

ANDERSON KILL POLICYHOLDER ADVISOR

The Policyholder Law Firm



Insurance Coverage for Mass Shooting Events

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As the recent cascade of mass shooting events show, violent tragedies at both public and private venues leave behind both physical carnage and immeasurable human loss and grief. And gun violence in America is on the rise. In 2017 alone, there were 344 reported mass shooting events and at least 15,549 gun deaths, excluding suicides, in the United States. Aside from the incalculable human suffering left in their wake, shooting events also expose entities of all types and sizes to massive financial liabilities. Given this vulnerability, all entities—from school districts and large event venues to small businesses—should examine their current insurance programs and study the available insurance options that can provide coverage should a shooting tragedy occur.

Exposure to Loss and Liability

Losses and liabilities stemming from a shooting incident can include business income loss, defense costs arising out of victim lawsuits, property repair, and less traditional expenses such as trauma counseling and media consultancy work.

Consider the examples of several recent mass shooting tragedies. As reported by *Risk Management Magazine*, the 2007 Virginia Tech shooting produced an estimated \$48.2 million in litigation and recovery costs; it cost \$50 million to build the new Sandy Hook Elementary School; and Broward County spent more than \$1.2 million after the 2017 shooting at Fort Lauderdale-Hollywood International Airport just to reunite travelers with luggage, replace carpet and tiles, and perform an assessment of the crisis response. And these expenditures [replace “do” with “may”] may not factor in the nontraditional costs noted above.

Traditional Insurance Coverage Might Not Be Enough

While general liability insurance can provide coverage for a shooting event, such coverage may be subject to certain limitations. For instance, insurance companies may argue that coverage is not triggered unless the policyholder is deemed liable for the event or an employee perpetrated the shooting. Insurance companies might also assert that

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standard exclusions, such as for acts of terrorism, foreclose coverage. Importantly, general liability policies may not provide coverage for crisis management expenses, counseling and funerals.

As for property insurance, while it should provide coverage for direct damage to facilities, insurance companies may argue that the coverage attached to most property policies does not cover expenses related to, for example, having to demolish and then completely rebuild a new venue, as is often the case in the aftermath of a shooting due to the event's emotional impact. In addition, property insurance policies might also tie their business income coverage grants to actual physical property damage. Following shooting events, however, while the physical structure itself might suffer relatively minimal damage, the business might not resume operations for months, if ever.

“Active-Shooter” Insurance

Recognizing these gaps in coverage, policyholders have begun to demand tailored coverage to address the aftermath of a shooting to protect both public and private entities. As reported by the Wall Street Journal, school districts are increasingly looking into purchasing what's known as active-shooter insurance to protect themselves from the risk. As explained by Belpre City Schools treasurer Lance Erlwein,

“It at least gives us some peace of mind that, in the event of horrible tragedy, we can begin to put things in place.”

This emerging type of coverage is meant to cover those expenses typically associated with gun violence incidents that are not covered by other more traditional insurance offerings. Active-shooter insurance can provide liability protection when lawsuits arise. In addition, it can provide coverage for costs related to crisis management, including handling media coverage and public perception, as well as other emergency response services such as temporary security and setting up a call center. Active-shooter insurance also can provide coverage for on-site counseling and for the funeral expenses of the victims.

As with any other insurance product, however, entities should be keenly aware of any exclusions that might limit or preclude coverage. These potential pitfalls include policy terms that seek to cap coverage at a certain number of casualties, restrict coverage to damage caused by specific types of weapons, and broadly define excluded acts of terrorism.

While active-shooter coverage is a symptom of the violence that plagues us, it is nonetheless an insurance product that all business entities should consider to protect themselves should tragedy strike. ▲

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