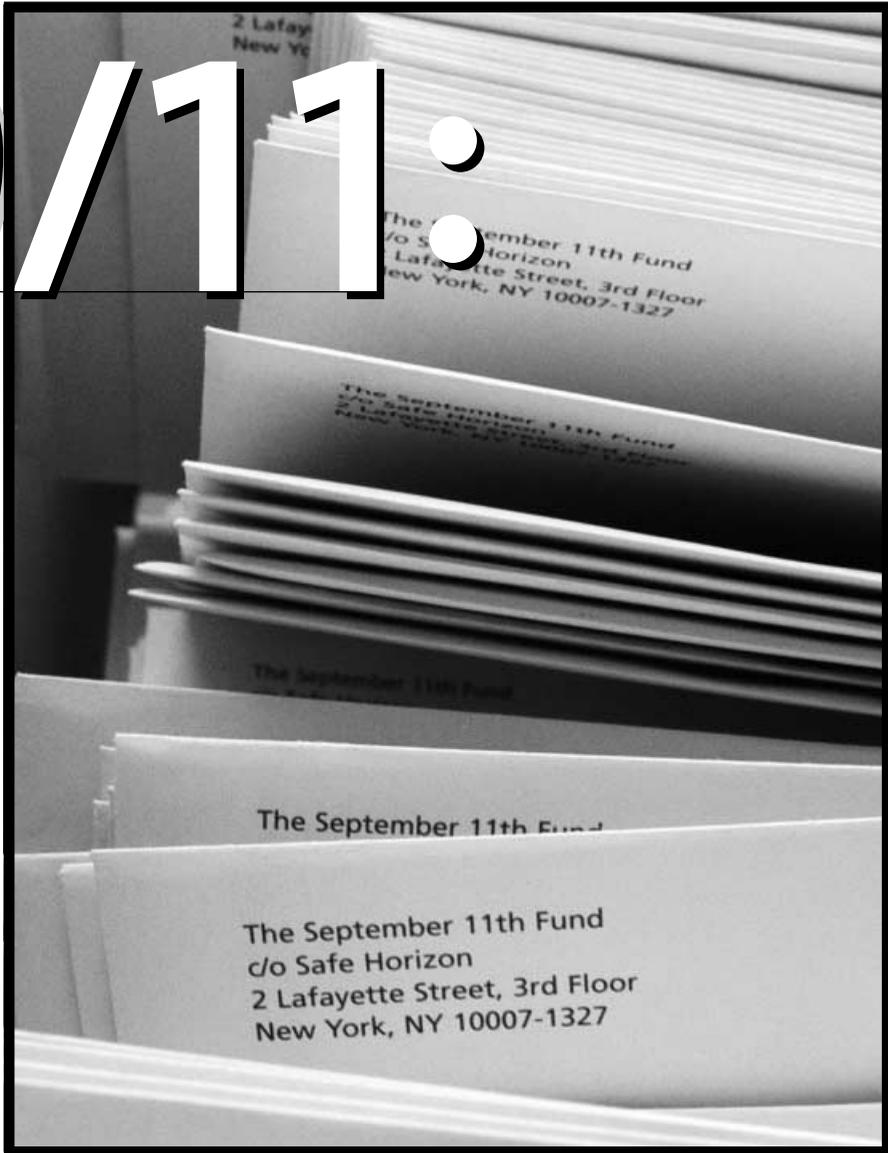


9/11:



Compensating the Victims

by Sylvester J. Schieber

The terrorist attacks against the World Trade Center and the Pentagon elicited unprecedented public support for the victims. Two charities alone, the Red Cross and the September 11 Fund, have collected over a billion dollars for aid to victims and their surviving dependents. The sums are so large that they have created problems for the charities in determining how to distribute the benefits.

Reflecting public sentiment, the United States Congress created its own Sept. 11 Victim Compensation Fund of 2001, a mere 11 days after the attacks. One reason, of course, was to provide relief for the victims. But plainly, another motive was to protect United Airlines and American Airlines from liabilities above the \$6 billion in insurance on the four planes that crashed in the attacks. And the rush to compensate the victims' families raises troubling questions, both about inequities in calculating the awards and about the broader issue of why the government is compensating victims in this tragedy and not others.



The fund's mandate is to compensate those injured by the aircraft crashes and the personal representatives of those killed. It is meant to be a no-fault alternative to damage suits. The compensation relates only to physical injury or death; it does not compensate for property loss. No punitive damages are to be awarded through the fund, and recipients of cash must waive their right to sue for damages.

Eligible victims include passengers in the planes and those present at the crash sites at the World Trade Center, the Pentagon and in Pennsylvania. For rescue workers, coverage extends to 96 hours from the time of the crashes. The attorney general appointed a special master, Kenneth R. Feinberg, to administer the program and make the rules for who gets how much.

Feinberg's résumé suggests why he was chosen. Not only had he been an assistant United States attorney in New York City and special counsel to the Senate Judiciary Committee, but he was also the special settlement master in the Agent Orange litigation.

Rules for the fund's operation were made on the fly in order to get money into families' hands quickly, creating considerable uncertainty about how the program

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would work. On March 7, final regulations were published, clarifying some issues but leaving a number unresolved.

Awards will not be determined until a formal application is filed. However, applicants give up the right to pursue legal action for their losses against the airlines, the airports from which any of the four airplanes departed, the owners of the World Trade Center buildings, and the City of New York. Determinations of compensation are final and not subject to judicial review.

BENEFITS UNDER THE SEPT. 11 VICTIM COMPENSATION FUND

Three primary factors are being used to determine individual benefits. The first is economic loss. The approach used here is essentially the formula routinely employed in estimating economic damages from lost earnings in tort cases dealing with death or injury. The second is noneconomic loss. The last is the circumstances of the individuals, including collateral offsets for other resources available to the claimants.

Economic Loss

The initial rules last December included a five-step process for calculating economic loss beginning with the determination of pre-tax earnings, including bonuses and some benefits, from 1998 through 2000. The earnings considered in determining economic loss are capped at the 98th percentile of the earnings distribution, defined by Feinberg as \$231,000. In step two, this base earnings level

is adjusted to reflect likely future pay increases associated with inflation and promotion. The adjustment provisions in the December rules would have increased base earnings by 6.6 percent per year to age 30, 5.1 percent per year from ages 31 to 50, and 4.2 percent per year above age 50. These rates are consistent with those used in calculations of military and federal civil service pensions.

In step three, the number of years a victim would have worked is estimated, based on averages developed by the Bureau of Labor Statistics. The “present value” of lost earnings is calculated in step four, with estimated future annual earnings discounted at a rate of 5.13 percent. In step five, the estimated portion of this present value of future earnings the victim would have spent on his/her personal needs is subtracted. What’s leftover is the economic loss that would have accrued to the survivors.

The concept of economic loss used in tort cases is not widely admired by economists. Where one member of a couple dies, it is relatively common that the survivor remarries or forms another union. Has such a person truly suffered a permanent economic loss in losing a partner? While there is clearly an economic transfer from parents to young and juvenile children, savings rates in the United States are relatively low, suggesting that people typically consume at levels roughly equivalent to their income levels over their lifetimes.

The December rules for determining economic loss drew heavy criticism. While some of the comments focused on philosophical issues or the appropriateness of using standard tort methods for determining awards, many criticized the numbers used to determine actual compensation. Many addressed the level of economic loss at the upper end of the earnings distribution – some clearly argu-

SYL SCHIEBER is vice president of **Watson Wyatt Worldwide**. The author wishes to thank **Marc Fleischaker** of **Arent Fox Kintner Plotkin & Kahn** and **Nancy Campbell** of **DocuMentor**. **Eugene Steuerle** of the **Urban Institute**, whose wife **Norma** was on **American Airlines Flight 77**, provided valuable insights into the workings of the **Victim Compensation Fund**.

ing that the standard should be set much lower, others arguing there should be no earnings limit.

The final rules still base economic loss on 1998-2000 earnings unless applicants can demonstrate that other years are more representative. They also maintain the limit on earnings considered for compensation at the 98th percentile of earnings for all workers in the country, unless the eligible recipients can demonstrate this would create economic hardship. But the indexing of future earnings is being modified to be more representative of actual patterns of earnings as workers age.

The limits on earnings flags the sorts of practical problems that crop up when a program of this magnitude is rolled out on short notice. In the words of the special master, the reason for limiting the consideration of compensation at the 98th percentile level of earnings is that “multi-million dollar awards out of the public coffers are not necessary to provide [claimants] with a strong economic foundation from which to rebuild their lives.”

The December rules had stipulated this limit was \$231,000 for the base year. But my own calculation suggests the 98th percentile earnings is actually much smaller. Based on tabulations of earnings for 2000 provided by

the Office of the Actuary at the Social Security Administration, I estimate that the 98th percentile of compensation subject to the payroll tax is \$125,000. Adding 18 percent to 19 percent more to reflect average employer-funded benefits not subject to the payroll tax only brings this number up to about \$150,000.

Why the difference between my figure and the special master’s? It appears that his staff mistakenly used adjusted gross income figures – numbers that reflect interest, dividends, rents and capital gains, as well as wages and salaries. And for the well-heeled Americans in the top 2 percent of the income distribution, this unearned income is quite substantial.

Now, there is nothing sacred about the 98th percentile limit in determining compensation. Having set it as the standard, however, and then using far higher earnings levels means that benefits at the upper end of the earnings distribution will be far more gener-

ous than what was intended.

If the victims of the Sept. 11 attacks were a typical sample of American workers, the consideration of earnings between \$150,000 and \$231,000 might not be that important, as it only covers about 1.5 percent of all wage earners. But because so many of the victims in

TABULATION OF ALL WORKERS WITH ALL WAGE COMPENSATION GREATER THAN ZERO IN 2000

| WAGE INTERVALS | CUMULATIVE WORKERS (MILLIONS) | CUMULATIVE PERCENTAGE OF WORKERS |
|--------------------|-------------------------------|----------------------------------|
| Less than \$5,000 | 27.39 | 18.50 |
| " \$15,000 | 57.73 | 38.98 |
| " \$25,000 | 84.37 | 56.96 |
| " \$35,000 | 105.55 | 71.26 |
| " \$45,000 | 120.17 | 81.14 |
| " \$55,000 | 129.47 | 87.41 |
| " \$65,000 | 135.25 | 91.31 |
| " \$75,000 | 138.88 | 93.77 |
| " \$85,000 | 141.25 | 95.37 |
| " \$95,000 | 142.80 | 96.41 |
| " \$105,000 | 143.88 | 97.14 |
| " \$115,000 | 144.64 | 97.65 |
| " \$125,000 | 145.20 | 98.04 |
| " \$135,000 | 145.63 | 98.32 |
| " \$145,000 | 145.96 | 98.54 |
| " \$155,000 | 146.23 | 98.73 |
| " \$165,000 | 146.45 | 98.87 |
| " \$175,000 | 146.63 | 99.00 |
| " \$185,000 | 146.79 | 99.10 |
| " \$195,000 | 146.91 | 99.19 |
| " \$250,000 | 147.36 | 99.49 |
| " \$350,000 | 147.70 | 99.72 |
| " \$450,000 | 147.85 | 99.82 |
| " \$500,000 | 147.89 | 99.85 |
| " \$1,000,000 | 148.04 | 99.95 |
| " \$2,000,000 | 148.09 | 99.98 |
| " \$3,000,000 | 148.10 | 99.99 |
| " \$4,000,000 | 148.10 | 99.99 |
| " \$5,000,000 | 148.11 | 100.00 |
| TOTAL | 148.11 | 100.00 |

SOURCE: Social Security Administration, Office of the Actuary, Tabulation of the Social Security Administration’s Master Earnings File as of October 13, 2001.

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the World Trade Center were employed in the highly compensated financial services sector, the earnings distribution of victims is not likely to reflect the national distribution. For workers in financial services, using earnings for 1998-2000 should also prove particularly



advantageous, as this was the period of dot-com/telecom fever in which compensation was especially high.

Noneconomic Loss

In keeping with the tort model for determining losses, the rules for determining benefits include compensation for pain, emotional suffering, loss of enjoyment of life, and mental anguish. But the list of noneconomic loss considerations in the rules is somewhat more restricted than those spelled out in the legislation. The final rules acknowledged that the determination of any level of noneconomic losses is “inherently subjective.”

The December rules set the *presumed* noneconomic loss for people who were killed in the attacks at \$250,000, plus \$50,000 for

the spouse and each dependent. The basis for the \$250,000 was that it is roughly equivalent to federal benefits for dependents of public safety officers and military personnel killed in the line of duty. For those injured by the attacks, the rules are much less precise; it appears that the special master started with

the principle that they should get some percentage of the benefit awarded to those killed.

Economic loss lends itself to mechanistic calculation. But non-economic losses are another kettle of fish. How, for example, can one value a relationship between a husband and wife or a parent and child? And how does one value a lost relationship compared to the foregone economic contribution

someone would have made to his livelihood? For surviving victims, whose losses may include suffering, inconvenience, physical impairment, mental anguish, disfigurement and loss of enjoyment of life, valuing the loss is more art than science.

The problem the special master faced in setting awards for noneconomic loss is exemplified in comments he received in response to the December interim rules. One commentator suggested he “deserved more money for pain and suffering than another because he spoke to his wife (who was in the World Trade Center) after one of the planes hit her building but before she lost her life.” But another was that “although she did not talk to her husband prior to his death, she experienced just as much (if not more) pain and suffering

SHEPARD SHERBELL/CORBIS SABA

because she never had the opportunity to say goodbye to him.”

Some said that people trapped above the floor that the planes hit the World Trade Center should be get more than those below because the latter had a chance to escape. Others said that survivors of police officers and firefighters should get less than civilians because they knew the risks they were taking.

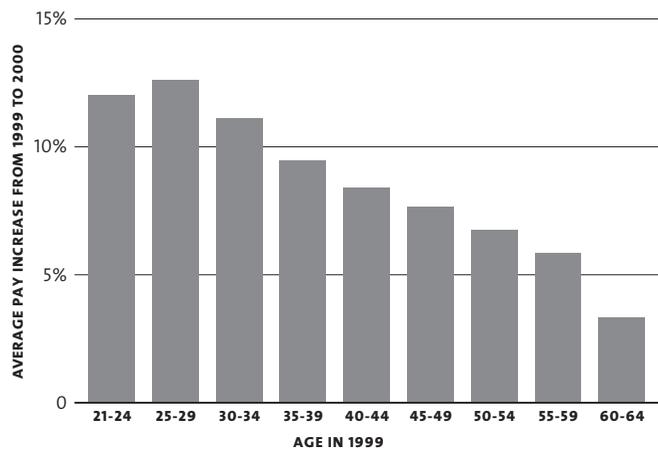
A major aggravation for critics of the tort system in personal injury cases is the wild variations in benefits awarded for pain and suffering, and punitive damages. For example, in the Korean Airlines disaster several years ago, plaintiffs received awards ranging from nothing to \$1.4 million.

By this light, the rules for Sept. 11 compensation look pretty good. All the awards for pain and suffering are likely to be relatively uniform. The one concern here is that the special master has indicated in the final rules that he will allow applicants who believe the stated rules are unfair in their cases to provide evidence of why they should be treated differently. If the special master waffles in granting noneconomic awards, the variability in the tort system may prevail here as well.

In one of his public meetings, Feinberg indicated that he had made a deal with the Office of Management and Budget that limited the total distribution from the Sept. 11 fund to \$5 billion. Given this limit on total payouts, the schedule for noneconomic benefits may have been largely determined by estimates of the money left after the awards for tangible economic losses. But determining the size of the economic award first and then

assigning the residual to noneconomic losses would effectively render the relative size of the two arbitrary. If this program is to replace the tort system for Sept. 11 victims, it would make more sense to tilt the division toward noneconomic losses.

AVERAGE PAY INCREASE FOR WORKERS IN 80 LARGE PRIVATE SECTOR FIRMS FROM 1999 TO 2000



SOURCE: Watson Wyatt Worldwide

The March 7 rules left the basic noneconomic award at \$250,000, but increased the additional award for spouses and dependents of deceased victims to \$100,000 each. The modification suggests the constraint on total award outlays has been relaxed. Still, there are legitimate questions about the relative size of economic and noneconomic awards.

Collateral Compensation

The law creating the fund requires that compensation for economic and noneconomic losses be reduced by the amount of collateral-source compensation to which claimants are entitled. Collateral sources include life insurance, pension funds, death-benefit programs and payments from other government funds.

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These offsets generated much criticism after the release of the December rules, some of which have been addressed in the final rules. The special master is limited here, however, because the law spells out many of the offsets.

The special master will not consider benefits distributed by charities as collateral compensation. He decided not to partly because the law was silent on the matter. But he was also concerned that charities might otherwise withhold their benefits until he had made his determinations and distributions to victims.

The treatment of life insurance as an offset to economic losses raises a number of basic equity considerations. Under the final rules, premiums or contributions made to a life insurance program to build up a tax-deferred value also will not be counted. To the extent life insurance reflects the benefit from the fund payable because of death – the portion that reflects the term-insurance benefit – it will be deducted.

People who plan responsibly for the unknown by buying life insurance do so by reducing their consumption. If the cost of the insurance reduces consumption directly as the insurance is purchased, it is a short-term cost. If it reduces other saving, it comes at the expense of precautionary or retirement savings, which reduces consumption over the long term. The survivors of those who incurred this expense will not receive credit for the sacrifice that was made in purchasing insurance. Putting it another way, those who were less prudent will reap an added reward, since they did not have to curtail consumption in the past, yet will receive an equivalent benefit to those who did.

The treatment of pensions is even more problematic. The awards are to be reduced by the present value of some defined-benefit pensions and Social Security benefits to

which survivors became entitled because of Sept. 11. On the other hand, accumulations in 401(k) plans or similar defined-contribution plans will not reduce the awards.

The final rules also indicate that if a pension benefit is uncertain, it will not be considered a collateral offset. The rules cite the specific example of survivor benefits paid to a spouse under Social Security. If the survivor receiving these benefits remarries or earns income above a certain level, the benefits are no longer payable and thus the special master considers them uncertain. It will be interesting to see how proponents of the current Social Security system who claim there is tremendous value in these benefits react to the special master's determination that they are of no value unless they have already been paid.

As for employer-sponsored pensions, benefits paid as annuities will be offset on a present-value basis, except to the extent that the value of the benefit was financed by employee contributions. The final rules are silent on this same point in the case of Social Security. Yet half the Social Security benefit is financed by employee contributions, and it appears that the full present value of annuities will be treated as collateral offsets. As for other forms of retirement savings, the special master does "not believe that Congress intended to treat a victim's savings accounts or similar investments as collateral source compensation, [and] the collateral-source offsets will not include moneys or other investments in victims' 401(k) accounts."

The different treatment of defined-benefit and defined-contribution plans is troubling on several grounds. First, many of the people with defined-benefit pensions killed on Sept. 11 were already vested in a substantial benefit whose present value may not be affected by their deaths, and thus does not seem to fit the

category of collateral compensation. Indeed, in pension plans where survivor benefits are reduced if the pensioner dies, the present value of benefits might have actually been reduced by the participant's death.

Second, economic theory suggests that workers pay for their pensions through reduced salary during their working lives. If so, the fundamental difference between funding defined-benefit plans and defined-contribution plans is that in the former the employee's contribution is taken out before the employer determines the paycheck rather than afterward. The disparate treatment thus seems unfair to people who were willing to work for less pay in order to qualify for larger pensions. And there may have been a disproportionate number of these sorts of people among the victims on Sept. 11 – specifically, government employees.

Public-sector salaries are often lower than those in the private sector, in part because public-sector workers retire with bigger benefits. This is especially true for workers in public safety and the military – two groups particularly affected by the Sept. 11 attacks. In fact, the different division of current and retirement pay amounts to a double whammy for public-sector workers lost on Sept. 11. First, the estimated economic loss in such cases will be lower than it would have been if the victims had not accepted a reduced salary in order to earn a generous pension. Second, the pensions count as collateral compensation and thus further reduce net economic compensation from the fund.

Another problematic element here is the potential inequity in accounting for employer

contributions to defined-benefit versus 401(k) plans. While the rules are silent on plans financed solely by employer contributions, I presume the benefits distributed from these would be treated similarly to defined-

FEDERAL TREASURY AND MUNICIPAL BOND RATES IN EARLY 2002



SOURCE: Reported at www.schwab.com as of February 14, 2002, but attributed to www.barra.com.

benefit pensions financed by employer contributions. But the rules are explicit that “collateral offsets will not include ... 401(k) accounts.” Many 401(k) plans include both employer and employee contributions. Why is it that employer contributions to a defined-benefit plan are considered offsets, but similar contributions to one type of defined-contribution plan are not?

I assume that if 401(k) accounts that include some assets attributable to employer contributions are excluded, IRAs will be granted the same treatment. If not, there is likely to be a loud outcry about the conflict between straightforward language of the rules

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that Congress never “intended to treat a victim’s savings account ... as collateral-source compensation” and the special master’s attempts to treat IRAs as something other than individual savings accounts.

If IRAs are treated as personal savings, the inequitable treatment of pensions will be exacerbated by the fact that most private defined-benefit plans and virtually all non-contributory profit-sharing allow lump-sum payouts to workers who leave a job. Evidence suggests that the vast majority of people take this form of benefit when it is offered. When the sum is sizeable, most people roll their distributions into IRAs. In these cases, the special master may be unable to sort out what has been accumulated through employer or employee contributions. Workers who jumped around in their careers or who had already retired from a plan with a lump-sum benefit will not be penalized by the fund rules on pensions. But those not quite eligible for retirement or those in a plan with only an annuity benefit option – as is typical of public employee plans – will lose.

One of the largest concessions for some participants in the Victim Compensation Fund is the determination by the special master that tax relief granted to Sept. 11 victims should not be treated as a collateral offset. The Victims of Terrorism Tax Relief Act of 2001 waives the income tax liability of victims for both 2001 and 2002. It also exempts \$8.5 million of a victim’s estate from federal estate tax. For someone with a taxable estate of \$2 million, the law provides \$460,650 in relief; at \$4 million the tax benefit climbs to \$1.3 million; and at \$8 million it climbs to \$3 million.

The compensation scheme is even more complicated for victims who were disabled rather than killed. Here, the program is operating on a more ad hoc basis, which is apt to

make it much more controversial. The special master will accept determinations of partial or total disability by the Social Security Administration, or other government agencies. Where the disability is partial or temporary, he will consider the extent of the disability and time away from work.

What the special master may not yet realize, however, is that the administration of disability benefits has the potential to become the tail that wags the dog. This has proven to be the case for the Social Security Administration, which administers the Disability Insurance program financed by payroll taxes and the disability portion of the Supplemental Security Income (SSI) program for the needy, aged, blind and disabled. While disability benefits will amount to slightly less than 20 percent of total annual benefits paid under Social Security and SSI this year, administering them will consume two-thirds of the Social Security Administration’s total administrative budget.

UNIQUE CHARACTER OF THE SEPT. 11 VICTIM COMPENSATION FUND

The final rules acknowledge that the program is a “unique” enterprise by government “in recognition of the special tragic circumstances” of the Sept. 11 victims. As a unique government endeavor, it raises many issues worth scrutiny. One way to view the fund is to compare it to what the government has done for victims of other attacks. In some cases, the government has been passive, fulfilling only existing programmatic obligations. In others, it has been passive-aggressive, not outwardly taking a stand against the victims’ pursuit of restitution, but inhibiting their efforts by foot-dragging. And in still others, it has actively resisted people seeking restitution.

The Radiation Exposure Compensation Program created in 1990 has been held out as

a precedent to the government's Sept. 11 fund. It was created to provide "for compassionate payments to individuals who contracted certain cancers and other serious diseases as a result of their exposure to radiation during above-ground nuclear weapons tests or as a result of their exposure to radiation during employment in underground uranium mines." Yet, while both programs are compensation funds for people who were

efforts to streamline procedures for obtaining benefits under existing programs, but the government did not fund special programs to compensate the victims or their survivors.

Another relevant comparison would be the 1985 kidnapping of Americans in Lebanon by Hezbollah. Terry Anderson, who was covering the civil war in Lebanon as the bureau chief for the Associated Press in Beirut, was taken captive and held prisoner

Our government might be faulted for not having better intelligence on terrorists or for inadequate airport security, but it was not the instrument of the damage.

harmed in large numbers by developments outside their control, the funds and the motivations behind them are starkly different in terms of the government's own role in perpetrating that harm.

If the government had no legal responsibility for injuries to people exposed to radiation during the early development of our national nuclear program, it certainly had a moral obligation to compensate them. In the Sept. 11 attacks involving the airliners here in the United States, our government might be faulted for not having better intelligence on terrorists or for inadequate airport security, but it was not the instrument of the damage. Liability in a tort sense would be extremely difficult to prove.

A more relevant comparison would be the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City, which killed 168 people and injured 853. The victims were mostly federal workers and people doing business with government agencies. Both federal and state agencies made special

there for seven years under abominable conditions. He was finally released in December 1991. In January 1992, *The Washington Post* reported that Iran had financed the imprisonment of Anderson and the other Americans. In 1999, Anderson filed a \$100 million lawsuit against the Iranian government for sponsoring his imprisonment and torture.

He ultimately won a \$41 million judgment against Iran, but collecting the award was another story. To get his money, Anderson had to prevail upon Congress to pass a special law releasing Iranian funds that had been frozen by the federal government. But Anderson's going to Congress for relief in this case likely caused another set of inequities: his award took funds out of the total pool of frozen Iranian funds against which many other people had claims.

After the Oklahoma City bombing, the Department of Justice's Office for Victims of Crime released its glossy report, *Responding to Terrorism Victims*, which summarized its support to the victims of other recent terrorist

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attacks. Among the incidents were the 1998 bombings of the United States embassies in Kenya and Tanzania. In those cases, the Office for Victims of Crime provided on-site assistance to the State Department when families of the victims traveled to Washington to await the arrival of the bodies of their loved ones.

It also transferred some emergency reserve funds to the State Department to assist victims with medical and funeral expenses and transportation costs. And it sponsored a two-day briefing in Washington for the injured victims and families of those killed in the attacks. The agency later helped victims and family members identify resources and coordinate requests for crime-victim compensation in their

home states. But the government did not set up a special fund to compensate the victims for their losses.

In addition to these spectacular cases, there are literally thousands of people killed or maimed every year in this country in personal attacks. For the victims and their survivors, these experiences are just as terrifying as the cases that receive widespread publicity. Yet, beyond criminal prosecutions, the government does relatively little to help the victims. In those special cases where the government itself might have some culpability in cases of death or injury, it generally forces the victims into the tort system to find relief.

CAUTION: SLOW DOWN

The federal government has assumed a fundamentally different role in creating the Sept.



11 Victim Compensation Fund than it has in any prior situations. While victim relief is the focus of much of the comment around this program, part of the motivation for it was limiting the liability of the airlines whose planes were commandeered on Sept. 11. The new bill extends the limitations on liability for the airlines to include the manufacturers

of the planes that crashed, the airports from which the planes took off, anyone with a property interest in the World Trade Center and New York City. Some legal experts consider this law and other legal initiatives arising out of the attacks to be thinly veiled attempts at tort reform.

One may or may not approve of this stalking horse for tort reform. But setting aside that question, the way the fund has been

structured still raises a series of policy concerns. Given the ad hoc nature of lawmaking and rulemaking here, it is little wonder that the distribution formula is full of major and minor inequities. Indeed, one has to wonder if we will not soon regret the haste in setting up the Sept. 11 Victim Compensation Fund. The internal inequities are simply compounded when one compares the relief provided in this case to what the government has (not) done for other victims.

There are already public assertions that greed is behind claimants' demands for more-generous rules. That reaction may grow louder and more negative as actual awards are processed. The special master estimates that the average benefit under this program will be \$1.8 million. His tables of presumed losses include examples of claimants who may be

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awarded benefits of more than \$4.5 million. And if that is not enough, the expectation is that the awards will not be subject to income taxes. Meanwhile, victims from the Oklahoma City Federal Building, the Nairobi Embassy and many other cases will be further embittered because their misery was not spectacular enough to garner the attention and support that the Sept. 11 victims have received.

The Victim Compensation Fund rules

policymakers have now gotten themselves into a situation where they can only negotiate upward when they face victims of future terrorist attacks. If another attack does occur, there is a significant probability that lawmakers will have to provide relief to the victims. Yet if some of the scenarios that have been described in the major news media were to play out, they would raise questions about whether even the United States government

Policymakers have now gotten themselves into a situation where they can only negotiate upward when they face victims of future terrorist attacks.

have the potential to evolve into a bigger problem than the equity issues within the group of Sept. 11 victims, or over the relative treatment of 9/11 victims compared to those in other cases of terrorism and violence. The December rules for the program set the base from which the program evolved. At the point those rules were released, there was a sense that the budget was fixed and trade-offs had to be made by reallocating benefits among the claimants. These rules had the immediate effect of law. Thus, as people came to his many public meetings laying out the inequities in his initial rules, he could not take back anything from anyone. He could only negotiate upward on benefits for people who could make a strong case that they were treated unfairly under the initial rules.

Between the December 2001 and the March 2002 rules the average presumed loss per claim climbed from \$1.6 million to \$1.8 million. In broader context, though, the victim compensation awards from the federal government climbed from zero for the Oklahoma City victims to \$1.8 million for those of Sept. 11. The issue we face is whether

could cover the cost of the victim relief required to replicate the 9/11 compensation precedent.

But what happens if the next attack ends up in the death of only 300 people instead of the estimated 3,000 who died on Sept. 11? Is the Congress now bound to provide relief? What if it is only 30? Or only 3? At what point do we step back from our public largesse? And if we provide relief to victims who are killed in an attack motivated by some foreign group, what about the next Timothy McVeigh who has some misplaced notion about how to right perceived wrongs by taking the lives of Americans? If we cover all these, what do we do in the next case of some crazed teenager who takes a gun to school, or postal worker who takes one to work?

Before we move any further down this slippery slope of victim relief, policymakers ought to step back and review what they have done. They ought to debate the appropriate role of government in insuring its citizens, foreign residents and visitors against all of the bad things that bad people can do on American soil. **M**