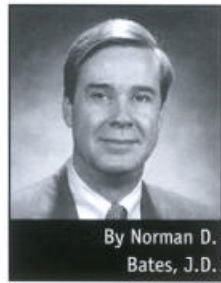


# INADEQUATE SECURITY LIABILITY



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**Victims of violent** crime have discovered an alternative to the criminal courts for compensation: sue the property owner for inadequate security. Some say it started with the famous Connie Francis rape case against a motel in New York in the early 1970's, in which inadequate security was charged because the intruder gained access to the singer's room via a sliding glass door with a defective lock. Since then, there has been a multitude of litigation charging inadequate security against privately owned businesses, with significant verdicts often exceeding a million dollars.

Property owners and managers must understand the implications of inadequate security, and address the security needs of their properties. Although security programs can be a costly overhead expense for any business, going without it could be devastating.

When asked what security means, most people think of a uniformed guard roaming around a parking lot or screening visitors at a reception desk. While the use of manpower is a common means of providing security at a site, it is only a small part of a property's security program. Policies and procedures that are well designed and followed religiously go a long way to securing any facility.

These policies include such considerations as being aware of crime trends in the building or the neighborhood, notifying tenants of crime trends, controlling master keys, pre-screening employees, including criminal background checks and repairing broken locks. These issues are all part of a programmatic approach to security that a property manager must take to achieve an effective level of security. In doing so, he or she also helps protect the property from liability lawsuits.

Developments in premises security law nationally include a change in the rules on what constitutes notice of risk, otherwise known as "foreseeability", and the increased use of states' consumer protection or deceptive trade practices acts.

Regarding foreseeability, the trend is to the new rule known as the “totality of circumstances” test. This test allows plaintiffs to present evidence other than prior crime to establish the foreseeability of the criminal act.

As to the deceptive trade practices and consumer protection acts, plaintiffs can recover up to three times their actual losses plus legal fees and costs. A violation of this act usually occurs when a defendant has engaged in unfair or deceptive business practices, and plaintiffs bringing a claim under these laws are asserting that the defendant misrepresented critical information or otherwise deceived them, resulting in harm to the plaintiff.

## **TIPS FOR REDUCING CRIME AND LIABILITY**

There are numerous measures that can be taken to improve security at a site and reduce the risk of liability. Some are simple and inexpensive, such as a “Charlie Bar” in the track of the sliding glass door. Here are a few more:

- Be aware of crime levels both within the site as well as the surrounding neighborhood and track this information year to year.
- Do not make any representations to prospective tenants or others about how “safe” it is at your site.
- Be sure that both security and non-security staff are properly trained for their positions.
- Conduct pre-employment screening of applicants, including criminal history checks on those to be issued master keys.
- Have written policies and procedures for all security-related matters.
- Provide a system of supervision of security personnel, whether in-house or contracted.
- Regularly inspect the property for security deficiencies such as burned out light fixtures, broken locks or forced openings in fences.
- Document tenant complaints about crime-related problems.
- Effect repairs to security equipment as soon as possible.
- Obtain independent evaluations of the site’s security program.
- Keep informed about trends in premises security litigation.
- Document all actions taken to maintain the security program.
- Enlist the aid of tenants in maintaining the security of the site.
- Advise tenants about occurrences of crime that could affect them.
- Maintain a pro-active approach to the problem of crime—do not wait until after a loss has occurred to correct a deficiency.

The single most important aspect of any security program is awareness. Property owners must develop an awareness of what constitutes risk at their sites, involve tenants in the process of developing a viable security program and integrate security practices into the everyday management of the facility.

**Norman D. Bates, J.D., is president of Liability Consultants Inc., an independent security management consulting firm in Sudbury, MA and Tucson, AZ.**