

Criminal Damage by Tenants: What a Landlord Can Do.

What is it all about?

Property damage caused by tenants has typically been considered a civil matter. In certain situations, the tenant's actions may be criminal. The Milwaukee Police Department (MPD), and the Milwaukee County District Attorney's Office (DA) worked together with the Apartment Association of Southeastern Wisconsin and the Department of Neighborhood Services (DNS) to create guidelines to more effectively address the problem of criminal damage to rental property.

What are the landlord's responsibilities under these guidelines?

At the time of the reporting, landlords should provide the following to MPD:

- Signed written rental agreement (similar to Wisconsin Legal Blank Form 19), which includes complete name, date of birth and social security number of all adult tenants on the lease and a signed copy of any additional rules and regulations (similar to Wisconsin Legal Blank Form 984 and/or 994)
- Visual documentation (i.e. dated photos or video) of property taken at time of move-in and periodically during the tenancy if possible. This visual documentation should be acknowledged by the tenant either in writing or through videotape, and include the date the documentation was obtained.

- Completed tenant inspection/acceptance form-signed and dated the first day of tenancy and then again 7 days later as provided in chapter ATCP 134 of the Wisconsin Administrative Code

The landlord or third party witnesses should be on scene when MPD arrives. The landlord, or agent of the landlord, should be present when the tenant vacates the property to complete a checklist for damage. The landlord should then be prepared to follow through and come to court should the determination be made that a citation or criminal arrest is appropriate.

What types of damage can be reported?

Any property damages that is the result of an intentional act by a tenant or other occupant should be reported to the police department. Typically, property damages less than \$750.00 will not be prosecuted criminally. Lower damage amounts may be eligible for a municipal citation. Accidental damage will not be prosecuted.

How long can a landlord wait to report property damage?

A landlord should report damage as soon as it comes to his or her attention. Delay will only increase the chance that the case can not be proven. Damage must have occurred no more than 15 days prior to the time the damage is reported to the Milwaukee Police Department.

What are the criteria needed by the MPD to institute an investigation?

A landlord should have all of the necessary documentation as described in this brochure. In addition, there needs to be either a witness to the damage, or an admission by the tenant or responsible party, or strong circumstantial evidence. One or any combination of these additional items must provide probable cause to the investigating officer that criminal damage did occur.

What court hears these cases?

The DA will be the charging agent in criminal damage to property cases. Such cases will be heard in Milwaukee County Circuit Court. However, cases that do not rise to the level of a criminal charge may still be eligible for a vandalism or other related municipal citation. These citations are handled in Milwaukee Municipal Court.

Is this simply a mechanism for getting restitution?

NO! Restitution is something that may be awarded by the court system. However, having the proper documentation is the first step to acquiring that restitution.

Will the DA prosecute all cases?

NO! The DA will only prosecute cases that can be proven beyond a reasonable doubt. The guidelines are designed to assist law enforcement in meeting this burden. However, following the guidelines will not eliminate that need for a credible eyewitness to the damage, an admission to a credible witness by the person who committed the damage, or very strong circumstantial evidence for a successful prosecution of the criminal damage to property.

What will happen to the offending tenants?

Offenders can be subject to arrest. In some cases offenders may be ordered in to the District Attorney's office. The District Attorney will decide on how the case would proceed from that point. At times further investigation may be needed to establish the probable cause needed to arrest or charge a responsible party. In all circumstances the landlord must cooperate with the investigation and be willing to follow it through to prosecution.

If found guilty of the crime of criminal damage to property under Wisconsin Statute Section 943.01, offending tenants may receive up to 9 months in jail and/or a \$10,000 fine. In addition, probation and restitution may be ordered in the criminal case. If the tenant receives a municipal citation, they face possible restitution and a fine up to \$500.

How can I keep this from happening in the future?

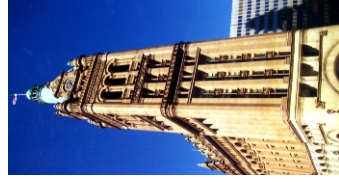
It is critically important that you adequately SCREEN your tenants. ALWAYS do a criminal background check (wcca.wicourts.gov.) run a credit report, and make frequent inspections. There are numerous other resources available for screening tenants. To learn more, attend the City's Landlord Training Program, it is **FREE!** Call 286-2954 for dates and times.



Become one of 15,000 landlords and property managers who have taken the FREE Landlord Training Course!

CRIMINAL DAMAGE TO PROPERTY

- Steps to prosecute those who damage rental property
- Guidelines to gather evidence
- Investigation techniques
- Judicial practices and outcomes
- Protecting against future damage
- Effective and legal tenant screening techniques
- FREE Landlord Training Course



City of Milwaukee Department of Neighborhood Services

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Frequently Asked Questions?

Q. Where can a landlord obtain information about police activity at a property?

A. Anyone can request information of prior police police service at an address through the Open Records Section of the MPD. The request must either be submitted in writing or in person at The Open Records Section, 2333 N. 49th St., Milwaukee, WI 53210, 2nd Floor. Any further questions on what information is available, please call 935-7502.

Q. How do I access the City of Milwaukee Municipal Court System records?

A. Go to <http://www.court.ci.mil.wi.us/>

Q. How do I access the State of Wisconsin Court System records?

A. Go to <http://lwcca.wicourts.gov/index.xsl>

Q. How do I contact the owner of a property in the City of Milwaukee?

A. Non-owner occupied property must be recorded. Go to <http://www.city.milwaukee.gov/display/router.asp?docid=1566>