

# SECURITY IN BARS AND THE FORESEEABILITY OF ASSAULTS

As the hospitality industry emerges from the COVID-19 shutdown, it once again will be faced with the issue of dealing with the foreseeability of crime, most notably assaults, inside and outside alcohol-service establishments.

These establishments include bars, taverns, restaurants, nightclubs and other venues. The neighborhood bar provides a place for friends to meet and socialize. Taverns and restaurants provide customers a place to eat. Nightclubs provide a location for entertainment and for those that want to dance. The common issue at all these venues is the responsible service of alcoholic beverages. For the purpose of brevity in this article, the previously mentioned alcohol-service establishments will be referred to as bars.

Bars can be found inside casinos, hotels, and motels. Catering halls, entertainment and event venues, and fraternal and social clubs can contain or otherwise operate like a bar. The locations where assaultive behavior can occur not only includes inside the establishment, but outside the establishment including any parking facility dedicated specifically to those that patronize the establishment.

Bars have a responsibility to make their premises reasonably safe and secure for patrons and employees no matter how much alcohol patrons may drink. Assaultive behavior can occur between patrons, or bar staff (i.e., managers, waiters, waitresses, bartenders, barbacks or security personnel) can be assaulted by patrons. In some instances, patrons can be assaulted by bar personnel (e.g., overzealous security guard). The responsibility for reasonable safety and security of a patron and employee extends to all parts of the premises which the patron or employee may be reasonably expected to go and to those parts of the premises that the bar has reasonably led them to believe they can go.

*A proper way to determine if the security on a bar premises is adequate is to analyze the risks associated with the hazards, also known as a threat assessment, in conjunction with the vulnerabilities, if any, of the bar premises*

A proper way to determine if the security on a bar premises is adequate is to analyze the risks associated with the hazards, also known as a threat assessment, in conjunction with the vulnerabilities, if any, of the bar premises. The former is effectively achieved by a proper analysis of the history and extent of criminal activity on and/or near the bar premises. The latter, also known as a vulnerability assessment, is effectively achieved by a proper analysis of the security measures present on the bar premises.

By conducting proper threat and vulnerability assessments, crime foreseeability can be addressed. Crime foreseeability is the reasonable expectation of a criminal incident occurring. If a criminal incident is not foreseeable, it does not mean that the criminal incident will not occur. It means that the criminal incident was not reasonably foreseeable at that time, at that location, and under those conditions. Absolute security is not reasonable and not required, but providing reasonable security is.

In recognition of the responsibility to make a bar premises reasonably secure, security measures are implemented to comply with the standard of care for providing for the reasonable security of a bar premises. Sometimes just the presence of a bar employee is all that is required to provide reasonable security. Sometimes the absence of a security

measure, identified as a result of conducting a proper analysis for crime foreseeability, results in inadequate security that created the vulnerability for a criminal incident to occur. The security measures that are implemented to provide reasonable security at a bar are:

- **Active security measures** are security measures that are the result of direct human involvement, often exemplified by the presence of an identifiable security guard and active monitoring of surveillance cameras, also known as CCTV.
- **Passive security measures** are security measures that include the concepts of Crime Prevention Through Environmental Design, also known as CPTED. An example is the access control measures implemented by a doorman at the entrance of a bar. The doorman may have post orders that reflect policies and procedures, which are further discussed in the remainder of this article below, where underage or previously banned patrons are prohibited from entering the bar.
- **Procedural security measures** are the actions of bar personnel properly addressing the security of people, information and property while performing their duties.

Procedural security measures often reflect the policies and procedures of the bar. Bar personnel should be adequately trained in the bar's policies and procedures. It should be remembered that a bar may not have policies and procedures that address a specific incident, but a bar employee still implements a proper response.

Procedural security measures are often implemented by those not specifically dedicated to be a security guard, often referred to as a bouncer. An example of such a procedural security measure is a bartender observing an improperly behaved patron at the bar and promptly remediating the patron's behavior through verbal intervention or contacting management to address the behavior. If the patron's behavior conspicuously persists; the patron is asked to leave the bar or the police are contacted, if the patron refuses to voluntarily leave, to have the patron removed. Notably, if a patron's actions are an imminent physical threat to others, prompt actions to properly remove such a patron should be implemented.

Security personnel should be properly hired and trained. Often the required licensing and training of a security guard is identified by local and/or state government. Security personnel, along with other bar personnel not including hired law enforcement personnel, have the same rights as a private citizen and must conduct themselves as such. Any physical actions involving others must be reasonable, including the proper ejection of fighting patrons.

*Security personnel, along with other bar personnel not including hired law enforcement personnel, have the same rights as a private citizen and must conduct themselves as such.*

Bars make up a significant part of the hospitality industry and have a responsibility to provide reasonable safety and security for its patrons and employees. Reasonable security should be present, so those that work at and patronize bars are reasonably secure on the premises.

For further information, and to speak to one of our forensic experts, [contact us](#).