

## Advice from a Practicing Attorney About Negligence and Criminal Background Investigations

The law is clear: You owe it to your employees, customers, and the public at large to take reasonable precautions toward keeping them safe. These can vary somewhat by industry and location, of course, but generally include avoiding what lawyers call "negligence," which is a very expensive word for the blame that is assigned when you ignore obvious dangers.

Naturally, a full explanation of this concept would take months and months of legal training and background study. For the sake of helping you understand the most important issues, though, let's look at the three factors that matter most to business owners and executives:

**1. Duty.** This refers to your responsibility to keep things "reasonably safe." As examples, shop owners have a duty to their customers to keep floors safe from slip-and-fall risks, doctors have a duty to their patients not to leave sponges inside of them after surgery, and landlords have a duty to their tenants to keep housing units free of dangers to health and/or personal safety.

**2. Causation.** The law isn't as simple as you might think. Just because you didn't actually *do* something yourself doesn't mean you aren't *responsible* for it, especially if you set the conditions that allowed for the event to take place. In fact, there is a lot of precedent – in the form of expensive lawsuit judgments – that shows courts will consider you responsible for something that happens in your business or organization *if you should have known it could have*. Ignorance is no defense.

**3. Foreseeability.** This is a related but slightly different concept. And if you could have taken action that would have prevented something bad from happening, not taking action is as good as having contributed to it yourself. An obvious example here would be a bar that over-serves a customer to the point of very obvious intoxication and then watches them jump into a car before injuring or killing others.

Each of these points has two important things in common. First, they are relatively technical legal terms for simple things businesses should be doing to protect their customers and employees (or in the case of nonprofit organizations, their volunteers and beneficiaries). And secondly, many decision-makers assume that they shouldn't be worried simply because they don't sell things like liquor or firearms.

That's patently untrue, and potentially dangerous. In numerous different industries (including retail, health care, education, construction, housing, and dozens of others), employees and contractors are put into close contact with other people, and even minors. Because there are often inadequate employment background investigation processes in place, it's incredibly easy for convicted criminals – even those who have committed violent and sexual crimes – to find work and housing in places where they could do terrible things.

This is because the "instant" background checks that so many organizations depend on (if they even take that step) are well known for being superficial. They certainly aren't protecting your customers, tenants, and employees; and for that matter, they aren't protecting you from liability claims, either.

If you aren't having new employees, contractors, and/or volunteers properly screened using thorough background investigations, then you aren't meeting the criteria for avoiding negligence. That's dangerous ground to be on, especially when a single incident could lead to a jury awarding millions to someone based on a simple, affordable, and convenient action you could have taken.

Negligence is a word you'd much rather read in this article than an official court document. Think about that, and call CrimShield today to get the proper screening techniques put into place for your business or nonprofit organization.

**About The Author:** J. Denton (Denny) Dobbins is Nationally and Internationally recognized as the world's leader in Premises Liability Protection and has been featured across North America sharing the stage with Political Leaders, Police Celebrities, Administrators and Business Leaders. Since 1978, Denny has been involved with the detection and deterrence of Criminal Activity in properties and employment of all types.