

# INSURANCE DAY

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LAW & ORDER

## Mass shootings in the US: sports facilities programmes be ready

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In light of several recent mass shooting incidents in the US, particularly the latest and most horrific event in Newtown, Connecticut, it is imperative any facility open to the public develop and implement a protocol for handling such events.

Imagine a father is watching his son's basketball game and is upset the coach is not giving his son more playing time. The father speaks with the coach during the game and is rebuffed, becoming even more upset. The father goes to his car, retrieves a gun and starts shooting.

Recreational facilities and youth sports programmes should be prepared for the worst by implementing procedures to protect coaches, spectators and participants – who are often children – in the event such an incident unfolds.

In the US, liability for negligence is often initially evaluated by consideration of whether a particular incident was reasonably foreseeable – if it was reasonably foreseeable, then the question becomes whether someone had a duty to

protect others from such an incident. Unfortunately, in today's US, plaintiffs' attorneys may try to take the position mass shootings are becoming more foreseeable and so facilities should be prepared.

Most schools have "lockdown" protocols in place, which the school staffs periodically rehearse. The quick implementation of such a protocol by the Sandy Hook Elementary School staff likely saved lives in Newtown by hiding and locking down schoolchildren.

Similarly, recreational facilities and youth sports programmes need to develop and implement procedures to protect children. These facilities and programmes should consult with local and/or federal authorities and/or disaster response professionals to develop and implement manageable and effective measures to protect participants in case of a shooting event.

They should also implement policies for calming angry parents and coaches and for monitoring for unusual or erratic behaviour. They may also consider the installation of a panic button for

immediate response in emergency.

In the case of publicly owned facilities, like public schools and parks, sovereign immunity can act as a bar to liability. Following the

Columbine, Colorado massacre in April 1999, all suits against the Columbine school district were dismissed under Colorado's Governmental Immunity Act.

After the Virginia Tech University shootings in April 2007, a jury found the university was negligent in its failure to alert students quickly enough about a gunman loose on the university's campus. The jury awarded each victim's family \$4m, but the award was capped at \$100,000 under Virginia's Governmental Immunity Act.

However, if a shooting occurs on private property or at an event organised and operated by a private entity, sovereign immunity will not apply. Accordingly, a privately owned sports facility or sports programme is not protected in the same manner as a publicly owned entity. Therefore, these types of entities should be ready with a plan to protect their participants and to protect against potential legal liability. ■

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