

The logo for 'MEDIAMATTERS FOR AMERICA' is centered on a solid blue rectangular background. The word 'MEDIAMATTERS' is written in a large, white, sans-serif font, with 'FOR AMERICA' in a smaller, white, sans-serif font directly below it.

## MEDIAMATTERS FOR AMERICA

# Fox News airs claim that Texas is facing an “invasion” 20 times in 3 days

By Zachary Pleat and Gideon Taaffe

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From July 5-7, Fox News personalities and guests claimed that immigration on the Texas border represented an “invasion” at least 20 times. This anti-immigrant propaganda marches in lockstep with an effort by regional Republican-led governments to declare border crossings an invasion as specified by the U.S. Constitution, in an apparent effort to justify using state and local law enforcement personnel to deport people. But experts have stated that this is a fringe legal theory that is not likely to succeed.

As the Texas Tribune reported on July 5, some county officials on the southern border have demanded Gov. Greg Abbott declare an “invasion” under the Constitution so they can expel immigrants themselves instead of the federal government, which is the only entity to hold that legal authority. The Tribune reported that this demand “is based on a fringe legal theory that gained mainstream attention earlier this year when Arizona Attorney General Mark Brnovich said that state’s governor, Doug Ducey, would be on solid legal ground to invoke war powers to send the state’s National Guard to its border to stop an ‘invasion’ of drug cartels and criminal gangs.” The Tribune further reported that “the idea has been widely derided by legal experts as a political ploy.” The Houston Chronicle quoted Cato Institute immigration expert David Bier as saying that this maneuver is “a total mischaracterization of what an invasion is.” (On July 7, Abbott signed an executive order permitting state authorities to deport immigrants, without explicitly using “invasion” language. Legal experts say the move “appears to be unconstitutional.”)

Texas Lt. Gov. Dan Patrick’s July 5 interview on Fox News’ *The Story* exemplifies the absurdity of this Fox-supported campaign to legally define people seeking asylum (an authorized form of immigration) as invaders. During the interview, he portrayed immigrant border crossings, and the drug overdose deaths he erroneously linked to them, as if “we’re being attacked just as we were on Pearl Harbor.” (Pearl Harbor was a surprise attack by a foreign military on a military installation, and not remotely comparable.)

Citation From the July 5, 2022, edition of Fox News' *The Story*

LT. GOV. DAN PATRICK: We have 1,254 miles with Mexico. It's a big border. And they need to secure this border, they need to close it, they need to quit lying to the American public that it's a secure border. It makes me ill every time I hear it because they're just lying to people. We are being invaded. And if we're being invaded under the Constitution, I think that gives us the power to put hands on people and send them back.

PATRICK: We're being attacked just as we were on Pearl Harbor.

TRACE GALLAGHER (FOX NEWS CORRESPONDENT): Yep.

PATRICK: This is an attack on the American public. It's an attack on our young people. It's an attack on our border. And the president needs to stand up and fight back. And if he doesn't, then he needs to step down.

Fox contributor Jonathan Turley, who also teaches law at George Washington University, said: "I think the courts would reject this as a constitutional invasion." Fox correspondent Jonathan Hunt likewise stated that "Constitutional law experts say the Texas counties will have a tough time getting anywhere in the courts with a declaration of an invasion."

Citation From the July 7, 2022, edition of Fox News' *Fox & Friends*

JONATHAN TURLEY (FOX NEWS CONTRIBUTOR): There's a difference between the colloquial and the legal meaning of invasion. This language that's being relied upon comes from Article 4, Section 4, which refers to protecting states from invasion. They, the framers, were referring to an organized army. Not this more general or constructive meaning. And I think that courts would really deal with this in rather short order. And I think the courts would reject this as a constitutional invasion for the purposes of that provision.on of Fox News' *The Story*

JONATHAN HUNT (FOX NEWS CORRESPONDENT): Whether this is a real attempt to use the language of the Constitution to change immigration enforcement policy, or whether it's more of a publicity stunt to simply draw attention to the situation at the border, is open to question.

HUNT: Constitutional law experts say the Texas counties will have a tough time getting anywhere in the courts with a declaration of an invasion and call for subsequent action.

HUNT: And the federal government would presumably argue that the sheer number of enforcement actions against illegal immigrants, more than 1.7 million since October 1, shows that U.S. Customs and Border Protection is doing exactly the job that Texas officials accuse the government of failing to do. Those officials will point, in turn, to the hundreds of thousands of illegal immigrants who don't get caught by law enforcement. But as a legal challenge based on the Constitution, Trace, this case is a long road ahead.

A Media Matters review of Fox from July 5 through July 7 found 20 claims on the network that Texas was facing an "invasion" of migrants. *Fox & Friends* and its early-morning edition, *Fox & Friends First*, each aired 4 such claims — more than any other show. Anchors of the network's so-called "news" shows allowed 7 such claims from Republican politicians and Art Del Cueto — vice president and spokesperson for the National Border Patrol Council and who has worked closely with former President Donald Trump — to go unchallenged. Between charitable, softball interviews with conservative politicians and through hosts themselves, Fox News has spread this false narrative that Texas is facing an "invasion" of migrants.

However, this is not a new narrative for the network; Fox News has worked hard to frame migrants crossing the border as an invasion for some time. In 2018, Fox contributor Charlie Hurt called for “tanks on the border” to stop an “invasion.” In 2019, *Fox & Friends* co-host Brian Kilmeade tried to argue that it was a “fact” that it was an invasion. More recently, Fox host Will Cain repeatedly called the migrant crisis an “invasion” to push governors of border states to take action. In March, prime-time star Tucker Carlson compared migrants crossing to the Russian invasion of Ukraine, claiming, “Our military could seal the border with Mexico in days. That would save American lives, it would restore order and it would end the invasion.”

Similar rhetoric about an “invasion” of migrants at the border inspired a man who is charged with murdering 22 people, most of whom were Hispanic, at a Walmart in El Paso, Texas, in 2019. In a screed the alleged killer posted online, he declared his attack was “a response to the Hispanic invasion of Texas.”

### **Methodology**

Media Matters searched transcripts in the SnapStream video database for all original programming on Fox News Channel for the term “Texas” within close proximity of any variation of either of the terms “invasion” or “invader” from July 5, 2022, through July 7, 2022.

We included any claims in segments about migrants at the Texas-Mexico border, which we defined as instances when the migrants at the border were the stated topic of discussion or when we found significant discussion of migrants at the border. We defined significant discussion as instances when two or more speakers in a multitopic segment discussed the migrants with one another. We also included claims made in passing mentions, which we defined as instances when a single speaker mentioned the migrants in a segment on another topic without another speaker engaging with the comment, and teasers, which we defined as instances when the anchor or host promoted a segment about the migrants scheduled to air later in the broadcast.

We defined a claim as a block of uninterrupted speech by a single speaker that explicitly called immigration at the Texas-Mexico border an “invasion” or the migrants “invaders.” We did not include statements that merely suggested that others, states, or courts have, should, or will declare(d) the migrants an invasion or invaders or that merely discussed the language of Article 4 of the U.S. Constitution. For host monologues, we defined a claim as the speech between played clips or read quotes. We did not include the speech within played clips or read quotes unless a speaker in the segment positively affirmed the speech either directly before or after the clip was played or the quote was read.