

about one in six homes have them. By the end of 1997, it is expected that this will go up to 20%, or that one in five homes will be secured. While this percentage is increasing, the pie is still way too small! The market penetration is nowhere near what it should be...which of course is 100%.

In order to reach this lofty goal, the public must learn about us as an industry. Most importantly, they must feel good about us in order to increase that element of trust. We must create positive awareness of the alarm industry, and that means public relations. An active community relations program would not only promote public awareness of your company, but foster understanding and awareness of fire and crime problems within your community, as well as what solutions your association has to offer. Make it a point to spread the word about news media stories regarding alarm equipment saving lives. Other examples of good community programs include Holiday Toy programs, visits to children's hospitals, Big Brother sports programs, or anything that is in the right spirit.

As an alarm industry professional, you can reposition your company to meet the demands of the constantly changing market, and together with both national and local associations, you can become a force within to help raise public awareness of the security industry as a whole. The end result could definitely mean a more thriving and profitable alarm industry.

Donna Soloway is director, Security Industry Relations, NAPCO Security Systems Inc.

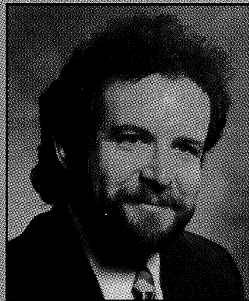
CANASA Meets With Bell

Looking for a minimum 3-year fixed price contract term to protect against unanticipated price increases from non-regulated service, members of CANASA planned to meet with Bell Canada officials to address the issues associated with Bell's roll-out of derived channel services in Ontario and Quebec. In addition, the issues of the name to be used to describe the service, and how the different manufacturers' receivers will be handled, will also be addressed.

CCTV & the Law



Failure to Respond and the Resulting Legal Liability



*by Elliott
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Q. Is a security firm that provides a monitoring service liable to its customer if it fails to respond to an alarm when received?

A. Yes, however the security firm may be protected if its contract with the customer contains an enforceable clause limiting or excluding its liability. For example in *Fraser Jewelers (1982) Ltd. v. Dominion Electric Protection Co. et al.* (1997), 34 O.R. (3d) 1 (Ont. C.A.), a retail jeweler (the "Customer") contracted with a security protection firm (the "Monitor"), for a protective signaling system whereby a burglar alarm set off on the premises would be transmitted by the Monitor to a local police station.

One morning, two men wearing masks and brandishing guns entered the Customer's store and robbed it. The robbers were never apprehended nor were the stolen goods recovered.

While the robbers were on the premises, the Customer's employees each surreptitiously pressed a hidden holdup alarm button that had been installed and was being monitored by the Monitor. The alarm signal was properly received at the Monitor's central station, however, the employee in charge, for no apparent reason, failed to respond to the signal for approximately ten minutes. By the time the Monitor's employee had called the local police, the Customer's employees had already called them, and the robbers were long gone.

The Customer sued the Monitor to recover the robbery loss. The trial judge found in favor of the Customer and awarded it the full amount of the loss, assessed at \$50,000. On appeal, the

Court of Appeal for Ontario reviewed the issues of causation and limitation of liability. It found the Monitor had caused the loss by negligently delaying in contacting the police.

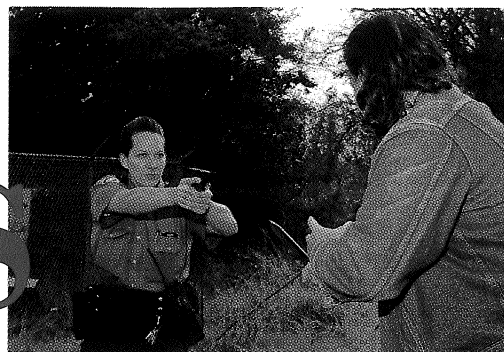
However, the Monitor was entitled to rely upon the limitation clause that limited its liability to the Customer, as the clause was not "unfair or unreasonable or unconscionable". This clause made it clear that the Monitor was not an insurer, "that insurance, if any, should be obtained by the customer; that the amounts payable by the customer are based on the value of the services; and that the scope of liability is unrelated to the value of the customer's property."

The Court held that "to now make the security company liable, effectively as an insurer, for the value of the customer's property (i.e., \$50,000) and not for the stipulated damages (i.e., \$890) would be to fundamentally change the contract agreed to by the parties."

The Ontario Court of Appeal concluded that the limitation clause relied upon by the Monitor in this case was not "unusual". The Court noted that clauses limiting a security company's liability for acts arising out of its own negligence are a common feature of commercial relations of this type and have been upheld in Ontario in a number of cases. For example, *D. Thomas Furs Ltd. v. Wackenhut of Canada Ltd.*, [1989] O.J. No. 1758 (Dist. Ct.) (security company negligent for failing to report an alarm); *Marmac Credit Jewelers Ltd. v. Dominion Electric Protection Co.* (1978), 3 B.L.R. 144 (Ont. H.C.J.) (security company negligently failed to properly protect against burglary during a temporary installation); and *Loeb Inc. v. Bomar Security & Investigations Ltd.*, [1993] O.J. No. 109 (Gen. Div.) (monitoring service neglected to report a burglary to the police).

If you have a legal question regarding CCTV and the Law, please send it to: The Editor, Canadian Security Magazine, 46 Crockford Boulevard, Scarborough ON, M1R 3C3. Fax: (416)755-7487.

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