

# Congress Can Prevent the Biden Administration from Paying Illegal Aliens with Taxpayer Funds

## THE ISSUE

The Biden Administration is considering payments of \$450,000 to illegal aliens who were removed or detained during the 2018 zero tolerance policy for illegal border crossers. The payments of federal funds would be part of a settlement of a lawsuit brought by the American Civil Liberties Union (ACLU) on behalf of illegal-alien families. The total settlement amount is reported to be at least \$1 billion.

The illegal aliens claim that they were “severely traumatized” and that their Fourth and Fifth Amendment rights were violated. They also claim that the enforcement of immigration law is based on “discriminatory animus towards immigrants from Central America.”

If the reports are true, Congress could act immediately to prevent the disbursement of any taxpayer funds to illegal aliens over the legal enforcement of immigration laws, and remove the jurisdiction of federal courts to hear any such claims. Financial payments to illegal aliens would obviously encourage even more illegal immigration and frivolous litigation, which should never be acceptable, and is especially problematic during a major border crisis.

## WHAT CONGRESS CAN DO

In order to prevent any payments to illegal aliens in connection with their lawful detention and deportation in accordance with U.S. immigration laws, Congress can:

- **Enact narrow legislation** to limit the ability of the federal government to disburse any payments to illegal aliens.
- **Bar federal courts from hearing any cases filed by illegal aliens making any monetary claims seeking damages of any kind over the legal enforcement of federal immigration laws.** Congress has the authority to define the jurisdiction of the federal courts and the due process rights of illegal aliens and could prohibit them from filing any lawsuits similar to the suit filed by the ACLU.
- **Eliminate the Interagency Task Force on the Reunification of Families.** President Joe Biden established this task force through his February 2, 2021, “Executive Order on the Establishment of Interagency Task Force on the Reunification of Families.” According to the task force’s September 30, 2021, Interim Progress Report, the task force is continuing to “negotiate settlements for multiple class actions.” Additionally, the task force is “using DHS [Department of Homeland Security] parole authorities to permit separated family members to enter the United States for purposes of reunification and to receive access to services.” Eliminating the task force would prevent the Biden Administration from using this ad hoc body as a means to reward illegal aliens financially for their illegal entry, as well as

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This paper, in its entirety, can be found at <http://report.heritage.org/fs222>

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from using it a means to extend protected legal status in the United States through the abuse of parole authority under federal immigration law.

- **Require the disclosure of all activities already conducted by the task force.** Congress could require that the Biden Administration disclose all activities of the task force, to include any agreed, or in negotiation, settlements, any policy decisions, grants of parole, and meeting activities. There could be many ongoing settlement negotiations.
- **Enact lasting reforms to limit the ability of the executive branch to enter into large settlements without congressional approval.** In 1956, Congress established a permanent and indefinite appropriation for the Judgment Fund to pay for judgments

entered against the United States. Initially, claims were limited to \$100,000, but no such limit currently exists. There is a considerable lack of transparency for the fund, which has been used in recent history to redirect taxpayer money to politically aligned interest groups. Congress could consider a series of lasting reforms, to include congressional approval for the payment of sums over a certain amount, mandatory and regular disclosure of all information and documentation needed to provide full and complete transparency for Judgment Fund activities, and a ban on any money going to illegal aliens in connection to their lawful detention in accordance with U.S. immigration laws.

It is within Congress' power to act immediately to prevent this assault on the U.S. legal system and American taxpayers.