S. 2155 of the Eighty-Ninth Congress--The Criminal Injuries Compensation Act

Ralph W. Yarborough

Follow this and additional works at: https://scholarship.law.umn.edu/mlr
Part of the Law Commons

Recommended Citation
https://scholarship.law.umn.edu/mlr/2139

This Article is brought to you for free and open access by the University of Minnesota Law School. It has been accepted for inclusion in Minnesota Law Review collection by an authorized administrator of the Scholarship Repository. For more information, please contact lenzx009@umn.edu.
S. 2155 of the Eighty-Ninth Congress - The Criminal Injuries Compensation Act

Ralph W. Yarborough*

The idea is so simple and just that its novelty makes less of a first impression than the regret that the idea has not been previously adopted. Seemingly compensation by the state to those injured by criminals should have been a popular topic of discussion in law and political science. Yet neither cryptic sentences in the Code of Hammurabi nor Bentham's suggestions inspired any predicate of scholarly or public debate in American circles until very recently.¹ Last year the adoption of plans for compensation to victims of crime in Great Britain and New Zealand as well as provocative speeches by then-Justice Arthur Goldberg stimulated consideration of the idea in legal journals and the public press.²

In the spring of 1964, scattered newspaper references to proposals for compensating victims of crime revived my interest in the anomaly of our concern for criminals and victims, an interest originally formed when I sat on the criminal bench. I advocated adoption of a victim's compensation plan in a speech to the Texas Plaintiff's Attorneys Association in July 1964, and resolved to introduce appropriate legislation in the U.S. Senate. My bill was introduced on June 17, 1965, and is numbered S. 2155 of the 89th Congress, 1st Sess.³ This article is a short account of the problems

---

¹ Aside from press references to the actions in Great Britain and New Zealand, little scholarly treatment of the subject can be found in the more widely circulated journals other than Childres, The Victims, Harpers Magazine, April, 1964, p. 159. Professor Childres provides a thorough review of the literature in his fine article, Compensation for Criminally Inflicted Personal Injury, 39 N.Y.U.L. Rev. 444 (1964), and I have drawn heavily on his work. For discussion of the early history of the idea see Wolfgang, Victim Compensation in Crimes of Personal Violence, 50 Minn. L. Rev. 223 (1965).


³ [Hereinafter cited to section number only.] Similar bills have since been introduced in the House of Representatives by Congresswoman Edith Green, H.R. 11818, 89th Cong., 1st Sess. (1965); Congressman William D. Hathaway,
encountered and the choices made in reducing the humanitarian concept to the language of a proposed statute.\textsuperscript{4}

The starting point in advancing a specific proposal is a consideration of the means used by our laws to redress losses suffered by persons without fault as a result of wrongdoers' acts. The common law provides a right to bring a civil action against a criminal, but this is a notoriously empty right. The efficacy of this right may be improved by remedial legislation. However, it is difficult to see how legislation could make this right produce adequate compensation so long as claims must be asserted against an individual criminal, who must be caught, identified, and found capable of satisfying a judgment. A proposal that the state guarantee payment of civil judgments based on criminal wrongdoing is not adequate as it would not cover the many cases where the victim cannot find or identify the criminal.

If we feel that criminally inflicted injury should be compensated, social legislation seems to assure the fullest equity to all victims. Legislation establishing classes of individuals to whom a responsibility is owed is already quite common: injured workmen get workmen's compensation, disabled veterans get veterans' compensation, the aged get subsistence, and now hospital insurance from the Social Security program. Our modern industrial democracy accepts the idea of compensating needy members of a particular class. And here there is a direct relation between the class needing compensation and the recognized duty of the state to protect its citizens from criminal action. In view of the many social welfare programs that are in operation, the failure to recognize the special claims of this group seems to be a gross oversight.\textsuperscript{5}

It is preferable to think of this proposal in terms of a social welfare program rather than as one establishing a true legal right. Giving a victim a court enforceable right of action against the government, as is done under the Federal Tort Claims Act, would have several undesirable consequences. I feel it would be better to

\textsuperscript{4} Mr. A. Blair Crownover, Assistant Senate Legislative Counsel, and Dr. Thomas P. Jahnis, now of the faculty of Smith College, Northampton, Massachusetts, collaborated in the work which made introduction of the bill possible.

\textsuperscript{5} The class for which compensation is sought is composed of victims who have suffered personal injuries from intentional acts categorized as criminal, as developed below. The greater state duty to this class will hopefully prevent involvement of this proposal in any debate over changing the present system of compensation for negligently inflicted injuries.
separate the dispensation of criminal justice and the compensation of victims of crime. In compensating the victims, we do not want the criminal guilt of the defendant to be an issue. We do not need evidence beyond a reasonable doubt that this criminal committed this crime, we want only a preponderance of the evidence that this victim suffered these losses from a criminal action. Judges should not be asked to alternate these essentially different approaches in the same fact situation.⁶

California, first of our jurisdictions to recognize the responsibility of the state to victims of crime, has integrated its victim compensation system closely into its state welfare program.⁷ After the conviction of the perpetrator of a crime of violence resulting in injury or death, a needy victim or surviving family may apply for payments under the standards used in the California Aid to Dependent Children program. In simplicity and probably in economy, this approach should recommend itself to many other states. Its adoption is to be applauded.

However, the California plan has two defects. The first is a requirement of a conviction prior to eligibility for aid. Although administratively convenient, requiring a conviction is irrelevant to the victim's loss and need. Secondly, only the victim's present needs are met. This does not necessarily reflect the full loss that the victim may have suffered from the criminal action.

What is desired is a forum which can determine the identity of the victim, his loss, its causation by criminal action, and an appropriate award. Characteristics of the proceeding should be accessibility, simplicity, speed, accuracy, and finality. The recent enactments of New Zealand and Great Britain seek to attain these goals through an independent administrative tribunal, and this path seems the most promising.

Great Britain established such a tribunal on August 1, 1964.⁸ Although for several years Great Britain seems to have led the active discussion of compensation for victims of crime, New Zealand first enacted such a statute, effective January 1, 1964.⁹ The programs of the two countries are alike in conception since both

---

⁶ Especially consider the plight of the government's trial attorneys, who one day would be prosecuting a criminal, the next day contesting the victim's proof of the crime.
⁸ Compensation for Victims of Crimes of Violence, CMND. No. 2323 (1964) [hereinafter referred to as the BRITISH WHITE PAPER].
⁹ Criminal Injuries Compensation Act 1963, 1 NEW ZEALAND STAT. No. 184 (1968).
are rooted in the common law. Thus, a similar plan should be adaptable to American needs.

Because the New Zealand statute is stated with greater specificity and in a form more familiar to American legislators, it was used as the model in drafting S. 2155. As will be seen from the discussion below, some modifications of the New Zealand statute have been adopted. Some precedents from applicable American statutes were employed in a few instances, the author's independent judgment was asserted. Admittedly, the bill was drafted with an eye to its Congressional acceptability; "limits" and "safeguards" were preferred over potential "open ends" and "loop-holes."

**Jurisdiction.** Only cases arising in the limited areas of general federal police power and responsibility are covered by this bill. These areas include the "special maritime and territorial jurisdiction of the United States,"10 and the District of Columbia. This applies our theory, that the right of the victim to compensation from the state arises from the failure of the state to protect from crime. Therefore, the bill is designed to act only where there is an existing general federal police responsibility. Although there may be merit in the argument for a nationwide plan, practical considerations urge a small scale experiment. Also, a great deal of valuable experience may be gained from the various plans which may be adopted by the states if the entire field is not effectively preempted by federal action.

**The commission.** The spirit of the New Zealand statute is followed in establishing a quasi-judicial administrative commission to adjudicate compensation claims. Modifications harmonizing the structure to the considerable body of applicable American experience and law were adopted where desirable.

The Violent Crimes Compensation Commission would be composed of three members appointed by the President to eight-year terms. The eight-year term, while slightly longer than the usual term on an administrative board, might be subject to question on the ground that it does not insure the judicial independence presumed to flow from life appointments. The shorter term seems appropriate for this new commission, however, to add needed flexibility. A feature adopted from the New Zealand statute is the requirement that the member designated as chairman shall

---

have been a lawyer for eight years. This assures the preservation of the essence of legal form under a lawyer chairman, but thus signals that legal experience is not a requirement for the other members. It may well be that very suitable individuals not legally trained will be found—a doctor, for example—but we may expect a tendency for the commission to be composed exclusively of lawyers. The chairman of the commission is placed in the same executive salary class as the chairmen of other independent agencies (e.g., Federal Communications Commission, National Media- tion Board, etc.); the other members, like the members of those other bodies, rank somewhat below the financial status of federal district judges, but probably as high in the federal hierarchy as presently can be justified to a skeptical Congress.

Section 201(c) is borrowed from New Zealand and is possibly novel to our laws. The chairman and one member constitute a quorum, but if their opinion is divided, the chairman’s opinion prevails. Although probably reflected in existing administrative practice, setting the rule by statute has the virtue of definiteness.

The commission is given the customary powers to incur expenses and hire employees, including examiners. Its principal office is established in Washington, D.C.; the bulk of its business probably will originate there. The commission may compel the appearance of witnesses and documents. Subject to the specific provisions of the act, the commission is given broad powers to issue regulations governing its proceedings and is made subject to the Administrative Procedure Act.

Commission procedure. The proposed statute directs the commission not to apply strict legal rules of evidence. Section 205(h) authorizes receiving any matter in evidence, whether or not it would be admissible in a court of law. The anticipated legal experience of the commissioners will enable them to weigh the relevance and probative value of the evidence offered, and to use the rules of evidence as a background rather than as a screen. This provision is taken from the New Zealand statute and is similar to the practice of other federal administrative bodies. A rule of evidence set by the statute accepts proof of a final criminal conviction of a crime as conclusive that the offense was commi-

11. Section 201(a). 1 New Zealand Stat. No. 134 § 4(2) (1963), requires the chairman of the Crimes Compensation Tribunal to have been a lawyer for not less than seven years.
13. Section 205(i).
mitted. In addition to being a convenience to the commission, this provision would prevent collateral attack on the finality of criminal convictions.

Omitted from S. 2155 are the provisions of the New Zealand statute authorizing hearings in private and authorizing the prohibition of publication of the name of the victim or of the offender. The absence of these provisions should not be construed to mean that the problem of avoiding noxious publicity to applicants and witnesses may not be dealt with by the commission. The New Zealand language was omitted because it would raise first amendment problems. However, we may expect the commission to adopt practices consistent with the Administrative Procedure Act to preserve some degree of privacy in appropriate cases.

Upon receiving an application the commission is required to set a time and place for a hearing. This provision, taken from the New Zealand statute, should be considered critically. Since S. 2155 does not set a minimum monetary figure for applications, claims for quite small sums may be expected. Administrative convenience might be served if small claims could be settled without a hearing, with the applicant granted a right to a hearing on appeal.

Under S. 2155, an applicant is entitled to appear and be heard in person or through an attorney. Any attorney assisting the commission is also entitled to be heard, as is any other person "who satisfies the Commission that he has a substantial interest in the proceedings." This latter category includes the alleged criminal. Each person entitled to appear may produce evidence and cross-examine witnesses. The resulting informal inquiry between three antagonistic parties fully preserves the benefits of the adversary system.

**Finality.** Section 207 states that orders of the commission shall be final. The bill does not create a right which can be litigated in court, nor a right to a trial de novo on the facts. Our target is to provide speedy compensation by a simple administrative proceeding. In this respect it is similar to the New Zealand and British programs.

**Attorneys' fees.** Section 206(a) authorizes the commission to allow attorneys' fees, with a maximum of fifteen per cent of an award over one thousand dollars. This section is taken from and may be compared with the Federal Tort Claims Act. Many will

---

14. Section 205(g), written into S. 2155 is a specific warning that statements given to the commission are subject to the criminal penalties for false official statements, pursuant to 18 U.S.C. § 1001 (1964).

15. 28 U.S.C. § 2678 (1964), allowing a fee of no more than 10% of an award over $500 which is settled before suit, and 20% if suit is filed.
question whether this represents a sufficient fee to secure the best representation for a victim. There is considerable informal evidence that federal statutes limiting attorneys' fees have been detrimental rather than helpful to clients seeking effective representation. However, in view of the legislative burden of novelty carried by the bill as a whole, prudence dictated the insertion of this limitation.

The victim. The purpose of the proposal is to compensate victims of crime for their loss from injury or death. Logically extending our theory it can be argued that the state should compensate for any crime causing loss, including property loss. Our limited proposal rejects such an extension beyond personal injuries; compensating property loss would make the costs astronomical, and private insurance probably protects against a great part of such losses.16

Personal injury is defined as "actual bodily harm and includes pregnancy and mental or nervous shock."17 The result of the act on the victim is determinative, not the viciousness of the criminal's act or whether the victim's person was touched. The victim is to be compensated for expenses resulting from injury or death, loss of earning power, pain and suffering, and any reasonable pecuniary loss. Dependents of a deceased may also be compensated for pecuniary loss. Payment may be made to the victim, his parent or guardian, or in the case of death, to his dependents.

The commission is given broad power to consider any relevant circumstances, including particularly any behavior of the victim which contributed to the injury. It is preferable to grant this power rather than attempt any special statutory caution or distinction in, say, sexual offences as is done in the British White Paper.18 No doubt there are whole classes of cases where the commission will be justified in taking an especially skeptical approach, but it is better to leave the criteria to the judgment of the commission rather than attempt to write any special safeguards.

S. 2155 provides that an application must be filed with the commission within two years. The New Zealand plan requires application within one year except in special circumstances.19 The British White Paper requires application as soon as possible, but the Board will entertain applications only where the circum-

17. Section 102(4).
18. See BRITISH WHITE PAPER § 16.
19. 1 NEW ZEALAND STAT. NO. 134 §17(4) (1963).
stances were reported to the police without delay. Of course, the diligence with which the victim makes an outcry and pursues his remedies is evidentiary on the facts of the injury and the degree of loss suffered. However, a lapse of time prior to application should not operate as a complete bar to recovery. A two year statute of limitations seems reasonable. It is preferable to rely on the prudence of the commission to assess the meaning of delays rather than to fix a rigid statute of limitations.

The victim will be barred from recovery if he is a relative of the offender or a member of his household. This provision has been taken from the New Zealand statute, perhaps too uncritically. Most would agree that we should avoid involving the commission in awarding compensation for husband-wife and parent-child injuries. But since “relatives” in the statute includes grandparents and spouse’s parents, the proposal may be too strict in barring otherwise justified awards. Further consideration might lead to a retention of the ban on awards to members of the household and a modification allowing other relatives to recover if no part of the award will ultimately benefit the offender or his interests.

The criminal. An award to a victim may be made whether or not any person is ever prosecuted or convicted of a crime. Further, there need not even be a criminal; a person’s acts may be deemed criminal for compensation purposes although by reason of age or insanity he cannot be classified as a criminal since he is incapable of formulating criminal intent. This is a necessary provision since we do not want the victim’s compensation for loss to be determined by such irrelevant factors. As far as the victim is concerned the behavior causing the loss was criminal irrespective of the view of the act taken by criminal law.

As noted above, a criminal conviction will be conclusive on the commission that an offense has occurred. Perhaps more often the commission may be requested to act on an application before the prosecution has occurred. Following the New Zealand example, our proposal provides that the Attorney General of the United States may ask for a suspension of the commission proceedings for an appropriate period if a prosecution has commenced or is imminent. Clearly the prosecutors should have this power, but it is an oversight not to insure the right of the accused criminal to also apply for suspension of the commission proceedings. It is

21. Section 304(c).
22. Section 102(5).
23. Section 301(f).
obviously prejudicial to the defendant if the fact of an award to the victim is publicized immediately before the criminal trial. Also, it seems desirable to consider an exclusionary rule barring reference to proceedings before the commission in the criminal trial. Any hint of a commission award could be extremely prejudicial to the accused and should thus be excluded.

The offenses. Before making an award the commission must find that the injury or death resulted from a criminal act. The criminal acts compensable under S. 2155 are listed by offenses as is done in the New Zealand statute. The list is derived from the District of Columbia Code and the United States Code, and attempts to include every type of violent crime that might result in compensable injury. There is obvious danger in such lists. Criminal acts resulting in injury should entitle a victim to compensation whether or not the draftsman included every crime that might result in injury. However, we presume that any type of crime producing a personal injury is included as an assault, and that classification would entitle the victim to an award.

Some may question including for compensation those offenses involving lewd, indecent or obscene acts. If, for example, such acts produced extreme mental and nervous shock in an elderly lady of tender sensibilities the commission should be authorized to exercise its compassionate discretion.

The British White Paper makes special note that injuries caused by motor vehicles are not covered, except where the vehicle is used as a weapon. Although this limitation is not specified in S. 2155, the same result is expected.

The compensation. The commission has discretion to look at all circumstances necessary to determine appropriate compensation for a victim, including his insurance reimbursements. Section 305(b) mandates the commission to deduct from its award any amount received by the victim from the offender or from any person on behalf of the offender (e.g., a liability insurer). Also, any payments received from the United States, a State or subdivision as a result of the crime must be deducted. Thus, a murder victim’s children who receive social security survivors’ benefits would find the social security payments deducted from the compensation award. S. 2155 purports to establish a special system of compensation for loss — the Government should not be in the position of paying twice for the same loss. It may be legitimately asked whether requiring the commission to make such deductions is needed or useful. Should it not have the latitude to make an exception in the extraordinary case?
The commission is given authority to sue an offender in a United States District Court for any part of an award made because of his crime. To those who would remit victims to their civil remedies rather than set up a plan of government compensation, no doubt this provision will confirm their objections; the victim should be the one to file suit if there is any practical prospect of recovery. However, we must accept the probability that existence of the compensation plan will reduce the incentive of victims to bring suit. Since our purpose is relief for victims, the Government should provide the more immediate compensation to the victim and take over the civil action against the criminal. It is doubtful that many civil suits against the criminal will appear worth the plaintiff's time and effort, whether he be the victim or Government.

Authority is given under S. 2155 for the commission to make the payment on such terms as it deems appropriate. It is contemplated that the normal award would be in the form of a lump sum payment (Great Britain so requires), but there should be flexibility to make periodic payments, or part payments pending final ascertainment of the total losses.

**Maximum and minimum compensation.** S. 2155 limits a compensation payment to 25,000 dollars. Great Britain imposes no overall limit, but restricts the maximum awarded for loss of earnings and earning capacity to twice the average industrial wage. New Zealand has limits on the various categories of compensation and imposes an overall maximum of roughly 10,080 dollars. Of course, the maximum 25,000 dollars will be inadequate in many cases, but it seems a reasonable figure that will avoid great expenditures while experience is gained under the program.

Great Britain's scheme compensates only those suffering an appreciable degree of injury, which is stated as being three weeks loss of earnings or 50 pounds. S. 2155, like New Zealand's plan, sets no minimum. This represents a better policy, for to many...

---

24. Section 401(a).
25. Section 401(a) of S. 2155 allows suit against the offender only after his conviction. To allow suit against an offender who was not convicted approaches governmental oppression of the accused. The victim could still bring civil suit, however, the Government would have a right to recover from his proceeds.
26. The present wording of § 304(b) is unclear. Subsequent drafts will specify that the limit applies to each victim and his dependents.
victims, a small out of pocket loss can represent a very large percentage of monthly income. A jurisdictional minimum would also tempt victims to exaggerate their loss. However, as noted above, the commission procedure probably should be modified to allow simpler disposition of smaller claims.

It is submitted that the above description lays out a workable plan for compensating victims of crime in the federal jurisdiction. Problem areas can be detected, the language can be polished and improved, but the basic framework is sound and practical. Passage of S. 2155 by the Congress is urged; the proposal will insure full justice in the federal jurisdiction and provide a model for the states.

A great deal of effort has been expended by the legal profession in defining and protecting the rights of criminals, and justly so. But it strikes me that we have missed the mark by not devoting equal concern to the innocent victims of crime. It is time for work to begin in every jurisdiction for the adoption of victims' compensation statutes.
APPENDIX

[The portions of Senator Yarborough's bill most relevant to his discussion are reprinted below.—Ed. note.]

89TH CONGRESS—1ST SESSION
S. 2155

A BILL

To provide for the compensation of persons injured by certain criminal acts.

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


DEFINITIONS

Sec. 102. As used in this Act—

(1) The term "child" means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child;

(2) The term "Commission" means the Violent Crimes Compensation Commission established by this Act;

(3) The term "dependents" means such relatives of a deceased victim as were wholly or partially dependent upon his income at the time of his death or would have been so dependent but for the incapacity due to the injury from which the death resulted and shall include the child of such victim born after his death;

(4) The term "personal injury" means actual bodily harm and includes pregnancy and mental or nervous shock;

(5) The term "relative" means his spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents;

(6) The term "victim" means a person who is injured or killed by any act or omission of any other person which is within the description of any of the offenses specified in section 302 of this Act.

TITLE II—ESTABLISHMENT OF VIOLENT CRIMES COMPENSATION COMMISSION...

Sec. 201. (a) There is established a Violent Crimes Compensation Commission which shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. The President shall designate one of the members of the Commission who has been a member of the bar of a Federal court or of the highest court of a State for at least eight years, as Chairman.

(b) No member of the Commission shall engage in any other business, vocation, or employment.

(c) The Chairman and one other member of the Commission shall constitute a quorum; and where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

...
VICTIM COMPENSATION

TERMS AND COMPENSATION OF MEMBERS

SEC. 202. (a) The term of office of each member of the Commission taking office after December 31, 1965, shall be eight years . . . .
(b) Each member of the Commission shall be eligible for reappointment . . . .

ATTORNEYS, EXAMINERS, AND EMPLOYEES OF THE COMMISSION; EXPENSES

SEC. 208. (a) The Commission is authorized to appoint such officers, attorneys, examiners, and other experts as may be necessary for carrying out its functions under this Act, and the Commission may, subject to the civil service laws, appoint such other officers and employees as are necessary . . . .

PRINCIPAL OFFICE

SEC. 204. (a) The principal office of the Commission shall be in or near the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place.

POWERS AND PROCEDURES OF THE COMMISSION

SEC. 205. (a) Upon an application made to the Commission under the provisions of this Act, the Commission shall fix a time and place for a hearing on such application and shall cause notice thereof to be given to the applicant.
(b) For the purpose of carrying out the provisions of this Act, the Commission, or any member thereof, may hold such hearings, sit and act at such times and places, and take such testimony as the Commission or such member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member. The Commission shall have such powers of subpoena and compulsion of attendance and production of documents as are conferred upon the Securities and Exchange Commission by subsection (c) of section 18 of the Act of August 26, 1935, and the provisions of subsection (d) of such section shall be applicable to all persons summoned by subpoena or otherwise to attend or testify or produce such documents as are described therein before the Commission, except that no subpoena shall be issued except under the signature of the Chairman, and application to any court for aid in enforcing such subpoena may be made only by said Chairman. Subpoenas shall be served by any person designated by the said Chairman.
(c) In any case in which the person entitled to make an application is a child, the application may be made on his behalf by any person acting as his parent or guardian. In any case in which the person entitled to make an application is mentally defective, the application may be made on his behalf by his guardian or such other individual authorized to administer his estate.
(d) Where any application is made to the Commission under this Act, the applicant, and any attorney assisting the Commission, shall be entitled to appear and be heard.
(e) Any other person may appear and be heard who satisfies the Commission that he has a substantial interest in the proceedings.
(f) Where under this Act any person is entitled to appear and be heard by the Commission, that person may appear in person or by his attorney.

(g) Every person appearing under the preceding subsections of this section shall have the right to produce evidence and to cross-examine witnesses.

(h) The Commission may receive in evidence any statement, document, information, or matter that may in the opinion of the Commission contribute to its functions under this Act, whether or not such statement, document, information, or matter would be admissible in a court of law.

(i) If any person has been convicted of any offense with respect to an act or omission on which a claim under this Act is based, proof of that conviction shall, unless an appeal against the conviction or a petition for a rehearing or certiorari in respect of the charge is pending or a new trial or rehearing has been ordered, be taken as conclusive evidence that the offense has been committed.

(j) Except as otherwise provided in this Act, the Administrative Procedure Act shall apply to the proceedings of the Commission.

ATTORNEYS' FEES

Sec. 206. (a) The Commission may, as a part of any order entered under this Act, determine and allow reasonable attorney fees, which if the award is more than $1,000 shall not exceed 15 per centum of the amount awarded . . . .

FINAILITY OF DECISION

Sec. 207. Except as otherwise provided in this Act, orders and decisions of the Commission shall be final.

REGULATIONS

Sec. 208. In the performance of its functions, the Commission is authorized to make, promulgate, issue, rescind, and amend rules and regulations prescribing the procedures to be followed in the filing of applications and the proceedings under this Act, and such other matters as the Commission deems appropriate.

TITLE III — AWARD AND PAYMENT OF COMPENSATION . . .

Sec. 301. (a) In any case in which a person is injured or killed by any act or omission of any other person which is within the description of the offenses listed in section 302 of this Act; and

(1) is within the "special maritime and territorial jurisdiction of the United States" as defined in section 7 of title 18 of the United States Code; or

(2) in the case of an offense committed within the District of Columbia, is a violation of title 22 of the District of Columbia Code, the Commission may, in its discretion, upon an application, order the payment of compensation in accordance with the provisions of this Act.

(b) The Commission may order the payment of compensation —

(1) to or on behalf of the injured person; or
(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person; or

(3) in the case of the death of the victim, to or for the benefit of the dependents of the deceased victim, or any one or more of such dependents.

(c) For the purposes of this Act, a person shall be deemed to have intended an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent.

(d) In determining whether to make an order under this section, the Commission may consider any circumstances it determines to be revelant, including the behavior of the victim which directly or indirectly contributed to his injury or death.

(e) No order may be made under this section unless the Commission, supported by substantial evidence, finds that—

(1) such an act or omission did occur; and

(2) the injury or death resulted from such act or omission.

(f) An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such act or omission. Upon application from the Attorney General, the Commission may suspend proceedings under this Act for such period as it deems appropriate on the ground that a prosecution for an offense arising out of such act or omission has been commenced or is imminent.

SEC. 302. The Commission may order the payment of compensation in accordance with the provisions of this Act for personal injury or death which resulted from offenses in the following categories: (1) assault with intent to kill, rob, rape, or poison; (2) assault with intent to commit mayhem; (3) assault with a dangerous weapon; (4) mayhem; (5) malicious disfiguring; (6) threats to do bodily harm; (7) lewd, indecent, or obscene acts; (8) indecent act with children; (9) kidnaping; (10) murder; (11) manslaughter, voluntary; (12) attempted murder; (13) rape; (14) attempted rape.

NATURE OF THE COMPENSATION

SEC. 303. The Commission may order the payment of compensation under this Act for—

(a) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) loss of earning power as a result of total or partial incapacity of such victim;

(c) pecuniary loss to the dependents of the deceased victim;

(d) pain and suffering of the victim; and

(e) any other pecuniary loss resulting from the personal injury or death of the victim which the Commission determines to be reasonable.

LIMITATIONS UPON AWADING COMPENSATION

SEC. 304. (a) No order for the payment of compensation shall be made under section 301 of this Act unless the application has been made within two years after the date of the personal injury or death.

(b) No compensation shall be awarded under this Act in an amount in excess of $25,000.
(c) No compensation shall be awarded if the victim—
   (1) is a relative of the offender; or
   (2) was at the time of the personal injury or death of the victim living
   with the offender as his wife or her husband or as a member of the offend-
   er's household.

TERMS OF THE ORDER

SEC. 805. (a) Except as otherwise provided in this section any order for the
payment of compensation under this Act may be made on such terms as the
Commission deems appropriate.

(b) The Commission shall deduct from any payments awarded under sec-
tion 301 of this Act any payments received by the victim or by any of his
dependents from the offender or from any person on behalf of the offender, or
from the United States (except those received under this Act), a State or any
of its subdivisions, for personal injury or death compensable under this Act.

TITLE IV—RECOVERY OF COMPENSATION

RECOVERY FROM OFFENDER

SEC. 401. (a) Whenever any person is convicted of an offense and an order
for the payment of compensation is or has been made under this Act for a
personal injury or death resulting from the act or omission constituting such
offense, the Commission may institute an action against such person for the
recovery of the whole or any specified part of such compensation in the district
court of the United States . . . .