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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Memorandum	Compensation for Victims of International Terrorism [4 PAGES RELEASED IN WHOLE ON PRA RE-REVIEW 08/27/2025 JLS]	4	01/24/2002	
002	Letter	Dear Brett - To: Brett Kavanaugh	1	04/23/2002	b6;
003	Memorandum	Terrorist Victims' Compensation [3 PAGES RELEASED IN WHOLE ON PRA RE-REVIEW 08/27/2025 JLS] - To: Nancy P. Dorn - From: William H. Taft, IV	3	04/12/2002	

COLLECTION TITLE:
Counsel's Office, White House

SERIES:
Kavanaugh, Brett - Subject Files

FOLDER TITLE:
Victims of Terrorism Compensation

FRC ID:
9802

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
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SUPERSEDED

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Memorandum	Compensation for Victims of International Terrorism	4	01/24/2002	P5;
002	Letter	Dear Brett - To: Brett Kavanaugh	1	04/23/2002	P2; P6/b6;
003	Memorandum	Terrorist Victims' Compensation - To: Nancy P. Dorn - From: William H. Taft, IV	3	04/12/2002	P5;

COLLECTION TITLE:
Counsel's Office, White House

SERIES:
Kavanaugh, Brett - Subject Files

FOLDER TITLE:
Victims of Terrorism Compensation

FRC ID:
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Compensation for Victims of International Terrorism

CJS Appropriations Directive. In this year's CJS Appropriations Act, Congress directed the President, by the time he transmits the 2003 Budget, to submit "a legislative proposal to ensure fair, equitable, and prompt compensation for all United States victims of [post-1979] international terrorism." P.L. 107-77, § 626(a). The Act stated that this proposal should include the types of events, victims, and injuries that should be covered; the establishment of a Special Master to administer the program; and an explanation how the program should be funded, including the availability of the assets of any state sponsor of terrorism to make payments under the program. *Id.* § 626(b).

Background. Until now, a few victims of foreign terrorism have received compensation for their injuries based on *ad hoc* legislation enacted to suit their particular cases. The background is complex.

Foreign Sovereign Immunity Repealed for Terrorist States, But Victims Unable to Recover on Judgments. Until 1996, the Foreign Sovereign Immunities Act precluded victims of foreign terrorism from suing foreign states for the injuries they sustained. In 1996, legislation was enacted that repealed the historic immunity of designated terrorist states from litigation, thus permitting victims or their survivors to sue these designated states. However, it gave victims no ability to collect on their judgments, either out of blocked assets or from the U.S. Treasury. 28 U.S.C. § 1605(a)(7). Plaintiffs began bringing lawsuits, but were unable to collect on the default judgments they obtained.

Legislation Allows Recovery from Blocked Assets, but President Clinton Precludes Plaintiffs from Recovery for National Security Reasons. In 1998, Congress enacted legislation that authorized plaintiffs to attach the blocked assets of designated terrorist states. *See* 28 U. S. C. § 1610(f)(1)(A). But this legislation never took effect. It contained a clause that authorized the President to waive this authorizing language "in the interest of national security." President Clinton immediately executed a waiver upon enactment of this legislation, thereby continuing to preclude plaintiffs from collecting on their judgments against terrorist states.

Mack-Lautenberg Legislation Allows Recovery for Specific Plaintiffs in Cases Against Cuba and Iran. Last year, Congress enacted the Mack-Lautenberg legislation, which allowed plaintiffs who were identified in the statute to recover on judgments they had obtained against Cuba and Iran. These specified plaintiffs could recover against Cuba out of blocked Cuban assets held in the U.S., and against Iran out of the U.S. Treasury, up to a limit of the amount held in the Foreign Military Sales Program Trust Fund (around $400 million). To date, the specified plaintiffs have received more than $300 million from the Treasury for judgments against Iran, and around $96.7 million from blocked assets for judgments against Cuba.

Pending Cases. According to the State Department, there are around 30-50 lawsuits currently pending in the United States against terrorist states. The amount of money that these plaintiffs seek is in the billions of dollars. A lawsuit against Iran brought by the Iranian hostages asks for $8 billion in damages.

Treasury reports that there are more than $2.9 billion of blocked assets in the United States. But 95% of the lawsuits that have been filed seek recovery only against Iran. Blocked Iranian diplomatic assets amount to only $23.2 million.

State Department Legislation. In November, in response to the CJS directive, the State Department circulated to OMB draft legislation that would (1) reinstate the foreign sovereign immunity provisions for terrorist states, thereby preventing plaintiffs from obtaining judgments against terrorist states, and (2) provide for compensation of victims of foreign terrorism from a federal fund, using procedures patterned after the DOJ Victims Compensation legislation. OMB has not yet circulated this legislation to other agencies for clearance.

The State Department advocates an approach that (1) would restore the foreign sovereign immunity of terrorist states, (2) would not use the blocked assets of terrorist states to compensate victims, and (3) would provide compensation to *all* victims of foreign terrorism.

Options

1. **Submit legislation that would allow plaintiffs to recover default judgments from the blocked assets of foreign states that support terrorism.**

Pros
- Allows injured plaintiffs to recover for their injuries through the legal system from the tortfeasor, as do other tort victims.
- Federal dollars would not be used to compensate victims.
- There may be support for this approach in Congress, particularly in the House, which passed legislation including such a provision in December.[1]

Cons
- Results in different levels of compensation on a case-specific basis, because plaintiffs are competing for limited assets in different courts. The State Department argues that a fairer program would provide compensation to *all* victims, not just those who bring suit and prevail.
- If a country's blocked assets are depleted, the President will not be able to use them as diplomatic leverage. The President has used blocked assets as tools to obtain the release of the Iranian hostages and to negotiate terms with the Vietnamese government. Last week, the President has directed the return of the blocked assets of Afghanistan's central bank to help shore up the new government.
- Allowing plaintiffs access to blocked assets may violate U.S. international legal obligations under the Vienna Conventions on Diplomatic and Consular Relations (requires host nation to protect diplomatic and consular property as "inviolable") as and the Algiers Accord (agreement that Iran-U.S. disputes would be resolved by claims tribunal).

[1] The House proposed this approach in the Terrorism Risk Protection bill. *See* H.R. 3210, § 15(e) "the frozen assets of that terrorist party, or any agency or instrumentality of that terrorist party, shall be available for satisfaction of the judgment, to the extent of any compensatory damages awarded in the judgment for which the terrorist party is liable")). The President may waive this provision, *but only* for diplomatic and consular property.

- Iran is the defendant in 95% of the cases, but has only $23.2 million in blocked diplomatic assets. Its assets will not be sufficient to pay plaintiffs' judgments, and plaintiffs will return to Congress to ask for money from the Treasury, and Congress may capitulate to their requests.
- Would not restore sovereign immunity for terrorist states.

2. Submit legislation that would pay plaintiffs' judgments out of the Treasury up to some specified ceiling, and would be offset by collateral source compensation received by the plaintiffs.

Pros

- To the extent that there will be pressure on Congress to pay the judgments obtained by plaintiffs, this will keep costs within set limits.
- Avoids violation of the United State's treaty obligations and permits the President to continue to use blocked assets for diplomatic means.
- Determination of damages through tort system is consistent with traditional approach to compensating tort victims, although tortfeasor would not pay judgments.

Cons

- Results in different levels of compensation on a case-specific basis, because plaintiffs are litigating in different courts.
- Victims of natural disasters or other crimes could criticize legislation as unfair, since victims of these other tragedies are unable to obtain federal compensation for their injuries.
- Would not restore sovereign immunity for terrorist states.

3. Submit legislation that would restore foreign sovereign immunity and provide a uniform amount of compensation (*e.g.*, $250,000) to families of victims from a federal fund.

Pros

- Government's liability will be capped at some reasonable figure, determined in advance.
- Administration of fund should be straightforward and consistent with program that compensates families of public safety officers who die in the line of duty.
- Treats all victims equally.
- State Department favors restoration of foreign sovereign immunity for policy reasons.

Cons

- Victims of natural disasters or other crimes could criticize legislation as unfair, since victims of these other tragedies are unable automatically to obtain federal compensation for their injuries.
- Setting compensation at $250,000 could be criticized as unfairly low, particularly since victims will lose their right to sue terrorist states when sovereign immunity is restored.

4. **Submit legislation that would restore foreign sovereign immunity and provide compensation to victims from a federal fund patterned on the Victims Compensation Fund of September 11.**

Pros

- Victims of foreign terrorism would receive compensation that was based on the same criteria as the victims of the September 11 attacks.
- State Department favors restoration of foreign sovereign immunity for policy reasons.

Cons

- Victims of natural disasters or other crimes could criticize legislation as unfair, since victims of these other tragedies are unable to obtain federal compensation for their injuries.
- Different victims receive different levels of compensation based on their age, salary history, and family status.
- Has proved difficult to administer.
- Level of government's liability cannot be easily predicted, and victims will pressure administrator to make awards high.

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This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

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FOLDER TITLE:
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FRC ID:
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2182

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2093

FOIA IDs and Segments:
2017-0345-F

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This Document was withdrawn on 8/15/2018 by PSC

Embassy Employee Compensation Act (Introduced in the House)

HR 3375 IH

107th CONGRESS

1st Session

H. R. 3375

To provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist -related aircraft crashes on September 11, 2001.

IN THE HOUSE OF REPRESENTATIVES

November 29, 2001

Mr. BLUNT (for himself, Mr. MORAN of Virginia, Mr. WOLF, Mr. OBEY, Mr. ISAKSON, Mr. WYNN, Mr. BOYD, Ms. MCKINNEY, Mr. FRANK, Ms. WATERS, Mr. FALEOMAVAEGA, Mr. WATT of North Carolina, Mr. SCOTT, Mr. THOMPSON of Mississippi, Mr. OWENS, and Mr. PAYNE) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist -related aircraft crashes on September 11, 2001.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Embassy Employee Compensation Act'.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) CLAIMANT- The term `claimant' means an individual filing a claim for compensation under section 5(a)(1).

(2) COLLATERAL SOURCE- The term `collateral source' means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the bombings of United States embassies in East Africa on August 7, 1998.

(3) ECONOMIC LOSS- The term `economic loss' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(4) ELIGIBLE INDIVIDUAL- The term `eligible individual' means an individual determined to be eligible for compensation under section 5(c).

(5) NONECONOMIC LOSSES- The term `noneconomic losses' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(6) SPECIAL MASTER- The term `Special Master' means the Special Master appointed under section 404(a) of the September 11th Victim Compensation Fund of 2001 (title IV of the Air Transportation Safety and System Stabilization Act (Public Law 107-42; 115 Stat. **XX**)).

SEC. 3. PURPOSE.

It is the purpose of this Act to provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the bombings of United States embassies in East Africa on August 7, 1998.

SEC. 4. ADMINISTRATION.

(a) IN GENERAL- The Attorney General, acting through the Special Master, shall--

(1) administer the compensation program established under this Act;

(2) promulgate all procedural and substantive rules for the administration of this Act; and

(3) employ and supervise hearing officers and other administrative personnel to perform

the duties of the Special Master under this Act.

(b) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Master in carrying out this Act.

SEC. 5. DETERMINATION OF ELIGIBILITY FOR COMPENSATION.

(a) FILING OF CLAIM-

(1) IN GENERAL- A claimant may file a claim for compensation under this Act with the Special Master. The claim shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for compensation and the amount of compensation sought.

(2) CLAIM FORM-

(A) IN GENERAL- The Special Master shall develop a claim form that claimants shall use when submitting claims under paragraph (1). The Special Master shall ensure that such form can be filed electronically, if determined to be practicable.

(B) CONTENTS- The form developed under subparagraph (A) shall request--

(i) information from the claimant concerning the physical harm that the claimant suffered, or in the case of a claim filed on behalf of a decedent information confirming the decedent's death, as a result of the bombings of United States embassies in East Africa on August 7, 1998;

(ii) information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such bombings; and

(iii) information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of such bombings.

(3) LIMITATION- No claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 7.

(b) REVIEW AND DETERMINATION-

(1) REVIEW- The Special Master shall review a claim submitted under subsection (a) and determine--

(A) whether the claimant is an eligible individual under subsection (c);

(B) with respect to a claimant determined to be an eligible individual--

(i) the extent of the harm to the claimant, including any economic and noneconomic losses; and

(ii) the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

(2) NEGLIGENCE- With respect to a claimant, the Special Master shall not consider negligence or any other theory of liability.

(3) DETERMINATION- Not later than 120 days after that date on which a claim is filed under subsection (a), the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review.

(4) RIGHTS OF CLAIMANT- A claimant in a review under paragraph (1) shall have--

(A) the right to be represented by an attorney;

(B) the right to present evidence, including the presentation of witnesses and documents; and

(C) any other due process rights determined appropriate by the Special Master.

(5) NO PUNITIVE DAMAGES- The Special Master may not include amounts for punitive damages in any compensation paid under a claim under this Act.

(6) COLLATERAL COMPENSATION- The Special Master shall reduce the amount of compensation determined under paragraph (1)(B)(ii) by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the bombings of United States embassies in East Africa on August 7, 1998.

(c) ELIGIBILITY-

(1) IN GENERAL- A claimant shall be determined to be an eligible individual for purposes of this subsection if the Special Master determines that such claimant--

(A) is an individual described in paragraph (2); and

(B) meets the requirements of paragraph (3).

(2) INDIVIDUALS- A claimant is an individual described in this paragraph if the claimant is--

(A) a citizen of the United States who--

(i) was present at the United States Embassy in Nairobi, Kenya, or the United States Embassy in Dar es Salaam, Tanzania, at the time, or in the immediate aftermath, of the bombings of United States embassies in East Africa on August 7, 1998; and

(ii) suffered physical harm or death as a result of such a bombing; or

(B) in the case of a decedent who is an individual described in subparagraph (A), the personal representative of the decedent who files a claim on behalf of the decedent.

(3) REQUIREMENTS-

(A) SINGLE CLAIM- Not more than one claim may be submitted under this Act by an individual or on behalf of a deceased individual.

(B) LIMITATION ON CIVIL ACTION-

(i) IN GENERAL- Upon the submission of a claim under this Act, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the bombings of United States embassies in East Africa on August 7, 1998. The preceding sentence does not apply to a civil action to recover collateral source obligations.

(ii) PENDING ACTIONS- In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this Act unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 7.

SEC. 6. PAYMENTS TO ELIGIBLE INDIVIDUALS.

(a) IN GENERAL- Not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under this Act, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

(b) PAYMENT AUTHORITY- This Act constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this Act.

(c) ADDITIONAL FUNDING-

(1) IN GENERAL- The Attorney General is authorized to accept such amounts as may be contributed by individuals, business concerns, or other entities to carry out this Act, under such terms and conditions as the Attorney General may impose.

(2) USE OF SEPARATE ACCOUNT- In making payments under this section, amounts contained in any account containing funds provided under paragraph (1) shall be used prior to using appropriated amounts.

SEC. 7. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out this Act, including regulations with respect to--

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this Act; and

(5) other matters determined appropriate by the Attorney General.

SEC. 8. RIGHT OF SUBROGATION.

The United States shall have the right of subrogation with respect to any claim paid by the United States under this Act.

S 2134 IS

107th CONGRESS

2d Session

S. 2134

To allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

IN THE SENATE OF THE UNITED STATES

April 16, 2002

Mr. HARKIN (for himself, Mr. ALLEN, Mr. SMITH of New Hampshire, Mr. SCHUMER, Mr. NICKLES, Mrs. CLINTON, Mr. WARNER, Ms. MIKULSKI, Mr. BURNS, and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Terrorism Victim's Access to Compensation Act of 2002'.

SEC. 2. FINDINGS.

Congress finds that:

(1) The war against international terrorism must be fought and won on multiple fronts.

(2) The state sponsors of international terrorism (including their agencies and instrumentalities) are ultimately responsible for the damages, pain, and suffering inflicted upon Americans who are victimized by terrorist acts. It is the state sponsors, not the American taxpayer, who must be compelled to pay those costs.

(3) The Secretary of the Treasury lawfully controls billions of dollars in blocked assets of several governments which the President and the Department of State have determined to be state sponsors of international terrorism and responsible for multiple terrorist attacks on United States citizens abroad.

(4) There have been multiple Federal lawsuits brought since 1996 by American victims of state sponsored terrorism abroad and final judgments and financial awards in some of those cases have been paid appropriately by using some of the blocked assets of state sponsors of terrorism. Additional cases are still pending.

(5) Paying victims of state sponsored terrorism from the blocked assets of state sponsors of acts of terrorism (including their agencies and instrumentalities) will punish those entities, deter future acts of terrorism, and provide a powerful incentive for any foreign government to stop sponsoring terrorist attacks on Americans.

(6) There must be a level playing field for all American victims of state sponsored terrorism who are pursuing redress in the Federal courts and compensation from the blocked assets of state sponsors of terrorism (including their agencies and instrumentalities).

SEC. 3. SENSE OF THE SENATE.

Considering the policy set forth in this Act, the Antiterrorism and Effective Death Penalty Act of 1996, and in the Victims of Trafficking and Violence Protection Act of 2000, it is the sense of Congress that it should be the policy of the United States--

(1) to use the blocked assets of state sponsors of acts of terrorism (including their agencies and instrumentalities) that are under the control of the Secretary of the Treasury to pay court-ordered judgments and awards made to United States nationals harmed by such acts; and

(2) to provide equal access to all United States victims of state sponsored terrorism who have secured judgments and awards in Federal courts against state sponsors of terrorism (including their agencies and instrumentalities) and that those judgments and awards be paid by state sponsors of terrorism (including their agencies and instrumentalities) from any of their blocked assets controlled by the Secretary of the Treasury.

SEC. 4. SATISFACTION OF JUDGMENTS FROM BLOCKED ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.

(a) IN GENERAL- Except as provided in subsection (b), in every case in which a person has obtained a judgment against a terrorist party on a claim for compensatory damages for an act of terrorism, or a claim for compensatory damages brought pursuant to section 1605(a)(7) of title 28, United States Code, the blocked assets of any terrorist party, or any agency or instrumentality of a terrorist party, shall be available for satisfaction of the judgment.

(b) PRESIDENTIAL WAIVER-

(1) IN GENERAL- Subject to paragraph (2), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of subsection (a) in connection with (and prior to the enforcement of) any judicial order directing attachment or satisfaction in aid of execution of judgment, or

execution of judgment, against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(2) EXCEPTION- A waiver under this subsection shall not apply to--

(A) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used for any nondiplomatic purpose (including use as rental property), and the proceeds of such use; or

(B) any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that is sold or otherwise transferred for value to a third party, and the proceeds of such sale or transfer.

(c) DEFINITIONS- In this Act:

(1) BLOCKED ASSETS- The term `blocked assets' means assets seized or blocked by the United States in accordance with law.

(2) PROPERTY AND ASSETS SUBJECT TO VIENNA CONVENTIONS- The terms `property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations' and `asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations' mean any property or asset, respectively, the attachment in aid of execution or execution of which may, for the limited purpose of satisfying a judgment under subsection (a), breach an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

(3) TERRORIST PARTY- The term `terrorist party' means a terrorist, a terrorist organization, or a foreign state designated as a state sponsor of terrorism under section 6 (j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) (including any agency or instrumentality of that state).

END

United States Department of State

Washington, D.C. 20520

UNCLASSIFIED

April 12, 2002

MEMORANDUM FOR NANCY P. DORN
DEPUTY DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

Subject: Terrorist Victims' Compensation

After Wednesday's meeting, I thought I should summarize for you our views on terrorist victims' compensation.

The Congress has repeatedly shown a strong interest in compensating American citizens who have been victims of international terrorism. For the past decade, the Congress has been providing compensation through an erratic, unfair and very expensive series of ad hoc legislative measures under which the successful victims are given tens of millions of dollars, while others go entirely uncompensated. Unless a more rational program is adopted, the Congress will either continue its ad hoc approach or permanently establish a program, probably using blocked assets as a funding source. Several bills to do this have already been prepared.

The State Department's compensation proposal would reform the existing situation and make it fair, rational, comprehensive - and affordable. We would limit compensation to $250,000/person, the same amount given to public safety officers who are killed in the line of duty, and would prohibit recipients from bringing suit except against entities responsible for the incident. This would significantly reduce yearly payments.

We would also shift adjudication and administration of victim's claims from the courts and the Congress to the

Foreign Claims Settlement Commission, an already-existing body with expertise in handling claims. This would provide a uniform, fair and much less costly system of claims review and payment.

Our proposal would avoid the use of blocked assets to fund terrorist victims' compensation - a very bad idea that has, nonetheless, considerable political appeal. Although the Congress has largely refrained from doing so in the past, its attempts to reach blocked assets are becoming more frequent and are gaining support. Use of blocked assets would, however, seriously harm both U.S. foreign policy and national security interests. It would impair the President's ability to use blocked assets as leverage as he deems appropriate, invite other nations to block U.S. assets, and risk violation of international legal obligations to protect diplomatic and consular property. It would also likely result in the U.S. Treasury having to make up for any amounts paid out either to compensate the owners of blocked funds - often not the terrorist state itself, which may only have "an interest" in them - or other legitimate claimants. As the total amount of blocked assets would likely not cover the amounts sought even by the current victims, such use would also promote a race to the courthouse and costly litigation, without ensuring equitable outcomes. As blocked assets are already denied to terrorist-list states, using them to pay victims would not provide additional deterrence. Yet such use would require the U.S. to make up the amounts paid out when returning blocked assets to listed countries that undergo a regime change or otherwise are removed from the terrorist list in the future. (As you know, we have recently unblocked certain assets of the Afghan government, and the Afghan authorities have been able to meet critical funding requirements with them.)

The State Department program would not rely upon blocked assets. Ideally, we would pay victims from the DOJ Crime Victims Fund, so as to avoid the perception that taxpayers are funding the program. Additionally, the Congress has already determined that the Crime Victims' Fund should be used to pay certain expenses of terrorist victims, so the State Department program would be building on an existing structure.

If DOJ continues to object, however, then the compensation program could be funded by the Congress out of appropriations on a multi-year or single-year basis. Given the strong interest among members of Congress in providing such compensation, we expect that the Congress would have no trouble finding funds for the program.

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