



ASSOCIATION CRIME PREVENTION

Being safe from hazards and perils is often taken for granted, unless threatened in some way. Residents, employees, invitees, and guests expect the buildings in which they live, work, and do business to be safe. While it would be physically and financially impossible for most community association board members and managers to protect against every possible danger, certain high risk areas are sometimes overlooked.

Because the courts expect “reasonable” efforts in protecting the public, this newsletter addresses some sensible steps that can be taken to reduce crime, protect members, and prevent liability from taking a financial toll.

Some of the suggestions are common-sense, inexpensive methods of protection; others involve considerable effort and outlay of funds. Not all of them will be necessary for your association. By identifying potential exposures for criminal activity before they occur, a professional risk management and insurance agent can help reduce these risks and make your property safer.

Community association owners and managers must adopt a proactive stance to ensure the security of their association.

Make crime analysis an ongoing effort

Before you do anything else, it is imperative that you know what your own association documents say. Review all association documents, including declarations, bylaws, articles of incorporation, policy resolutions, rules and regulations, minutes, insurance policies, contracts, and correspondence. A professional risk management and insurance agent can help conduct this document audit.

In addition, regular audits of all crime prevention procedures should be performed. By identifying crime problems, steps can then be taken to reduce or eliminate the cause of the problem. The goal of a crime prevention program should be to eliminate criminal activities.



Consider hiring an independent patrol service

Does your association need the services of security guards? Well-trained guards patrolling the premises provide obvious benefits, chief among them being a visible deterrent to crime. The primary disadvantage of hiring guards is the cost.

To determine whether or not to have guards on the premises, association owners and managers should answer the following questions:

- What is the crime rate in the area?

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- Has the area experienced any recent incidents of crime?
- Are police patrols adequate?
- Is your association part of a neighborhood watch program?

If the answers to the above questions warrant hiring guards, associations should be aware of the issues surrounding personnel. Employees, off-duty police officers, and independent security services are three options for providing personnel.

Employees are generally covered by all of the association's insurance policies; however, risk management concerns regarding hiring, training, and vicarious liability exist.

Off-duty police officers present special insurance and risk management concerns, including criteria used for selection, whether the officers will be armed, and vicarious liability. If the officers are employees of the association, they are covered under the association's insurance policy; if they are independent contractors, they are not.

Independent security services generally are not covered by an association's insurance policies, and selection, insurance, and liability are major risk management concerns. Because of the risk management concerns associated with using employees and off-duty police officers as security guards, USI recommends that associations use a reputable and insured independent security service.

Before you hire a firm, verify its insurance coverage. For general liability,

we suggest a minimum \$5,000,000 Combined Single Limit with a \$5,000,000 aggregate limit.

It is essential that the association have a Certificate of Insurance on file to confirm the contractor has appropriate insurance coverage. Policy lim-

TOTAL ECONOMIC LOSS TO VICTIMS OF CRIME*	
Type of crime	Gross loss (in millions of dollars)
Personal crimes	1,370
Crimes of violence	1,341
Pocket picking	16
Purse snatching.....	14
Property crimes	14,198
Household burglary	3,341
Motor vehicle theft.....	6,214
Theft	4,643
All crimes	15,568

* Source: *Criminal Victimization in the United States, 2002*, Bureau of Justice Statistics, U.S. Department of Justice

its should be provided, to the fullest extent possible, to the benefit of the association, or the contractor should be asked for a loss run for the current policy term to confirm that aggregate limits are not in jeopardy of being exhausted. In addition, you should

verify the scope of coverage that the insurance provides and make sure that the association is an insured.

The contract should include an indemnity clause with a "hold harmless agreement" in the association's favor including both indemnification and defense provisions, which protects the association's interests against claims, suits, or other causes of action caused by or arising out of the contractor's work.

For workers compensation insurance, you should confirm that the coverage conforms to your state's statutory requirements. For automobile insurance, the firm should have owned, non-owned, and hired car liability with a coverage limit of not less than \$1,000,000 CSL. Again, verify that any aggregate limit is not in jeopardy of being exhausted.

Armed guards are a significant concern for insurance company underwriters. These concerns at the very least could limit an association's insurance alternatives and perhaps have a negative impact on premium levels and coverage availability. Accordingly, from an insurance risk management standpoint, we recommend that guards not be armed.

Also, you should not guarantee or imply completely secure premises. Monitor leases, advertising, and descriptive literature to guard against implying more security than may exist or overstating the effectiveness of protective features.



Involve management in crime prevention procedures and maintenance

In order for crime prevention to become a habit, management must become involved with the program procedures. The following steps

should be incorporated into management methods:

- Be aware of accidents and review accident records.
- Take crime prevention performance into consideration in the evaluation of supervisory personnel.
- Follow up on suggestions and complaints.
- Check to be sure management personnel follow company rules regarding accident reporting and record keeping.
- Provide adequate job training.

ASK THE EXPERT

“Ask the Expert” is a regular column in *Insurance Focus*, featuring an interview with an expert about an important insurance issue facing community associations. This month our expert is Mr. Peter S. Philbin, Esquire, a principal with the law firm Rees, Broome & Diaz, P.C., in Vienna, Virginia. The firm provides legal services to community associations throughout Virginia, Maryland, and the District of Columbia.

Q: Do community associations owe a duty to their residents to provide for security or protection against criminal acts within the community?

A: Generally, whether a landowner has a duty to provide security or is otherwise liable for criminal acts committed on his or her property will be dependent upon the nature of the relationship of the parties. Landlords owe a higher level of care to their tenants due to the nature of the control they can exercise over the rental community.

Similarly, community associations that control access (e.g., high-rise/gated community) may have a higher duty than those associations that do not control access. However, even community associations that do not control access may be found responsible for the consequences of criminal acts if the criminal act was foreseeable and/or the governing documents of the community imposed certain responsibilities on the association.

Whether a criminal act was foreseeable will be based on the circumstances, including past history of incidents, knowledge of such incidents, and whether the community association could have, or should have, taken reasonable steps to

prevent or minimize the risk of such an incident. A failure to replace common area lighting, fix broken doors and gates in the common areas, pursue repeated trespassers on the common areas, etc., are the types of facts that could be used to impose responsibility on a community association.

The law is evolving in this area as far as community associations are concerned. Community association boards should be vigilant and operate on the assumption that injured residents will often try to link the criminal act to some failure of the community association. This vigilance requires a careful analysis of the community, but, at the same time, a recognition that too much involvement in “security” may create expectations or duties that may not have existed but for the involvement.

Community association boards should periodically consult their insurance advisors, management, and legal counsel to review the particular characteristics of their community, the governing documents/covenants, and state and local law to assess what actions can, and should, be taken to minimize the risks of criminal acts within their community and to help protect the community from liability should such acts occur.



All accidents and incidents should be recorded. Often, an injured person will pursue a claim because of the poor manner in which he was initially treated, or because the claim was reported late and no effort was made to provide proper attention. Courteous treatment throughout can result in much smaller claims and can even prevent claims.

Develop an alliance with local law enforcement

Developing an alliance with local law enforcement is the most valuable facet of a facility crime prevention program. Be an active participant in your Neighborhood Crime Watch Program. Primarily, the participants in these efforts keep an eye on each other's property, checking for such things as suspicious behavior and unusual vehicles.

Meetings are usually held once a year (or more often, as necessary), at which time block captains are chosen and police officers give tips and advice on preventing crime. Usually an electric tool is available through the police department for members to engrave an identification number on radios, televisions, DVD players, and the like.

In the case of large buildings, vigilant neighbors can be made aware of factors that increase the potential for

criminal activity, such as doors being propped open, defective crime prevention equipment, and broken lights. Such programs, in addition to reducing crime, result in a team effort on the part of management and residents.

Pay special attention to parking areas. Parking lots, particularly late at night, pose a specific crime problem. It is difficult to keep people out of such areas if they are determined to get in, but steps can be taken to ensure safety. Although visible signs of crime prevention, such as guards at entrances, alarms, access control systems, and cameras, may be expensive, they do serve to deter crime.

However, less expensive deterrents are available. These include adequate lighting, secure perimeters, secure elevators and stairwells, elimination of hiding places, see-through fencing, designated parking for guests, and good visibility throughout all parking levels.

Maintain open lines of communication

Community association board members and managers must adopt a proactive stance to mitigate criminal activity. The most effective tool is communication with members so that problems are known to be taken seriously by management.

By following up and documenting steps taken to reassure members that everything possible is being done (within reason), adversarial relationships can be prevented, and with them, legal hassles. By acknowledging reasonable care owed its members in matters of crime prevention, management can work with association members to make their community a safer place to live and work.

Ask for more information

Crime prevention is an increasing area of concern for community associations. It is critical to review your association's legal responsibilities and insurance needs with qualified professionals. If you have any questions or need further information, please contact Steve Dickerson (703-698-0788 or Steve.Dickerson@usi.biz) or Theresa Swan (703-698-0788 or Theresa.Swan@usi.biz).

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