Harmann, and David Osborne. National Institute of Justice Research in Brief, October 1994.

Descriptions and analyses of 13 citizen-driven problem-solving responses to illegal drug activity in their neighborhoods.

- Available from NCJRS by ordering document NCJ 149316 by phone at 800.851.3420 or online at [www.ncjrs.org](http://www.ncjrs.org)

### **Civil Remedies and Crime Prevention; Crime Prevention Studies Volume 9**

Edited by Lorraine Green Mazerolle and Jan Roehl. Library Research Associates, Inc., Monroe, N.Y., © 1998. A collection of research articles on the legal theory, politics, community perceptions, and experimental outcomes of using civil remedies against crime problems.

- Available from the publisher, Library Research Associates, Inc., 800.914.3379.

### **Ridding Neighborhoods of Drug Houses in the Private Sector**

Barbara E. Smith, Robert C. Davis, Susan W. Hillenbrand, Sharon Goretsky. Final Report submitted to National Institute of Justice Drugs, Alcohol, and Crime Program by the American Bar Association Fund for Justice and Education, for the Criminal Justice Section, June 30, 1992.

Nationwide review of nuisance abatement statutes, research study of anti-drug house practice by conducting a telephone survey of officials in the 50 largest cities, and an in-depth study of practices at five sites: Milwaukee, Wis., Alexandria, Va., Houston, Texas, Toledo, Ohio, and San Francisco, Calif.

- Available to order from American Bar Association Criminal Justice Section, 202.662.1503.

### **Using Civil Remedies for Criminal Behavior: Rationale, Case Studies, and Constitutional Issues**

Peter Finn and Maria O'Brien Hylton. National Institute of Justice publication series Issues and Practices, October 1994. Seven case studies where prosecutors at a local, state, or federal level use civil processes to impact chronic criminal behavior.

- Available from NCJRS by ordering document NCJ 151757 by phone at 800.851.3420, or online at [www.ncjrs.org](http://www.ncjrs.org)

## Endnotes

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- <sup>i</sup> Peter Finn and Maria O'Brien Hylton, *Using Civil Remedies for Criminal Behavior: Rationale, Case Studies, and Constitutional Issues*. U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, 1994. p. 3.
- <sup>ii</sup> *Ibid.*, p. 4.
- <sup>iii</sup> *Keeping Illegal Activity out of Rental Property: A Police Guide for Establishing Landlord Training Programs*. A Monograph published by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The text is copyrighted 1993-1999 by Campbell DeLong Resources, Inc. Available online at: [www.ncjrs.org/cpdocs.htm](http://www.ncjrs.org/cpdocs.htm). The participants manual, referred to in the text, is included in the monograph or may be viewed as a standalone document at: [www.cdri.com](http://www.cdri.com).
- <sup>iv</sup> Edmund Burke. 1729-1797, *Observations on Late Publication on the Present State of the Nation*. Vol. i. p. 273.
- <sup>v</sup> The ordinance has since been folded into a more comprehensive law known as the City of Portland's "Chronic Nuisance Property" ordinance — see the Resources section for details.
- <sup>vi</sup> Excerpted from text of form "Warning Letter" used in the mid-1990s by City of Portland, Bureau of Police, Drugs and Vice Division, 1111 SW 2<sup>nd</sup> Avenue, Portland, OR 97204.
- <sup>vii</sup> Milwaukee, Wisconsin Police Department, also conducts a warning letter program. See Resources section for more references.
- <sup>viii</sup> Under the city of Syracuse's Code Enforcement Initiative for Chronic Code Violations, when a problem property has been identified — where housing or sanitation violations have been repeatedly cited and not corrected — the city may send a letter to the owner documenting violations and indicating that public identification measures will be taken if the property is not brought up to code. After sufficient time for the property owner to respond, if compliance is still not received, a sign is erected in front of the property containing the name, home address, and telephone number of the landlord.
- <sup>ix</sup> Drug Abatement Institute, 408 13<sup>th</sup> Street, Suite 452, Oakland, CA 94612, Molly Wetzels, Executive Director.
- <sup>x</sup> U.S. Code, Title 21, Sec. 881. Forfeiture. One place to find it online is: [www.law.cornell.edu/uscode](http://www.law.cornell.edu/uscode).
- <sup>xi</sup> Edmund Burke, 1729-1797 (paraphrase).
- <sup>xii</sup> *Using Civil Remedies for Criminal Behavior: Rationale, Case Studies, and Constitutional Issues*. By Peter Finn and Maria O'Brien Hylton, U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, October 1994.
- <sup>xiii</sup> Portland City Code, Chapter 14.110, available online at: [www.ci.portland.or.us/auditor/code/index.htm](http://www.ci.portland.or.us/auditor/code/index.htm).
- <sup>xiv</sup> Portland City Code, Chapter 29.020, is available online at: [www.ci.portland.or.us/auditor/code/index.htm](http://www.ci.portland.or.us/auditor/code/index.htm)
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