

## **TERRORISM UPDATE: VICTIMS TO BE PAID**

By Jason Cooke

Last October, President Clinton signed the “Justice for Victims of Terrorism Act.”

This new law provides terrorism victims and their families a real means by which to collect judgments which they won in suits filed under the 1996 “Anti-Terrorism and Effective Death Penalty Act.” This earlier law gave victims the right to file suit in U.S. courts against foreign countries that sponsored terrorist acts—if those countries had been classified by the State Department as sponsors of terrorism.

The proponents of the new legislation originally intended to enable victims to collect their judgments from terrorist nations’ assets which were frozen by the U.S. government. For example, the Pentagon currently holds about \$400 million in frozen Iranian assets. However, the Clinton administration resisted allowing the frozen assets to be used, arguing that the Iranian money was tied up in litigation before the Iran-U.S. Claims Tribunal. The administration also expressed concerns about diplomatic relations, various international treaties, and protocols concerning diplomatic property. A compromise was eventually reached pursuant to which the U.S. Treasury will pay the compensatory damages, sanctions, and interest awarded to the victims. The government will eventually try to recoup the money either through an international claims tribunal or negotiations with the defendant nations. The new legislation makes no provision for the victims to receive any of the massive punitive damages they were awarded in the courts.

Terry Anderson, a former Associated Press reporter who was held hostage for 2,454 days in Lebanon, will receive one of the largest payments as a result of his lawsuit against the government of Iran. Last year, a court awarded Anderson \$41.2

million in compensatory damages when he was able to prove that the government of Iran provided money, training, and direction to his kidnapers. (Anderson was also awarded \$300 million in punitive damages.) Several other victims followed Anderson's lead in taking the Iranian government to court. In all, victims and their families will be paid more than \$213 million as a result of their suits against Iran. Iran did not defend any of the lawsuits, refusing to recognize the authority of the U.S. courts.

Certain judgments obtained against the government of Cuba are also covered by the new law. In 1996, planes flown by Mario de la Pena, Armando Alejandro, Jr., and Carlos Costa were shot down by Cuban MiG fighters. The men were part of a Cuban refugee organization known as *Hermanos al Rescate* ("Brothers to the Rescue"), whose mission is to patrol the waters between Cuba and South Florida in search of refugees. Pursuant to the new law, the men's families will receive a total of \$49.9 million in compensatory damages, and possibly another \$35 million in sanctions. In this case, the payments will come from Cuban assets frozen by the United States, rather than the U.S. government fronting the money and attempting to recoup it later.

The legislation will also benefit the family of Alisa Flatow, a twenty-year-old college student who was killed in 1995 by a suicide bomber as she rode on a bus in the Gaza Strip. Her father, Stephen Flatow, was one of the first to sue under the 1996 law. He claimed that a Palestinian extremist group, Islamic Jihad, was responsible for the attack and that the terrorists had been funded by Iran. As a result of his successful suit, Flatow will receive \$22.5 million.

Not all terrorism victims support the "Justice for Victims of Terrorism Act." For example, Susan Cohen, whose twenty-year-old daughter, Theodora, was killed in the

bombing of Pan Am Flight 103 over Lockerbie, Scotland, has said that she “can’t take money this way. It doesn’t punish terrorists, it punishes U.S. taxpayers.”

Flatow responds that the new law will “impose a cost on terror-sponsoring countries . . . by using their blocked assets as the ultimate source of compensation.”

Because of the universal threat of terrorism, “we must be creative in the development of new ways to put a price tag on the acts of those who would harm us.”