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The Pandemic and its Impact on the Hospitality Insurance Market

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Pandemics: Insuring the Uninsurable

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Executive Summary

Pandemics have been deemed uninsurable and policy language has specifically excluded viral contaminants after the 2002-2003 SARS outbreak. This viral exclusion was due to the fact that pandemics have the ability to cause large-scale devastation and are statistically unpredictable. Pandemics have the potential to reach all parts of the world simultaneously. This potential for large-scale devastation could produce an overwhelming financial burden on insurance companies. There are also many obstacles to overcome when discussing how to provide coverage for pandemic related risks. These obstacles include, the severity of pandemics and the high costs of premiums, the inability to diversify the risks associated with pandemics, and the current capacity of the property and casualty insurers. While pandemics are labeled as uninsurable, countries worldwide have begun to offer solutions to provide pandemic coverage. Proposed solutions include parametric policies, government backed insurance, and short range to long range solutions. Although viral contaminants are excluded in insurance policies, insurers have offered support in other ways, including refunds on auto premiums and late payment forgiveness to small business owners. COVID-19 has exposed coverage gaps in the insurance industry and through creative solutions there is a probability those gaps can be closed by providing coverage for pandemic related risks.

Introduction

In 2020, the Mississippi based restaurant Real Hospitality, LLC, d/b/a Ed's Burger Joint, filed a suit against their insurer, Travelers Casualty Insurance Company of America. The suit alleges that Ed's Burger Joint was wrongfully denied compensation for business interruption, due to COVID-19, on their "all risk" policy through Travelers. Travelers insurance moved for dismissal, stating that an endorsement within the insured's policy contains an exclusion for viral contaminants (Adriano, 2020). Preceding judge, Keith Starrett, ruled that the "all risk" policy requires that the insured's property sustain physical damage in order to be covered (Adriano, 2020). Being that no physical damage occurred, the lawsuit for Ed's Burger Joint was denied. Mandatory COVID-19 shutdowns have produced business losses by preventing dine-in services, not causing actual physical damage.

Globally, COVID-19 has affected businesses large and small. Mandatory shutdowns put in place by governments have caused businesses to abruptly halt operations. These shutdowns, intended to slow the spread of COVID, have forced businesses to furlough employees, suspend business operations, and in some cases close their doors. Many businesses turned to their insurance companies for compensation due to business interruptions caused by COVID, only to be met with claim denials, such as the case of Ed's Burger Joint. The business interruption exclusion is mainly due to a change in policy language after the 2002-2003 SARS outbreak in Asia (Frankel, 2020). The SARS outbreak, which infected 8,000 people, led to many business-interruption claims. One of these claims included, "a $16 million payout to one hotel chain, Mandarin Oriental International" (Frankel, 2020, para.3). After the SARS outbreak, it became clear to insurers they would be unable to provide insurance for pandemics. Pandemics have the potential to cause devastation on a scale so large, insurance companies' reserves may not be able to meet the payout needs. The intent of this paper is to explore why pandemics are classified as uninsurable, creative solutions that may lead to pandemic related coverages in the future, and other ways that insurers have supported clients throughout the COVID-19 pandemic.

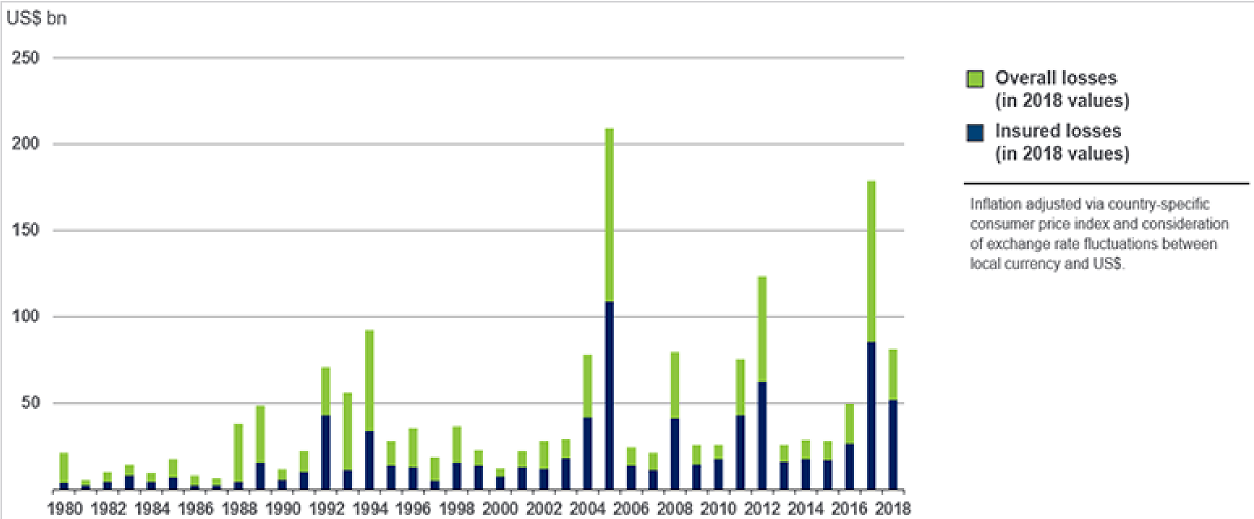
Uninsurability of Pandemics

When looking at aspects of a pandemic it is easy to see why they are deemed uninsurable. By comparing pandemics to other extreme risks, we can see there are a few traits that stand out as red flags against insurability. Those traits of uninsurability include events that are not random, nor independent, potentially large-scale, and financially devastating. Furthermore, there are many obstacles that would need to be conquered in order for pandemics to become an insurable risk.

Pandemics VS Other Catastrophic Risks

Pandemics do not behave like other extreme risks, such as natural catastrophes like floods, hurricanes, or earthquakes. Pandemics occur on a larger scale than natural disasters, reaching all parts of the world almost simultaneously. The large scale of pandemics makes them not random nor independent. Due to the widespread effects of a pandemic and the number of people or businesses affected, the results could be financially devastating for the insurance industry. According to Arne Holzhausen, Head of Insurance and Wealth Markets, Economic Research at Allianz, it would take business interruption insurers nearly 150 years to recoup the economic losses caused by COVID-19 (Schanz et al., 2020). Figure 1 shows insured natural disasters losses in the U.S. from 1980 to 2018. In 2018, catastrophe losses in the U.S. were estimated to be $52 billion (Insurance Information Institute, n.d.). While COVID-19 global pandemic losses are currently estimated at $4.5 trillion (Howard, 2020).

Figure 1



Source: © 2019 Munich Re, Geo Risks Research, NatCatSERVICE. As of March 2019. (as cited by Insurance Information Institute, n.d.).

The idea behind insurance is to spread risk throughout a large number of people. By making small premium payments, insureds are safeguarded against a potential large loss. “For insurance to work, most of the group has to go without a loss. Otherwise, the insurance company runs out of money” (Kagan, 2020, para 3). When discussing the devastation caused by the current pandemic, most of the population worldwide sustained losses, especially businesses with government ordered shutdowns to slow the spread of COVID-19. Alexander Braun, Vice Director of the Institute of Insurance Economics at the University of St. Gallen, mentioned during a report from the Geneva Association that “Natural disasters have reliable measures to estimate the cost” (Schanz et al., 2020). Pandemics on the other hand are not statistically predictable and are highly catastrophic, making them uninsurable in the standard market.

Insuring Pandemics: Obstacles

There are many obstacles that would need to be conquered when discussing whether or not pandemics could be insurable in the future. One such obstacle is the cost and amount of premiums needed for insuring pandemic risks. The severity of losses from a pandemic is immense and greatly surpasses the losses for catastrophic events (OECD, 2021). Due to a pandemics ability to surpass catastrophic losses the cost of premiums would be not economically feasible. Another barrier facing the insurability of a pandemic is the current capacity of Property and Casualty (P&C) insurers. P&C insurers "collect USD 1.6 trillion in annual premiums, with just USD 30 billion for business interruption policies" (The Geneva Association, 2020). The collective capacity does not provide enough funds to compensate businesses for their pandemic related business interruption losses.

The law of large numbers is another obstacle in the insurability of pandemics. "The law of large numbers states there must be a sufficiently large number of homogeneous exposures to any specific event in order to make a reasonable prediction about the loss related to an event" (S. Ross, 2019, para 13). The most recent pandemic that occurred before COVID-19 was the 1918 influenza pandemic (Centers for Disease Control and Prevention, 2019). Although there have been pandemics in the past, there is not sufficient data to make a reasonable prediction about loss exposures related to pandemics. Lastly, pandemics affect populations worldwide simultaneously, and the inability to diversify the risks associated with pandemics would lead to substantially higher premium costs. The difficulty of diversifying the risks could lead to reinsurance markets being unable to pool global risks that are not correlated with pandemic risks, therefore creating the higher costs (OECD, 2021).

Solutions to Insuring Pandemics

Pandemics are deemed uninsurable because of their inability to meet standard criteria for insurability. There are also many obstacles to overcome in order to provide insurance for pandemic related risks. There are gaps in business interruption and related coverages that need to be addressed in order to provide insureds with the best possible care. Suggested solutions include parametric policies that implement new coverage triggers, government backed insurance policies, and other solutions from countries around the world.

PathogenRX/ Parametric Insurance

PathogenRX, developed by Munich Re and Metabiota, a technology firm, launched in May of 2018. PathogenRX is a parametric type of insurance that was designed for businesses as a means to provide interruption coverages for pandemic related triggers (Banham, 2020). The major problem with PathogenRX is no companies were interested in purchasing the policies, which would have provided some relief during the COVID-19 pandemic. Now that COVID-19 has created an awareness, demand for business interruption coverage for pandemic related risks has increased. Parametric products replace the traditional physical damage triggers with a list of specific triggering events, such as decrease in hotel guests, wind speed of a hurricane, or rainfall volume that cancels a concert (Banham, 2020). Parametric insurance premiums can be reduced easily because administration costs are less, and since the triggers are well established, lengthy claims adjustments are not needed. PathogenRX provides a viable solution to pandemic related business interruption coverages, however, Munich Re will only be able to write policies until it reaches capacity. If parametric insurance is going to be a global solution to pandemic devastation than other insurance and reinsurance companies will need to create similar policies that encompass business income coverages. Even with additional insurers and reinsurers, the question would still remain of whether or not parametric policy premiums would be sufficient to handle claims in the event of another pandemic.

TRIA/PRIA

The Pandemic Risk Insurance Act of 2020 (PRIA) is a proposed solution, backed by the U.S. Federal government, which would assist businesses that suffer losses during a pandemic (Barlyn, 2020). After the September 11, 2001 attacks, the U.S. government backed a commercial terrorism insurance. The Terrorism Risk Insurance Act (TRIA) allows the Federal government and insurers to share the responsibility for payments of covered claims. Insurers pay a deductible, up to a certain percentage, of their commercial insurance earned premiums and if the loss exceeds that specific percent, the government pays the remaining amount (Moorcraft, 2019). “Lawmakers including Democrats Carolyn Maloney and Lacy Clay, senior members of the House Financial Services Committee, are circulating draft bills for creating a government-backed pandemic insurance policy, suggesting it would help small businesses” (Barlyn, 2020, para16). PRIA allows insurers to keep premiums affordable and would operate similar to the TRIA program. During a podcast interview with Stephen J. Dubner, U.S. Congresswoman Carolyn Maloney stated, in reference to PRIA, “Once the program is triggered and started, the federal government will be responsible for 95 percent of losses. And the insurers will be responsible for 5 percent of losses, up to a $750 billion cap” (2020, 32:04). Maloney further pointed out, during the podcast, that the government is going to help businesses either way if a future pandemic or terrorism attack occurs and they might as well have a plan in order to be prepared (Dubner, 2020). While PRIA is a proposed solution in the U.S. to cover pandemic related losses, other countries around the world have begun to create unique insurance solutions for business interruption gaps.

United Kingdom

Lloyds of London in the United Kingdom has proposed three short term to long term solutions that address protection gaps related to pandemic business interruptions (OECD, 2021). The first solution, ReStart, is a short-term solution that provides small businesses relief from subsequent phases of COVID-19. The next solution, Recover Re, involves premium collections to provide current and future relief to businesses. Recover Re, would provide payments to insureds for business interruptions with no physical damage necessary to trigger coverage (OECD, 2021). Lastly, Black Swan Re would provide a long-term solution that involves a government backstopped reinsurance pool to provide insureds with business interruption coverage.

France

France, like the rest of the world, has suffered business interruptions caused by COVID-19 and has begun to develop a solution to fill the gaps in insurance. Bruno Le Marie, French Finance Minister, has set up a group of individuals consisting of France’s insurance association, lawmakers, and business lobbies to examine options to provide coverage for pandemics (Reuters Staff, 2020). France is looking at options that include state backing and is planning to have proposals ready by June. Those proposals will focus on business interruption coverage without a physical damage trigger. Nations around the world have seen the need for pandemic insurance to fill the gap in business interruption insurance. COVID continues to spike in waves around the globe, causing increasing financial devastation. The increasing financial concerns surrounding

COVID may lead to pandemic insurance solutions which require backing of a system with the financial capabilities to support losses that could arise.

How Insurance Companies Have Helped, Thus Far

Claims related to coverage for business interruption caused by viral contaminants are excluded from many insureds' policies. Insurers, however, have provided support to insureds and communities in other ways. Some auto insurance carriers have refunded clients for a specified amount of time, between 15 and 25 percent of auto premiums (Maniar, 2020). The percentage of refund depends on the insurer but is attributed to the decrease in the amount of drive time due to stay-at-home orders. Other insurers have suspended billing to provide support for small businesses, while some have offered forgiveness for late payments. Other insurers have supported communities by providing financial contributions and support in the form of donations and other goods. Insurers around the world are offering some relief to business owners in industries such as restaurants, hospitality, bars, and retail shops. For instance, in Switzerland companies have offered voluntary compensation to restaurant owners for some business losses (OECD, 2021). While in France, insurance companies have pledged EUR 400 million to affected businesses in a solidarity fund. Even though these companies do not provide coverage for pandemic related losses, they have shown their concern for clients' well-being by providing support in other ways.

Conclusion

COVID-19 has caused devastation worldwide. Many businesses believed they had coverage, when in fact they did not. The case of Ed's Burger Joint in Mississippi is just one of many examples where insureds fought for coverage that was not included in their policies. Insurers saw the devastation that viral contaminants can inflict on society during the 2002-2003 SARS outbreak. It was after this outbreak insurers realized they would be unable to provide coverage for pandemics because of the large-scale devastation they have the potential to cause. Pandemics are unlike other catastrophic risks as they occur on a larger scale and affect all parts of the world simultaneously. Furthermore, pandemics are not statistically predictable, and the cost of premiums to insure pandemic risks would not be economically feasible for insureds. However, solutions such as parametric insurance or a government backed insurance policy, such as PRIA, have been suggested in order to provide insurance, in spite of the uninsurability of a pandemic. Insurance companies have had to deny coverage of claims involving viral contaminants but have offered insureds and communities support in a variety of other ways. Offered support includes late payment forgiveness, auto premium refunds, and voluntary compensation for small businesses. It is currently unclear what the best solution is for pandemic coverage. As the coronavirus pandemic continues to cause devastation, insureds can expect to see the insurance industry evolve to meet emerging needs.

References

Adriano, L. (2020, November 06). *Travelers wins business interruption lawsuit against burger joint*. https://www.insurancebusinessmag.com/us/news/breaking-news/travelers-wins-business-interruption-lawsuit-against-burger-joint-238325.aspx

Banham, R. (2020, April 03). *THis Insurance Would Have Helped in Coronavirus Crisis But Nobody Bought It*. https://www.insurancejournal.com/news/national/2020/04/03/563224.htm

Barlyn, S. (2020, April 29). *U.S. insurers want taxpayers to back pandemic coverage for businesses*. https://www.reuters.com/article/us-health-coronavirus-insurance-pandemic/u-s-insurers-want-taxpayers-to-back-pandemic-coverage-for-businesses-idUSKCN22B1J8?feedType=RSS&feedName=businessNews

Centers for Disease Control and Prevention. (2019, March 20). *1918 Pandemic (H1N1 Virus)*. https://www.cdc.gov/flu/pandemic-resources/1918-pandemic-h1n1.html?web=1&wdLOR=cA48247AE-8CC3-4EA6-9C39-B149AFAC0C46

Dubner, S. J. (host). (2020, October 28). *Many Businesses Thought They Were Insured for a Pandemic. They Weren't (No. 437)*. [audio podcast title]. In Freakonomics. https://freakonomics.com/podcast/insurance/

Frankel, T. C. (2020, April 02). *Knowing the damage a pandemic could wreak on businesses, insurers excluded coverage*. https://www.seattletimes.com/business/knowing-the-damage-a-pandemic-could-wreak-on-businesses-insurers-excluded-coverage/

The Geneva Association. (2020, October 26). *In The Pandemic, Insurers Can Absorb Customer Life and Health Claims, But Not Business Losses From Lockdown Measures*. [Press Release]. https://www.genevaassociation.org/news/press-release/insurability-pandemics

Howard, L. S. (2020, October 30). *It Would Take P/C Insurers 150 Years to Pay COVID-19 Business Interruption Losses*. https://www.insurancejournal.com/news/international/2020/10/30/588883.htm

Insurance Information Institute. (n.d.). *Facts+Statistics: U.S. Catastrophes*. https://www.iii.org/fact-statistic/facts-statistics-us-catastrophes

Kagan, J. (2020, July 4). *Uninsurable Risk*. https://www.investopedia.com/terms/u/uninsurable-risk.asp

Maniar, A. (2020). *Insurers step up as financial first responders Supporting clients and communities*. https://www2.deloitte.com/content/dam/insights/us/articles/6762_insurance-risk-covid/DI_Insurance-risks-COVID.pdf

Moorcraft, B. (2019, April 12). *Terrorism insurance-everything you need to know*. https://www.insurancebusinessmag.com/us/guides/terrorism-insurance--everything-you-need-to-know-164743.aspx

OECD. (2021, March 16). *Responding to the COVID-19 and pandemic protection gap in insurance*. https://www.oecd.org/coronavirus/policy-responses/responding-to-the-covid-19-and-pandemic-protection-gap-in-insurance-35e74736/#section-d1e47

Reuters Staff. (2020, April 29). *France drafting future insurance backstop for pandemics*. https://www.reuters.com/article/health-coronavirus-france-insurance/france-drafting-future-insurance-backstop-for-pandemics-idUSL5N2CG8H5

Ross, S. (2019, December 07). *Elements of Insurable Risks: A Quick Guide*. https://www.investopedia.com/articles/insurance/082616/elements-insurable-risks-quick-guide.asp

Schanz, K.-U., Schmeiser, H., Braun, A., Holzhausen, A., Corn, P., & The Geneva Association. (2020, November 11). *Pandemic Risk: Is it really uninsurable*. [webinar]. https://www.youtube.com/watch?v=Lo8cTKWRnRI&t=18s

The Impact of the Pandemic on the Hospitality Industry

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4/18/2021

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FIN4800: Dr. David Marlett

Introduction

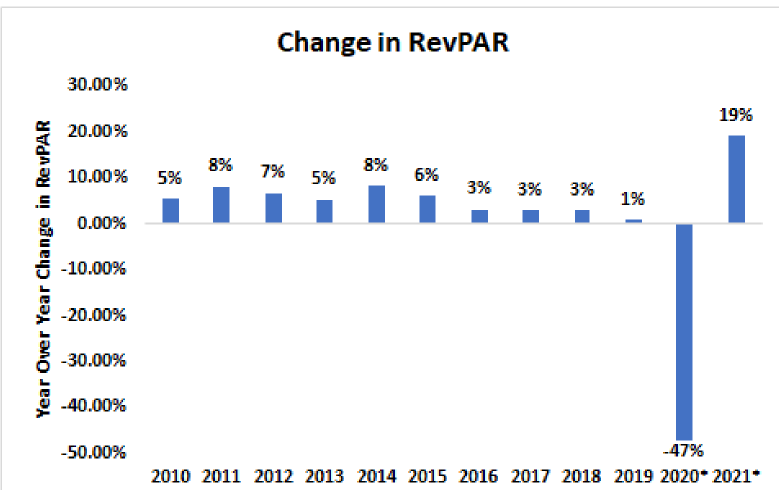
The Covid-19 pandemic crept its way into the world and quickly impacted every industry and aspect of people’s lives. Some industries, like home improvement, saw extremely positive impacts from stay-at-home orders and stimulus checks. Others, like airlines, saw significant government subsidization to prevent the bankruptcy of an entire industry due to such low demand. However, the hospitality industry, made up of bars, restaurants, and hotels, has been by far the most negatively impacted industry seeing very little government assistance. The purpose of this paper is to address the impacts Covid-19 has had on the industry, identify how insurance policies for this industry may change moving forward, and analyze the industry outlook.

Impacts of Covid-19

At the onset of the pandemic, non-essential businesses worldwide were shut down forcing business owners to implement innovative business strategies to maintain profitability. For many industries, this meant shifting to an online business structure whether that being through telehealth appointments in the medical industry or online sales platforms for retail companies. Unlike other industries, the hospitality industries setbacks cannot be solved by simply shifting its business online. Since March of 2020, nearly 11% of U.S. restaurants were forced to close due to governmental executive orders. Of those forced to close, 61% will be closed permanently. Though restaurants and bars initially were closed, many adapted and offered curb-side pick-up through online and call-in orders. This allowed these businesses to maintain a portion of their revenues. However, due to extreme travel restrictions, hotels experienced a significant decrease in demand seeing a historic low of 24.5% occupancy in April of 2020. With hotel occupancy reaching 48.8% in August of 2020, nearly 33,000 small businesses still fear bankruptcy in 2021 with hotel owners stating a 35% occupancy rate would be unsustainable (Cruz, 2020).

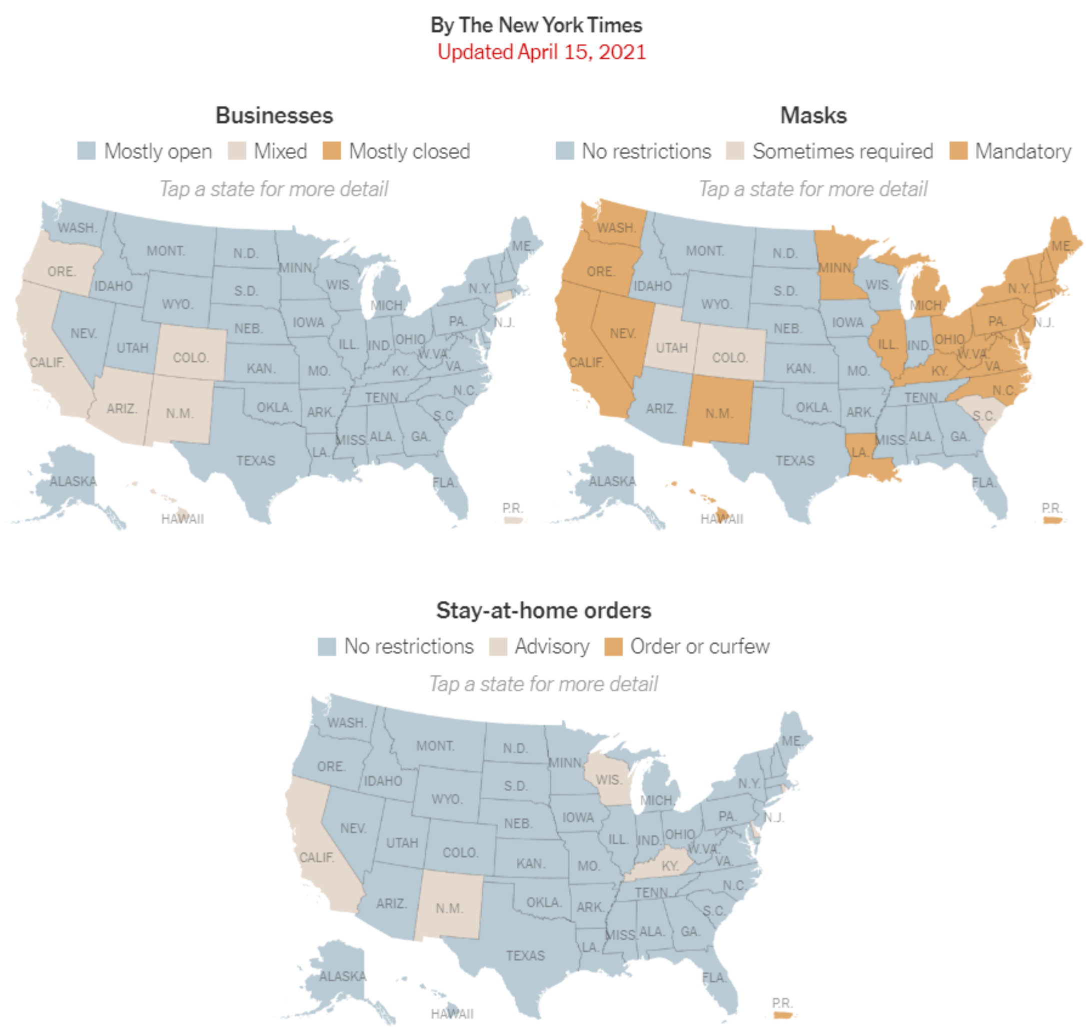
A major financial metric for the hotel industry is RevPAR, which represents revenue per available room. In March of 2020, RevPAR was only 25% of March 2019 levels. As to be expected, this decline was caused by the decrease in occupancy as well as the decline in room prices. Due to the low demand and overwhelming vacancy, hotels were forced to lower prices nearly 30% from March of 2019 (Le Cordon Bleu Culinary Arts Institute, 2020).

Source: Lock, "Lodging Industry: Change in RevPAR U.S. 2021.", 2021
*Projections



As previously mentioned, the hospitality industry has not seen the same governmental support as other industries. Dream Hotel Groups' CEO, Jay Stein, when interviewed by TravelPulse stated that the government's role in aiding the airline industry was to save an entire industry made up of three to ten major players. The hotel industry has not received the same support because there are six major brands, but thousands of individual hotel owners to which the companies contract their business. The individual hotel owners have been the ones hit hardest by the pandemic because the government helping the industry was “as easy as saving a few big companies,” failing to consider the thousands of owners being impacted (Pfalz, 2021).

Throughout 2020, unemployment rates rose globally. A large contributor to the unemployment numbers was the shut-down of the hospitality industry. Over 7.5 million leisure and hospitality jobs were lost since the onset of the pandemic and those lucky enough to remain employed saw significant wage and hour cuts resulting in an over $1.7 billion dollar decrease in employee pay weekly (Cruz, 2020).



With the roll-out of the vaccine and subsequent easing of stay-at-home orders, as represented by the visual above, the hospitality industry has begun reopening. Restaurants are operating at limited occupancy, and, in many states, limited hours of operation, thus impacting potential revenues. Travel restrictions are beginning to ease and the pent-up demand to get out of the house has served as a positive thing for the industry.

Though demand is beginning to rise, costs have increased since before the pandemic. Businesses are required to purchase personal protective equipment (PPE) for its employees to contribute to a safe working environment and follow government regulations. California restrictions require restaurant employees to wear both face masks and face shields which is a minimum of increased costs due to PPE purchases. One company in Los Angeles states spending $200 a month for masks and shields for its 25 employees (Fantozzi, 2020). Further, gloves and no-touch thermometers are also contributing to increased costs. The hotel industry saw new cleaning standards that will contribute to increased costs moving forward. In an article by Cameron Sperance, he states, “Hotel management company Hotel Asset Value Enhancement estimates the range of new cleaning protocols could collectively cost the hotel industry as much as $9 billion each year due to higher frequency cleanings and new materials (Sperance, 2020).” Further, housekeeping turnaround has increased 10 to 15-minutes due to the new cleaning standards.

Another cost these businesses are incurring is the requirements of the Families First Coronavirus Response Act. This act requires employers of less than 500 employees to pay up to two-weeks paid leave at 100% of the employee’s wage, should they test positive for the virus. These companies are completely reimbursed for these costs through tax credits, but many find this to be a financial burden too significant to wait for reimbursements (Williams, 2020).

Business Travel

While the travel and tourism sectors are different from the hospitality industry, business travel contributes significantly to the hospitality industry as business professionals travel worldwide to conduct business. Through the places they stay, the restaurants at which they dine, and the conference centers rented out, as well as travel expenses, the business tourism industry was nearly $1.294 trillion prior to the current pandemic ("Business Travel Spending Worldwide 2020"). However, in 2020, this market dropped 61% to $504 billion. Because of this, numerous businesses were forced to conduct business via video chats. This now raises the question, if/when business travel resumes, how different will it look? The number of U.S. domestic business travel dropped approximately 60% in 2020 but it is believed that it will recover to pre-pandemic levels by 2024 which is a positive thing for both the hospitality and tourism sectors (Lock, "Business and Leisure Travel in U.S.", 2021).

Historical Risk Concerns and Coverages

The hospitality industry is historically exposed to numerous risk concerns with a Risk & Insurance article by Michelle Kerr identifying 7 major risks: the sharing economy, continuously changing consumer demands, shortage of experienced personnel, consumer perception of risk, uncertainty in international travel, guest-focused technology, and new regulations (Kerr, 2018). With these emerging trends in the hospitality industry comes cyber, political, regulatory, employee, health risks, and more.

As hotels and restaurants collect consumer data and make transactions online, the companies are exposed to possible cyber attacks that could not only impact the company's image but millions of people worldwide. Prior to the pandemic, rising tensions led to travel bans. These had the potential to significantly impact the hospitality industry as travelers are required for hotels and "vacation destination" restaurants to make money. Increasing regulations on the hospitality industry is costly to companies because of the time and resources the companies must put into ensuring all regulations are followed and reserving in case possible lawsuits arise. Finally, as will all companies, the hospitality industry is exposed to workers' compensation claims. Especially in the restaurant industry, workers work with sharp utensils, hot appliances, and more that increase their risk exposure further exposing the companies. Additionally, these workers can be a risk if they are not ensuring proper food, safety, and sanitation protocols are followed leading to negative health impacts on consumers.

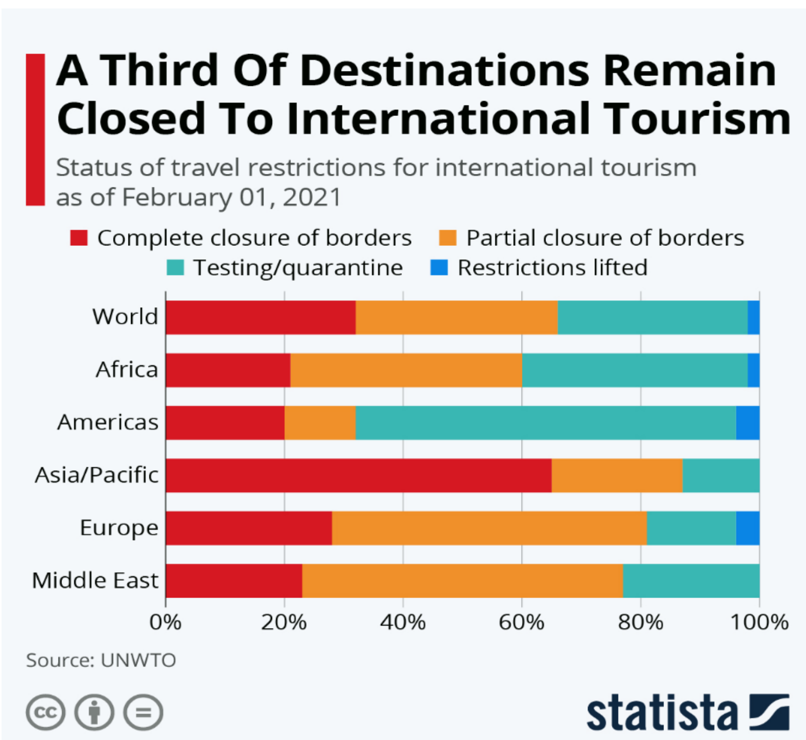
Historically, hospitality insurance policies are available to cover general liability, property, excess/umbrella, liquor liability, hired and non-owned auto insurance with tailored options to cover assault and battery, abuse and molestation, and animals ("Hospitality Insurance Coverage", 2020).

Business Interruption Insurance

When businesses first began shutting down, companies believed its insurance coverages, specifically business interruption insurance policies, would cover losses. There is now much chatter across the world as to whether business interruption policies were triggered by government required shutdowns. Approximately 80% of U.S. business interruption policies contain virus exclusions and of those without virus exclusions, 98% have “physical loss” requirements (Gordon, 2021). Insurance companies have stated no physical damage, contaminant or pollutant exclusions, no cessation of business, no prohibition or prevention of access to hotels, and virus, pathogen, and fungus exclusions as reasons Covid-19 related shutdowns do not trigger business interruption (Scaramastra, 2020).

Lawsuits against insurers continue to rise, reaching over 2000 total filed as of March 2021. Federal courts have sided with insurers for most cases with insurers winning 9 out of 10 lawsuits while state courts see a win-loss rate of 50%. Without the exclusions stated in policies, the insurance industry would experience billions of dollars in losses. Companies are choosing to continue denying these claims to avoid setting a precedence that would cost the industry billions (Mura, 2021).

Current International Travel



As seen in the chart provided by Statista, as of February 1st, 2021, there are still numerous restrictions in place to limit travel (McCarthy and Richter, 2021). This will continue to impact the hospitality industry moving forward as many “international vacation destinations” have a limited market of consumers due to the inability of consumers to travel. It is important to note that the industry has begun recovering as domestic leisure travel has increased over recent months with state legislatures lifting stay-at-home orders and allowing non-essential businesses to reopen at limited capacity.

Business Recovery Looking Forward

The hospitality industry has implemented numerous changes to prevent going under. As previously mentioned, restaurants were able to shift to curb-side pick-up or delivery utilizing online orders and services such as DoorDash. Looking forward, 80% of customers report their intention to continue utilizing delivery and pickup services resulting in 65% of restaurant owners to believe normal operations are 3 months to a year out (Cruz, 2020).

Hands-free technologies will be the future of the hospitality industry according to 64.7% of restaurant customers and 70.42% of hotel customers desire for minimized human to human contact. This will be through technologies such as service robots, contactless payments, digital menus, keyless entry, touchless elevators, and more (Cruz, 2020).

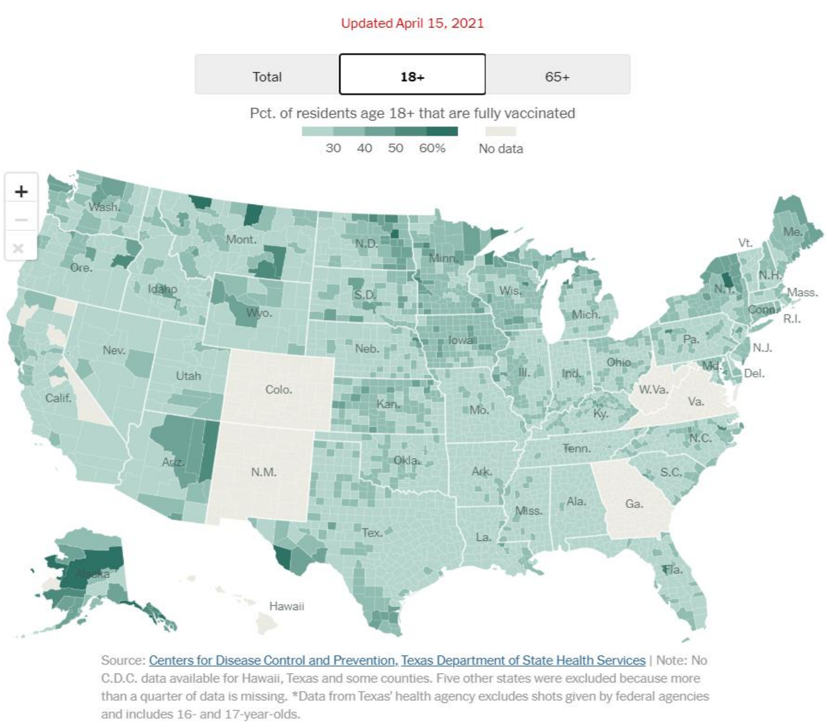
Publicly traded companies in the hospitality industry saw stock prices plummet throughout the pandemic. However, with the vaccines rolling out and Covid-19 cases continuing to decline, the public seems to be restoring its faith in the industry with hotel stock prices climbing back. Reuters reports it could take 3-5 years for the hospitality and travel industries to recover (Romjue, 2021). The Travel Technology Association conducted research that proved 82% of American families have made plans for traveling in 2021 which will positively impact the hospitality industry (Baratti, 2021). Consumers are selecting short-term rentals and non-traditional lodging over hotels as a lasting impact of the pandemic with 61% of families choosing “outdoorsy destinations" over urban ones (Baratti, 2021). Additionally, consumers are more concerned with safety with 69% of people reporting researching trips more thoroughly moving forward and 50% of restaurant customers and 40% of hotel customers being willing to pay extra for increased safety precautions (Baratti, 2021; Cruz, 2020).

Public’s Readiness to Return to Normalcy

According to research conducted by Veronica Cruz, as of December 2020, only 33% of people surveyed had traveled overnight for vacation or leisure since March with greater than 50% of respondents reporting they were unwilling to travel or stay in a hotel room anytime soon. Additionally, as of December 2020, 50% of respondents were unwilling to dine at a restaurant immediately (Cruz, 2020). It is important to keep in mind that this research was conducted prior to the public access of the current three available vaccines. With access to vaccination and the recent decline in confirmed cases, it is likely that these statistics have and will continue to change as the public continues to grow more comfortable with the idea of traveling and returning to normalcy. For example, as of April 15, 2021, 71.7% of Americans were planning in-person events throughout 2021. With 33% of respondents planning to host their gatherings at home, 51% of them reported plans to cater the events (“With 71.7% of Americans Planning In-Person Events in 2021”, 2021), restaurants, hotels, and venues should begin revamping marketing strategies to target those ready to get out of the house, but still follow proper Covid-19 recommendations. Companies should keep in mind the risks associated with new pandemic variants causing the return of shutdowns in the future and create strategies to continue business should industry outlooks prove to be inaccurate.

While surveys help create projections, hard data proves the mindset of the country. The first Friday in April of 2021 the TSA screened the “highest passenger throughput since March of 2020” at 1.58 million compared to the 2.3 million safety checks per day in 2019. From February to March of 2021, the U.S. airports saw seven-day averages of passengers screened, double (Richter, 2021). With travel comes the need for food and a place to stay, which means increased TSA screenings is a positive thing for the hospitality industry as well.

With rumors of vaccine passports, the assumption of the public that vaccines will be required to vacation, and the population’s desire to protect themselves and others from the pandemic, vaccine campaigns have proved that though the vaccine was created with a quick turnaround, people are willing to get the vaccine if it means a return to normalcy. As more people become fully vaccinated, the hospitality industry will begin to see increasing numbers of those ready to travel and stay places overnight.



Conclusion

The past year has taken a significant toll on the hospitality industry. Government mandated stay-at-home orders and the closing of borders, prevented many from traveling both domestically and abroad causing a significant impact on restaurant and hotel revenues. With worldwide vaccine campaigns, lifting of stay-at-home orders, and pent-up demand for people to “get out of the house”, the hospitality industry has begun to recover with analysts anticipating a 1–3-year recovery of the industry. Every day, more restaurants are beginning to allow customers to dine in as people and business owners grow more comfortable with the state of the pandemic. The insurance industry has so far been able to avoid significant business interruption claims which had the potential to wipe out numerous insurance companies had courts sided with the businesses. Business owners may begin to look for pandemic coverage or a more inclusive business interruption policy.

Though there is recovery and normalcy in sight, it is important to recognize the numerous businesses within the hospitality industry that closed its doors permanently because of the hardships imposed by the pandemic. Looking forward, businesses within the hospitality industry will continue to implement technology that allows for “contactless” services to encourage consumers that the business’s services are safe. With this comes the increase in cyber and regulatory risks. There are still numerous questions left unanswered about the future of the hospitality industry that can only be answered as the world continues to recover.

Works Cited

Baratti, Laurie. "There's Pent-Up Demand for Travel, but COVID Has Altered Consumer Behavior." *TravelPulse*, 14 Feb. 2021, www.travelpulse.com/news/features/theres-pent-up-demand-for-travel-but-covid-has-altered-consumer-behavior.html.

"Business Travel Spending Worldwide 2020." *Statista*, Statista Research Department, 8 Apr. 2021, www.statista.com/statistics/1093295/business-travel-spending-worldwide/.

Cruz, Veronica. "The Effects of COVID-19 on the Restaurant and Hospitality Industry." *Market Business News*, 4 Dec. 2020, marketbusinessnews.com/effects-covid-19-restaurant-hospitality-industry/253229/.

Fantozzi, Joanna. "Is Safety Affordable? How Restaurant Operators Are Factoring PPE into Their Budgets." *Restaurant Hospitality*, 14 July 2020, www.restaurant-hospitality.com/restaurants-ready/safety-affordable-how-restaurant-operators-are-factoring-ppe-their-budgets.

Gordon, Mark. "Plaintiff Attorneys on Losing End of Business Interruption Insurance Cases: Business Observer." *Business Observer*, Business Observer, 26 Feb. 2021, www.businessobserverfl.com/article/plaintiff-attorneys-on-losing-end-of-business-interruption-insurance-cases.

"Hospitality Insurance Coverage." All Risks, Ryan Specialty Group, 2 Dec. 2020, www.allrisks.com/commercial-insurance/hospitality/.

Kerr, Michelle. “7 Critical Risks Facing the Hospitality Industry.” Risk & Insurance, Allied World, 8 Oct. 2020, riskandinsurance.com/7-critical-risks-facing-the-hospitality-industry/.

Le Cordon Bleu Culinary Arts Institute. “Interview with Jean-François Gagne: Impact of Covid-19 on the Hospitality Industry.” *The Impact of Covid-19 on the Hospitality Industry*, Le Cordon Bleu Culinary Arts Institute, 12 May 2020, www.cordonbleu.edu/news/interview-jean-francois-gagne-2020/en.

Lock, S. “Business and Leisure Travel in U.S.” *Statista*, 16 Mar. 2021, www.statista.com/statistics/207103/forecasted-number-of-domestic-trips-in-the-us/.

Lock, S. “Lodging Industry: Change in RevPAR U.S. 2021.” *Statista*, 23 Mar. 2021, www.statista.com/statistics/195709/percentage-of-change-in-revpar-in-the-us-since-2010/#:~:text=The%20United%20States%20hotel%20industry%20reached%20an%20average,the%20U.S.%20hotel%20industry%20between%202001%20and%202019.

McCarthy, Niall, and Felix Richter. “Infographic: A Third Of Destinations Remain Closed To International Tourism.” *Statista Infographics*, 9 Mar. 2021, www.statista.com/chart/24371/status-of-travel-restrictions-for-international-tourism/.

Mura, Roy A. “Businesses Filing More COVID Lawsuits and the Stakes Are Higher.” *Claims Journal*, 8 Apr. 2021, www.claimsjournal.com/news/national/2021/04/08/303003.htm.

Pfalz, Lacey. “Dream Hotel Group CEO Shares COVID-19's Impact on the Hotel Industry.” *TravelPulse*, 5 Apr. 2021, www.travelpulse.com/news/hotels-and-resorts/dream-hotel-group-ceo-shares-covid-19s-impact-on-the-hotel-industry.html.

Richter, Felix. “Infographic: American Travelers Are Ready for Takeoff.” *Statista Infographics*, 9 Apr. 2021, www.statista.com/chart/24599/passenger-screenings-at-us-airports/.

Romjue, Andy. “Life After COVID-19: How Hotels Can Prepare for the Future.” *Hotel Business*, 7 Jan. 2021, www.hotelbusiness.com/life-after-covid-19-how-hotels-can-prepare-for-the-future/.

Scaramastra, Don. “Will COVID-19 Impact Hotel Business Insurance Claims?” *Hotel*, 14 May 2020, www.hotel-online.com/press_releases/release/will-covid-19-impact-hotel-business-insurance-claims/.

Sperance, Cameron. “Hotels Could Face $9 Billion in New Costs to Stay Squeaky Clean.” *Skift*, 24 June 2020, skift.com/2020/06/24/hotels-could-face-9-billion-in-new-costs-to-stay-squeaky-clean/.

Williams, Geoff. “Do You Qualify for Paid Sick Leave for the Coronavirus?” *U.S. News & World Report*, U.S. News & World Report, 24 Mar. 2020, money.usnews.com/careers/articles/do-you-qualify-for-coronavirus-paid-sick-leave.

“With 71.7% of Americans Planning In-Person Events in 2021, Restaurants and Venues Need to Prepare for Bookings to Heat Up.” *Morningstar*, PR Newswire, 15 Apr. 2021, www.morningstar.com/news/pr-newswire/20210415ph42728/with-717-of-americans-planning-in-person-events-in-2021-restaurants-and-venues-need-to-prepare-for-bookings-to-heat-up.

Civil Unrest and Public Entity Liability

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Contents

Civil Unrest and Public Entity Liability

In the last several years, the United States and many other countries throughout the world have seen a surge of civil unrest and calls for government action surrounding key issues like police reform, socioeconomic inequality, and the COVID-19 pandemic. Civil unrest surrounding these issues often takes the form of peaceful protests and demonstrations, as well as online and social media movements. However, there have been several incidents in which protests and demonstrations take an aggressive turn, resulting in violent clashes with police forces, public and private property damage, as well as death and injury of parties involved in the conflicts.

Additionally, the occurrence of protests and civil disturbances across the globe is expected to continue to increase. Verisk Maplecroft, an organization that specializes in data modelling and strategic forecasting of the global risk landscape, published a report projecting that 75 countries will experience an increase in civil unrest in the next two years, with 34 of those 75 expected to experience significant increases (Campbell & Hribernik, 2020).

Based on what we have seen in the past regarding sweeping social movements and the ways in which governments and police forces have handled them, forecasts of increased unrest and civil disturbances create a bleak outlook for the future. An analysis of prevention and control techniques utilized by governments and police can provide insights into how the public entity can more effectively handle civil unrest and mitigate losses caused by destructive and violent protests. Examination of the E&S Insurance Industry and solutions already set in place for civil unrest liability can also provide insights into how existing policies can be improved to meet the needs of the public entity.

Duties of the Public Entity

To understand the duties that the public entity has for mitigating civil unrest, an understanding of what causes civil unrest and how it affects people is needed. “Law enforcement is never the sole catalyst for civil unrest. Incidents are caused by a perfect storm of several variables that together contribute toward the growing conflict” (Lomax, 2015). This is an important characteristic of civil unrest that often gets overlooked, especially by activists and protesters in the heat of the moment. For example, consider the events that led up to the first World War. Many people attribute the start of the war to the assassination of Archduke Ferdinand on June 28, 1914, but it was hardly the cause; decades of imperialism and a rush for global dominance caused distrust and hatred between many countries which is what ultimately fueled the war, the events that transpired on that day were simply the spark that light the fire.

Similarly, the violent clashes between police and Black Lives Matter protesters that occurred in May of 2020 were in response to the death of George Floyd, but that was only the catalyst. The BLM movement is fueled by prevailing and disparate police brutality towards black people. Unfortunately, altercations between law enforcement and some protesters got out of control, resulting in injury, death, and destruction estimated to cost the insurance industry $1 billion to $2 billion in claims (Kingson, 2020). Many of the people who experienced losses were not even involved with these altercations. Ultimately, this means that not only do they have the responsibility of reducing the occurrence of civil unrest, but the government also has the responsibility of doing their best to discourage destructive reactions and minimize losses incurred.

Police Budget

One of the most controversial political topics in recent times concerns the budget for police forces and how much funding is required for law enforcement to effectively do their job. One of the primary objectives of public entities is continuous operations, so funding has a great impact on organizations like police departments. For this reason, altering the ways in which they can gain or lose funding, as well as how funding is distributed, can be some of the most effective ways to stimulate fundamental changes in public entities.

One of the more popular solutions proposed to increase effectiveness of mitigation strategies for civil unrest is to redistribute some of the funding that goes to state and local policing, to other existing or new departments and social programs. A lot of the evidence that supports this idea comes from observations of how other developed countries organize and fund their police. For instance, many countries have implemented a more centralized police force which allows them to better regulate training and procedures, as well as oversight and disciplinary actions (Cheatham & Maizland, 2020). In a study conducted in collaboration with the Chicago Police department, researchers found that training police officers in procedural justice policing strategies reduce settled complaints against officers and the use of force against civilians by officers by 10% and 6.4%, respectively, over a span of two years (Wood, Tyler, & Papachristos, 2020). Through a centralized police force, the United States could allocate more funding to better training techniques and see these kinds of results across the country instead of in just one city.

Preparation

“It has been said that the primary duty of government—of organized government—is to provide for the safety and security of its citizens.” (Navas & Manwaring, 2000) This is a quote taken from proceedings from the conference on homeland protection where the topic of discussion is the spectrum of civil unrest. In his speech, William A. Navas addresses the fact that the threat of civil unrest is high but preparing for the inevitability of civil unrest can minimize the risk.

One way in which public entities can prepare for civil unrest is by anticipating when, where, and why civil unrest will occur. This can be accomplished by analyzing past events and searching for identifiable patterns or commonalities between occurrences. In an article published in The Police Chief, a periodical written for law enforcement officers about current events and effective practices, Mark Lomax presents the idea of a probability model which analyzes past events for connections in social, economic, environmental, political, legal, ethical, demographic, and technological factors in order to create an accurate tool for predicting the circumstances of potential acts of civil unrest (Lomax, 2015).

Knowing this information would allow public entities to provide better resources and training that is more relevant to the situation. This, in turn, would help mitigate losses incurred by more destructive occurrences of civil unrest. Additionally, this kind of analysis tool could enable public entities to get ahead of the problem by providing community support and resources when and where they are needed to curb rising civil unrest.

E&S Industry

As we have seen, from riots and protests across the globe like the Los Angeles Riots of 1992 and the Hong Kong protests, civil unrest can result in a lot of damage. In fact, the top 8 most costly events of civil disorder in the United States all cost over $100 million in today's dollar (Wilkinson, 2020). So, who pays for damages incurred during riots and civil unrest? Currently in the United States, Insurance companies are usually the first entities to provide compensation for injuries and damages that happen in riots, protests, and vandalism. Many property insurance policies for businesses and homeowners will include coverage for losses due to riots or civil commotion; and in the case that it is not covered under their property insurance policy, many organizations will purchase terrorism or political violence policies (Marsh Mclennan, 2020) However in some countries, like Germany, the law will hold an officer liable for damages or injury they are responsible for if their actions are deemed "beyond the limits of reasonable discretion" (Elbow, 2020). In the UK, The Riot Compensation Act allows citizens and insurance companies to claim compensation from the local policing body for property that was damaged, destroyed, or stolen in a riot.

Shortcomings of existing policies

So, what about insurance and security for public entities? In the United States, Public entities are able to purchase insurance policies to cover property damages; they can also purchase liability insurance as well. However, recent events have caused insurance companies to start reducing capacity for public entity liability, raise deductibles, and in some cases even withdraw from the business completely (CRC Group, 2020). This is happening because, as was mentioned before, future predictions for civil unrest forecast an increase in occurrences and severity. Because of these forecasts for civil unrest and the increasing trend of police violence, insurance companies expect to see larger and more frequent liability claims from public entities. While the United States has one of the largest budgets for police and law enforcement, because it is not a centralized system, many small police departments and other public entities will not be able to afford higher costs for liability insurance. “In at least one instance during a recent renewal, an insurer insisted on raising a self-insured retention from $250,000 to $5 million” (CRC Group, 2020).

One solution for this problem is to allow police officers to be individually accountable for civil liability charges. In New York, a bill has been proposed that introduces the idea of getting rid of qualified immunity for police officers, which is what protects them from being held legally accountable for their actions. Now, if qualified immunity were to be dismantled, it would require that police officers purchase liability insurance policies for themselves. The problem with this is the same problem public entities have purchasing liability insurance in recent times, the costs of purchasing and holding liability policies for law enforcement is too high.

Conclusions

As we have seen in the past, civil unrest can be highly costly, and pose a great risk to public entities and businesses, as well as individuals. It is the duty of the public entity to prevent and mitigate losses incurred due to civil unrest and public discourse. However, the costs of current mitigation strategies continue to rise as the frequency of civil unrest occurrences trends upwards and liability insurance premiums and fees for public entities increase. In addition to these reasons, inadequate training and procedures for law enforcement in the united states generate more lawsuits and greater distrust from the public, only adding to these costs.

The public entity can work with the E&S industry to create new legislation and policies that would mitigate losses incurred during civil unrest and reduce the costs of insuring liability risks. One way in which the public entity could better perform their duty to protect the public from losses is to first form a centralized police force. This would allow for smoother and easier adoption of new policies across the entire country, as well as reduce nuances in training and mitigation strategies between different departments that may be less effective. This would also allow smooth integration of probability modeling and data sharing for anticipating and preparing for civil unrest. In addition, legislation should be passed requiring police officers to individually carry professional liability insurance. As mentioned before, funding is incredibly important to public entities; by introducing this requirement, police officers will have a greater financial motive behind performing well and avoiding risky behaviors when it comes to handling civil unrest.

Introducing this legislation would also allow insurance companies the opportunity to further improve law enforcement mitigation strategies and risk avoiding behavior. By making individual officers pay for their own liability insurance, they are more likely to do what they can to reduce the costs of holding that policy. Insurance companies can use this to create new standards in law enforcement by offering reductions on premiums and self-insured retention limits for officers who undergo further training or for officers who utilize more effective mitigation strategies; this also would help solve the problem of especially high costs of liability insurance for public entities. Raising insurance costs for officers who do not perform well would also be an effective deterrent for inappropriate or instigating behavior but does not do much to solve the problem of costly insurance policies. Better standards and procedures among law enforcement individuals and public entities would result in better prevention and mitigation of losses incurred during civil unrest and riots. Over time, we would see the probability and severity of these losses diminish as well as the costs of liability insurance for public entities.

References

Campbell, T., & Hribernik, M. (2020). *A dangerous new era of civil unrest is dawning in the United States and around the world.* Verisk.

Cheatham, A., & Maizland, L. (2020). *How Police Compare in Different Democracies.* Council on Foreign Relations.

CRC Group. (2020). An Arresting Fact: Municipalities Bear Growing Risk for Police Actions.

Elbow, S. (2020). Activists want to 'defund.' How do other countries curb police excesses? *The Capital Times*.

Kingson, J. A. (2020, September 16). Exclusive: $1 billion-plus riot damage is most expensive in insurance history. *Axios*.

Lomax, M. (2015, September). Probability Model for Mitigating Civil Unrest and Enhancing Effective Police Respons. *The Police Chief*, p. 21.

Marsh Mclennan. (2020). *Civil Unrest in the US: Property Insurance Considerations.* Marsh Mclennan.

Navas, W. A., & Manwaring, M. G. (2000). Threat of Civil Unrest and Insurrection. *Papers From the Conference on Homeland Protection* (pp. 171-180). Strategic Studies Institutes, US Army War College.

Wilkinson, C. (2020, September). Civil unrest prompts coverage restrictions. *Business Insurance*, p. 4.

Wood, G., Tyler, T. R., & Papachristos, A. V. (2020). *Procedural justice training reduces police use of force and complaints against officers.* PNAS.