

The Next Storm: Preparing For Potential Post-Election Violence

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This year has been a tumultuous one for so many reasons, highlighted by the COVID-19 pandemic changing nearly every aspect of life and compounded by the national discourse on racism, diversity and police violence in the wake of the George Floyd murder and countless other cases gaining national attention. These large-scale events impacting all levels of society leave many wondering, what is next?

Risk professionals are preparing for a storm. Given that we are still in hurricane season (already a record-breaking year for the largest number of named hurricanes hitting the country), you would think we are referring to the natural catastrophe events that have traditionally impacted the industry. However, we are bracing for something even more concerning - potentially the most contentious election in American history.

Adding to the anxiety is the widespread uncertainty around Election Day - the day when we ordinarily learn the results of public opinion manifested at the ballot box. However, if 2020 has taught us anything, nothing is outside of the realm of possibility and we may have entered a zone of unintended political consequences. We now know that there will likely be a significant increase in mail-in voting and that we may be counting votes for weeks after the election. This likely means announcing a winner will be postponed, thus increasing the anxiety and stress for all Americans. Even more concerning, a recent study published by Politico shows that one in three registered voters, both from Democratic and Republican affiliations, are now justifying violence if the election results are disputed.

While there is no certainty that violence will occur, it is prudent to begin thinking about what new mechanisms you can implement, or existing protections you can review, to reduce the overall impact if it does. The perfect storm of violent forms of civil unrest, a pandemic and a highly contested political environment may converge with devastating consequences. These consequences, in the insurance parlance, are most often known as political violence or strikes, riots, and civil commotion (SRCC) and may be excluded from traditional policy language.

It is important to note, even before the pandemic materialized, the insurance industry transitioned into a “hard” market. This means insureds have faced increased underwriter scrutiny, increased premiums and reductions in coverage terms. Since the beginning of the pandemic, operating in the “new normal” has been a hot topic, but it is now, as we approach Election Day, more critical than ever to have the proper risk mitigation and transfer strategies in place to weather the lingering storm.

Your risk strategy should be addressing key questions, including:

Could remote work due to the pandemic qualify your properties as vacant and limit your property coverage in the event of vandalism?

Will politically-motivated cyberattacks impact your business or any aspect of your supply chain?

Could you be liable if your employees are negatively impacted by post-election violence in the course of or as a result of their employment?

Could a single or small group of violent actors target your business?





Vandalism of Vacant Properties

This year, we have already seen several instances of violent civil unrest lead to financial impacts on businesses. **A Claims Journal report** highlights over \$25 million in aggregate damage since May due to these isolated, violent outbreaks. There is also a global precedent for political unrest to cause catastrophic damage, notably in **Chile**, as protests caused over \$2 billion in property damage in 2019.

Vandalism stemming from political unrest is one of the biggest threats facing property owners as we approach Election Day. All businesses should audit their policies to ensure coverage for vandalism and property damage arising from political violence. Businesses that have been impacted by COVID-19 should take a close look at how vacancy (which is defined in your policy) may limit or eliminate coverage for vandalism and other perils.

The standard ISO (Insurance Services Office, a leading provider of advanced tools for property & casualty insurers) property form includes a troubling provision that eliminates vandalism coverage for vacant buildings. The form states that a property owner or lessee must conduct operations in the insured building and defines a building as vacant unless at least 31% of the square footage is utilized for the owner or lessee's operations. The form states that if a property is left vacant for 60 days, by this definition of vacant, then the carrier will not pay claims for several perils, notably vandalism. This is of particular interest to firms that have shifted to temporary remote operations in the wake of the COVID-19 pandemic. Unless the treatment of the pandemic as a force majeure clause in the favor of policyholders lifts this vacant property exclusion, this may be an area of post-election contention and possible litigation.

Some carriers are willing to modify this standard exclusion by adding a vacancy permit to the policy so long as the insured can demonstrate that they are taking appropriate actions to protect their vacant property. However, given the hard market conditions, this has become increasingly difficult to modify. Therefore, the primary way to mitigate this potential risk may be to work closely with your risk management and safety teams to prevent, rather than transfer any potential losses.

Businesses must also understand that most property insurance policies exclude business interruption coverage that does not arise from physical damage to the subject property. As such, while violence alone at a property could result in a loss of income, it likely is not covered by a standard property policy. Businesses are encouraged to purchase standalone coverage to expressly address this potential gap in coverage.



Politically-Motivated Cyberattacks

Remote working has become a new reality for most firms throughout the U.S. and around the globe. This sudden shift has also given rise to **an increase in cyber breaches**, as more remote employees can mean more opportunities for human error and vulnerabilities to be exposed due to employees relying on home networks outside of firewalls and other protections in the workplace. At the onset of the pandemic, between February and March of this year, cyberattacks on banks and other financial institutions **increased from 38% to 52%**. Cybercriminals do not discriminate and are industry agnostic. From small businesses that often cannot recover from a cyberattack to global companies with vast resources, everyone is at risk of an attack regardless of their size or cybersecurity sophistication. In September, a cyberattack targeted a major hospital system, **Universal Health Services**, which experienced a massive breach impacting over 400 locations.

It is not just cybercriminals who are perpetrating these attacks for monetary gain. Nation-states and political groups are also increasing their attacks on opponents. Firms that make public stances or affiliations often find themselves in the crosshairs of a potential activist hacker. Politically-motivated attacks are projected to increase days before and after the election from such adversaries, both domestically and globally. Firms can prepare for potential financial risks and resource allocation by ensuring they have cyber insurance policies with adequate cyberterrorism coverage for such attacks.

While cyber insurance can provide a fixed price on the uncertainty following a cyberattack, it does not necessarily prevent cyberattacks. Since the most significant cyber threat often lies **between the keyboard and the chair**, the human element must be addressed to bolster a firm's cyber posture. Employees should be given a refresher on proper cyber hygiene and routine training to spot suspicious emails or phishing activity. Additionally, IT staff should ensure firewalls and security standards are updated, and firm management should review their cyber incident response plan detailing the proper steps to take following a breach. Now is an opportune time for businesses to work with their risk manager to ensure their cyber policies have adequate coverage and that potentially **insidious war and terrorism exclusions** are removed. This exclusion nullifies cyber coverage if war-related activities trigger such coverage. Foreign or domestic hackers carrying out cyberattacks due to a particular candidate winning in November could be interpreted by insurance carriers as "acts of war," thereby negating coverage. Equally as necessary is addressing "silent cyber," the unknown exposure in an insurance policy created by a cyber risk that has neither been excluded nor included.



Liability of Employee Exposure to Violence

While most major corporations are familiar with Directors and Officers (D&O) insurance coverage, many mid-sized enterprises are not. This lack of coverage leaves businesses and their executive leaders exposed to potential liability issues. D&O insurance has grown in popularity, but the current economic climate, combined with several large claims in 2020, has made this critical coverage all the more difficult to procure. D&O protects directors and officers of a firm from lawsuits claiming they managed the business without proper regard for others' rights, including the requirement to provide a safe workplace for its employees.

The ongoing COVID-19 pandemic has made the "safe work environment" clause a challenging goal to achieve. As firms slowly begin allowing workers back into the office, they need to ensure that it is safe. They must also look beyond COVID-19 and contemplate other possible disruptions, such as violence resulting from a contentious or disputed election or other societal and geopolitical issues. Should violent civil unrest ensue during the week of the election or in the weeks to follow, businesses must avoid the liability associated with not giving employees the option for remote work, potentially exposing them to dangerous conditions during their commute or while in the workplace, not to mention the requirement for ongoing observance of public health advisories on social distancing.

For firms that do not have D&O coverage, it will be critical to proceed as if uninsured. This means reviewing existing coverages and taking all necessary measures to protect your people, business, and communities.

COVID-19 has put pressure on firms to publicly disclose how their operations will adapt to the "new normal" and encourage them to evaluate the pandemic's impact on financial performance. This scrutiny results in many D&O claims as stakeholders, like employees, uncover issues affecting a firm's financial health.



Violent Actors

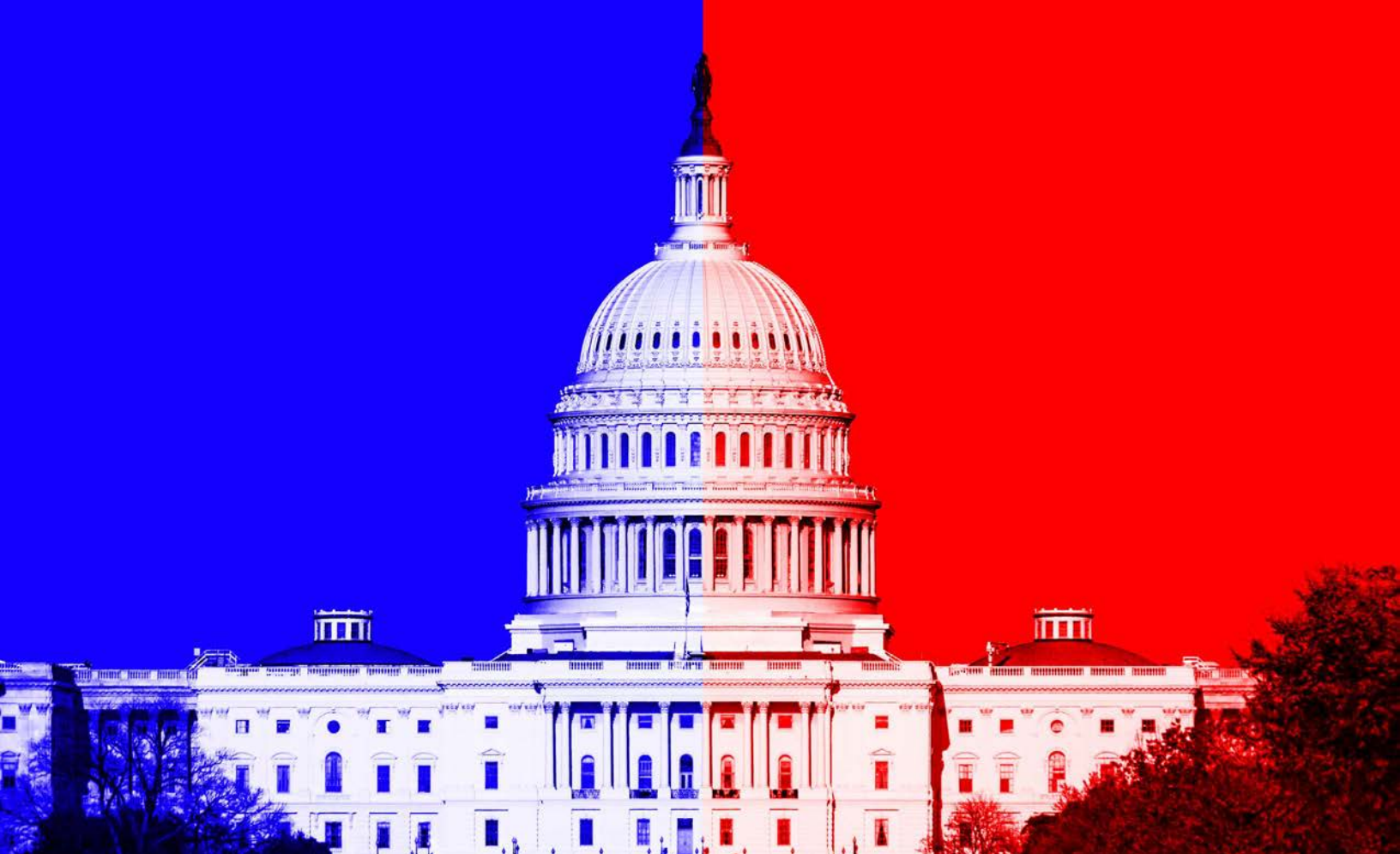
Among one of the most serious concerns that may occur as a result of post-election violence, and at any time, is the possibility of a violent actor(s) perpetrating an attack on your business and its people. In the months leading up to Election Day, several concerning events highlight the importance of protecting your business.

Most recently, 13 individuals were arrested in a thwarted domestic terrorism plot to kidnap Michigan governor Gretchen Whitmer. According to **a CNN report**, six people were federally charged with conspiracy to kidnap. Seven other people associated with the militia group “Wolverine Watchmen” were also charged.

In December 2016, a gunman traveling from North Carolina brandished a military-grade assault weapon inside **a Washington D.C. pizzeria**. No one was hurt in the attack. This example is significant because the incident underscores the exposure small businesses can face from the prospect of politically-motivated violence.

While the examples above involved no physical injuries or death, there is recent historical precedence for politically-motivated attacks to end in tragedy. **In 2011, Congresswoman Gabrielle Giffords and 18 others** were shot at a community outreach event outside of a Safeway store in Tucson, AZ. Six people died and 13 were wounded, including Giffords, who was shot at point-blank range resulting in massive head trauma. Giffords was forced to resign in 2012 due to complications from her injuries. **In 2017, Congressman Steve Scalise and four others** were shot on a Virginia baseball field while practicing for a bipartisan charity baseball game. Scalise suffered critical hip wounds requiring months of recovery.

These threatening and harmful events involving workers and elected officials highlight the need for Active Shooter and Assailant insurance policies. These policies can provide relief for a variety of issues surrounding an active shooter or violent situation. These include physical damages, legal liability, crisis management, business interruption, medical expenses, funeral expenses and death benefits, and decline in market interest due to the repercussions of an event. When it comes to people’s health and safety, it is never the wrong time to obtain adequate coverage or ensure your coverage is appropriate.



Looking Forward

After ten months of uncertainty and stress for millions of people, Election Day seems to be the veritable climax of a turbulent 2020. The threat of violence will not automatically subside either; it will be crucial to remain vigilant in the weeks following Election Day and beyond. Unlike prior setbacks this year, the advantage we have now is that we can plan for November 3. Proper preparation will help navigate Election Day perils, the most serious being the potential for post-election violence threatening life and property.

While insurance policies such as cyber, D&O and property help to protect firms should a claim occur, the main goal must be to prevent claims from occurring in the first place. Mandating that all employees work from home during election week when possible, reviewing cyber hygiene protocols, physically securing all first-floor doors and windows, procuring standalone business interruption coverage and reviewing the vandalism clause in property policies are all pertinent steps towards managing what will likely be a tense exercise of democratic will. No matter who wins on November 3, a disaster weary country will need all the help it can get to stop the tide of mounting losses and uncertainty. Preparing now for the likelihood of post-election uncertainty can help.



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