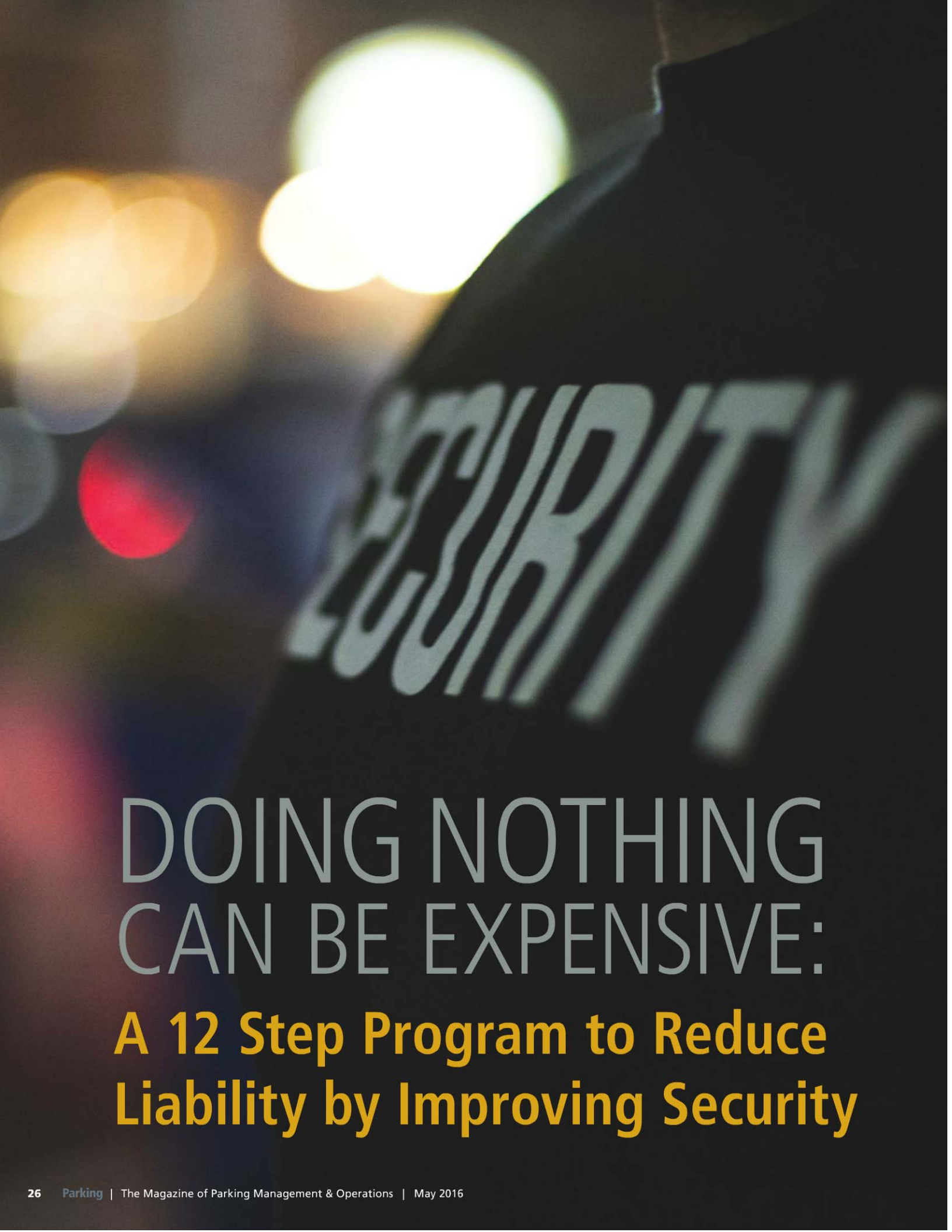




SECURITY

DOING NOTHING
CAN BE EXPENSIVE:

**A 12 Step Program to Reduce
Liability by Improving Security**



He was working his way through college and had dreams of becoming a successful businessman. But the young parking attendant never had a chance.

Shortly after being confronted by two armed men in a parking lot belonging to a prominent Philadelphia medical center, the 18-year-old attendant was fatally shot in the chest.

The culprits, one of whom was a former parking employee, were caught and convicted. A Philadelphia jury later awarded the victim's family \$5.5 million in damages for negligent security. The jury cited the medical center's failure to make significant security upgrades following a similar robbery—by the same duo at the same lot—just 12 days earlier.

It's important to note the jury recognized the medical center had indeed taken several steps in reaction to the first robbery. These included installing a surveillance camera above the cashier booth and increasing patrols by security guards. However, those steps—reasonable, some would say—proved inadequate to avoid liability for this tragic incident.



1. Doing Something is Always Better than Nothing.

"In the situation where the operator has responsibility for security, the first question to ask and answer is, 'Do we do something other than nothing?'" says Hank Abbott, a partner in one of the parking industry's premier, independent legal firms, Fuqua-Abbott. "If the fact situation places the security burden on your organization, you must evaluate what steps you wish to take and take them," Abbott advises.

"But doing nothing is the worst approach."

With crime splashed all over the news and million-dollar judgments increasingly common, it appears juries have developed new expectations. Owners and managers of parking premises should adopt measures to address not only known, foreseeable threats, but potential ones as well. The message juries are sending with gargantuan verdicts is that ignorance, inattention and incompetence will be financially punished.



2. Know the Numbers.

"According to the FBI's National Incident-Based Reporting System (NIBRS) 2014 report, more than 340,000 crimes against persons and property occurred in U.S. parking lots and garages," says Susan Munn, CEO of CompassQ Security, a Canadian-based security consulting practice. "That

represents 4.1 percent of all crimes and that's only for those reports where an incident location was noted (more than one-third of NIBRS reports omit the crime location). Multiply this by potential liability per incident and you have a hefty price tag for not paying attention. Security planning for parking facility operations just makes solid business sense."



3. Understand Your Risk.

Security professionals often begin a "security risk matrix" by posing this question: What are you trying to protect? The glib answer is the customers, employees and property within our care. However, it's easy to overlook the underlying value of the asset itself. One bad incident at one facility can forever impact the value of your brand in the eyes of the public.

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"Think about investment in a security risk and vulnerability assessment of your facility as a fundamental element of the health of your business, just as profitability is," says Munn. "A security and vulnerability assessment can provide a health baseline—like an annual physical—for your operation."



4. Conduct an Assessment.

"We conduct risk assessments annually at all locations," says Ed Casey, senior director of protective services at Cincinnati Children's Hospital Medical Center (CCHMC). "We use the results of the risk assessments to modify our security deployment strategy and to leverage the use of technology enhancements like cameras, panic alarm devices and access control."

We regularly offer recommendations to enhance security utilizing CPTED [Crime Prevention Through Environmental Design] concepts and other improvements that provide a safer environment without negatively impacting care to patients. These are collaborative efforts with staff at each location."

CompassQ's Munn adds, "A security risk and vulnerability assessment should look, for example, at your facility's physical plant; security-related documentation; and protection strategies, policies, technology and training to name but a few items. It should provide reasonable recommendations and a prioritized plan to address concerns."

An assessment should view your existing facility from four security perspectives: the customer, the management, the staff and the 'bad guy'. When you and your security advisor walk through your facility wearing each of those 'hats', you may see some glaring issues that should be addressed immediately."



5. Consider Risks Outside the Walls.

Part of the assessment process includes an evaluation of the community in which the facility is sited and similar facilities nearby. "We use local and national crime data in our risk assessment process," says CCHMC's Casey. "The risk of violence within the workplace is always a concern. But we

also face many of the same external security concerns as other hospitals. These include gunshot victims brought to our emergency department; the risk from violent and aggressive patients; the local environmental risks present because our staff works 24/7; and, the overall risks present in any facility that experiences well over one million visits per year."

CCHMC maintains close contact with the community through several working committees, says Robert Baer, director of parking, transportation & fleet services at the medical center. "Ed Casey, for example, chairs a public safety committee as part of a community consortium made up of other hospitals, the University of Cincinnati, local businesses and Cincinnati Police," Baer says.



6. Negotiate Legal Responsibilities.

"Your first protective step is to make it clear in your contract that you are not responsible for the security function," says Abbott, who before joining Fuqua-Abbott was the legal counsel at Central Parking for 35 years.

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- HANK ABBOTT, PARTNER, FUQUA-ABBOTT LAW FIRM

"In a commercially managed location," Abbott says, "the parking company should clearly convey to the owner what the parking manager is selling. We in the industry do not hold ourselves out to be experts in security. Just as it does not serve the project owner well to ask the security contractor to look after the parking operation, it is not advisable to ask the parking manager to perform double duty as a security advisor."

And what if the owner insists on such advice? "We explain the operator's risk management department will require that we suggest the implementation of every possible staffing/equipment option imaginable (given that the expense is not ours and we want to insulate ourselves against a claim that we did not recommend enough)," Abbott suggests. "No client wants that memo sitting in his or her file if an incident occurs."



7. Create a Security Plan.

With risks and responsibilities known, a responsive plan can be created. "Addressing vulnerabilities in your facility such

as ample lighting and signage can result in a 'security multiplier effect'," says Munn. "Making one investment can significantly increase customer safety, make your facility more attractive to customers, while reducing your legal exposure."

CCHMC followed this blueprint in addressing areas of concern. "We have changed lighting in all of our garages recently and painted garage walls and ceilings white to enhance the brightness," says Bob Baer. "Lights are now much brighter and project a safer facility. We have also experimented with high-speed, roll-doors with good success."

Routine security plays a key role in the plan. "We work very closely with our protective services team at CCHMC," says Baer. "One of the best strategies we have for our garages is the visibility of the protective services officers. Bike patrols and mobile units are critical to making everyone feel safe and also act as a deterrent to potential acts of vandalism or violence. We have cameras at the entrances and exits, tight access control for employee garages and emergency call stations throughout the facilities."

"Unlike other garages in the city which experience

break-ins on a regular basis, we cannot recall the last break-in at a CCHMC garage."



8. Revisit the Plan Often.

It is important to remain flexible and make adjustments to changes in the security environment as threats evolve. Hank Abbott advises listening to your employees and customers. "If an incident occurs and the parking operator is alleged to have been negligent or at fault," he says, "we improve our position if we are able to point to specific measures we took that demonstrate our concern for the risk and our attentiveness to our customers."

Maintenance and monitoring are also key. "I have seen many problems arise when a facility has a security system but it is poorly maintained," says Susan Munn, who is also vice chair of the Physical Security Council for ASIS International, the leading security industry association.

"Cameras are not recording or are covered in dust. Locks are broken, allowing after hours access into

a stairwell. Simple measures can be taken, such as creating an inspection checklist, regularly verifying that your cameras are recording and requiring your staff report security assets needing repair. To reduce liability though, you need to act. These are small investments of time that can pay high dividends in reduction of premises liability."



9. Work with Local Police & Insurers.

"Develop a positive relationship with the local police," Munn recommends. "Although local police departments may not have the resources to provide in-depth services, see what assistance they can provide. Offer to allow them to drive through your facility during their patrols. Often, police departments will share crime statistics for your area, too."

Your insurance carrier has motivation to assist as well. "Your insurer may also offer a free or discounted risk assessment service and could provide you with an insurance discount for reducing your liability," notes Munn.

WANT MORE INFORMATION?

- Hank Abbott at habbott@parkinghotline.com
- Susan Munn at smunn@compassq.ca [Editor's note: Munn is the sister of the author of this article.]
- Robert Baer and Ed Casey can be reached through robert.baer@cchmc.org.

Security resources online: www.asionline.org; Department of Homeland Security's "Ready Business" Preparedness website at www.ready.gov/business.



10. Involve Employees & Customers.

The more eyes and ears tuned into security, the better. "The involvement of our employees and customers is critical to our success," says CCHMC's Casey. "We involve them in the program in multiple ways. Several of these are through a variety of different training programs, offering security 'Lunch & Learn' programs on a variety of topics, by articles that we post regularly in hospital publications, on elevators and on bulletin boards. Protective services officers are also encouraged to regularly interact with employees and customers throughout the institution to build confidence, trust and to encourage them to report all security related events."



11. If an Incident Occurs, React!

If something bad happens, it's critical to react quickly and effectively. Notifying emergency first responders, cooperating with local authorities and ensuring parking employees are not

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taking responsibility for the incident prior to a thorough investigation are crucial. Preserving evidence, such as surveillance video is also critical; destroying such evidence is illegal in many states, whether it is helpful or harmful to deciding liability.

"First, we get the best grip we can on the facts," says Abbott, whose firm provides practical legal advice to parking management companies, business owners and owners/developers of real estate. "Take a statement from everyone who works at the facility as to what they know about the incident. These statements can be made verbally with someone transcribing what is said. Then, when the employee has completed his statement, get the written transcript of the statement signed and dated by the employee. Next, take photographs of the area where the incident took place and develop a diagram."



12. Navigate Litigation.

"Security-type incidents can be quite random," Abbott notes, "but can be made to appear predictable, if not inevitable, after

the fact by an advocate [plaintiff's attorney] who speaks with the advantage of hindsight." Attorney-speak for this process is "retrospectoscopy" where past actions and decisions are minutely dissected and second-guessed.

Actions taken without documentation are an invitation to liability. "Don't forget to document your preventive actions, training and maintenance to safeguard your facility from a litigation prevention perspective," says Munn.

"It's important that you reduce or deny opportunity to criminals," Munn concludes. "Most are looking for an easy opportunity – get in and get out fast without getting caught. By mitigating the opportunity through a good security program, you can often encourage the criminal to go elsewhere to a more crime-friendly location."

Don't let that "more crime-friendly location" be yours. ■

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