



Testimony Before the Congressional Border Security Caucus

By Joshua Treviño, Chief of Intelligence and Research

Thank you to Co-Chairmen Representative Brian Babin and Representative Andy Biggs for the opportunity to testify to the U.S. Congressional Border Security Caucus this morning. My name is Joshua Treviño, and I am the Chief of Intelligence and Research at the Texas Public Policy Foundation. In my role, I am responsible for advancing an understanding of the situation at the border and for formulating policy for Texas and America to respond to it.

Let me put the bottom lines up front:

- First, the border-security crisis is a *choice* made by policymakers and officeholders in two national capitals: Mexico City and Washington, D.C.
- Second, the border-security crisis is a genuine *invasion* in the Constitutional sense.
- Third, the border-security crisis is *solvable, right now*, given sufficient political will on the American side.

I will address each of these in this testimony.

When we say that the border-security crisis is a *choice* made by policymakers and officeholders in two national capitals — Mexico City and Washington, D.C. — we are not just saying that it is a passive choice, one in which officeholders acquiesce to circumstances they could otherwise oppose. That characterization is partially accurate, but a full understanding of the crisis requires an acknowledgement that both national governments are *actively* choosing to, in various ways, *create* and *abet* the crisis at the border.

In the case of Washington, D.C., the federal government and the vast apparatus of policymaking that surrounds it has decided *with conscious deliberation* that the border crisis is preferable to a variety of alternatives, including the prioritization of the safety, lives, and welfare of the American citizens and communities of which they are the putative stewards.

- Some of this is a result of simple ignorance: an obsolete mental model of a border, and a U.S.-Mexico partnership that is long vanished.
- Some of this is a result of financial interest: a belief that the money to be made by cross-border trade and investment supersedes any harm to Americans from an unsecured border.
- Some of this is a result of ideological priors unmoored from empirical outcomes: a belief in markets for their own sake, whether in goods or — horrifically — in people.
- Some of this, we must be candid, is a result of plain hostility to the American people, who do not — in the mindset of the most-fervent advocates of an open border — *deserve* the defense of their nation, their territory, and their way of life.

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Whatever the cause, it leads to the same policy ends, over and over, that tend toward the perpetuation and worsening of the current border crisis. Those ends include:

- A deliberate failure to implement zero tolerance for illegal migration.
- An unwillingness to understand the migration problem as *entirely* a human-trafficking problem.
- An unwillingness to understand the Mexican state as a conscious synthesis of officialdom and cartels.
- An unwillingness to adopt effective policies versus the Mexican state-cartel synthesis, including direct linkage of commerce and security.
- An unwillingness to challenge the Mexican state-cartel synthesis with effective and dramatic policies, including (but not limited to) foreign terror organization designations for Mexican cartels, taxation of remittances going to cartels, revival of the Engel List to include Mexican nationals, and a supine reflex toward the principle that Mexican “cooperation” is the supreme virtuous end of U.S.-Mexico relations.
- An unwillingness to concede that border security is and of right ought to be a principal mission of the United States Armed Forces, demanding among other things a movement of Mexico into SOUTHCOM AOR, and a true Western-Hemispheric strategy by the United States.
- An unwillingness to understand that the American states have Constitutional recourse in situations like the present border crisis, and ought to be able to exercise them free of federal interference.

Every single one of the solutions listed here could be implemented *today*, almost entirely without new legislation, given an Executive Branch willing to do it. When I say the border-security crisis is *solvable, right now*, given sufficient political will on the American side, this is what I mean.

Related to this, it is notable that the so-called Senate Border Bill, H.R. 815, which we all finally had the opportunity to read barely thirty-six hours ago, misses the mark almost entirely on all these points. With its stupefying allowance of several million illegal entries per year, its comically constricted “border emergency” framework, its loosening of the asylum process, its billions in funding for the human-trafficking complex, and its wildly permissive structure for allowing the Executive Branch to override even its own minor strictures, the bill is right now Exhibit A in the contention that the border crisis *is a choice* made by Washington, D.C. We look forward to its defeat.

In the case of Mexico City, the border-security crisis is *also* a choice by Mexico’s own powerholders, stemming from two major motivations. The first motivation is simple: money. We must understand this very clearly, and I want to say it very directly, coming to you as I do at this moment from Mexico City:

The Mexican state and the Mexican cartels are the same — including the President of Mexico himself.

At the Texas Public Policy Foundation, we have been pointing this out for years. We have noted the Mexican President’s solicitude toward the Sinaloa Cartel in particular: his rhetorical generosity toward it, his public visits to honor the aged mother of the jailed drug lord El Chapo, and his political party’s use of its *sicario* enforcers to kill opposition candidates and rig elections. We have noted the Mexican President’s policy of “abrazos no balazos,” which effectively refrains from use of force against cartel violence; we have noted his handover of civil power to his own army apparatus, which itself is a major trafficking organization and uses violence against Mexican civilians who defend themselves against cartels; and we have noted his public vow to use the Mexican armed forces to defend Mexican cartels against the Americans.

Recent reporting from ProPublica, which must be commended for its tenacity and intrepidity on this front, has illuminated very clearly that this collaboration between Mexican President Andrés Manuel López Obrador and the Sinaloa Cartel goes

back decades. A corrupt bargain between AMLO, as he is known, and that cartel was incepted at least as early as 2006, and continues to this day. The cartel and the state get the immense billions in profits from trafficking goods and people — and AMLO himself gets the power he desires to remake Mexican society along Venezuelan or Cuban lines, a left-populist cartel state that is fundamentally anti-American.

If the first motivation for Mexico City's creation of the border crisis is *money*, then the second motivation for Mexico City is *leverage*: leverage versus the United States, which is the only power capable of arresting and disincentivizing Mexico's slide into narco-state status. Mexico City understands two big things very well: that it makes billions off the border-security crisis, especially in human trafficking, and that Washington, D.C., officeholders and policymakers will allow the border crisis to continue for all the reasons already enumerated. They also understand that the crisis gives them leverage over those officeholders, especially as the latter come under pressure from the American people to secure the border and defend our communities.

At the Texas Public Policy Foundation, we believe that Mexican exertion of that leverage has been especially obvious in the past several months. In fact, we predicted it, publicly, in summer 2023. We believe that much of the U.S. Department of Justice's litigation against Texas's own border-security efforts have come *at the explicit request of the Mexicans*. We believe it because the concurrence of U.S.-delegation departures from Mexico City and announced DOJ litigation against Texas is too neat to be coincidental. We believe it because the Mexican President himself has boasted openly of it at his own *mañaneras*, his daily press conferences. We believe it because this matter — the suppression of Texas — is *the one existential common interest* between the AMLO regime and the Biden Administration. Both nations have Presidential elections this year, and each regime requires the other to maximize its chances of success.

Let me be absolutely clear and unmistakable on this point: *I am telling you that the Mexican state-cartel regime and the Administration of President Joseph Biden are probably collaborating against an American state, American citizens, and the American interest*. The implications of this ought to be obvious, and properly an object of Congressional attention.

I will turn here to the specific question of Texas and its border-security efforts under Governor Greg Abbott, which are naturally close to us — and which we support fully. Texas has undertaken a variety of efforts in defense of itself and its citizenry that the federal government has refused to do:

- Texas has linked commerce and security with the implementation of secondary inspections at ports of entry.
- Texas has illuminated the national scope of the border crisis, and invoked the principle of equity within it, by its transportation of migrants to leftist-run localities across the country.
- Texas has used its military forces for their proper and primary purpose, in the defense of its own territory and citizenry, with the use of the Texas Military Department, including the personnel of the Texas Army National Guard, in Operation Lone Star.
- Texas has built effective border-barrier infrastructure not once, but twice — with its innovative buoy barriers in the Rio Grande, and its barriers on the river's north bank.
- Texas has enacted into law the groundbreaking S.B. 4 in the special session of the 88th Texas Legislature, which allows Texas law enforcement to intercept and *de facto* remove illegal entrants into Texas.

The federal government ought to be doing all these things — *but it is not*, and therefore Texas must see to its own self-defense. As Governor Abbott properly notes: in failing to do so, the federal government has abdicated its own Constitutional responsibility to the states.

We must be absolutely clear that the federal government's litigation against Texas's efforts — made in part at Mexican behest, and arguing that Texas must desist from its duty *even as the federal government refuses to meet its own duty*

— incepts one of the most grave Constitutional crises in American history. There is simply no precedent for the national government of the United States refusing to faithfully execute the law, while simultaneously working to prevent one of the several states to do the same. Make no mistake, Texas is faithfully executing the law — both its own, and the Constitution's, which provides in Article I, Section 10, for a state to defend itself against invasion.

The invasion at hand is not, as some would have it, mere immigrants seeking work or safety for virtuous reasons, even if entering illegally. I am the proud descendant of Mexican immigrants who arrived in the United States in precisely that fashion and for that reason, and I am certain that they themselves were not invaders. However, we must do two things in our own analysis. First, we must face the situation as it is *now*, and not as it was, nor as we wish it to be. The truth is that *every single person* arriving illegally at the border today is trafficked — brutally, inhumanely — by criminal cartels who rob, rape, and move along their millions of fellow human beings, both for immediate profit and in the expectation of future profits in years of remittances. In that light, the most humane thing we can do for those trafficked millions is *to close the border* entirely.

The other thing we must do in our analysis of invasion is to understand it as the American Founders understood it. The Texas Public Policy Foundation has published groundbreaking research on this topic, to which I commend the reader. I will synopsise it here. In brief, to be an invader in the Constitutional framework requires two qualities: *entry* into a sovereign territory, and *enmity* toward the sovereign. An immigrant without enmity is not an invader, nor is an enemy that stays outside our borders. Consider some examples of what the Founders *did* consider invaders: foreign powers, pirates, and hostile tribes. A vast multinational criminal cartel whose activities and personnel *enter* America, *kill* Americans, *overthrow* American sovereignty, and do so with the collaboration and collusion of a foreign state power *is absolutely an invader*, and would have been immediately recognized as such by the American Founders.

In this light, Texas does not merely have the Constitutional *power* to defend itself — it has a Constitutional and moral *responsibility* to do so. If the federal government and especially the Executive Branch cannot muster the political will to secure the border, then at the least they could let Texas do the job. We can, and we will.

The fact that this same federal government acts more forcefully, now, *against Texas* than it ever has against the Mexican state-cartel synthesis that co-creates our border-security crisis tells you everything you need to know about what we face today. We don't just have a crisis of the border; we also have a crisis of Constitutional governance. The sides are the same in each: on one side is the State of Texas and the American people, and on the other is the Mexican state-cartel combine and Washington, D.C.

The outcome won't just decide the fate of our border — it will decide the fate our nations.

I am happy to take questions.

