

SEX, DRUGS & VIOLENCE: IDENTIFYING AND LITIGATING INADEQUATE PREMISES SECURITY CASES



BY JOHN ELLIOTT LEIGHTON, ESQ.

Leighton Law, P.A.
1401 Brickell Ave., Suite 900
Miami, FL 33131
888-395-0001
www.leightonlaw.com

Florida is a leading state in many areas. Unfortunately one of those distinctions is in violent crime. In 2008 there was one violent crime every 4 minutes and 11 seconds in Florida. Violent crimes are not rare, yet identifying and developing and litigating premises security cases can be much more complex.

Inadequate premises security cases present substantial practical, factual, legal and economic obstacles for recovery. They

are difficult and expensive to litigate. Yet they play a major role in creating incentives for businesses to provide adequate security. It is a direct result of this litigation that we now see security guards, better lighting, improved design and an overall security awareness at commercial properties that was not present 20 years ago.

As in all tort cases, a duty must first be established as a threshold for liability. The extent of that duty will depend on the nature of the premises, the foreseeable criminal activity on or near the premises, and the relationship of the parties.

Violent crimes are almost always deterrable. That means that if the business in question utilizes reasonable security measures, whether security guards, lighting, closed circuit television cameras, perimeter control, natural surveillance or other means, the crime would not occur. Experts know that criminals are looking for victims in places where they have the best chance of getting what they want with the least chance of being seen or apprehended. If the criminal is a pedophile “shopping” for a young victim, he or she may target amusement parks, game centers, playgrounds or parks. The criminal “shopping” for an easy target for money may gravitate toward ATMs, shopping centers, malls and stores. Women walking through parking lots at malls and apartment complexes are frequently targeted. Tourists visiting resorts and hotels are considered easy targets because of their lack of familiarity with the area, the likelihood that they are carrying valuables, and the reduced chance that they will travel back to prosecute in the event an arrest is made. Violent crimes occur in many different types of locations, but they all have one thing in common: most of them

are easily prevented through reasonable security.

Key factors in premises security cases include their civil merit, expert witnesses, and foreseeability. These cases are often overlooked because the initial focus is on the criminal(s) who committed the crime. Realistically, few perpetrators are financially solvent and therefore many attorneys assume such a case has little civil merit. Virtually all premises security cases require the use of one or more expert witness. Finding and utilizing the proper expert is of utmost importance, as the investigation will often be tailored to the expert’s theories of liability. The breach in the prevailing standard of care, much like in a medical malpractice case, will be established through the foreseeability of the crime relative to the precautions taken in light of that foreseeability. Establishing both the foreseeability and negligence, plus in many cases causation (preventability), generally requires a competent, skilled expert in the field.

Because crime has continued to ravage our communities, violent crime has become more foreseeable and even predictable. The security industry has become much more sophisticated, and through the use of today’s technology, deterrence has become much more affordable. Through skillful lawyering, thorough investigation, tough and tenacious litigation, and effective use of expert witnesses, inadequate premises security cases can be won even in situations that initially appear factually difficult. The victims of crime deserve their day in court as much as the perpetrators do. The key is to identify the case where a violent crime has occurred because of a failure to provide reasonable security. ¹