

Welcome to our session:



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Active Shooter / Workplace Violence
What you need to Know

Legal Disclaimer



- *The information contained herein is intended for informational purposes only. Insurance coverage in any particular case will depend upon the type of policy in effect, the terms, conditions and exclusions in any such policy, and the facts of each unique situation. No representation is made that any specific insurance coverage would apply in the circumstances outlined herein. Please refer to the individual policy forms for specific coverage details.*

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pending in an earlier case brought by
 the American Civil Liberties Union
 against the government. The ACLU's
 case is on behalf of the parents and
 focuses specifically on family reunifi-
 cation. Our lawsuit is on behalf of the
 children and focuses on what hap-
 pens following reunification; it seeks
 to ensure that reunified families are
 not removed from the country before

We and our colleagues will continue
 to do our best for these children, many
 of whom face violence, rape, torture, or
 even death if they return to their home
 countries. And in doing so, we hope to
 shine a light on the way in which they've
 been treated while in the custody of the
 United States.

T. Clark Weymouth is the pro bono partner
 in this case. He and his mother Amy
 are the only two people who were
 arrested when they arrived in Texas.

ARTIZANS



What is an Active Shooter or Workplace Violence Event?



Homeland Security defines an **Active Shooter** as "an individual actively engaged in killing or attempting to kill people in a confined and populated area; in most cases, **active shooters** use firearms(s) and there is no pattern or method to their selection of victims."

Workplace violence, (defined by OSHA) "is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. It ranges from **threats** and verbal abuse to physical assaults and even homicide."

Each year nearly 2 million American workers are victims of workplace violence? In fact, according to OSHA, workplace violence is the second leading cause of work-site deaths in the US.

With recent high profile workplace attacks, more businesses are boosting security efforts and taking added precautions to prevent and prepare for acts of workplace violence.



Categories of Active Shooter or Workplace Violence events



Who commits AS/WPV acts:

- Customers, Clients, Patients, other 3rd parties
- Employees or Supervisors
- Domestic Partners or Relatives of Employees

- Per OSHA there are approx. 700 workplace homicide victims per year.
- In 2/3 of workplace homicides, the assailant was a 3rd party and had no known personal relationship with the victim(s).
- 1/3 did have a personal relationship, and more than 40% of these were domestic violence related.



Active Shooter Workplace Violence events



Gun Violence Archive aggregates and publishes the gun violence data in near real-time from over 2,500 verified media, commercial, and law enforcement sources. GVA defines Mass Shooting event that include 4 or more victims.

www.gunviolencearchive.org

2018 – so far there have been 305 Mass Shootings:

- **Jan: 22 mass shootings**
- **Feb: 14 mass shootings**
- **Mar: 17 mass shootings**
- **Apr: 25 mass shootings**
- **May: 28 mass shootings**
- **Jun: 51 mass shootings**
- **Jul: 46 mass shootings**
- **Aug: 16 mass shootings**
- **Sept: 34 mass shootings**
- **Oct: 29 mass shootings**





GUN VIOLENCE Archive

MASS SHOOTINGS IN 2018



January 1 - September 11, 2018

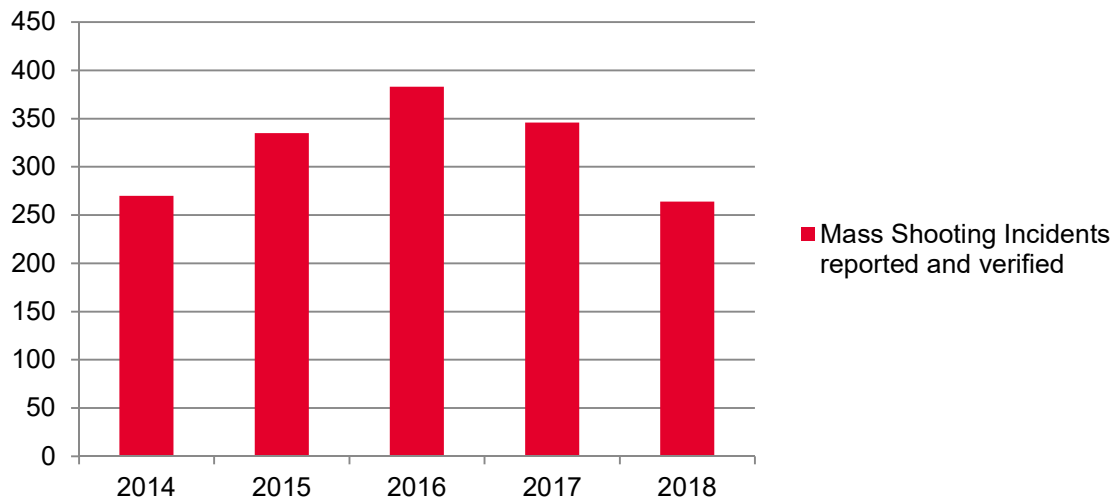
gunviolencearchive.org

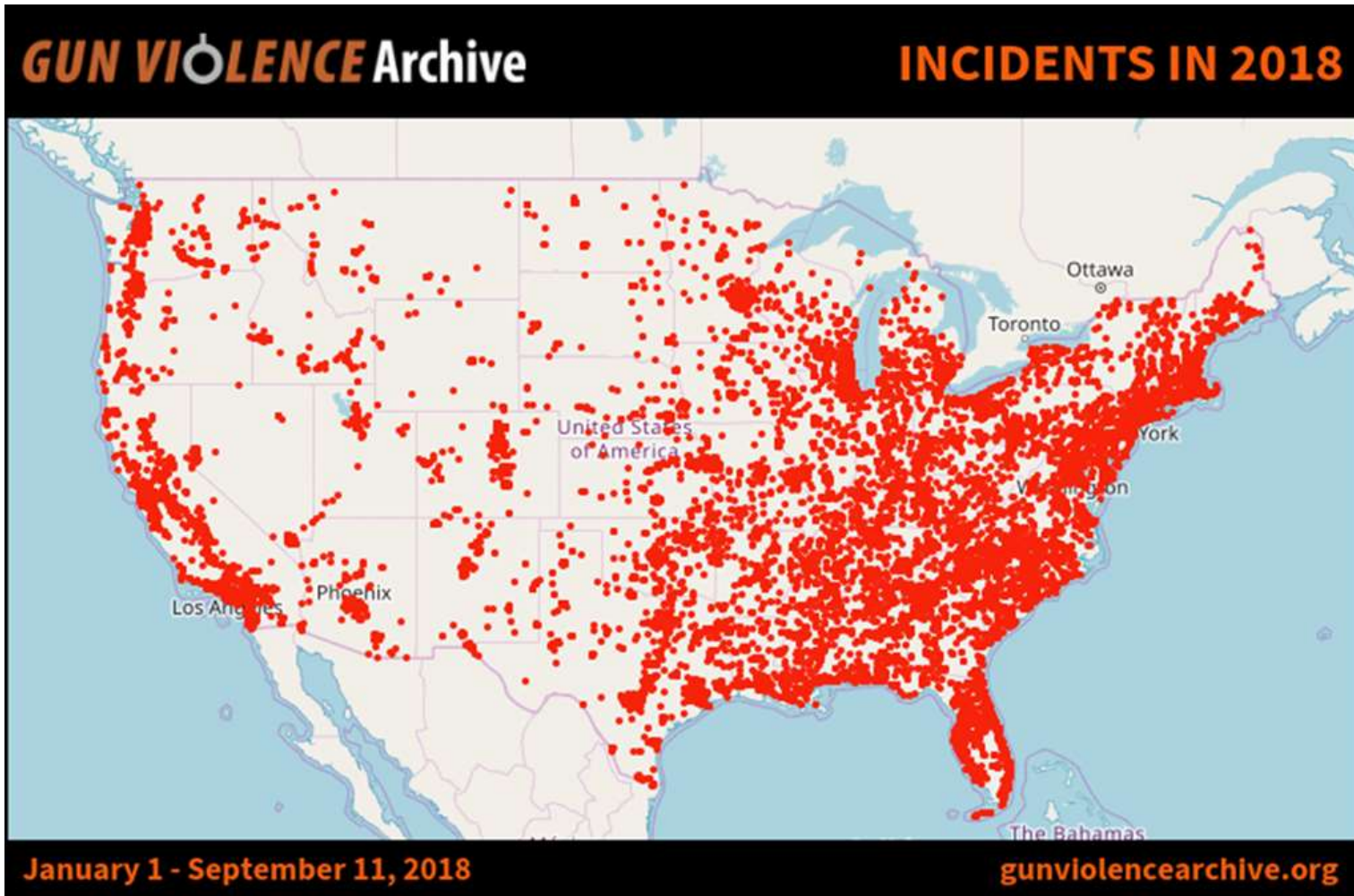
Active Shooter Workplace Violence events



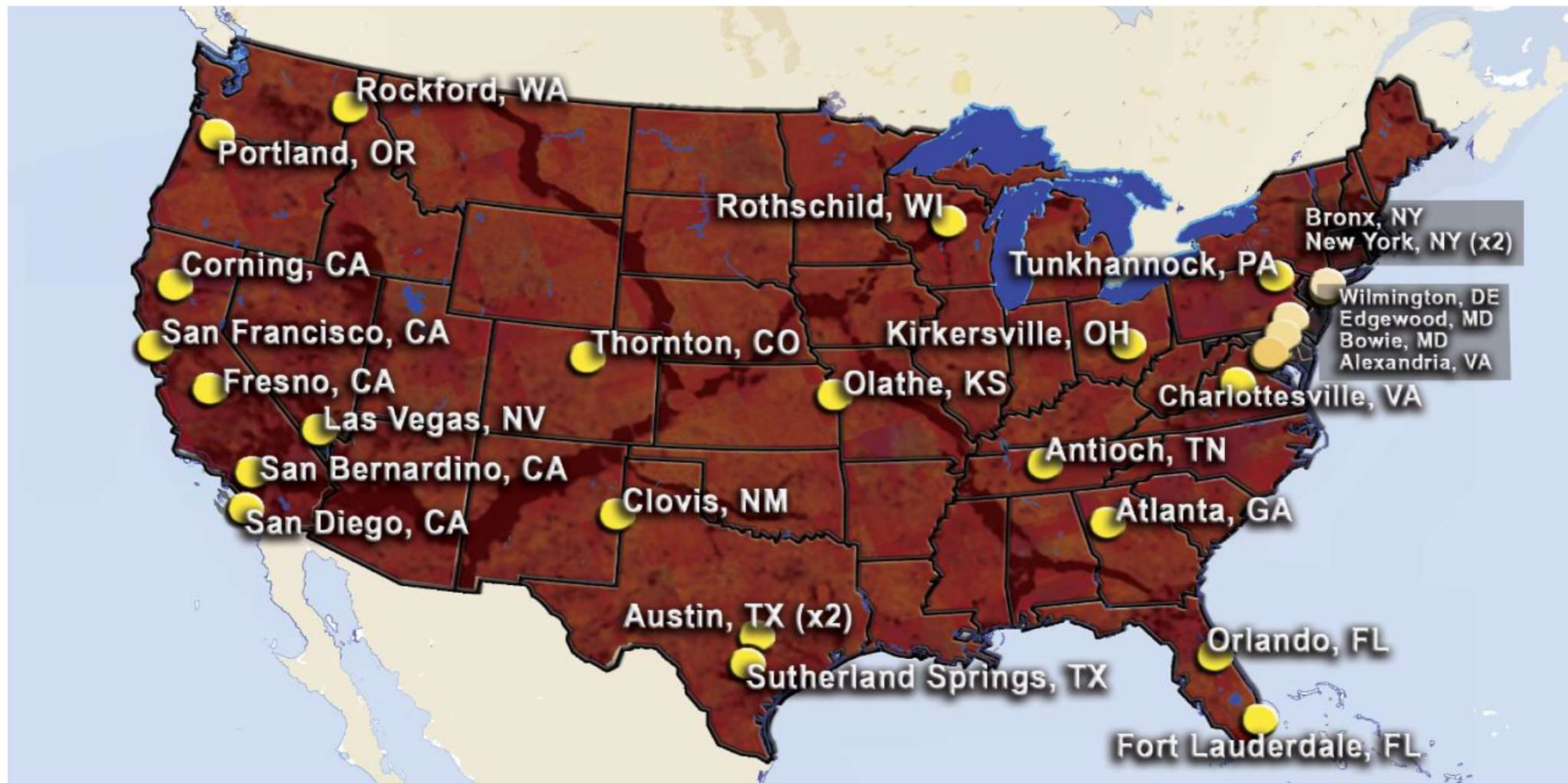
- **Mass Shooting:** FOUR or more shot and/or killed in a single event.
- **2017** – Total number of incidents: 61,839
- Total number of mass shootings: 346
- **Average** of 29 mass shootings per month

Mass Shooting Incidents Reported and Verified





U.S. Secret Service National Threat Assessment
Center (NTAC)
March 2018 Report:
MASS ATTACKS IN PUBLIC SPACES - 2017



NTAC March 2018 Report: MASS ATTACKS - 2017



- The U.S. Secret Service National Threat Assessment Center (NTAC) examined 28 incidents, (in which three or more persons were harmed, and were carried out in work/public places) to identify key themes for enhancing threat assessment and investigative practices.
- These incidents resulting in the loss of 147 lives and injury to nearly 700 others had a devastating impact on our nation as a whole.
- Regardless of whether these attacks were acts of workplace violence, domestic violence, school-based violence, or terrorism, similar themes were observed in the backgrounds of the perpetrators.

NTAC March 2018 Report: MASS ATTACKS - 2017



These included:

- Nearly half were motivated by a personal grievance related to a **workplace, domestic**, or other issue.
- Over half had histories of **criminal charges, mental health symptoms, and/or illicit substance use or abuse.**
- All had at least one **significant stressor** within the last five years, and over half had indications of **financial instability** in that timeframe.
- Over three-quarters made **concerning communications and/or elicited concern** from others prior to carrying out their attacks. On average, those who did elicit concern caused more harm than those who did not.

Litigation in the News



- San Bernardino “Workplace Violence” Shooting: Victim's family seeks **\$58 million**
- Jury awards **\$3.7M** to estate of Munch Bar shooting victim
- Judge Approves **\$11M** Settlement in Virginia Tech Shootings
- School Shooting Victims in New Mexico Awarded Nearly **\$2M**
- Washington Girl Gets **\$1.2M** Settlement Over School Shooting
- Town Rejects **\$11 Million** Settlement Offer from Sandy Hook Parents
- Sovereign Immunity Under Attack after Parkland Shooting



Active Shooter / Workplace Violence “Insurance” in the News

More School buying Active Shooter Insurance

Wall Street Journal

As Active Shooter / Workplace Violence Incidents Increase, Industry Addresses Coverage ‘Gray Area’

Insurance Journal

Workplace shootings have insurers going on offense

CBS NEWS

Mass Shootings Convince Companies to Explore 'Active Shooter' Insurance

Fortune Mag

Interest in active shooter insurance grows

CNBC



215,000 School Children

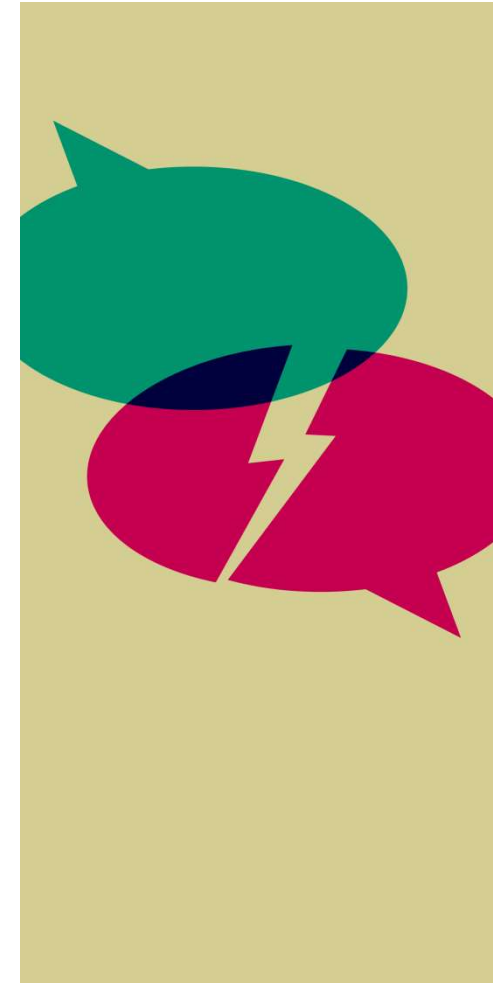
In a recent article (July 30th) The Washington Post studied how many children have been exposed to gun violence during school hours since the Columbine High massacre in 1999.

The count stands at **more than 215,000 children at 217 schools**



What happens in the aftermath?

- It's never really over. The impact of an active-shooter event lingers for years.
- Families and co-workers struggle to heal after losing loved ones. Businesses lose revenue and consider relocating. Attorneys file lawsuits to recapture monetary losses.
- And the losses pile up as the years pass. Sandy Hook Elementary School had to be rebuilt from the ground up at a cost of \$50 million, [according to the Washington Post](#). The Cinemark chain kept its theater in Aurora, Colorado, closed for six months. The owner of Orlando's Pulse nightclub wants to reopen at a new location but has been out of business since June 2016.





A Few Examples from 2018:

Parkland School Shooting – February 14, 2018.

A 19 year old former student enters the high school, pulls the fire alarm and with an AR-15 rifle, shoots 34 people in and around a 9th grade building located in the middle of the campus. 15 students and 2 teachers are killed and 17 others are injured. **The perpetrator had a troubled past both in school and at home. This tragedy has sparked debates on subjects from gun control to school building threat assessments to the need for mental health services.**

Santa Fe, Texas School Shooting – May 18, 2018

A 17 year old student stormed into the art complex at the rear of the High School early in the morning, after pulling the fire alarm, shooting with a pump-action shotgun and a .38-caliber revolver, killing 10 people, including 8 students and 2 teachers in 30 minutes. **Signs of troubled past are slowly coming to light, including a picture on social media of him wearing a t-shirt with the words “Born to Kill” emblazoned on front.**



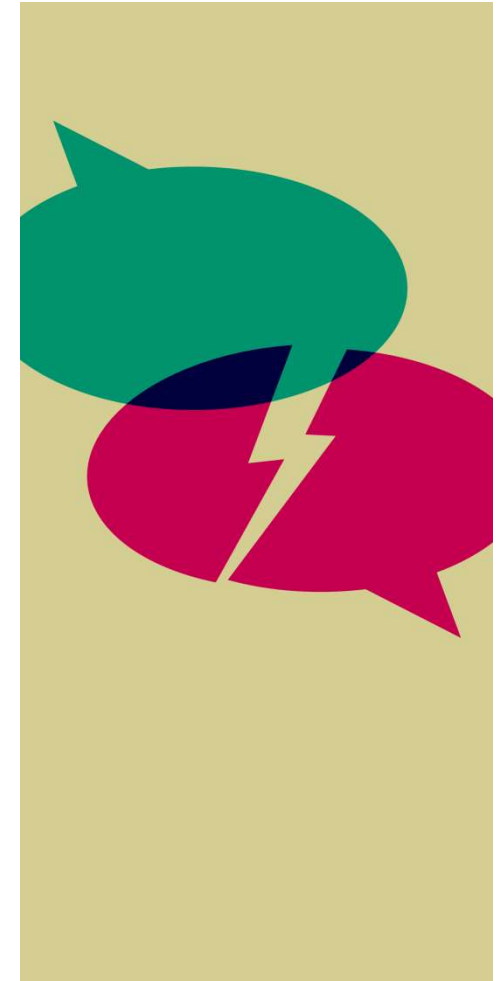


What happens in the aftermath?

Virginia Tech University

- Treating the survivors is just one of the primary expenses of mass shootings (hospital admissions of shooting victims costs more than \$95,000 on average, according to [Health Affairs](#)). For instance, consider the largest costs of the 2007 Virginia Tech University massacre:
- \$11.4 million: Safety and security upgrades
- \$6.4 million: Cleanup, renovations, and other facility changes
- \$4.8 million: Settlement payments and other legal costs
- \$2.7 million: Support for survivors and families of victims
- \$3.2 million: Other operational expenses
- \$9.5 million: State expenses, including settlements
- \$590,000: Healthcare costs

(Source: [Washington Post](#))





What happens in the aftermath?

Cinemark Theater

- The theater in Aurora, Colorado, reopened in January 2013, six months after a gunman entered a showing of *The Dark Knight Rises* movie through a side door and opened fire, killing 12 and injuring 70. Families of the victims who sued Cinemark suffered another blow when a court said Cinemark could not have anticipated such an attack and therefore was not negligent.
- Cinemark had a legal right to insist that the plaintiffs repay more than \$700,000 in court costs it amassed while defending itself. Initially, the theater chain asked to be repaid — generating a raft of negative publicity — but it eventually dropped the request.

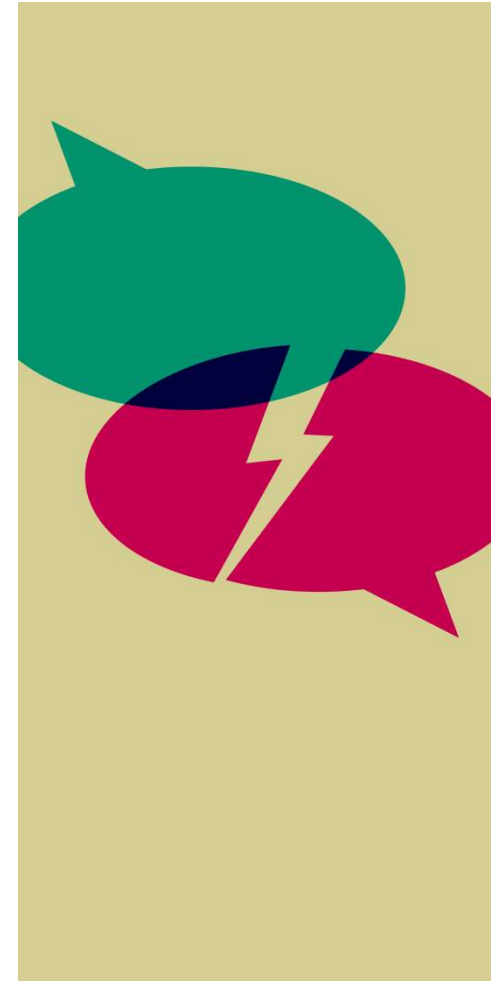




What happens in the aftermath?

Pulse Nightclub

- The massacre at the Pulse nightclub, in June 2016, spread trauma far beyond the club, where 49 people died and more than 50 were injured. The club's owner, kept the club closed in honor of the slain.
- Families of the victims sued the shooter's employer, a global security company, claiming it should have recognized he had become mentally unstable. Another lawsuit targeted **Google, Facebook, and Twitter**, claiming they were culpable for terrorists who used their platforms to radicalize the gunman.

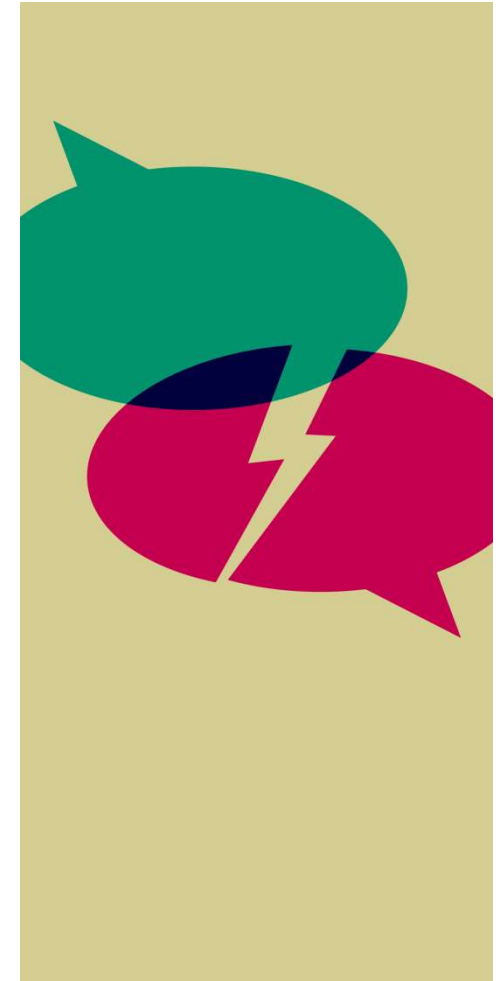




What happens in the aftermath?

First Baptist Church of Sutherland Springs

- The small church southeast of San Antonio, Texas, was transformed into a memorial just a week after the mass shooting in early November 2017. Work crews quickly gutted the interior, removed the pews, bathed the interior in white paint and set up 26 chairs representing the victims and an unborn child. The fate of the old chapel and the site of the congregation's new home remain unclear.
- The family of nine of the victims [filed a claim holding the U.S. Air Force responsible](#) for the shooting. The Air Force admitted publicly that it had failed to report the shooter's domestic-violence record to a federal database designed to prevent dangerous people from acquiring firearms legally.

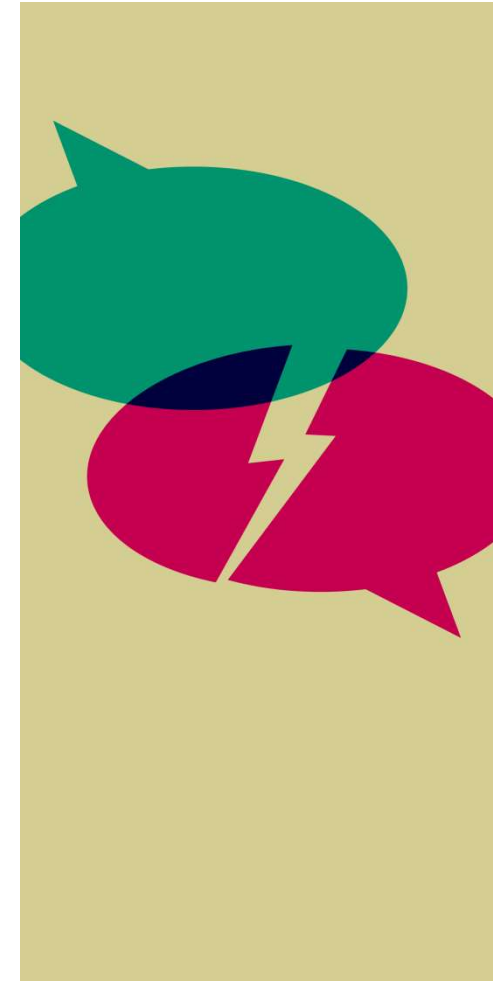




What happens in the aftermath?

Mandalay Bay Resort

- The deadliest mass shooting in modern U.S. history attracted more than a dozen lawsuits within six weeks of the attack. On October 1, 2017, 58 people died and more than 500 were wounded when a gunman at the Mandalay Bay Resort and Casino in Las Vegas opened fire on a country music festival from his suite at the resort.
- Litigation will likely last for years, the [Los Angeles Times reported](#). There will be plenty to sort out as lawyers, courts, and juries assess whether the resort, the concert promoters, and others should have done more to prevent the attack. The tragedy underscored the need for [hotels owners to create and implement emergency response plans](#) to ensure they have a documented strategy for responding to a mass shooting.



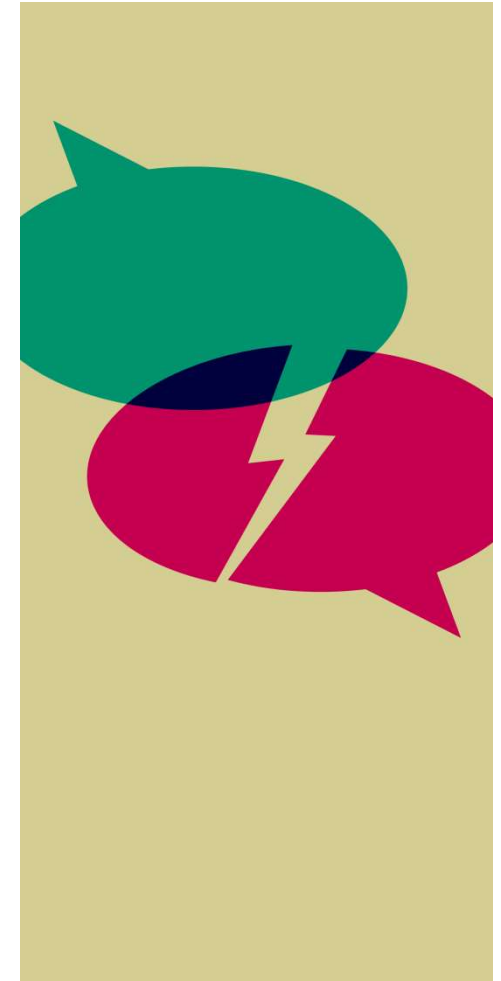


What happens in the aftermath?

Mandalay Bay Resort

March 21st Victims of Las Vegas mass shooting start receiving payments out of \$31 Million Victim Fund

- 532 claims total
- 14 received \$200,000 / victims hospitalized for more than 24 days.
- 9 received \$150,000 16-23 / days in the hospital.
- 15 received \$100,000 / 8-15 days in the hospital.
- 77 received \$52,500 / 7-10 days in hospital.
- 32 received \$17,500 / 1 day in hospital.



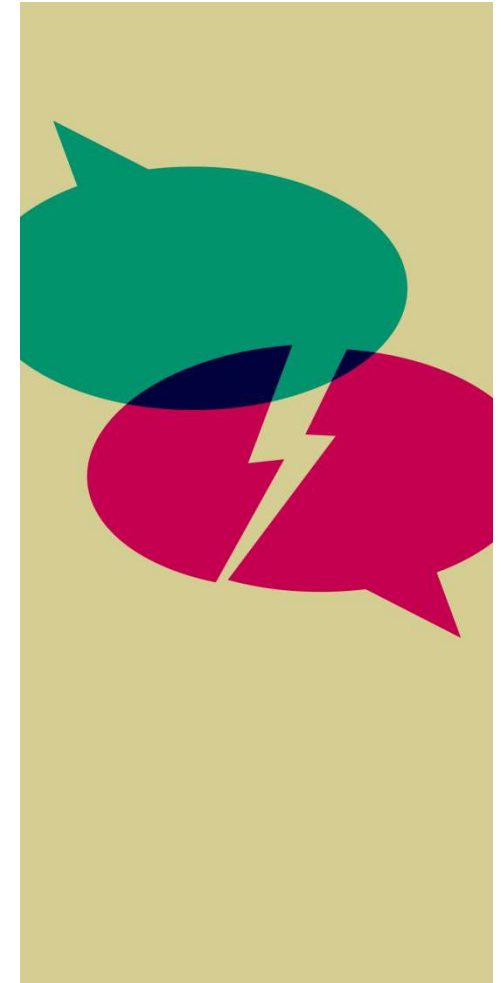


What happens in the aftermath?

Parkland School Shooting

Educational Foundation collects more than \$8 million for victims and sets up a committee to decide on how to disburse these funds.

- School District is overwhelmed with media and public record requests
- State immediately offers to pay for all funeral expenses
- School District's Promise program (student discipline) is decried as ineffective and too lenient
- Local Sheriff is blamed for lack of active shooter training for their deputies who are the school resource officers
- School District decides to tear down 9th grade building, State provides \$25 million in funding.



Duty of Care



In the US, several sources of law obligate an employer to a Duty of Care for the safety, health & security of employees (Occupational Safety and Health Administration Act of 1970)

- Duty of Care requires protection against workplace violence hazards.
- Injuries that are “reasonably foreseeable” can impose liability for negligence on employers for failure to take adequate safety precautions.



Duty of Care



Prepare your organization (for Tort Liability for negligent hiring, supervision, and training):

- Have a written policy against workplace violence.
- Communicate that policy to all employees.
- Establish an effective EAP- Employee Assistance Program.
- Train workers so they know what to do in a violent situation.
- Explore and secure insurance solutions to mitigate financial risk to organization.

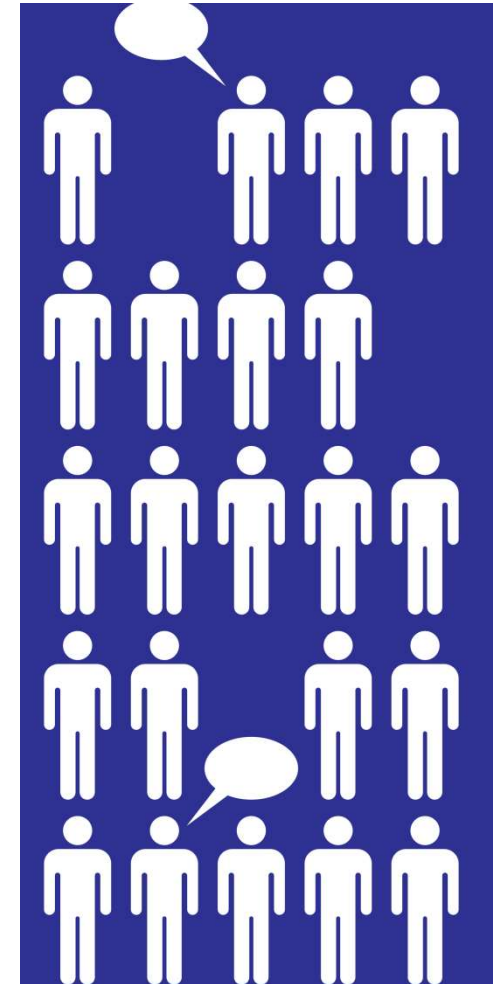


Active Shooter / Workplace Violence & Insurance



Insured Expenses:

- Act of Workplace Violence Expenses;
 - Medical, dental, psychological, reward \$, salaries, rehabilitation, funeral and burial expenses.
- Stalking Threat Expenses;
- Personal Accident Expenses;
 - Loss of Sight, Loss of Hearing, Permanent Disablement, Death.
- 3rd Party Legal Liability Expenses;
 - including defense costs and **indemnity / judgements / settlements.**
- Business Interruption Expenses
 - including Extra Expenses to resume operations.
- Option to extend employee cover to off-site locations – CAN INCLUDE STUDENTS



Term/Capacity/Limits



- \$1,200 minimum premium
- \$1M - \$5M Standard Limits (up to \$100M capacity)
- \$0 - \$10k retention in most cases
- 12-month policy term
- Aggregated policy
- Business Interruption included in standard policy form

- NO Terrorism exclusions
- NO Employee exclusions
- NO Casualties threshold limit
- NO Vehicle exclusion
- NO Requirement for explosive to be physically attached to assailant
- No Mental Anguish exclusion

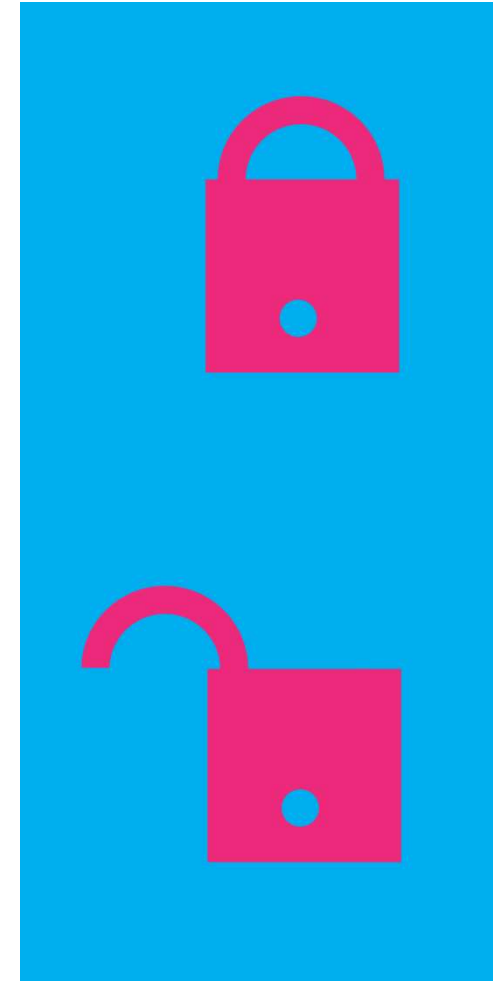


AS/WPV Program - Target Risks



Virtually any type of Business:

- Healthcare facilities
- Manufacturing operations
- Retail establishments
- Restaurants
- Hotels
- Car dealerships
- Not for profit organizations
- Education
- Religious
- Events



Submission Requirements



- Signed and dated application:
 - ✓ Number of employees
 - ✓ Number of annual guests/students/patients/etc...
 - ✓ Number of locations
 - ✓ Hours of operation
 - ✓ Years in business
 - ✓ Employee protocols/hiring practices (EAP, background checks, etc.)
 - ✓ Loss experience – any violent events



Additional Factors Influencing Pricing



- Exchanging money with the public.
- Working with volatile or unstable people.
- Working alone or in isolated areas.
- Providing services and care to public.
- Working where alcohol is served.
- Working late at night or in areas with high crime rates.
- Working in large gatherings of general public



AS/WPV Policy Form - highlights



3rd Party Legal Liability means those reasonable and necessary **defense costs** allowable by law, **including any resulting settlements or judgments** incurred by the Named Insured in connection with an action for damages brought by or on behalf of an Insured Person(s), or his or her legal representative, against the Named Insured solely and directly as a result of being a victim of an Act of Workplace Violence and /or Stalking Threat



AS/WPV Policy Form - highlights



Weapon means an instrument or explosive device which is specifically intended to be used for and used to injure, kill or incapacitate a person.



Contacts



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Questions?

