

## Negligent Security: After Injury, How Does a Plaintiff Prove Fault?

**Negligent security can happen to anyone, anywhere.** None of us are immune to this dangerous mistake business and property owners make, and we can all pay for this carelessness at any given time. When one is hired to do a job or has reason to be at a residence or business, their safety must be ensured. Accidental shootings, stabbings, and assaults resulting in permanent injury and fatalities are more likely happen when a business owner or landlord fails to secure their property. These business owners and landlords must put the safety of their customers, employees, and tenants above all else! If they don't, they're putting themselves at-risk for becoming liable and ultimately sued.

In a court of law, a plaintiff and their attorney must prove the business (or property) owner was aware of the rate of crime surrounding the area in which they maintain their business is exponentially higher than other neighboring areas. Furthermore, they must be able to prove the owner failed to update or maintain their security in accordance with the crime rate. When negligent security can be proven, the property owner may be responsible for damages awarded to the plaintiff for their pain and suffering.

### The proof lies with the plaintiff

When it comes to negligent security, and in turn premises liability, the plaintiff will be asked show very specific details that deem the defendant responsible (liable) for their pain and suffering. When it comes to a negligent security action, the attorney must provide proof on behalf of their injured client that the proprietor failed to act in a manner considered reasonable.

"Reasonable" in this instance would mean they failed in the due diligence to discover criminal activity similar to what the victim endured; they also must be proven to have failed to provide sufficient warnings to the plaintiff about the rate of crime in the surrounding area. If the victim wasn't given adequate warning and could not properly protect themselves (concealed carry, rolling up car windows, etc.) the property owner may be responsible for the damages owed to the plaintiff.

The plaintiff is also responsible for proving that they, themselves were on the owner's property in a reasonable and more importantly, legal, manner. Were they hired to do a job? Were they shopping at the owner's business? These things must be laid out for the judge and jury in order to provide the necessary proof required to obtain compensation after an accidental shooting, stabbing, or assault.

There is also the critical aspect of "foreseeability". Foreseeability can be defined as:

*Foreseeability is a requirement under tort law that the consequences of a parties action or inaction could reasonably result in the injury. In such cases, the resultant injury was reasonably predictable by a person of ordinary intelligence and circumspection as in the case of throwing a heavy object at someone.*

In most states, the judge can determine this factor based on precedent. This means the judge will most likely look critically into whether similar crimes took place in the area, thus being able to prove the property owner did not act reasonably. If the property owner was aware of the crime rate yet did nothing to secure those who frequent their property on a regular basis, they become liable for any citizen who becomes injured when visiting their property legally, for any reason.

**To summarize, the plaintiff must prove:**

- Duty of care was not exercised in discovering the area's prior crimes
- The plaintiff must prove he or she was on the premises in a legal manner; hired to do a job there, shopping at a business, etc.
- The property owner knew of security risks but failed to maintain or update their security to provide adequate protection for those who must come onto the property to do business or perform a job

**Restatement of Torts—more confusing legal jargon?**

To be able to prove negligent security has occurred and that a victim is entitled to compensation as a result, the Restatement of Torts must be applied. What is this legal statute and why must it be utilized in accordance with personal injury law, namely negligent security and premises liability?

According to *The American Law Institute the Restatement of The Law Second, Torts* is described succinctly as follows:

*This work, widely relied upon and often cited by the courts, offers comprehensive and concise coverage of the law of torts, with scholarly and analytical discussion of particular rules. These volumes constitute a revision of the original Restatement of Torts and supersede the original work.*

So, what is the purpose of this specific text, and why do personal injury attorneys rely on it in regard to negligent security, among other, cases? The reason for that, is pretty straightforward: an attorney utilizes this text because it contains covers causes related to physical and emotional harm, as well as specific actions related to liability claims. Simply put, it's an accurate summation of the principles of tort law found within the United States.

Contact us to schedule a complimentary consultation. There's no obligation. Take the first step and call today: (877). 529-0080

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