

Victim compensation fund research paper examples

[Law](#), [Criminal Justice](#)



Introduction.

On the wake of the September 11th attack at the world trade centre the government of the united state through the congress found it necessary to establish a fund to cover for the pain loss and suffering for all those who were caught in the disaster.

The person who was to manage the disbursement of the fund was an experienced lawyer who had managed to price almost all kinds of disaster and thus this was not a different case for him. Kenneth Feinberg was the gentleman who was appointed to oversee the process of compensation.

The following is an analysis of the report by Elizabeth Kolbert who was a correspondent of the New Yorker magazine, he managed to interview Kenneth Feinberg as well as attend some of the meetings in which critical issues regarding the victim compensation fund were discussed in depth.

The tragedy of September 11th was another opportunity for Kenneth Feinberg to prove his ability to price any form of disaster, unfortunately this turned against him as he seemed beholden to the strong arm of the law, the government and he encountered huge criticism from those who were the victims of the tragedy.

Kenneth Feinberg was regarded as a master of the victim compensation fund, and as Elizabeth discusses the approaches the lawyer ended adopting for compensating the victims of the September 11th disaster were greatly wanting, due to the huge opposition from the victims themselves.

After the tragedy occurred Feinberg visited some of the individuals who were largely hit by the tragedy and two of those were the firefighters who were tasked to carry out their duty at the scene, In a nutshell this is how they

describe the scene; one of the firefighter said that during the process of saving lives he had to breathe in pulverized glass, concrete, lead and traces of asbestos. He goes on to describe his side of story in which he said that the career had alienated him from his immediate family, it's a risky career that's keeps one from home and from the loved ones. After this experience he had to quit the job for another he felt fulfilling in which he manned the security cameras in one of the schools this man's health status had worsened significantly.

Another firefighter narrated his ordeal during the attack of the world trade center in which he spent the whole of the September 11th afternoon trying to rescue individual held within the debris and in so doing he had to bear the dense smokes and dust, as a result of this humiliating experience he went almost dead for three weeks he coughed blood and dirt for the following three consecutive weeks, it's a sickening career. His unstable health condition traumatized his young boy who kept asking the mum whether dad will die.

How could the victim compensation fund be applied in such a case and ensure that the individuals were reimbursed for the suffering, loss and pain? According to Elizabeth Kolbert report, the victim compensation fund was established with the main goal of catering for some three thousand families that suffered the tragedy of September 11th. The fund was the first one ever since and Feinberg was the master of the fund. He was involved greatly in coming up with the rules defining how the fund was to be disbursed to those who were hit by the tragedy. Feinberg's huge task was to listen to the appeals from individual who were unhappy with the way the

rules were being applied.

Even to such victims he had lent them his ears, Feinberg was to decide what they were to receive as compensation or even decide not to disburse anything to them, this is how such a formula would have been unfair, it was formula of either being included or being left out. This was tough task for Feinberg.

Although Feinberg had attended to many disaster cases with utmost professionalism, the disaster of September 11th seemed not to be contained as the others, he even said that he accepted this task for nothing, " I am doing this for nothing.".(Elizabeth, 2002)

The victim compensation fund was created ten days after the tragedy occurred. This fund was in fact not created for the victims' sake but for the sake of airlines with an aim of protecting airlines from the victims who would have sued the airlines for the tragedy. In order to restrict victims from proceeding to the courts the lawmakers created Air transport safety and system stabilization act which granted the carriers five billion dollars in cash and ten billion in loan guarantee. It's within this act that the congress integrated the victim compensation fund, in which families who received cash payments from the fund would not sue the airlines, the port authority which owned the world trade center and any other domestic entities in return. It was fund to hold back the affected individual from taking a legal step against the entities that were linked to the

Disaster, this is clearly unveiled in the meeting at Staten Island Hilton, " the man added, " Feel that this program is just a cover-up to bail out the airlines, to bail out the Port Authority, to bail out New York City. It's for them; it's not

really for us." (Elizabeth 2002).

A controversy arose as to who should be compensated and the formula for disbursing the funds as per the loss suffered. In a meeting at Staten Island, it was interpreted that the law payments made to a victim from the compensation fund were supposed to be reduced by the amount of compensation disbursed to the families from other sources and many families were uncomfortable with this rule, as they did not understand the reason for such offsetting and what ought to be off set. In his explanation Feinberg offsets included life insurance and social security.

Since the fund was also to cover for economic loss suffered, it was perceived that it had great grounds of causing discrimination and inequality in the way the fund was to be administered.

Eventually many names were missing where economic loss was greatest and this was move to reduce the amount paid for compensation by the government and thus it was unclear the magnitude of names omitted. This was seen to be motivated by a strict economic loss calculation. This was seen as a form of protecting the government from paying what it was legally to pay to those who suffered the mentioned losses and suffering, this is clearly unveiled from statesman of two senators, Hagel a republican and Kennedy a democrat in which their gross statement they said that, don't let 20% of the people get 80% of the money.

Many families accused Feinberg of acting arbitrarily, unfairly and illegally.

In my own opinion the fund was appropriate as it was to be a way of restoring individuals who suffered from the tragedy of September 11th to

their or closer to their initial status. Unfortunately the manner in which the formula for administration was drawn seems to be unfair to many and that's why at Staten Island many families referred to Feinberg as acting arbitrarily, unfairly and illegally. Furthermore the report that it was not certain how many families who suffered the economic loss were left out in the list of those to be compensated. The motive of establishing the fund is also not fair to those who were hit by the tragedy as it is clearly spelled out in the report, " Families who accept the payments from the fund relinquish the right to sue the airlines, the Port Authority, which owned the World Trade Center, and any other domestic entity; in return,".(Elizabeth, 2002). " the air transportation safety and system stabilization act (establishing a victim compensation fund) covering full compensation for economic and non-Economic losses but also seek to shield airlines from civil litigation". (Diller, 2005). This shows a clear engagement of the government in cunningly manipulating the victims to trade off their constitutional right, which from a legal view is inappropriate.

In order to ensure there was a fair application of the rules of the victim compensation fund to all stakeholders, it would have been appropriate for the government to accommodate the views of the general public and particularly those who were affected by the attack in drafting of rules defining the way the fund was to be managed as well as the best, method of calculating amount to be disbursed to victims of different categories.

Finally it would have been appropriate for the fund to be managed by a commission of qualified individuals instead of leaving the huge task to only one person. This gave way for many inefficiencies such monopolization of

decision making as clearly spelled out in the report, for instance the report says that, “ Feinberg has the authority to decide not just how much compensation they will receive but whether they will get any at all.”(Elizabeth, 2002). This is also depicted in the analysis book, Compensation for losses from the September 11 attacks, “ coordination among and between charities and the government was poor, particularly right after the attack.” (Lloyd, S. D and Rachel, K. S (2004).

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References:

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