

Hiring The Right Security Expert

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Expert witnesses may be overused in some classes of litigation. However, they are often neglected or underused in security negligence matters.

In fact, few attorneys know what to look for in a security expert. A presumed asset may ultimately prove to be a liability in the courtroom. Further, there seems to be an anti-expert trend developing among some attorneys and judges. This attitude is particularly prevalent in the security/loss control bailiwick. Based upon the review of depositions of some security "experts," I understand this growing perception--that the credibility and competence of security experts are becoming suspect. For example:

- In two cases involving late night attacks, security experts testified that lighting was inadequate after viewing the properties in question during the daylight hours. (Lighting exceeded the standards in both cases.)
- Recently, a security expert testified that no lighting standards exist, except for a 1916 standard found in an unidentified book in a small-town library. (Up-to-date minimum and recommended standards do exist.)
- A security expert testified that an apartment building was exceptionally vulnerable based on the high population of single female tenants. He based this belief on a walk through the complex. (The population of single females was actually 23 percent.)
- A security expert testified that crime statistics in a rural Michigan township were the worst he had ever seen in the United States. (The actual crime statistics showed the township to be relatively crime free.)
- In several cases, security experts have testified quoting the volume of public service calls, as if they were true crime statistics. (Public service calls include dog-catcher runs, EMS responses, fire department runs, motorist assistance, etc.)
- A security expert testified that security at a small manufacturing plant was deficient and not up to security standards. Why? Because the plant "lacked a moat." (Ironically, the case involved a February incident - when a moat would have been iced over and any supplemental alligators would have been dormant.)

Most negligence cases tend to share a certain sameness and, frequently, those cases progress in a predictable manner. In such routine causes, experienced

attorneys can draw on their personal experience and expertise to provide the best service for their clients.

However, each security negligence matter tends to be distinctly different. Many attorneys handling these types of cases find it difficult formulating a good working definition of the term "security." Due to a lack of experience with real-world security, lawyers are forced to base their initial conclusions about a case on incorrect assumptions (often shared by the general public). Such flawed presumptions, when applied to case strategy, can prove disastrous.

What Is A Security 'Expert'?

A security expert is a security practitioner; that is, a person who makes a living working in the security field on a daily basis.

In general, law enforcement officers, college teachers, sociologists, private investigators, psychologists, business managers and criminologists cannot be considered security "experts." Attorneys who have employed people from these professions often find that they lack credibility and expertise in security as "security practitioners."

Of course, there are exceptions to this rule. For instance, a police officer trained and functioning as a community affairs officer conducting regular security surveys would certainly be qualified as a security practitioner. But most police officers respond to criminal events and often will be the first to admit they have little knowledge or expertise in the security field.

In addition, a college professor who teaches security courses, who has earned the CPP (Certified Protection Professional) certification by examination, and who performs off-campus security evaluations may also be qualified. However, some faculty members may reject the reality that one annual crime per 40 citizens is about as good as it gets. Instead, some prefer theoretical assumptions.

What To Avoid In A Security Expert

A security expert who completely agrees with the attorney's initial conclusions, strategy and analysis of predictability and liability will probably lose the case for that attorney. Like a real estate agent who lists a \$200,000 home for \$250,000 because the owner "thinks" it's worth that much, a security expert who concurs with the lawyer's conclusions about an adverse security event should always be viewed with suspicion.

Few attorneys have real knowledge of security beyond Williams v. Cunningham. It should be the job of an ethical expert to point out the problems with inaccurate conclusions, particularly when standards are involved. If the attorney's expert does not note these flaws, the opponent's expert can be counted on to do so at a less opportune time.

For example, a trial lawyer in Philadelphia hired a security expert to evaluate the potential of a case before commencing suit. The case involved the murder of a tenant in an apartment complex where the security was deplorable. Community standards were significantly higher than the security at this complex, exterior locks did not function, security officers were sub-standard in performance, and management was not responsive to documented tenant requests for security-related maintenance. However, the security expert said all of this was irrelevant because the perpetrator was found to be an invitee of another tenant. Thus, regardless of the level of security, the perpetrator would have accessed the building in the same manner, the security expert said. Therefore, the attorney did not file suit. The lawyer saved a substantial investment on a losing case.

In yet another matter, an expert reviewed a case for the defense and concluded that the case was indefensible. This wasn't what the attorney wanted to hear. But working with these facts, a quick and reasonable settlement was negotiated with the plaintiff.

What To Look For

Certification

The only credible, recognized credential for a security expert in the United States is the Certified Protection Professional (CPP) designation, awarded by the American Society for Industrial Security, International. This is similar to the CPA certification regarding experience, examination and continuing education. The exceptions here are those CPPs who obtained their certification by means of review when the program was created 20 years ago. Approximately 30 percent of today's CPPs obtained their certification under this grandfather provision and did not earn their credentials by examination.

Other certifications such as Certified Security Trainer (CST) and Certified Fraud Examiner (CFE) may be of value in some security-related cases, but only when held by the expert in addition to the CPP.

Education

The professional security field is relatively new and few practitioners hold related degrees because curriculums and degrees have not been offered until recently. Most security practitioners obtained their relevant education through industry symposiums, seminars and workshops.

Experience

The security expert's primary experience should be as a security practitioner, not as a sheriff, FBI agent or teacher. This experience should relate to proprietary security management or security consulting. There is a growing population of retired law enforcement officers, personnel managers and even maintenance managers who bill themselves as security consultants. Therefore, it is important to verify that alleged security consultants truly have backgrounds in security. Equally important is confirming that these consultants actually perform security consulting work for clients for a fee. Additionally, because the security field has

been changing rapidly. it is important to ensure that related, experience is reasonably recent.

Finding An Expert

In other types of litigation, attorneys often rely on referrals from professional associations when seeking a qualified expert. However, this usually doesn't work in security or loss control actions because colleagues seldom have any greater knowledge of what to look for in the way of qualifications.

LEXIS and other referral services, such as TASA (Technical Advisory Service for Attorneys). can sometimes come to the rescue. But before requesting curriculum vitae and interviewing prospective experts, attorneys should invest the time to read perhaps the most informative book written specifically on the subject: "Security & Loss Control Negligence," by Norman Bottom Jr., Ph.D. (Hanrow Press "Nuts .& Bolts" Series in Personal Injury Litigation). It's a quick read, about 250 pages. and the knowledge gained-from it will go a long way in initiating the attorney inexperienced in these matters.

The book is an asset in helping the attorney find a qualified and competent security expert--and a competent security expert may prove to be the critical element that ensures success at trial.

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