

SWISS BANKS HOLOCAUST



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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LEGAL SERVICES

IN RE

MASTER DOCKET NO. CV. 96-4849
(ERK) (MDG) (Consolidated with CV-96-
5161 and CV-97-461

HOLOCAUST VICTIM ASSETS
LITIGATION

**HOLOCAUST SURVIVORS FOUNDATION-USA, INC. RESPONSE TO
SWISS BANK ALLOCATION SUBMISSIONS**

The Holocaust Survivors Foundation-USA, Inc. (HSF) files this response to the various submissions in accordance with the Court's Order of December 17, 2003. In sum, there is abundant data in the record that supports and reinforces the urgent need for additional funds to be allocated for Survivors and Nazi victims in the United States, as requested by HSF in its Plan dated January 30, 2004, and confirmed in the submissions of the United Jewish Communities (UJC) and the New York City UJA-Federation. In addition, filings by other institutions and professionals strongly reinforce the existence of a high level of unmet needs among Survivors in this Country.¹

Nevertheless, the HSF leaders must again express their misgivings with the overall paradigm presented by the Court's current framework. As stated in HSF's January 30 Plan, it is virtually impossible for an allocation decision to be made based upon the "relative need" among Holocaust Survivors and Nazi victims around the world due to the lack of a defined, objective standard for the Special Master and the Court to apply in a "neediness" analysis, and due to the moral difficulty of selecting from among Holocaust Survivors and Nazi victims who all suffered terribly during the Shoah as to whom is "more deserving" based on such matters beyond their control and irrelevant to their personal situation as the wealth of the general Jewish community in their country,

¹ This filing is not intended as HSF's response to Burt Neuborne's "Affirmation" of February 20, 2004, nor the Court's March 9, 2004 Memorandum and Order.

the gross domestic product (GDP) of their country, the level of per capita spending for health care in a particular country, or the general level of social services provided by government that are simply *not* allowing thousands of Looted Assets class members with a basic, dignified amount of food, medicine, or home care their basic human service needs. Such matters beyond their control *and unrelated to their losses during the Holocaust* should have no bearing on class members' access to settlement funds in this case.

Moreover, the allocation formula recommended by the Special Master in September 2000 and reaffirmed by the Court most recently in its March 9, 2004 Memorandum and Order imposes an unusual, unfair, and ultimately insurmountable burden, it now appears, to additional relief for Survivors and Nazi victims the HSF leaders represent. The Court's framework requires Holocaust Survivors who live in the United States (and Israel) to bear the weight of the inequities of Communism and the failures of recent post-War governments to demand that Germany mete out fair reparations to Nazi victims in the republics of the Former Soviet Union (FSU). Such a burden is hardly one that the American Survivors could conceivably bear in material terms, based on the Court's articulated basis for the previous allocations, i.e. that Nazi victims in the West received "over \$53 billion" in German post-war reparations, compared to less than \$444 million for Nazi victims in the FSU. How can such a disparity be equalized with the less than \$1 billion that has been or may be distributed through the Looted Assets Class?

Why is not Germany being called upon to equalize immediately the payments made to those victims of the Shoah who lived under Communism and therefore were not included in such payments as were some (though not, as the Special Master noted, all) their colleague survivors in the West? Is that the proper action to be taken now by all governments involved, instead of essentially punishing those aggrieved Survivors in this very specific action? Why is it deemed appropriate here

to pit Survivors against each other when so many are, in their own geographical circumstance, in terrible need and worthy of relief from this vastly smaller amount of finite funds which was sought for much different purposes?

The Survivor leaders of the HSF have from the beginning argued that all Class members in need should have equal access to settlement funds; they do not seek advantage for those whom they represent as elected leaders, nor disadvantage for those who suffered equally in the FSU, Israel or elsewhere. To the extent the current exercise calls for critiques of the needs presented by advocates for Survivors living outside the United States, HSF believes these are false choices not worthy of support.²

The burning question today is, why are Holocaust Survivors who live in the United States today being required to bear the burden of these diplomatic failures by the European governments implicated by the observed disparity? HSF contends that this litigation over the financial crimes of the Swiss nation against Jewish Holocaust victims is not the place for that inequity to be addressed. This was not the purpose of the Swiss Bank class action, nor is it a proper basis for an allocation of settlement funds in a class action over the Swiss nation's profiteering from the Holocaust.

As the HSF board of directors wrote the Court on January 30, 2004:

Already, the trauma and losses of Jewish Holocaust victims (and the unprincipled sacrifice of insurance claims) were used to obtain recognition and compensation for the injuries of non-Jewish Eastern European laborers in the '\$5 billion' German settlement. Now, Jewish Holocaust victims, especially those in need who live in the United States (and Israel), are being told that their losses are to be used to remedy the injustices of Communism and the Cold War. Somehow, the settlement has veered too widely from the case itself.

² See Letter from HSF Board of Directors to the Honorable Edward R. Korman, January 30, 2004, HSF Plan, Exhibit 2.

Letter from HSF Board of Directors to the Honorable Edward R. Korman, January 30, 2004, HSF Plan, Exhibit 2. Nevertheless, based on the Court's current orders, HSF submits this response regarding its observations of the materials in the record.

I. HSF Comments on Various Proposals

HSF proposes, based on the above considerations, and the demonstrated high level of need that exists among Holocaust Survivors and Nazi victims throughout the world that are not being met by existing governmental or private community-based service providers, that the Court allocate settlement funds for the Looted Assets among Survivors and Nazi victims on a pro rata basis according to the most accurate available data on their countries of origin, to be allocated by the existing Jewish social service organizations through an accountable process designed to ensure that funds are provided fairly for Survivors in need in each country. Based on the population analysis performed by Professor Ira Sheskin, the Director of the Jewish Demography Project of the Sue and Leonard Miller Center for Contemporary Judaic Studies and Professor of Geography and regional Studies at the University of Miami, 20% of the funds should be earmarked for the needs of Survivors in the United States.

The two major submissions filed on file which purport to define "relative neediness," submitted by the State of Israel and World Jewish Restitution Organization (WJRO); and by the American Joint Distribution Committee (JDC), vividly demonstrate the inherent difficulty in establishing a meaningful and usable standard of "relative neediness."³ Both submissions are made by well-qualified demographic and social science professionals, yet they reach vastly different conclusions, even though they purport to examine the very same question: How can the degree of "neediness" be measured for purposes of recommending resource allocations?

³ The studies are: "Jewish Elderly Nazi Victims: A Synthesis of Comparative Information on Hardship and Need in the United States, Israel, and the Former Soviet Union," Report Prepared for the Joint Distribution Committee by Brandeis University ("Brandeis Study"); and: "Neediness Among Jewish Shoah Survivors: A Key to Global Resource Allocation," Report Prepared by Professor Sergio DellaPergola for the Government of Israel and World Jewish Restitution Organization (WJRO)("DellaPergola Neediness Study").

The Brandeis Report, taking a self-described “neutral stance about allocations decisions and approach[ing] the data collection and analysis without preconceptions,” page 7, concluded that “the indicators largely point in one direction, namely that the FSU has the highest share of Nazi victims, poorly organized and delivered public systems, as well as poorly functioning economies that are unable to sustain health and social welfare services.” Although the Brandeis Report did not offer a particular formula, it “confirmed the assessment of the Special Master that the population of needy survivors is distributed *quite differently than the population of survivors*,” according to the Court’s March 9, 2004 Memorandum and Order, at 14.⁴ (Emphasis supplied).

In contrast, the DellaPergola Neediness Study, looks to allocate funds “as a measure of the amount of Shoah survivors weighted by their current neediness,” based on criteria which jointly consider the “number, distribution, and neediness of Shoah survivors, based on standard and recognizable criteria.” DellaPergola Neediness Study at 40. Professor DellaPergola concludes that Swiss funds should be distributed *fairly closely to the relative population percentages* in Israel, the “FSU and Eastern Europe,” and North America.” (Emphasis supplied). Accordingly, Israel, with 46.5% of the world’s Shoah survivors, would have a “total resource allocation” of 48%. The “FSU and Eastern Europe,” with 16.8% of the world’s Shoah survivors, would receive 17% of allocated funds under their “total resource allocation.” North America, with 16.8% of the total population, would have a “total resource allocation” of 15%.

Needless to say, the 15% level recommended by Professor DellaPergola for funding from the Looted Assets class settlement funds for North America is far preferable to the current level

⁴ As the Court noted in its March 9, 2004 Memorandum and Order, “The Brandeis Report made no recommendations, but it drew many conclusions.” Memorandum and Order, at 14. The lack of a concrete formula from Brandeis is one of the reasons HSF contends that the prevailing formula is unmanageable, unfair, and an abuse of discretion under Rule 23.

of allocations, so HSF would prefer it as an alternative to the status quo.⁵ Yet, HSF alludes to these studies to point out that there are factors that professional demographers and sociologists might take into consideration in composing a “neediness” index other than those selected by the Special Master or those reviewed by the Court, and that there are experts who will include criteria not employed by others. All seek the mantle of objectivity, yet somehow such objective studies come out very differently. Moreover, many of the criteria employed such as the GDP or the gross level of national health care expenditures, have no bearing on a particular Survivor’s ability to afford to pay for his or her own care. What is plain, however, is that thousands of Survivors need help in this country that cannot afford it, and so HSF urges that the United States Survivor community be allocated a fair allocation of Swiss funds, and respectfully suggests that 20% is the appropriate level.⁶

II. The Record Demonstrates that Thousands of U.S. Survivors are Living in Poverty or are Poor and Require Assistance Not Being Provided by Government or Private Organizations

As HSF stated in its proposed Plan of January 30, 2004 and supporting Memorandum of Law, the level of need that now exists among Survivors and Nazi victims in the United States, has, if anything, only been shown to be conservative by the emergence of recently filed data. The UJC documents 3,289 Survivors and Nazi victims outside of the New York City area “who are financially unable to obtain critically needed home and health care, transportation and emergency services and

⁵ Mr. Neuborne, and the Court in its March 9, 2004 Memorandum and Order, characterize the United States’ percentage of Looted Assets allocations as 4%. As of this date, HSF is aware of only \$1.4 million allocated to the needs of U.S. Survivors out of a total of \$205 million now committed. That is far less than 4%. Until the Court’s March 9, 2004 Order, there was no official indication in any order that the United States Survivors were entitled to any amount of funds other than those discretionarily allocated by the Claims Conference from the 12.5% for “other countries” per the Special Master’s initial allocation recommendation.

⁶ DellaPergola urges that the percentages arrived at as the “total resource allocation” percentage “apply to the maximum possible total allocation, regardless of whether or not parts of it were already attributed.” In other words, that the *total* Looted Assets settlement amount, (i.e. \$205 plus the upcoming distribution) not only those yet to be allocated, be factored into the base when determining the level of funds to which a country is entitled. DellaPergola Neediness Study, at 40.

for whom existing social welfare services – both public and private – are either inadequate, inaccessible, or unavailable.” See Letter from UJC to Special Master Judah Gribetz, January 30, 2004. UJC requests funds to provide those services to those 3,289 Survivors is \$8.5 million per year for eight (8) years.

But the community organizations understand that there are far more than 3,289 Survivors in need of more help: “Our proposal does not call for massive publicity and outreach, which could generate untold numbers of additional clients. *Though we are disquieted by this decision not to anticipate aggressive outreach, it is our hope that the Court will thereby understand that it is being presented with a picture of only the most critical of existing needs, representing situations in which not just the quality of life, but life itself, may be at stake.*” *Id.*, at 2. (Emphasis supplied).⁷ Therefore, it is reasonable to conclude that the UJC estimates of need, being narrowly defined by the apparent charge of the Court to be limited to only “documented Survivors,” is *low* in relation to the actual need outside of New York City.

Similarly, the New York City UJA-Federation (NYC) submitted a proposal to as part of the UJC submission. While the NYC submission is not as specific about the precise number of clients that are in need of assistance to meet their basic housing, health care, medicine. According to the submission, it states:

Our particular concern, in regard to Nazi Victims in the New York Area, is the large number living in or near poverty and needing

⁷ In September 2002, HSF filed in conjunction with the Association of Jewish Family and Children’s Services Agencies (AJFCA) a Proposal for Improved Services for Holocaust Survivors in the United States, which demonstrated the need for significant outreach: “Agencies further report their belief that they currently know of only half the survivors in need of services in their community. Therefore, we recommend that sufficient funds be allocated, based on appropriate proposals, to provide for outreach efforts to locate the approximately 8,000 survivors believed to be in need of home care services, but currently not making use of them.”

The experience of one community, Broward County, which conducted minimal outreach, reported that dozens of Survivors responded to the outreach in the first six months (and continuing); this led to cut backs in services to existing Survivor clients and long waiting lists.

assistance to maintain a dignified quality of life. We are mindful that large numbers of Nazi Victims in New York are just now reaching their 70s, 80s, and 90s, and are *increasingly in need of help* from community agencies. . . . As we demonstrate in the attached Proposal, government entitlement programs contain significant gaps that leave many Nazi Victims with unmet basic needs, often over extended periods of time. Entitlement programs (because of these gaps), Court-administered compensation programs, and philanthropic giving provide critical assistance to Victims in New York, but can only go so far.

NYC Cover Letter, at 2.

The NYC Federation Proposal also states:

There is also little doubt, however, that the New York Area has substantial numbers of Nazi victims who are living in poverty. According to the Report, 38% of New York Area Nazi victims, or almost 21,000 people, live in households with annual incomes that place them under the federal government's 100% poverty guideline standard. An additional 13% (7,150 survivors) live in households reporting incomes that fall between 100% and 150% of poverty guideline levels. So-called "near-poor" Nazi victims (annual incomes of between 150% of poverty guidelines and \$35,000) number 6,050. Poor and near poor victims living in the New York Area total 34,200.

NYC, at 3. Further, "Many Nazi victims living in the New York Area are in dire need of humanitarian aid and essential social services to ensure access to food, shelter, and health care. This need for aid and assistance is likely to continue well into the future and, as New York Area victims age as a population, will grow even more acute." NYC Proposal, at 4.

The incidence of poverty among Survivors is not sufficiently buffered by governmental programs as to obviate the need for assistance from the Swiss bank case, as some might suggest. The New York City Federation states: "While New York's Medicaid and Medicare programs provide significant health care benefits to eligible persons, including many Nazi victims, these programs have significant gaps that often leave victims without effective access to necessary healthcare services at the time the services are needed. . . . Financial eligibility limits for participation in the Medicaid program are exceedingly low, well below the federal poverty level." *Id.*, at 6. *See also* Letter from

Edwin Mendez-Santiago to the Honorable Edward R. Korman, January 22, 2004 (“[D]espite the existence of such benefits, far too many low-income and otherwise poorly resourced seniors residing in New York City struggle sorely to meet essential needs associated with housing, health care, home care. This is so for a variety of reasons, including restrictive eligibility criteria relating to certain benefits, limitations of funding available via certain benefits, and delays associated with application and other administrative processes.”).⁸

Moreover, the New York City Federation specifically noted that there is a substantial number of Survivors in need whom *they do not even know* about to be able to quantify but who surely need assistance:

While many New York Area Nazi victims are receiving public assistance and/or being served by non-government organizations, many others are suffering without seeking available assistance, perhaps because they are unaware that help is available. Many others, for whatever reason, may be resistant to asking for the help they know is there. And others, increasingly isolated because of frailty and impairment, are physically or mentally unable to access assistance, regardless of whether they know help is available. An outreach program is necessary to bring assistance to these victims. . . .

Id., at 4-5.

In sum, given the UJC and NYC data, it is clear that thousands of Survivors need more help than they can get from the system today. These findings are supported by surveys of the American Jewish and Survivor communities that show the excruciatingly high levels of need demonstrated by the UJC and the New York City Federations. The UJC National Jewish Population Study (NJPS) of December 2003, which found that 25% of the Survivors and Nazi victims in the United States live under the federal poverty level. Based on these new data, HSF’s January 2004 Proposal seeking 20% of the Looted Assets funds estimates that there are between 30,000 and 43,500 Survivors and Nazi

⁸ The NYC Proposal adds: “In addition to the requirement that victims spend down their income and assets to levels below the federal poverty line, they face other barriers to obtaining Medicaid coverage for health care needs.” *Id.*, at 6.

victims in the United States who are living at or below the federal poverty level, and several thousand more who would be considered “low income” or “near poor” under customary criteria. HSF Plan, at 7, paragraph 11. As noted above, the New York City UJA-Federation submission, which was not available at the time HSF filed its Plan, states that there are 21,000 Nazi victims in the New York area alone who are living below the federal government’s poverty guidelines and another 7,150 living in households with incomes between 100 and 150% of that standard.

This Court’s March 9, 2004 Memorandum and Order would minimize the December 2003 NJPS estimates of Survivor poverty in the United States based on the “small” sample size employed by the UJC in the study. March 9, 2004 Memorandum and Order, at 25-26.⁹ According to the Court’s critique, the NJPS’s “small sample size” would negate the 25% estimate altogether. This is an incorrect interpretation of the social science of survey sampling. According to the attached Statement of Professor Sheskin, according to recognized surveying analysis, the impact of the sample size matters only to the extent that it affects the margin or error of the results. Under those criteria, a sample size of 146 Holocaust Survivors and Nazi victims, as was used in the NJPS results in a margin of error of “plus or minus 7%.” Professor Sheskin’s analysis is attached hereto as Exhibit 1 (“Social Science Principles Applicable to Estimating The Number of Nazi Victims and their Economic Status”.)

Accordingly, with a “plus or minus 7%” margin of error, the NJPS finding of 25% Survivors living at or beneath the federal poverty level means that if every Survivor in the country were interviewed, the percentage below the poverty line would be between 18% and 32% (25% plus or minus 7%).¹⁰ Therefore, even taking the sample size into consideration, it is indisputable that the

⁹ This submission is not designed, nor shall it be interpreted, as HSF’s entire response to the Court’s March 9, 2004 Memorandum and Order, which counsel received only three days prior to this filing and which the HSF leaders may or may not have received yet (via mail). HSF will, of course, respond to the March 9, 2004 Memorandum and Order in the proper time and circumstances.

¹⁰ Professor Sheskin notes, however, that since “error margins around a percentage are shaped in a bell-shaped or ‘normal’ curve, there is a much greater chance that the true percentage is closer

number of Survivors in this country living under the federal poverty line would be between 21,960 (18% based on the minimum total population of 122,000) and 56,000 (32% based on Professor Sheskin's estimated population of 175,000).¹¹ As noted above for the City of New York, and as reported by several of the Jewish Federations in the UJC submission, the level of public assistance that is said to be available in the United States as a whole is not necessarily available to broad segments of the American Survivor community in particular states, or due to income eligibility restrictions, immigration rules, variability of state laws, and the like.

Conclusion

In sum, the proposal of the HSF, based on all of its prior filings and firmly substantiated by the numbers of actual and likely Survivors that required assistance they cannot currently obtain from governmental and private sources, amply supports an allocation for the United States Survivor community in excess of the \$30 million per year identified by HSF in September 2002. HSF understands that funding at that level *from this Court at this time* is not feasible nor appropriate due to the overall limits on the funds available. However, the documented need does support HSF's position that the only fair manner of allocating the Looted Assets class funds in this case is pro rata, according to the relative Survivor/Nazi victim populations of each country. Such a formula is the only one that satisfies Rule 23 requirements of benefitting the class "as a whole," and it is the only one that honors the moral spirit of this litigation that was intended to recover money stolen from the vast majority of Europe's Jews during the Holocaust which resulted in unjust profits to the Swiss nation.

DATED: March 12, 2004

to 25% than to 18% or 32%." Exhibit 1.

¹¹ As Professor Sheskin further notes, based on the total number of Survivors who "can't make ends meet" or who are "just managing" may now be in need of assistance or are likely to need assistance as they age, then 60,000 American Survivors might be said to be in need of assistance.

Respectfully submitted,

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**SOCIAL SCIENCE PRINCIPLES APPLICABLE
TO ESTIMATING THE NUMBER OF NAZI VICTIMS
AND THEIR ECONOMIC STATUS**

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Evidence in Social Science

Professional social science theory and practice establish a clear order as to the worth of data procured by different data collection methodologies.

In a general sense, data are collected using either qualitative or quantitative methods. Two types of qualitative data collection methods are common in social science research: the long interview¹ and the focus group.² Two types of quantitative data collections methods are common in social science research: sample surveys and censuses.

The long interview is usually conducted with a series of “key informants” who have special knowledge of a particular topic. These informants may be experts in the field, politicians, practitioners in a particular area, and other experts. In a focus group, persons who meet certain criteria are gathered in a room with a focus group *coordinator* who guides an open-ended discussion. While these methods are often useful in *suggesting* answers and in examining motives behind actions, almost all social scientists would agree that quantitative research results, when they differ from qualitative research results, are the preferred data source.

Two types of quantitative data collection methods are the sample survey and the census. A sample survey relies upon querying a random sample of a population. If appropriate sampling methods are employed, then one can infer the characteristics of the population from the characteristics of the sample, within a certain margin of error. A census relies upon collecting data from all persons (or households) in a population.

In the current context, of the countries containing large numbers of Nazi victims, only Israel has a census that is a useful source of data. The United States has a sample survey (NJPS 2000).

Some of the “evidence” found throughout Judge Korman’s **MEMORANDUM AND ORDER** (Case No. CV-96-4849) such as individual accounts of the lives of FSU Jews and statements by American survivors is neither quantitative, nor qualitative: it might best be described as *anecdotal*. While such evidence might be used in social science data to add interest to the findings, it would never be used to refute data from quantitative findings. Thus, while brief vignettes might prove useful in convincing donors to contribute to a cause, they have little place in a scientific debate.

In deciding between competing claims, there is a “pecking order” to the credence that should be given to data collected by different methods: censuses are most reliable, surveys are second most reliable, and key informants and focus groups are third. Anecdotes really have no place in scientific debate.

¹ McCracken, Grant (1988) *The Long Interview* (Newbury, CA: Sage University Press).

² Morgan, David L. (1997) *Focus Groups as Qualitative Research, Second Edition* (Newbury, CA: Sage University Press)

Sample Size Issues

Judge Korman, in examining the evidence from NJPS 2000 states, in quoting the Brandeis Report, that the sample size of 146 individuals is a small sample size.

I would differ somewhat with my colleagues from Brandeis on this assessment. Since NJPS 2000 is based upon a sample of the total American Jewish population, the results are subject to *sampling error*. Sampling error is an estimate of random variation of a *sample statistic* around its true *population parameter*, which would be obtained if data were collected from every American Jewish household. Sampling error does not bias our estimates, but defines a *margin of error* around each percentage.

For example, a sample size of 384 is needed so that one can be 95% (the *confidence level*) certain that no reported percentage varies by more than $\pm 5.0\%$ (the *margin of error*). That is, with 384 interviews, if 50% of respondents were to report that, for example, someone in their household visited Israel, one could be 95% certain that if every Jewish household was interviewed, we would find that the percentage of respondents who reported that someone in their household visited Israel lies between 45% and 55% ($50\% \pm 5\%$). A sample of 384 (often rounded to 400) is often used to meet the industry standard of being 95% certain that no percentage is off by more than 5%, plus or minus (known as 95 and 5).

Table 1 indicates that, given a percentage from the survey sample and the sample size on which the percentage is based, chances are that 95 times out of 100, the real population percentage (if the whole Jewish population was interviewed) would lie within the range defined by adding and subtracting the number indicated in the body of the table to the percentage obtained from the sample.

The margin of error is widest around percentages that are near 50%. As percentages approach the extremes of 0% or 100%, the sampling error decreases and the width of the margin of error narrows. For example, with a sample size of 384, if 90% of respondents answered *yes* to a question, the margin of error would be $\pm 2.9\%$ rather than the $\pm 5.0\%$ mentioned above.

Table 1 shows that the 25% of Nazi Victims living below the poverty line with a sample size of 150 implies a margin of error of plus or minus 7%. That is, based upon finding a percentage of 25% in a sample of 146, if we interviewed every survivor in the country, we would find that the percentage below the poverty line was between 18% and 32% (25% plus or minus 7%).

Since the industry standard is to attempt to achieve plus or minus 5% when designing a survey, plus or minus 7% is not at all unreasonable.

Understand as well that error margins around a percentage are shaped in a bell-shaped or "normal" curve. That is, there is a much greater chance that the "True" percentage is closer to 25% than to 18% or 32%.

Even if the true percentage is 18%, NJPS 2000 clearly points to a relatively high level of poverty among survivors.

**TABLE 1
MARGINS OF ERROR AROUND PERCENTAGES
(95% CONFIDENCE LEVEL)**

Estimated Percentage	Sample Size														
	25	50	75	100	150	200	250	300	400	500	600	750	900	1000	1200
2% or 98%	5.6	4.0	3.2	2.8	2.3	2.0	1.8	1.6	1.4	1.2	1.1	1.0	0.9	0.9	0.8
5% or 95%	8.6	6.2	5.0	4.4	3.5	3.1	2.7	2.5	2.2	1.9	1.7	1.6	1.4	1.4	1.2
10% or 90%	12.0	8.5	6.9	6.0	4.9	4.2	3.8	3.5	3.0	2.7	2.4	2.2	1.9	1.9	1.7
20% or 80%	16.0	11.3	9.2	8.0	6.5	5.6	5.1	4.6	4.0	3.6	3.2	2.9	2.5	2.5	2.3
25% or 75%	17.3	12.2	10.0	8.7	7.1	6.1	5.5	5.0	4.3	3.9	3.5	3.2	2.7	2.7	2.5
30% or 70%	18.3	13.0	10.6	9.2	7.5	6.5	5.8	5.3	4.6	4.1	3.7	3.3	2.9	2.8	2.6
40% or 60%	19.6	13.9	11.3	9.8	8.0	6.9	6.2	5.5	4.9	4.4	3.9	3.6	3.1	3.0	2.8
50%	20.0	14.1	11.5	10.0	8.2	7.1	6.3	5.8	5.0	4.5	4.0	3.6	3.2	3.1	2.8

Number of Survivors

Judge Korman seems to accept the 122,000 survivors in the United States figure without reference to the evidence provided by Sheskin which, after applying estimates to account for some of the problems with the NJPS methodology derives an estimate of 175,000 survivors (which is coincidentally the same number that DellaPergola derives through other means). 25% living below the Federal poverty line implies 43,750 survivors living below the poverty line.

If we assume that those survivors who “can’t make ends meet” or who are “just managing” may now be in need of assistance or are likely to need assistance as they age, then 60,000 American survivors might be said to be in need of assistance.

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¹ This filing is not intended as HSF's response to Burt Neuborne's "Affirmation" of February 20, 2004, nor the Court's March 9, 2004 Memorandum and Order.

the gross domestic product (GDP) of their country, the level of per capita spending for health care in a particular country, or the general level of social services provided by government that are simply *not* allowing thousands of Looted Assets class members with a basic, dignified amount of food, medicine, or home care their basic human service needs. Such matters beyond their control *and unrelated to their losses during the Holocaust* should have no bearing on class members' access to settlement funds in this case.

Moreover, the allocation formula recommended by the Special Master in September 2000 and reaffirmed by the Court most recently in its March 9, 2004 Memorandum and Order imposes an unusual, unfair, and ultimately insurmountable burden, it now appears, to additional relief for Survivors and Nazi victims the HSF leaders represent. The Court's framework requires Holocaust Survivors who live in the United States (and Israel) to bear the weight of the inequities of Communism and the failures of recent post-War governments to demand that Germany mete out fair reparations to Nazi victims in the republics of the Former Soviet Union (FSU). Such a burden is hardly one that the American Survivors could conceivably bear in material terms, based on the Court's articulated basis for the previous allocations, i.e. that Nazi victims in the West received "over \$53 billion" in German post-war reparations, compared to less than \$444 million for Nazi victims in the FSU. How can such a disparity be equalized with the less than \$1 billion that has been or may be distributed through the Looted Assets Class?

Why is not Germany being called upon to equalize immediately the payments made to those victims of the Shoah who lived under Communism and therefore were not included in such payments as were some (though not, as the Special Master noted, all) their colleague survivors in the West? Is that the proper action to be taken now by all governments involved, instead of essentially punishing those aggrieved Survivors in this very specific action? Why is it deemed appropriate here

to pit Survivors against each other when so many are, in their own geographical circumstance, in terrible need and worthy of relief from this vastly smaller amount of finite funds which was sought for much different purposes?

The Survivor leaders of the HSF have from the beginning argued that all Class members in need should have equal access to settlement funds; they do not seek advantage for those whom they represent as elected leaders, nor disadvantage for those who suffered equally in the FSU, Israel or elsewhere. To the extent the current exercise calls for critiques of the needs presented by advocates for Survivors living outside the United States, HSF believes these are false choices not worthy of support.²

The burning question today is, why are Holocaust Survivors who live in the United States today being required to bear the burden of these diplomatic failures by the European governments implicated by the observed disparity? HSF contends that this litigation over the financial crimes of the Swiss nation against Jewish Holocaust victims is not the place for that inequity to be addressed. This was not the purpose of the Swiss Bank class action, nor is it a proper basis for an allocation of settlement funds in a class action over the Swiss nation's profiteering from the Holocaust.

As the HSF board of directors wrote the Court on January 30, 2004:

Already, the trauma and losses of Jewish Holocaust victims (and the unprincipled sacrifice of insurance claims) were used to obtain recognition and compensation for the injuries of non-Jewish Eastern European laborers in the '\$5 billion' German settlement. Now, Jewish Holocaust victims, especially those in need who live in the United States (and Israel), are being told that their losses are to be used to remedy the injustices of Communism and the Cold War. Somehow, the settlement has veered too widely from the case itself.

² See Letter from HSF Board of Directors to the Honorable Edward R. Korman, January 30, 2004, HSF Plan, Exhibit 2.

Letter from HSF Board of Directors to the Honorable Edward R. Korman, January 30, 2004, HSF Plan, Exhibit 2. Nevertheless, based on the Court's current orders, HSF submits this response regarding its observations of the materials in the record.

I. HSF Comments on Various Proposals

HSF proposes, based on the above considerations, and the demonstrated high level of need that exists among Holocaust Survivors and Nazi victims throughout the world that are not being met by existing governmental or private community-based service providers, that the Court allocate settlement funds for the Looted Assets among Survivors and Nazi victims on a pro rata basis according to the most accurate available data on their countries of origin, to be allocated by the existing Jewish social service organizations through an accountable process designed to ensure that funds are provided fairly for Survivors in need in each country. Based on the population analysis performed by Professor Ira Sheskin, the Director of the Jewish Demography Project of the Sue and Leonard Miller Center for Contemporary Judaic Studies and Professor of Geography and regional Studies at the University of Miami, 20% of the funds should be earmarked for the needs of Survivors in the United States.

The two major submissions filed on file which purport to define "relative neediness," submitted by the State of Israel and World Jewish Restitution Organization (WJRO); and by the American Joint Distribution Committee (JDC), vividly demonstrate the inherent difficulty in establishing a meaningful and usable standard of "relative neediness."³ Both submissions are made by well-qualified demographic and social science professionals, yet they reach vastly different conclusions, even though they purport to examine the very same question: How can the degree of "neediness" be measured for purposes of recommending resource allocations?

³ The studies are: "Jewish Elderly Nazi Victims: A Synthesis of Comparative Information on Hardship and Need in the United States, Israel, and the Former Soviet Union," Report Prepared for the Joint Distribution Committee by Brandeis University ("Brandeis Study"); and: "Neediness Among Jewish Shoah Survivors: A Key to Global Resource Allocation," Report Prepared by Professor Sergio DellaPergola for the Government of Israel and World Jewish Restitution Organization (WJRO)("DellaPergola Neediness Study").

The Brandeis Report, taking a self-described “neutral stance about allocations decisions and approach[ing] the data collection and analysis without preconceptions,” page 7, concluded that “the indicators largely point in one direction, namely that the FSU has the highest share of Nazi victims, poorly organized and delivered public systems, as well as poorly functioning economies that are unable to sustain health and social welfare services.” Although the Brandeis Report did not offer a particular formula, it “confirmed the assessment of the Special Master that the population of needy survivors is distributed *quite differently than the population of survivors*,” according to the Court’s March 9, 2004 Memorandum and Order, at 14.⁴ (Emphasis supplied).

In contrast, the DellaPergola Neediness Study, looks to allocate funds “as a measure of the amount of Shoah survivors weighted by their current neediness,” based on criteria which jointly consider the “number, distribution, and neediness of Shoah survivors, based on standard and recognizable criteria.” DellaPergola Neediness Study at 40. Professor DellaPergola concludes that Swiss funds should be distributed *fairly closely to the relative population percentages* in Israel, the “FSU and Eastern Europe,” and North America.” (Emphasis supplied). Accordingly, Israel, with 46.5% of the world’s Shoah survivors, would have a “total resource allocation” of 48%. The “FSU and Eastern Europe,” with 16.8% of the world’s Shoah survivors, would receive 17% of allocated funds under their “total resource allocation.” North America, with 16.8% of the total population, would have a “total resource allocation” of 15%.

Needless to say, the 15% level recommended by Professor DellaPergola for funding from the Looted Assets class settlement funds for North America is far preferable to the current level

⁴ As the Court noted in its March 9, 2004 Memorandum and Order, “The Brandeis Report made no recommendations, but it drew many conclusions.” Memorandum and Order, at 14. The lack of a concrete formula from Brandeis is one of the reasons HSF contends that the prevailing formula is unmanageable, unfair, and an abuse of discretion under Rule 23.

of allocations, so HSF would prefer it as an alternative to the status quo.⁵ Yet, HSF alludes to these studies to point out that there are factors that professional demographers and sociologists might take into consideration in composing a “neediness” index other than those selected by the Special Master or those reviewed by the Court, and that there are experts who will include criteria not employed by others. All seek the mantle of objectivity, yet somehow such objective studies come out very differently. Moreover, many of the criteria employed such as the GDP or the gross level of national health care expenditures, have no bearing on a particular Survivor’s ability to afford to pay for his or her own care. What is plain, however, is that thousands of Survivors need help in this country that cannot afford it, and so HSF urges that the United States Survivor community be allocated a fair allocation of Swiss funds, and respectfully suggests that 20% is the appropriate level.⁶

II. The Record Demonstrates that Thousands of U.S. Survivors are Living in Poverty or are Poor and Require Assistance Not Being Provided by Government or Private Organizations

As HSF stated in its proposed Plan of January 30, 2004 and supporting Memorandum of Law, the level of need that now exists among Survivors and Nazi victims in the United States, has, if anything, only been shown to be conservative by the emergence of recently filed data. The UJC documents 3,289 Survivors and Nazi victims outside of the New York City area “who are financially unable to obtain critically needed home and health care, transportation and emergency services and

⁵ Mr. Neuborne, and the Court in its March 9, 2004 Memorandum and Order, characterize the United States’ percentage of Looted Assets allocations as 4%. As of this date, HSF is aware of only \$1.4 million allocated to the needs of U.S. Survivors out of a total of \$205 million now committed. That is far less than 4%. Until the Court’s March 9, 2004 Order, there was no official indication in any order that the United States Survivors were entitled to any amount of funds other than those discretionarily allocated by the Claims Conference from the 12.5% for “other countries” per the Special Master’s initial allocation recommendation.

⁶ DellaPergola urges that the percentages arrived at as the “total resource allocation” percentage “apply to the maximum possible total allocation, regardless of whether or not parts of it were already attributed.” In other words, that the *total* Looted Assets settlement amount, (i.e. \$205 plus the upcoming distribution) not only those yet to be allocated, be factored into the base when determining the level of funds to which a country is entitled. DellaPergola Neediness Study, at 40.

for whom existing social welfare services – both public and private – are either inadequate, inaccessible, or unavailable.” *See* Letter from UJC to Special Master Judah Gribetz, January 30, 2004. UJC requests funds to provide those services to those 3,289 Survivors is \$8.5 million per year for eight (8) years.

But the community organizations understand that there are far more than 3,289 Survivors in need of more help: “Our proposal does not call for massive publicity and outreach, which could generate untold numbers of additional clients. *Though we are disquieted by this decision not to anticipate aggressive outreach, it is our hope that the Court will thereby understand that it is being presented with a picture of only the most critical of existing needs, representing situations in which not just the quality of life, but life itself, may be at stake.*” *Id.*, at 2. (Emphasis supplied).⁷ Therefore, it is reasonable to conclude that the UJC estimates of need, being narrowly defined by the apparent charge of the Court to be limited to only “documented Survivors,” is *low* in relation to the actual need outside of New York City.

Similarly, the New York City UJA-Federation (NYC) submitted a proposal to as part of the UJC submission. While the NYC submission is not as specific about the precise number of clients that are in need of assistance to meet their basic housing, health care, medicine. According to the submission, it states:

Our particular concern, in regard to Nazi Victims in the New York Area, is the large number living in or near poverty and needing

⁷ In September 2002, HSF filed in conjunction with the Association of Jewish Family and Children’s Services Agencies (AJFCA) a Proposal for Improved Services for Holocaust Survivors in the United States, which demonstrated the need for significant outreach: “Agencies further report their belief that they currently know of only half the survivors in need of services in their community. Therefore, we recommend that sufficient funds be allocated, based on appropriate proposals, to provide for outreach efforts to locate the approximately 8,000 survivors believed to be in need of home care services, but currently not making use of them.”

The experience of one community, Broward County, which conducted minimal outreach, reported that dozens of Survivors responded to the outreach in the first six months (and continuing); this led to cut backs in services to existing Survivor clients and long waiting lists.

assistance to maintain a dignified quality of life. We are mindful that large numbers of Nazi Victims in New York are just now reaching their 70s, 80s, and 90s, and are *increasingly in need of help* from community agencies. . . . As we demonstrate in the attached Proposal, government entitlement programs contain significant gaps that leave many Nazi Victims with unmet basic needs, often over extended periods of time. Entitlement programs (because of these gaps), Court-administered compensation programs, and philanthropic giving provide critical assistance to Victims in New York, but can only go so far.

NYC Cover Letter, at 2.

The NYC Federation Proposal also states:

There is also little doubt, however, that the New York Area has substantial numbers of Nazi victims who are living in poverty. According to the Report, 38% of New York Area Nazi victims, or almost 21,000 people, live in households with annual incomes that place them under the federal government's 100% poverty guideline standard. An additional 13% (7,150 survivors) live in households reporting incomes that fall between 100% and 150% of poverty guideline levels. So-called "near-poor" Nazi victims (annual incomes of between 150% of poverty guidelines and \$35,000) number 6,050. Poor and near poor victims living in the New York Area total 34,200.

NYC, at 3. Further, "Many Nazi victims living in the New York Area are in dire need of humanitarian aid and essential social services to ensure access to food, shelter, and health care. This need for aid and assistance is likely to continue well into the future and, as New York Area victims age as a population, will grow even more acute." NYC Proposal, at 4.

The incidence of poverty among Survivors is not sufficiently buffered by governmental programs as to obviate the need for assistance from the Swiss bank case, as some might suggest. The New York City Federation states: "While New York's Medicaid and Medicare programs provide significant health care benefits to eligible persons, including many Nazi victims, these programs have significant gaps that often leave victims without effective access to necessary healthcare services at the time the services are needed. . . . Financial eligibility limits for participation in the Medicaid program are exceedingly low, well below the federal poverty level." *Id.*, at 6. *See also* Letter from

Edwin Mendez-Santiago to the Honorable Edward R. Korman, January 22, 2004 (“[D]espite the existence of such benefits, far too many low-income and otherwise poorly resourced seniors residing in New York City struggle sorely to meet essential needs associated with housing, health care, home care. This is so for a variety of reasons, including restrictive eligibility criteria relating to certain benefits, limitations of funding available via certain benefits, and delays associated with application and other administrative processes.”).⁸

Moreover, the New York City Federation specifically noted that there is a substantial number of Survivors in need whom *they do not even know* about to be able to quantify but who surely need assistance:

While many New York Area Nazi victims are receiving public assistance and/or being served by non-government organizations, many others are suffering without seeking available assistance, perhaps because they are unaware that help is available. Many others, for whatever reason, may be resistant to asking for the help they know is there. And others, increasingly isolated because of frailty and impairment, are physically or mentally unable to access assistance, regardless of whether they know help is available. An outreach program is necessary to bring assistance to these victims. . . .

Id., at 4-5.

In sum, given the UJC and NYC data, it is clear that thousands of Survivors need more help than they can get from the system today. These findings are supported by surveys of the American Jewish and Survivor communities that show the excruciatingly high levels of need demonstrated by the UJC and the New York City Federations. The UJC National Jewish Population Study (NJPS) of December 2003, which found that 25% of the Survivors and Nazi victims in the United States live under the federal poverty level. Based on these new data, HSF’s January 2004 Proposal seeking 20% of the Looted Assets funds estimates that there are between 30,000 and 43,500 Survivors and Nazi

⁸ The NYC Proposal adds: “In addition to the requirement that victims spend down their income and assets to levels below the federal poverty line, they face other barriers to obtaining Medicaid coverage for health care needs.” *Id.*, at 6.

victims in the United States who are living at or below the federal poverty level, and several thousand more who would be considered “low income” or “near poor” under customary criteria. HSF Plan, at 7, paragraph 11. As noted above, the New York City UJA-Federation submission, which was not available at the time HSF filed its Plan, states that there are 21,000 Nazi victims in the New York area alone who are living below the federal government’s poverty guidelines and another 7,150 living in households with incomes between 100 and 150% of that standard.

This Court’s March 9, 2004 Memorandum and Order would minimize the December 2003 NJPS estimates of Survivor poverty in the United States based on the “small” sample size employed by the UJC in the study. March 9, 2004 Memorandum and Order, at 25-26.⁹ According to the Court’s critique, the NJPS’s “small sample size” would negate the 25% estimate altogether. This is an incorrect interpretation of the social science of survey sampling. According to the attached Statement of Professor Sheskin, according to recognized surveying analysis, the impact of the sample size matters only to the extent that it affects the margin or error of the results. Under those criteria, a sample size of 146 Holocaust Survivors and Nazi victims, as was used in the NJPS results in a margin of error of “plus or minus 7%.” Professor Sheskin’s analysis is attached hereto as Exhibit 1 (“Social Science Principles Applicable to Estimating The Number of Nazi Victims and their Economic Status”.)

Accordingly, with a “plus or minus 7%” margin of error, the NJPS finding of 25% Survivors living at or beneath the federal poverty level means that if every Survivor in the country were interviewed, the percentage below the poverty line would be between 18% and 32% (25% plus or minus 7%).¹⁰ Therefore, even taking the sample size into consideration, it is indisputable that the

⁹ This submission is not designed, nor shall it be interpreted, as HSF’s entire response to the Court’s March 9, 2004 Memorandum and Order, which counsel received only three days prior to this filing and which the HSF leaders may or may not have received yet (via mail). HSF will, of course, respond to the March 9, 2004 Memorandum and Order in the proper time and circumstances.

¹⁰ Professor Sheskin notes, however, that since “error margins around a percentage are shaped in a bell-shaped or ‘normal’ curve, there is a much greater chance that the true percentage is closer

number of Survivors in this country living under the federal poverty line would be between 21,960 (18% based on the minimum total population of 122,000) and 56,000 (32% based on Professor Sheskin's estimated population of 175,000).¹¹ As noted above for the City of New York, and as reported by several of the Jewish Federations in the UJC submission, the level of public assistance that is said to be available in the United States as a whole is not necessarily available to broad segments of the American Survivor community in particular states, or due to income eligibility restrictions, immigration rules, variability of state laws, and the like.

Conclusion

In sum, the proposal of the HSF, based on all of its prior filings and firmly substantiated by the numbers of actual and likely Survivors that required assistance they cannot currently obtain from governmental and private sources, amply supports an allocation for the United States Survivor community in excess of the \$30 million per year identified by HSF in September 2002. HSF understands that funding at that level *from this Court at this time* is not feasible nor appropriate due to the overall limits on the funds available. However, the documented need does support HSF's position that the only fair manner of allocating the Looted Assets class funds in this case is pro rata, according to the relative Survivor/Nazi victim populations of each country. Such a formula is the only one that satisfies Rule 23 requirements of benefitting the class "as a whole," and it is the only one that honors the moral spirit of this litigation that was intended to recover money stolen from the vast majority of Europe's Jews during the Holocaust which resulted in unjust profits to the Swiss nation.

DATED: March 12, 2004

to 25% than to 18% or 32%." Exhibit 1.

¹¹ As Professor Sheskin further notes, based on the total number of Survivors who "can't make ends meet" or who are "just managing" may now be in need of assistance or are likely to need assistance as they age, then 60,000 American Survivors might be said to be in need of assistance.

Respectfully submitted,

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**SOCIAL SCIENCE PRINCIPLES APPLICABLE
TO ESTIMATING THE NUMBER OF NAZI VICTIMS
AND THEIR ECONOMIC STATUS**

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Evidence in Social Science

Professional social science theory and practice establish a clear order as to the worth of data procured by different data collection methodologies.

In a general sense, data are collected using either qualitative or quantitative methods. Two types of qualitative data collection methods are common in social science research: the long interview¹ and the focus group.² Two types of quantitative data collections methods are common in social science research: sample surveys and censuses.

The long interview is usually conducted with a series of “key informants” who have special knowledge of a particular topic. These informants may be experts in the field, politicians, practitioners in a particular area, and other experts. In a focus group, persons who meet certain criteria are gathered in a room with a focus group *coordinator* who guides an open-ended discussion. While these methods are often useful in *suggesting* answers and in examining motives behind actions, almost all social scientists would agree that quantitative research results, when they differ from qualitative research results, are the preferred data source.

Two types of quantitative data collection methods are the sample survey and the census. A sample survey relies upon querying a random sample of a population. If appropriate sampling methods are employed, then one can infer the characteristics of the population from the characteristics of the sample, within a certain margin of error. A census relies upon collecting data from all persons (or households) in a population.

In the current context, of the countries containing large numbers of Nazi victims, only Israel has a census that is a useful source of data. The United States has a sample survey (NJPS 2000).

Some of the “evidence” found throughout Judge Korman’s **MEMORANDUM AND ORDER** (Case No. CV-96-4849) such as individual accounts of the lives of FSU Jews and statements by American survivors is neither quantitative, nor qualitative: it might best be described as *anecdotal*. While such evidence might be used in social science data to add interest to the findings, it would never be used to refute data from quantitative findings. Thus, while brief vignettes might prove useful in convincing donors to contribute to a cause, they have little place in a scientific debate.

In deciding between competing claims, there is a “pecking order” to the credence that should be given to data collected by different methods: censuses are most reliable, surveys are second most reliable, and key informants and focus groups are third. Anecdotes really have no place in scientific debate.

¹ McCracken, Grant (1988) *The Long Interview* (Newbury, CA: Sage University Press).

² Morgan, David L. (1997) *Focus Groups as Qualitative Research, Second Edition* (Newbury, CA: Sage University Press)

Sample Size Issues

Judge Korman, in examining the evidence from NJPS 2000 states, in quoting the Brandeis Report, that the sample size of 146 individuals is a small sample size.

I would differ somewhat with my colleagues from Brandeis on this assessment. Since NJPS 2000 is based upon a sample of the total American Jewish population, the results are subject to *sampling error*. Sampling error is an estimate of random variation of a *sample statistic* around its true *population parameter*, which would be obtained if data were collected from every American Jewish household. Sampling error does not bias our estimates, but defines a *margin of error* around each percentage.

For example, a sample size of 384 is needed so that one can be 95% (the *confidence level*) certain that no reported percentage varies by more than $\pm 5.0\%$ (the *margin of error*). That is, with 384 interviews, if 50% of respondents were to report that, for example, someone in their household visited Israel, one could be 95% certain that if every Jewish household was interviewed, we would find that the percentage of respondents who reported that someone in their household visited Israel lies between 45% and 55% ($50\% \pm 5\%$). A sample of 384 (often rounded to 400) is often used to meet the industry standard of being 95% certain that no percentage is off by more than 5%, plus or minus (known as 95 and 5).

Table 1 indicates that, given a percentage from the survey sample and the sample size on which the percentage is based, chances are that 95 times out of 100, the real population percentage (if the whole Jewish population was interviewed) would lie within the range defined by adding and subtracting the number indicated in the body of the table to the percentage obtained from the sample.

The margin of error is widest around percentages that are near 50%. As percentages approach the extremes of 0% or 100%, the sampling error decreases and the width of the margin of error narrows. For example, with a sample size of 384, if 90% of respondents answered *yes* to a question, the margin of error would be $\pm 2.9\%$ rather than the $\pm 5.0\%$ mentioned above.

Table 1 shows that the 25% of Nazi Victims living below the poverty line with a sample size of 150 implies a margin of error of plus or minus 7%. That is, based upon finding a percentage of 25% in a sample of 146, if we interviewed every survivor in the country, we would find that the percentage below the poverty line was between 18% and 32% (25% plus or minus 7%).

Since the industry standard is to attempt to achieve plus or minus 5% when designing a survey, plus or minus 7% is not at all unreasonable.

Understand as well that error margins around a percentage are shaped in a bell-shaped or "normal" curve. That is, there is a much greater chance that the "True" percentage is closer to 25% than to 18% or 32%.

Even if the true percentage is 18%, NJPS 2000 clearly points to a relatively high level of poverty among survivors.

**TABLE 1
MARGINS OF ERROR AROUND PERCENTAGES
(95% CONFIDENCE LEVEL)**

Estimated Percentage	Sample Size														
	25	50	75	100	150	200	250	300	400	500	600	750	900	1000	1200
2% or 98%	5.6	4.0	3.2	2.8	2.3	2.0	1.8	1.6	1.4	1.2	1.1	1.0	0.9	0.9	0.8
5% or 95%	8.6	6.2	5.0	4.4	3.5	3.1	2.7	2.5	2.2	1.9	1.7	1.6	1.4	1.4	1.2
10% or 90%	12.0	8.5	6.9	6.0	4.9	4.2	3.8	3.5	3.0	2.7	2.4	2.2	1.9	1.9	1.7
20% or 80%	16.0	11.3	9.2	8.0	6.5	5.6	5.1	4.6	4.0	3.6	3.2	2.9	2.5	2.5	2.3
25% or 75%	17.3	12.2	10.0	8.7	7.1	6.1	5.5	5.0	4.3	3.9	3.5	3.2	2.7	2.7	2.5
30% or 70%	18.3	13.0	10.6	9.2	7.5	6.5	5.8	5.3	4.6	4.1	3.7	3.3	2.9	2.8	2.6
40% or 60%	19.6	13.9	11.3	9.8	8.0	6.9	6.2	5.5	4.9	4.4	3.9	3.6	3.1	3.0	2.8
50%	20.0	14.1	11.5	10.0	8.2	7.1	6.3	5.8	5.0	4.5	4.0	3.6	3.2	3.1	2.8

Number of Survivors

Judge Korman seems to accept the 122,000 survivors in the United States figure without reference to the evidence provided by Sheskin which, after applying estimates to account for some of the problems with the NJPS methodology derives an estimate of 175,000 survivors (which is coincidentally the same number that DellaPergola derives through other means). 25% living below the Federal poverty line implies 43,750 survivors living below the poverty line.

If we assume that those survivors who “can’t make ends meet” or who are “just managing” may now be in need of assistance or are likely to need assistance as they age, then 60,000 American survivors might be said to be in need of assistance.



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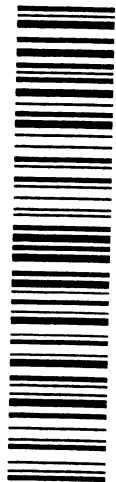
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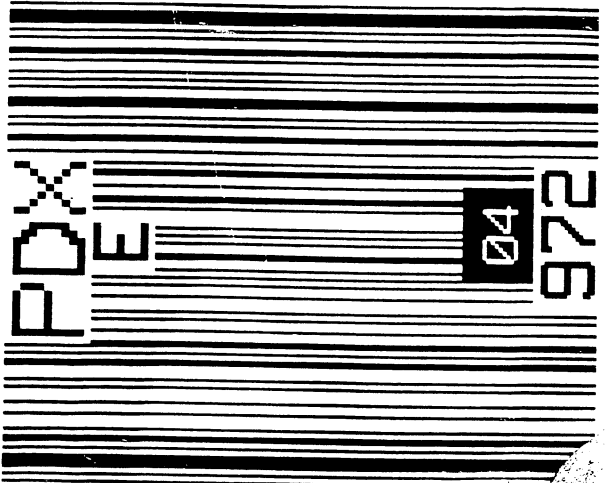
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