

Background on: Gun Liability

Commercial

May 16, 2018

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Overview

The idea that insurance can help prevent deaths from firearms often rises to the forefront of the nation's consciousness following mass shootings.

Advocates of the idea believe that if gun owners were required to purchase insurance, the cost of the insurance would provide them an incentive to own fewer firearms and/or more carefully store the firearms they own. However, no U.S. insurance company offers separate, stand-alone

gun liability coverage. In considering whether insurance is an appropriate mechanism to prevent mass shootings, it is important to note that no insurer – primary or excess – provides liability coverage for illegal acts. Looking ahead, there is very little likelihood that insurers would develop such coverage.

Excess personal liability coverage for firearms owners is available, though typically only through membership in a firearms association.

Acts that are intended or expected to cause harm are also generally excluded, though some policies will provide coverage in cases for which bodily injury or property damage results from the use of “reasonable force” by an insured to protect persons or property. “Self-defense” coverage for firearms owners is available, though rarely found.

Historic perspective

Mass shootings often reopen national debates about gun liability and gun control. There is no universally recognized definition for mass shootings in the United States. The FBI uses a broad definition that includes shootings where an individual kills people in a confined and populated area. This includes domestic incidents but excludes gang and drug violence and is not limited by number of victims. The FBI’s list of fatalities does not include perpetrators, who often commit suicide at the end of their spree. Using this description, the FBI says there were 220 active shooter incidents from 2000 to 2016. Another classification includes four or more people shot or killed, including the perpetrator, and is commonly used by the press. *USA Today* reported that from 2006 to 2017 there were 361 mass shootings.

The Pulse Nightclub shooting on June 12, 2016, in Orlando, Florida, a terrorist attack/hate crime, took 49 lives (excluding the perpetrator) and wounded 58 people and was the deadliest terror attack in the United States since the September 11, 2001 attacks. The December 14, 2012 shooting at the Sandy Hook Elementary School in Newtown, Connecticut was the deadliest mass shooting at a school in the United States. Twenty children between the ages of 6 and 7 and six staff members were killed in the shooting. Also killed were the perpetrator’s mother at her home, and the perpetrator by suicide.

According to Wikipedia, the Las Vegas concert shooting in 2017 was the deadliest mass shooting in contemporary U.S. history (1950 to February 2018). There were 58 fatalities, not including the perpetrator. The top 10 deadliest shootings are shown below:

Top 10 Deadliest Mass Shootings, United States, 1950-2018

Rank	Year	Incident	State	Deaths	
				Total (†)	Perpetrators
1	2017	Las Vegas shooting	NV	59	1
2	2016	Orlando nightclub shooting	FL	50	1

3	2007	Virginia Tech shooting	VA	39	Deaths	1
4	2012	Sandy Hook Elementary School shooting	CT	28		1
5	2017	Sutherland Springs church shooting	TX	27		1
6	1991	Luby's Cafeteria shooting	TX	24		1
7	1984	San Ysidro McDonald's shooting	CA	22		1
8	1966	University of Texas tower shooting	TX	18		1
9	2018	Stoneman Douglas High School shooting	FL	17		0
10	2015	San Bernardino shooting	CA	16		2

(1) Includes perpetrators.

Source: Wikipedia.

The Columbine High School shooting of 1999 resulted in 13 deaths (not including the two perpetrators) and would rank number 11 in the chart above.

Odds Of Death In The United States By Selected Cause Of Injury, 2018 (1)

	Number of deaths, 2018	One-year odds	Lifetime odds
Cause of death			
Accidental poisoning by and exposure to noxious substances	62,399	5,243	67
Drug poisoning	58,908	5,554	71
Opioids (including both legal and illegal)	42,518	7,695	98
All motor vehicle accidents	39,404	8,303	106
Car occupants	6,837	47,852	608
Pedestrians	7,680	42,600	541
Motorcycle riders	4,669	70,072	890
Assault by firearm	13,958	23,439	298
Exposure to smoke, fire and flames	2,972	110,083	1,399
Fall on and from stairs and steps	2,509	130,398	1,657
Drowning and submersion while in or falling into swimming pool	746	438,562	5,573
Fall on and from ladder or scaffolding	485	674,572	8,571

Firearms discharge (accidental)	458	714,339	9,077
Air and space transport accidents	372	879,482	11,175
Cataclysmic storm (3)	76	4,304,835	54,699
Flood	44	7,435,624	94,481
Bitten or struck by dog	35	9,347,641	118,776
Earthquake and other earth movements	26	12,583,363	159,890
Lightning	23	14,224,671	180,746

(1) Based on fatalities and life expectancy in 2018. Ranked by deaths in 2018.

(2) Includes all types of medications including narcotics and hallucinogens, alcohol and gases.

(3) Includes hurricanes, tornadoes, blizzards, dust storms and other cataclysmic storms.

Source: National Center for Health Statistics; National Safety Council.

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Deaths In The United States By Firearm, 2016 And 2017

Deaths caused by firearms (1)	Number		Percent of total	
	2016	2017	2016	2017
Accidental discharge of firearms	495	486	1.3%	1.2%
Suicide by firearm	22,938	23,854	59.3	60.0
Assault (homicide) by firearm	14,415	14,542	37.3	36.6
Legal intervention	510	553	1.3	1.4
Undetermined intent	300	338	0.8	0.8
Total	38,658	39,773	100.0%	100.0%

(1) The term firearms refers to guns that can be carried by a person and does not refer to larger classes of guns.

Source: Centers for Disease Control and Prevention, National Vital Statistics Report.

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The regulatory environment

State: In 2013, a handful of states (California, Connecticut, Hawaii, Maryland, Massachusetts and New York) introduced legislation that would mandate the purchase of gun liability insurance after the Newtown, Connecticut, school shooting. These laws were designed to assure that gun owners had liability insurance. None was enacted.

Federal: In 2013 and 2017, Rep. Carolyn B. Maloney (D-NY) introduced the Firearms Risk Protection Act. The [2017 legislation](#), introduced in March 2017 and referred to the House Subcommittee on Crime, Terrorism, Homeland Security and investigations in April 2017, would amend the federal criminal code to prohibit a firearm purchase by or sale to a person who is not covered by a qualified liability insurance policy. Additionally, it would require the owner of a newly purchased firearm to be covered by a qualified liability insurance policy. A qualified liability insurance policy would cover the purchaser specifically for losses resulting from use of the firearm. The law would not apply to a firearm purchase or sale for the use of a federal, state, or local government. The bill also included a fine for violators. To date, the federal government and states have not enacted laws mandating gun liability.

The current state of gun liability

Personal insurance: Insurers rarely offer any separate gun liability insurance policy. Most individuals have some property and liability coverage for firearms in their standard homeowners' policy. Additional liability coverage is available through a personal umbrella policy. A few policies cover losses from accidental shootings in excess of the homeowners' coverage.

When there is liability insurance, it only covers accidental shootings and in some cases, acts of self-defense. There is no coverage for criminal or other intentional shootings.

Although every insurance company adopts its own policy, many companies use standard homeowners and personal umbrella policies written by Insurance Services Office (ISO). The standard homeowners policy is known as an HO-3. That policy specifically mentions firearms once, as property that is covered if stolen. Firearms are not mentioned in the liability section of the policy, implying that firearm liability would be covered. A homeowners' policy covers all liabilities that are not specifically excluded.

Not all accidents are covered, per the terms of the policy. For example, if a relative living at the same home were accidentally shot, the accident would not appear to be covered.

The policy explicitly says it will *not* cover "expected or intended injury." The policy is designed to cover accidents, not intentional, criminal actions, such as a homicide or an attempted homicide. A mass shooting would not appear to be covered. A critical point is that covering an intentional, illegal act like armed assault would violate standard underwriting principles.

Although acts that are intended or expected to cause harm are generally excluded, some policies restore coverage in cases where bodily injury or property damage results from the use of "reasonable force" by an insured to protect persons or property.

The personal umbrella liability policy, a close cousin of homeowners' liability insurance, handles liability in much the same way as the homeowners policy. The policy covers liability above the limit of the homeowners' policy, extending up to its own limit of liability, often \$1 million. For example, if an insured is liable for a \$1 million loss, the homeowners' policy would pay its limit, say \$100,000, and the personal umbrella policy would pay the remaining \$900,000.

Group personal insurance: Personal firearms liability insurance was available from some organizations to cover acts of self-defense. It included personal protection plans with individual benefits administered by a national broker and underwritten by insurers. Membership in the sponsoring organization was mandatory. These policies had offered protection against civil liability, the cost to defend against civil and criminal legal actions and immediate access to attorney referrals. They also included supplementary payments as needed for bail, criminal defense legal retainer fees, and lawful firearm replacement, among other benefits. However, in 2018, the major broker of these policies, along with insurers, were compelled to pay settlement charges brought by the New York State Department of Financial Services, which stated that the gunowners liability programs violated state law. As a result, the broker and most insurers have stopped administering the programs.

Commercial insurance: Active shooter events occur in confined or populated areas where the perpetrators intend to kill many people. A number of coverages can be triggered by active shooting incidents, including general liability, business interruption and property insurance. Workers comp insurance is implicated in shootings in the workplace while commercial general liability insurance coverage might also be implicated in shooting in a shopping center or a movie theatre.

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