



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

July 6, 2022

Governor Doug Ducey
1700 W. Washington Street
Phoenix, AZ 85007

Dear Governor Ducey,

In May of this year, we learned about a suspected terrorist who was apprehended after illegally crossing our border in Yuma, then released in our community. While the Federal Bureau of Investigations flagged him days after his release, it took two weeks before U.S. Immigration and Customs Enforcement arrested him in Florida. This horrible situation is a ticking time bomb that cannot be tolerated. It's just a question of when, and not if, the unspeakable will occur.

As I know you are aware, our state is being overwhelmed by a flood of migrants and drugs pouring across our border. Local resources are being quickly drained and communities are being put at unacceptable levels of risk due to the federal government's abdication of the rule of law.

Last year, your office deployed the National Guard and declared a state of emergency at our border, but as the Biden-made disaster continues to intensify, there are more actions that we now have to consider. Earlier this year, our office issued a legal opinion, which determined the current crisis at Arizona's southern border, fueled by shocking violence and lawlessness of cartels and gangs, qualifies as an "invasion" under the U.S. Constitution and that Arizona has the power to defend itself.

Although the federal government is at the apex of its authority in matters of national and border security and the courts have limited states' abilities to enforce immigration laws, states do have a constitutionally recognized ability to defend themselves. Our office concluded that violence by cartels and gangs who have now assumed control of our southern border meets the legal threshold for an invasion, but it's up to the Governor to make that actual determination. If that happens, you, as Commander in Chief, can exercise independent authority under the State Self-Defense Clause of the Constitution to defend Arizona from the invasion.

Governor Ducey, our office is using every tool we have to combat this border crisis and to protect our vulnerable communities. We have filed lawsuits against the Biden Administration's actions at the border, and our efforts have been successful in pushing back

against this lawlessness. Most recently, we blocked the Biden Administration from immediately rescinding Title 42 with a decision from a federal judge, but the relief granted is not permanent.

The truth is that we have every indication that the border crisis will continue to escalate. If there is more that we as a state can and should do, it can be pursued with your declaration of an "invasion" at our southern border. I hope that you will seriously consider taking this step to ensure that we are doing everything possible to protect the safety and well-being of all Arizonans during this unprecedented catastrophe.

Sincerely,

A handwritten signature in blue ink that reads "Mark Brnovich". The signature is stylized and includes a long, wavy horizontal line extending to the right.

Mark Brnovich