

# United States Senate

WASHINGTON, DC 20510

November 4, 2021

The Honorable Merrick Garland  
Attorney General of the United States  
950 Pennsylvania Avenue NW  
Washington, DC 20530

Dear Attorney General Garland:

Last week we read with great concern a report in the *Wall Street Journal* about the Justice Department trying to settle claims against the U.S. Government brought by illegal aliens whose families were separated under the prior administration's zero-tolerance enforcement priorities.<sup>1</sup>

Perhaps more troubling than the settlements themselves are the reports that the Justice Department is looking to settle these claims for \$450,000 per individual. This could result in payouts that are over a million dollars per family because they entered our country illegally during the course of these enforcement priorities.

It should not surprise you to learn that we find these reports outrageous. Any settlements to illegal aliens because they violated the law are wrong. These kinds of settlements are offensive to the American people.

Interestingly, President Biden may agree with us. When asked about these reports yesterday at a press conference he seemed to deny them. When asked specifically if the U.S. Government would pay out \$450,000 each to illegal aliens separated from their families by the last administration he replied, "Not gonna happen."

The ACLU, who represents many of the illegal-alien litigants, responded, "President Biden may not have been fully briefed about the actions of his very own Justice Department ...."<sup>2</sup> But it seems the ACLU may have spoken too soon, because in the wake of President Biden's press

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<sup>1</sup> Michelle Hackman, Aruna Viswanatha and Sadie Gurman, *U.S. in Talks to Pay Hundreds of Millions to Families Separated at Border*, Wall St. J. (Oct. 28, 2021), available at <https://www.wsj.com/articles/biden-administration-in-talks-to-pay-hundreds-of-millions-to-immigrant-families-separated-at-border-11635447591>.

<sup>2</sup> *ACLU Comment on Biden Statement on Settlements for Family Separation*, ACLU (Nov. 3, 2021), available at <https://www.aclu.org/press-releases/aclu-comment-biden-statement-settlements-family-separation>.

conference the ACLU Executive Director said, "DOJ communicated Wednesday night that the numbers reported in the press are higher than anywhere that settlement can land."<sup>3</sup>

What's going on? Do you intend to stand with the ACLU and go forward with these massive settlement payments? Or have you complied with President Biden's instruction and decided to seek settlement amounts for illegal aliens that the White House finds more politically palatable?

On one hand, the President said that his administration will not go forward with these settlements and the ACLU says the Department of Justice immediately complied. On the other hand, you have been adamant that the Department, under your leadership, will not take political orders from the White House concerning litigation and enforcement decisions.

Are these settlements under consideration or are they not? And if your response would be that the Justice Department does not comment on ongoing settlement negotiations, we note that President Biden and the ACLU already have. Where is the Department of Justice?

This matter demands clarification.

Sincerely,



MITCH McCONNELL  
Senate Republican Leader



CHUCK GRASSLEY  
Ranking Member  
Judiciary Committee

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<sup>3</sup> Priscilla Alvarez, *DOJ tells attorneys representing separated families reported settlement figures are too high*, CNN (Nov. 4, 2021), available at <https://www.cnn.com/2021/11/04/politics/separated-families-border-lawsuit/index.html>.