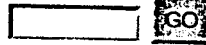




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Crime-Risk Prediction IMPROVING SITE SELECTION AND COMBATING PREMISES CRIME AND LIABILITY LAWSUITS

By Robert M. Figlio

Convenience is a much-valued requirement for successful consumer-oriented businesses—and shows no sign of becoming less prized by shoppers or less pursued by business owners. Of course, the downside of locating businesses at easy-to-find and easy-to-access sites is criminals generally have little trouble finding and preying on them. From convenience stores to gas stations to car washes, virtually all retail convenience businesses must deal with the dual issues of premises crime and liability.



The stakes are obviously high for business owners, property managers and insurance companies. In addition to billion-dollar losses from theft, violent crimes involving customers and employees are ultimately the most damaging. Victims and their families can suffer for years following a criminal incident, and businesses suffer immediate and long-term damage as well. There is the immediate disruption among employees and the impact on public image.

The aftermath of violent incidents often play out over years, particularly the inevitable lawsuits against property owners and managers. While data on such matters are difficult to find, jury awards, settlements and legal fees cost businesses and property managers millions of dollars every year. Added to this are the substantial costs of insurance premiums and risk reserves. Further, the considerable, but incalculable, indirect costs of reputation, lost business and management distraction add salt to the wounds of these premises-liability attacks on business profitability.

So it is hardly surprising that a school of conventional wisdom grew up in response to crime trends: Don't go there! Over the past 50 years, fear of increasing violent crime, drugs and gangs caused a widespread exodus of people, jobs and retail establishments out of most U.S. cities. The trend was for retailers and other businesses to avoid densely-populated urban neighborhoods where general reputation and local police-crime reports indicated high crime risk. The growing,

conspicuously more affluent and safer suburbs became the preferred destination for middle America and its retailers of choice.

However, the tide is turning. In the late 1990s and moving into this decade, retailers, security staffs and insurers are changing perspective. Today, if you ask many gas station, car wash, fast food and hospitality executives if they are looking seriously at opening new stores in inner-city neighborhoods, the answer is a resounding "yes." The rationale they use is important.

Even though suburban violent crime rates are generally still below those at urban locations, every year there are thousands of incidents of violent and costly crime at well-landscaped suburban shopping centers and industrial complexes. Drug- and gang-related crime, retail shoplifting and workplace violence have skyrocketed. Those safe and secure suburbs are less so today.

On the other hand, there is a strong emerging trend that has businesses making billion-dollar bets that, regardless of the crime rates, more and more inner-city locations are just too tempting to pass up. Consider:

- Big-city developers across the United States are building billion-dollar retail, entertainment and residential complexes at abandoned urban industrial and waterfront sites.
- Mass retailers are accelerating their investment in new urban stores. Several, such as Home Depot and Lowe's, are reporting some stores in poor city neighborhoods are outperforming those in much wealthier suburban areas.
- Several of the largest hotel chains have taken advantage of low real-estate prices in urban neighborhoods proximate to major transportation arteries. Occupancy rates at many of these new properties are among those chains' strongest.
- It is now becoming easier to buy gasoline and get your car washed in even some of the formerly roughest inner-city neighborhoods.
- So what's going on? Why and how are businesses staring high risk in the face and not blinking? It's demographics and economics—and the opportunity to make money.

Some years ago, Harvard Professor Michael Porter founded the Initiative for a Competitive Inner City (ICIC). His goal was to challenge the business community as well as current and potential inner-city residents, to avoid writing off urban neighborhoods as too blighted by crime and poverty to be viable communities. As Porter eagerly points out:

- America's inner cities represent \$85 billion in retail spending per year.
- There are about 8 million households in our inner cities, and 54 percent of workforce growth over the next 10 years will come from minority communities, which are heavily concentrated in cities and inner cities.
- Approximately 25 percent of inner-city retail demand is unmet by retailers in the inner city.
- Retail demand per inner-city square mile is often two to six times greater than each metro-area square mile. Conversely, many urban neighborhoods are still severely underserved, by as much as 60 percent in some cities. This represents an untapped multibillion market at

the same time that suburban demographic and business trends are becoming less attractive.

Crime, of course, is still a real and present threat. Crime follows prosperity. Drugs and gangs still influence violent crime rates across America—from inner city to suburban neighborhoods. So if crime threat meets business opportunity face to face, and when the opportunity to build a profitable business wins out, what tips the decision?

External Threat Data

To prove strong support to businesses in this new urbanization movement, property managers, risk managers and security managers are adopting much more aggressive, technology-oriented approaches to business-risk management. This includes the fast-growing proactive use of crime-prediction technologies and the development of new perspectives on premises liability and litigation defense.

Courts, law enforcement authorities and security directors are becoming increasingly aware that past crime activity in a specific neighborhood can be a relevant indicator of the likelihood of future crime at that location.

Crime statistics from the U.S. FBI Uniform Crime Reports and Canadian Center for Justice, along with local police records, are easily obtained sources of historical crime data. However, both sources are flawed because of well-known disparities in police activity and reporting methods. Security directors at large property-management firms often complain this relatively "raw" data becomes even less helpful when evaluating potential sites located in many different law-enforcement jurisdictions. Data collection inconsistencies make valid and reliable quantitative comparisons impossible.

There are several national risk analysis firms, like CAP Index, that started attacking this problem with crime-risk reports. These firms factor in average income, transience, average age, educational level of the population, housing conditions, family structure and several crime measures to determine a neighborhood's level of "social disorder" and, therefore, the likelihood of various types of crime which may occur there.

Property-management firms, retailers, banks and insurance companies in the United States and Canada can now evaluate and compare the crime environment in neighborhoods surrounding their current properties and prospective expansion sites. Interestingly, the research data reveal that an increasing number of shopping malls and retail outlets are located in areas with above-average crime risks.

The key point is that these external crime-threat data provide insight into risk levels at specific properties, enabling property managers to make informed decisions about site acquisition, and security directors to determine the appropriate level of security at a given site.

The bottom line value is a business decision based on trustworthy data and analysis. An effective crime-risk report can be used as part of the location decision equation while simultaneously providing input for security allocation decisions that are threat appropriate.

For example, a major shopping mall developer recently decided to build an inner-city shopping mall, despite the fact that the property was located in an area with a high-crime risk. But the retailer decided—given the neighborhood was in the midst of an urban renewal process and its market demographics were promising—increased investments in security measures would be both initially cost-effective and, over time, even provide a positive ROI.

Designed and installed at that mall are access control, parking structure surveillance, and a daily security officer presence. In addition, individual stores manage their own loss prevention safeguards and coordinate efforts with mall security.

Many gas station and fast food chains regularly order crime-risk reports and maps to identify changing crime trends across locations. They use this data in conjunction with in-store security incident data as the basis for re-evaluating store security practices.

Can Knowledge Be a Dangerous Thing?

Property and security managers occasionally ask questions like: "Would I be better off not knowing about crime risks? Would quantifying crime risks at my stores or outlets require big spending on more security?"

The short answer is "no." Legal experts suggest, rather than exposing clients to liability based on their knowledge of potential risks, obtaining crime-risk reports should actually help shield them from potential liability. Courts have traditionally imposed an obligation on property owners to determine the risks at their property, and to use reasonable efforts to mitigate those risks. As the courts become aware that well-proven technological and analytical means exist to predict crime risks, they are expecting property owners to make use of that knowledge and to take responsible, appropriate action.

In a number of high-profile premises liability lawsuits, including the case of *Moore v. 7-Eleven 2001* (U.S. Federal Court, Eastern District of Pennsylvania, 003640), in which the plaintiff filed Daubert Challenges against both the use of a crime-risk report and expert testimony, the Court dismissed both challenges. It found the explanation of the report's methodology and extensive track record spoke compellingly to the validity of its data and interpretation.

So more than ever today, the burden is on retailers and their property managers to answer two questions:

1. Did management make an effort to determine the level of threat of various types of crime that existed in and around that property before and at the time of the incident?
2. Were the security safeguards in place at that time appropriate to the level of threat, and were they functioning as designed at the time of the incident?

Location and Security Are Business Decisions

The approach to selecting a high-potential site, and then providing appropriate security for it becomes clearer: Design a rational data-based security regimen and begin to implement the plan, documenting your actions along the way. Even if the plan is only in progress when a liability-related crime occurs, the presence of a rational security plan based on a thorough threat analysis will most likely convince a juror that the security process was reasonable and that the property manager should not be punished for his determination of the risk of crime. *

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