

# [***Texas Governor Announces New Border Measures; U.S. Kills Kataib Hezbollah Senior Member; No Charges Against President Biden Over Documents; Supreme Court Hears Argument in Trump Ballot Case***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6B93-D8K1-F072-X000-00000-00&context=1516831)

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**Body**

NEIL CAVUTO, FOX NEWS ANCHOR: All right, now we, well, hurry up and wait, although we might not be waiting too long for a decision from the Supreme Court on whether a state can kick Donald Trump off its ballot.

Welcome, everybody. I'm Neil Cavuto.

Let's get right to with Shannon Bream, the very latest.

Shannon, this was fascinating. We saw at the court in almost total unison on wondering exactly how far Colorado was going and why. But spell it out.

SHANNON BREAM, HOST, "FOX NEWS SUNDAY": Yes.

Well, normally, Neil, it takes years to get here, maybe months if you're fast-tracking. But this made it in weeks, showing the urgency the court gets about this happening in an election year. And so they had the arguments. They were wide-ranging.

There were tough questions for both sides of these arguments, both sets of lawyers. But at the end of the day, it really came down to whether or not this 14th Amendment provision applies to President Trump. Justice Thomas had questions about that and said, listen, when this was passed back in the late 1860s, 1870, the 14th Amendment, why don't you have examples from that time period showing this was meant for states to be allowed to kick people off federal ballots?

Here's part of that exchange.

(BEGIN AUDIO CLIP)

CLARENCE THOMAS, U.S. SUPREME COURT ASSOCIATE JUSTICE: The concern was that the former Confederate states would continue being bad actors. And the effort was to prevent them from doing this.

And you're saying that, well, this also authorized states to disqualify candidates. So, what I'm asking you for, if you are right, what are the examples?

(BEGIN AUDIO CLIP)

BREAM: So, that attorney couldn't come up with examples that showed states were allowed to kick federal people -- candidates off of federal ballots.

So there was concern across the spectrum, a number of tough questions coming in also from Justice Kagan and Justice Jackson, saying, listen, we have real concerns about what Colorado has done here. Here's a little bit of Justice Kagan saying, this is the reality, if we decide for Colorado, of what happens,

(BEGIN AUDIO CLIP)

ELENA KAGAN, U.S. SUPREME COURT ASSOCIATE JUSTICE: But maybe, put most boldly, I think that the question that you have to confront is why a single state should decide who gets to be president of the United States.

(END AUDIO CLIP)

BREAM: Justice Barrett followed up with her on that, essentially saying, yes, what this will amount to, yes, states are free to do what they want, but you have got to imagine that if a lot of states see that Colorado has done this, that this court, the High Court, approves it, they're going to take similar steps.

So how many people get disenfranchised in that -- possibly that scenario?

So, Neil, they will probably have a vote behind closed doors in the next day or two. And then we will wait. I don't think this is going to be one of those things where you wait until the end of the term in June, though. It's a high-profile case. I think it's a matter of days or weeks probably before we have a decision.

CAVUTO: All right, Shannon, thank you very much for that.

Now, for today's other big story, a special counsel not seeking criminal charges against President Biden for keeping classified material as he left the vice presidency.

Let's get the latest on that from David Spunt at the Justice Department.

Hey, David.

DAVID SPUNT, FOX NEWS CORRESPONDENT: Hey, Neil, 345 pages, a scathing report calling into question the president's mental faculties in many ways.

And while the president is not charged, Robert Hur, the special counsel, makes some serious allegations and takes some serious swipes at the president. I want to read part of it where it mentions no criminal charges.

Robert Hur says this right out of the gate: "We conclude that no criminal charges are warranted in this matter. We would reach the same conclusion even if Department of Justice policy did not foreclose criminal charges against a sitting president."

However, we have some photographs in the report of President Biden's garage in Wilmington, Delaware, at his home where he stored documents from Afghanistan in a box, in a tattered box, tattered and torn, open in his garage with classified information.

Special counsel Hur said that was not inappropriate place to hold this classified information. You see it right there out in the open for people to get ahold of that. The Biden White House, the White House counsel, which is just an attorney for the president at the White House, says: "We disagree with the number of inaccurate and inappropriate comments in the special counsel's report. Nonetheless, the most important decision, the special counsel made no charges or warranted is firmly based on the facts and evidence."

Neil, he used the word inappropriate comments. Perhaps this is one of them. Special counsel Hur writes: "We have also considered that, at trial, Mr. Biden would likely present himself to a jury as he did during our interview of him, as a sympathetic, well-meaning elderly man with a poor memory. Based on our direct interactions with and observations of him, he is someone from whom many jurors will want to identify reasonable doubt.

"It'd be difficult to convince a jury that they should convict him, by then a former president well into his 80s, of a serious felony that requires a mental state of willfulness."

Robert Hur taking a swipe, thinking that President Biden may not even run or win in November, saying, by the time, he goes to trial, he would be a former president.

Joe Biden, the president, putting out a statement a short time ago -- quote -- "The special counsel released today its findings about its look into my handling of classified documents. I was pleased to see they reached the conclusion I believed all along they would reach, that there would be no charges brought in this case, and the matter is now closed."

But, Neil, also, at one point, special counsel Hur says that President Biden was not aware of the times that he left the vice presidency when he served in the Senate, also, I'm just reading right here, within a couple years of when his son Beau tragically died, the attorney general of Delaware.

So, while no charges, a very, very critical report that goes to the heart of President Biden -- Neil.

CAVUTO: David, when was this interviewing going on of the president about these documents?

SPUNT: Exactly. It happened in October. We found out -- I believe it was a two day period. We found out it started on a Sunday. We believe it wrapped up on a Monday, and that was just October of 2022 -- or 2023, excuse me.

CAVUTO: Wow.

SPUNT: So, four months ago, three, four months ago is when this interview took place.

CAVUTO: So he was 80 years old.

SPUNT: Correct.

CAVUTO: Got it. All right. Thank you very much.

John Yoo with us right down, the former deputy assistant attorney general, to comment on both of these cases, as is Tom Dupree, the former deputy assistant attorney general, as well. These guys know of what they speak.

Tom, first off on the Trump situation, and these justices seemingly almost in lockstep questioning Colorado and the legitimacy of a single state calling or pulling a name from its presidential ballot, that had some thinking that this could be a fairly lopsided decision against Colorado doing so. But what do you think?

TOM DUPREE, FORMER JUSTICE DEPARTMENT OFFICIAL: I agree with that assessment, Neil.

Look, I always thought that this was an exceedingly difficult decision for the people trying to disqualify former President Trump, a very, very uphill battle for them. And the way today's argument played out doesn't change my view one iota.

I thought it was notable that both Justices Kagan and Jackson expressed deep concern about accepting Colorado's argument. They were rightly worried both about the practical consequences of their decision. And in Justice Jackson's case, she said to Colorado's lawyer that, well, maybe this constitutional provision you all are focusing on doesn't actually say what you think it says.

So the fact that two out of the three liberal justices openly expressed skepticism about this proceeding, about this whole effort to disqualify former President Trump, I don't see how you possibly could get five votes on the Supreme Court to knock him off the ballot.

CAVUTO: How do you think it goes yourself, John?

JOHN YOO, FORMER DEPUTY ASSISTANT ATTORNEY GENERAL: Unless my Supreme Court radar is way off, the only question now is whether this will be a unanimous reversal of the Colorado Supreme Court that will allow Trump to stay on the ballot or whether it's 8-1 or 7-2.

In fact, what struck me from the oral argument is that the court really seems to have already decided that Colorado is going to lose. I think there are good arguments on both sides, but I found Colorado's lawyer really did not have an answer to this fundamental question, Tom, you just mentioned.

How can a single state decide for the whole country who's going to be on the ballot, whether President Trump committed insurrection, what even an insurrection is? I found that question, unfortunately, was unanswerable for Colorado.

So I expect the Supreme Court, not only will they decide with a high level consensus, but they will get it out fast. I even predict Chief John Roberts will end up writing the opinion to give it more institutional force and unanimity.

CAVUTO: Gentlemen, as you know far better than I, and you have elaborated on this, this is a Supreme Court that finds itself in the uncomfortable position of being in the same position as the Supreme Court back in 2000 with Bush-Gore.

It doesn't like being there, but it now has to be there. And this is just one case. There could be another case on exactly how far a president or a former president can go and what's forgivable. That issue might come up. So, this could just be the kickoff point, Tom. What do you think?

DUPREE: I think this is going to be the kickoff point, in that this is not the last Trump-related case the Supreme Court is going to wrestle with.

But, look, I agree that I think any time the Supreme Court dips its toes into the political waters, there are concerns from the institutional perspective. I know Chief John Roberts is very concerned about that, because, inevitably, whichever way the court decides these cases, there's going to be some segment of the American public that views it as a politically charged, inappropriate, politically tainted decision.

So they're very cautious about that. For that reason, I do think the chief -- and I agree with John.

I could easily see the chief assigning this opinion to himself to write, because he's going to want to do whatever he can to muster as much unanimity on that bench as he possibly can, because, in a case like this, just as with other historically significant cases going back to Brown v. Board of Education, the Supreme Court always strives to speak with a single voice when possible to show that there are no political divisions on the bench.

CAVUTO: If I could go now to the President Biden case, John, and one of the things that just fascinated me -- I was rifling through some of it, and didn't know half of what I was reading, John.

But I found it interesting you have a prosecutor, a special counsel, essentially painting Joe Biden as a sympathetic figure before a jury. Why should that matter? Why even bring that up?

YOO: That's a great question, Neil, and thanks for the extra homework, by the way, having to read this 307-page report in about an hour.

(CROSSTALK)

CAVUTO: Oh, no, no, no, no, no. I read -- no, no, no, I'm reading the reports on it. Please, don't get the wrong idea.

YOO: Well, you're missing all the good photos. Actually, I recommend you look at the report. There are unbelievable photos of how these were -- these documents were stored.

CAVUTO: I saw some of them. Amazing, yes.

(CROSSTALK)

YOO: Yes, of a kind like the ones we saw about President Trump at Mar-a- Lago.

I mean, they're both terrible photos for both of these presidents. The reason why -- and after reading this, I almost think President Biden might say, gosh, maybe it'd be better if you tried me rather than say all these things about my mental competence, because the report basically says, Neil, we would normally bring a trial like this.

The special counsel does say, we think he did take these classified documents, that he did not store them properly. It appears to be willful. The reason we're not charging is because we don't think a jury, not us, we don't think a jury would convict someone like this.

And what's that like this mean? Elderly, can't remember things. He couldn't remember the years he was vice president, for example. And this is terrible. I mean, this is really an indictment, not of Biden for classified documents handling. It's almost an indictment, not charged, but an indictment of President Biden's mental fitness to be in office.

CAVUTO: So, Tom, that raises a question I had about the fairness of this process and with documents held or withheld, whatever reason, and whether Donald Trump, if he was deemed to be a doddering or forgetful public official, would get the same treatment, would have the same sympathetic approach.

We can't put this to a court or a jury that would be witnessing something like this. I wonder.

DUPREE: Yes.

And, look, it's hard to envision former President Trump getting a sympathetic approach. I think, from Robert Hur, the special counsel in Biden's case perspective...

(CROSSTALK)

CAVUTO: If he were exactly the same person. That's what I'm saying. If he were exactly the same person, forgetting just as much, forgetting a lot of -- by the way, who am I to judge forgetting? I don't remember what I had for breakfast this morning.

But my point is, would Donald Trump garner the same sympathy and the same musing about whether it's worth pursuing this, the way that Joe Biden has?

DUPREE: I am very doubtful of that, Neil, extremely doubtful.

And, look, what Robert Hur said was driving his decision were two things. Thing number one was, he pointed out the differences between the Trump case and the Biden case. And he said that, well, Biden cooperated and Trump didn't.

The second thing he said was the point you and John were discussing, which is he said, look, even if we were to bring a prosecution, we probably would lose, because the jury would see President Biden or then former President Biden as a sympathetic old man with limited mental faculties.

And from that perspective, today's report, Neil, is absolutely devastating for Biden. I think he would have been better off, frankly, if the special counsel had said, this is kind of a devious, savvy guy who skirts the edge of the law. At least there, Biden would have seemed to be in control and decisive, rather than basically saying, yes, we're going to let you walk because you're a sympathetic old man with a bad memory.

CAVUTO: Could that be deliberate, John? Could that be a way to fool him and get them off his back and by saying, look, well, I don't remember this, I don't remember that? Then the whole case goes away.

YOO: To be frank, there are defendants who have pulled acts like that and pretended to be even insane, not to mention just out of it or not knowing what their subordinates are going on.

Neil, we have talked on this -- on your program before about how both Trump and Biden, they have to make these statements in court and also in ***politics***. And sometimes something that works in court is not going to work in ***politics***.

The Trump, I think, jujitsu here was that he is losing terribly in court. Somehow, he used that to win the primaries. It's the reverse here. Biden is taking a position to defend himself from a prosecution by essentially saying, I can't remember anything. I didn't really do anything because I can't remember dates and places.

I don't know whether -- I don't even -- at one point, he doesn't even -- he says he doesn't even know what the documents were about. He can't remember that.

CAVUTO: Right.

YOO: That's going to maybe get him out of these charges, but that's going to kill him politically. It's the reverse of what Trump's up to.

CAVUTO: That's a fascinating juxtaposition.

Gentlemen, I want to thank you both very much.

Speaking of President Biden, he's speaking right now. He's at a fund- raiser, I believe, guys. Let's listen in.

JOE BIDEN, PRESIDENT OF THE UNITED STATES: Well, Jim is here, and he's one of the reasons why I'm standing here. I want to thank him.

(CHEERING AND APPLAUSE)

BIDEN: Hakeem and Katherine and Pete, thank you to all of you, to all of you.

Let me say a few things before I get started with our discussion.

First -- I'm not going to be very long, I promise.

First, the special counsel released their findings today about their look into my handling of classified documents. I was pleased to see they reached a conclusion I believed and knew all along they would, that there are no charges should be brought in this case.

(CHEERING AND APPLAUSE)

BIDEN: As many of you know, this was an exhaustive investigation going back literally more than 40 years, 40 years, when I became a United States senator as a kid.

(LAUGHTER)

BIDEN: I was a kid, 29 years old.

the special counsel acknowledged I cooperated completely, I did not throw up any roadblocks, I sought no delays. In fact, I was so determined to get a special counsel what they needed, I went forward with a five-hour in- person interview over the two days of October the 9th -- 8th and 9th last year, even though Israel had just been attacked by Hamas on the 7th.

I was in the middle of handling an international crisis, but I was especially pleased to see the special counsel make clear the stark differences between this case and Donald Trump.

As the special counsel wrote -- and I quote -- "Several material distinctions between Mr. Trump's case and Mr. Biden's are clear." And, by the way, this is the Republican counsel.

"Most notably, after given multiple chances" -- this is the continuation of the quote -- "he returned classified documents and avoided -- to avoid -- and avoided prosecution. Mr. Trump allegedly did the opposite." This is the continuing quote.

"According to the indictment, he has not only refused to return documents for many months. He also obstructed justice by enlisting others to destroy evidence and then lie about it. In contrast, Mr. Biden turned in classified documents to the National Archives, the Department of Justice, consented to a search of multiple locations, including his homes, and sat for a voluntary interview, and in other ways cooperated with the investigation."

That's the distinction, among others.

(APPLAUSE)

BIDEN: The bottom line is, the special counsel in my case decided against moving forward with any charges. And this matter is now closed.

(APPLAUSE)

BIDEN: I will continue to do what I have always done, stay focused on my job, like you do, of my job of being president.

That means going to work with all of you every single day I can. Thank you for being great partners. Just this week, House Democrats showed how united you are. You defeated the Mayorkas impeachment resolution.

(CHEERING AND APPLAUSE)

CAVUTO: We are continuing to monitor this.

What the president left out of that special counsel Robert Hur's report is that he was portrayed, that is, Joe Biden, by interviewers as an elderly man with a very poor memory, went on to say he did not remember a number of things, including when he was vice president exactly, and even when his son died.

So he left that out. Of course, this could be politically for the president problematic. At 81 years old, many people have been noticing he's losing his step, he's losing his pace. Some fear right now that this would come back to bite him on the campaign trail, but it exonerates him legally on this documents case. We will keep up with that.

Also keeping up with an announcement due out shortly from Texas Governor Greg Abbott. We will be following that.

We are also following what happened at the corner of Wall and Broad today. We were over 5000 on the S&P 500, finished just below that, but that's good enough for a record, the Dow good enough for a record.

We're on top of it all. Stay with us. You are watching "Your World."

(COMMERCIAL BREAK)

CAVUTO: All right, we are expecting a major announcement right now from Texas Governor Greg Abbott regarding the border. We don't know all the details.

We do know that Casey Stegall is in Eagle Pass to sort of put us and set things up for us.

Casey, what do we know?

CASEY STEGALL, FOX NEWS SENIOR CORRESPONDENT: Well, Neil, we're sort of reading between the lines a little bit here, but we do know that Governor Abbott was just here in Eagle Pass in Shelby Park this past Sunday, where he was accompanied by more than a dozen other governors from around the country.

And that is really where he essentially doubled down on the Lone Star State's enforcement here at the United States-Mexico border, saying that the Texas National Guard was in the process of expanding its operations. However, he would not elaborate any further, but he said that they were expanding beyond Shelby Park.

So it's quite possible at this press conference, which should begin in a few minutes, that he could announce growing the so-called military zone and adding additional razor wire to the north and south of this 47-acre park and also limiting access to federal agents.

Now, today, about seven miles upriver, FOX cameras capturing these images of a large group that had illegally crossed. It was about 100 in size and included young children. They were taken into federal custody since it was outside of the state-controlled area, because, remember, now inside the park, migrants who breach this barrier are arrested by Texas DPS and they're slapped with state charges for criminal trespassing.

A small group of seven was just taken into custody by troopers. So the question is, will the state of Texas be seizing additional property, adding even more barriers, which would also escalate the growing showdown between Texas and the feds, something the governor has said is necessary in order to stop the flow of illegal immigration and something that he says is the state's constitutional right to defend itself?

To be continued from here -- Neil.

CAVUTO: Got it, my friend. Thank you very much, Casey.

Let's go to Lieutenant Chris Olivarez of the Texas Department of Public Safety.

Chris, I don't want you to spill the beans on the governor. You might know and probably do know for more than I. But he has been at loggerheads with the administration and the lawsuits flying fast and furiously. He has obviously said the federal government isn't helping me, so I have got to take matters into my own hands.

What do you think of that?

LT. CHRIS OLIVAREZ, TEXAS DEPARTMENT OF PUBLIC SAFETY: Well, he's absolutely correct, Neil.

And, first off, it's great to be with you.

CAVUTO: Same here.

OLIVAREZ: It's always great being with you.

I was with the governor on Sunday in Eagle Pass when he hosted the 13 governors that came down. And the governor made it very clear that Texas is going to double down. We are not going to idly stand by and continue to let the federal government not do nothing as far as securing the border.

And that's because we have overwhelming support, not just in Texas, but now with some of these other governors that are willing to provide their resources, their law enforcement, their military to help our military, to help our state troopers on the border.

So -- and, of course, the governor is looking in other ways to expand operations. And that means outside of Shelby Park. And I'm sure that's -- he will make some announcement on that, but that's one thing that we are looking at as well.

Even as a law enforcement personnel as well, we're always trying to find ways to expand operations. And the fact that Shelby Park is now secured, our state troopers can now give back to the main corridors, those highways that are used for human smuggling and focus on their criminal activity while National Guard soldiers can continue to place more barriers and secure other areas along the border.

CAVUTO: It's interesting, Chris.

For those of you just tuning in, we're awaiting at an announcement from Texas Governor Abbott, who is at Eagle Pass right now. Outside, he's going to be announcing some new positions, maybe orders, executive orders, on his part to counter what he says is an unresponsive federal government.

Of course, as you know, Chris, this week that border security measure essentially went up in flames. Now, they're looking at different ways to try it again. Many of your colleagues have said, well, it's better than nothing. Where are you on this? Because it isn't happening now.

OLIVAREZ: Neil, I look at it from an operational perspective, of course, and that bill, I mean, there's a lot that's dealing with immigration and asylum laws, which, obviously, that's more dealt with at the federal level.

But the fact that they were going to allow 5,000 illegal border crossings a day, which equals to 1.8 million in a year, not including got-aways, not including those that are being processed at a port of entry, that's not sustainable in Texas.

That's not something that we agree with. The governor also made it very clear on that part as well that we cannot simply allow illegal border crossings to take place. And the fact that, in that bill, they're OK with allowing people to cross a river or desert in order to seek asylum, that's one thing that we are very concerned about.

And that's why we place physical barriers along the river to prevent that. In Eagle Pass alone, we were averaging a drowning a day. So you have women and children that are crossing this river. So this bill did nothing as far as trying to prevent that or even border security itself, no physical barriers, no focus on going after the cartels, fentanyl.

So, in our -- in at least in my opinion, as far as in Texas, from an operational perspective, it was not going to be a bill that was going to support what we are doing. In fact, it was going to make it much worse for us. And if you look at what we have been doing in Texas, Neil, I mean, we pretty much are laying out the foundation as far as what Texas can do, in the fact that we are placing our own barriers, our own border wall, taking enforcement action, following the rule of law.

CAVUTO: Yes.

OLIVAREZ: And I think that's something the federal government should follow, but, of course, they know what to do, but they refuse to do it.

CAVUTO: They have pointed to, those who wanted to push the measure, Lieutenant -- you probably heard this -- that this announcement we got earlier that there were one-million plus border crossings since October 1, the fiscal year 2024 at the beginning, that it would have been decidedly less than that if this were already enforced.

What do you say?

OLIVAREZ: I just don't see how that would work, Neil. There was a lot of loopholes, a lot of suspensions, provisions in that bill, and, of course, and it gets full authority to the federal government.

CAVUTO: Yes.

OLIVAREZ: It also strips our authority as far as any type of legal authority. And it gives that authority to the courts in Washington.

So, of course, we know that they're not supportive of what Texas is doing. So if it came to some type of legal challenges, we would be at a disadvantage. So I just don't see how that would work. And you take into account the number of people that they're willing to allow, 5,000, you add that up, that's 1.8 million a year.

I mean, that is not feasible as far as what we're seeing on the border. It's not going to help us in Texas, that's for sure. So I know for a fact that the governor, and including us, as far as law enforcement, we're not in favor of that.

CAVUTO: Not everyone in your business, and that is policing the border, agreed. Some had said, well, it at least really cracks down on some of the amnesty claims and what have you, and the fact that you -- the condition that you could say could get you in the United States and stay in the United States.

Having said that, they also missed the fact that the $20 billion in the beefed-up border security goes away until this potentially reappears. What do you think of that?

OLIVAREZ: Neil, this is not a money issue or a resource issue. It's a policy issue.

And the federal government has an authority. They can take executive action and enforce the laws that are already on the books. This can stop for one day to the next. We don't need to have negotiations or pass new legislation to secure the border. We're not doing that in Texas.

I mean, we're simply just following our own laws and taking matters into our own hands. And we have been successful in our efforts because we have great men and women that are doing this job every single day. And we have great support and commitment from the governor, as well as our legislatures that provide the funding, provide the resources, the equipment, so that our state troopers can do their job efficiently and go home at the end of the shift.

But this is not a money issue. They need to enact those policies, and this would work. This would stop the situation at the border.

CAVUTO: The situation now does seem out of control again. It's unusual, given the time of year we're seeing it. What's going on?

OLIVAREZ: Historically, Neil, around December, January, February, numbers are low.

But one thing I want to point out, especially in Eagle Pass at Shelby Park, I mean, that was ground zero back in December. We were averaging 5,000 a day just in that specific area right there. And because of what National Guard did and the fact that Governor Abbott stepped up and seized that park, we have had maybe a handful of illegal crossings and those that do cross in that area are arrested.

So we're seeing some of the activity now because of our efforts shift further West. And now you're seeing an influx in Arizona, San Diego, because people that are trying to cross in Texas know it's much more difficult, much more challenging. So the cartels are changing the way they smuggle people across the river.

And they don't want to face the challenges here in Texas. So now they're looking to expand and smuggle people further West because there is no consequences. There is no law enforcement in those areas when we look at Arizona and San Diego.

CAVUTO: Now, I do know that the governor will have with him today or he's already addressed a number of Texas House of Representatives who will either be joining him and supporting this idea for beefed-up security.

Again, to your point, sir, we don't know the details. But they all seem to be on the same page, at least in Texas on that.

OLIVAREZ: Well, absolutely, Neil.

That's one thing that makes our state very great is the fact that we have leadership. We have that support, not only from the governor, from our legislatures, just from the attorney general, lieutenant governor, our leadership within our departments.

CAVUTO: All right.

OLIVAREZ: That makes us much stronger, united, especially the work that's being done every single day by our men and women that put on that Texas tan uniform, put on that cowboy hat, and they're out there every single day doing the work.

That's what makes us much stronger, Neil, compared to what we're seeing at the federal level. So we will continue pushing forward.

CAVUTO: All right.

OLIVAREZ: The governor made it very clear that Texas is not going to stand down, and we're going to continue to hold the line.

CAVUTO: We will watch very closely.

Lieutenant, thank you. The governor should be speaking any moment.

More after this.

(COMMERCIAL BREAK)

CAVUTO: All right, we are getting some details what Texas Governor Greg Abbott could announce shortly from Eagle Pass, Texas, an effort to expand control of land along the Mexican border.

How we would implement that, and what he would do to detail that -- coming up.

(COMMERCIAL BREAK)

CAVUTO: All right, still waiting for Governor Abbott. Kind of like waiting for Godot here.

We had a five-minute warning and a two-minute warning. None of those warnings have panned out. He is meeting with a number of Texas state representatives who are united in trying to enforce border security. How he's going to go about that and how he might deal with Mexican land, that's the United States land, and what to do, he wants to sort widen that parameter. That's what we're told. Don't know much more than that.

When he speaks, we will go there.

In the meantime, the United States, of course, took out a top Hezbollah official, and there have been other attacks and counterattacks that have this battle going on and on.

Jennifer Griffin with the latest on all from the Pentagon -- Jennifer.

JENNIFER GRIFFIN, FOX NEWS NATIONAL SECURITY CORRESPONDENT: Neil, we just pressed the Pentagon for more details about the MQ-9 Reaper drone strike that killed the top leader of Kataib Hezbollah, Abu Baqir al-Saadi, who the U.S. government says is among those responsible for strikes on U.S. bases in Syria, like the drone strike on a U.S. outpost in Jordan, which killed three American soldiers and injured 41 other Americans.

President Biden authorized the strike shortly after the deadly drone strike on Tower 22.

(BEGIN VIDEO CLIP)

MAJ. GEN. PATRICK RYDER, PENTAGON PRESS SECRETARY: Wissam Mohammed Baqir al-Saadi is a Kataib Hezbollah commander who was responsible for directly planning and participating in attacks on U.S. forces in the region.

He's not a member of the PMF. He's a Kataib Hezbollah commander.

(END VIDEO CLIP)

GRIFFIN: Kataib Hezbollah is an Iraqi Shia militia that is part of the Popular Mobilization Forces, or PMF, according to the Iraqis.

They formed to fight ISIS. It was funded by the Iranian Revolutionary Guard Corps Commander General Qasem Soleimani until he was killed in another U.S. drone strike in 2020, along with another head of Kataib Hezbollah at the time. Once ISIS was pushed out of Iraqi cities, Kataib Hezbollah and other Shia militias were brought under the Iraqi military, who pay their salaries.

Some worry the U.S. drone strike could jeopardize talks between the U.S. and Iraqi government about whether U.S. troops can stay in Iraq. There have been no attacks, Neil, on U.S. bases by Iranian proxy groups inside Iraq since the U.S. began its military response to the attack that killed three Americans. There have been a handful of attacks by those Iranian proxies inside Syria.

This targeted killing of the Kataib Hezbollah leader in Iraq, who the U.S. government said oversaw those attacks against U.S. forces in Syria, could change that -- Neil.

CAVUTO: Got it. Jennifer, thank you very much.

Jennifer Griffin.

Now to John Hannah, the former national security adviser to Vice President Dick Cheney.

John, good seeing you again.

The significance of all of this, what do you think?

JOHN HANNAH, FORMER VICE PRESIDENTIAL NATIONAL SECURITY ADVISER: Well, the big question, Neil, is whether -- the big issue is whether the United States is going to be able to deter through these kinds of actions further attacks on U.S. forces and U.S. interests in the Middle East by Iranian- backed groups.

Kataib Hezbollah is a creation of the Iranian Revolutionary Guard. They call all of the shots with Kataib Hezbollah, which killed three Americans in Jordan just over a week ago. I doubt this will be enough. A month ago, we killed one of these Iraqi Shiite militia leaders, and we know what's happened. The last month has been as bad as any month over the last three years in terms of attacks on U.S. forces.

So my sense is, this is not going to get the job, the big job of stop -- getting the Iranians to stop these attacks.

CAVUTO: And they don't stop them, to your point, and the Houthi rebels much the same. When they're targeted, it seems like, within 24 hours they have a response. Sometimes it's a half-assed response, but it's a response.

So we can't take them completely out. We can't seem to stop these kind of attacks themselves that that Iran sponsored all over the region. So what's the next step?

HANNAH: Well, I think the place where we have to go is actually inflicting real pain and punishment on Iran, on Iranian personnel, Iranian assets.

It could be Iranian territory. It certainly doesn't have to. We have got two major Iranian spy ships out there in the waters around the Red Sea providing massive amounts of targeting intelligence to Houthi rebels. Those -- why those ships continue to sail freely in those waters is beyond me. That would not require you hitting Iranian territory itself.

It just means making sure the Iranians know that they're no longer going to be able to play this game of fighting America to the last Iraqi or the last Houthi rebel.

CAVUTO: All right, John, thank you very much.

I want to take you to Eagle Pass, Texas, right now. Governor Abbott is ready to address what could be an expanded control effort of land along the Mexican border. The governor is just getting ready to make that announcement or something like it, we're told, right now.

UNIDENTIFIED MALE: They're all set up.

GOV. GREG ABBOTT (R-TX): I thank everybody for being here today.

I am joined by members of the Texas legislature. And we're here to explain to America that we are dealing with the biggest border crisis since America had borders. It's all because Joe Biden allowed this entire area to be penetrated by the drug cartels that smuggled in illegal immigrants.

If you see an area that is boxed off by a container, that has raised a wire on the container or on the ground or on the fence, those are areas that illegal immigrants were once able to cross that are now unable to cross. And the reason why we have been able to achieve that level of decrease in illegal crossings is only because of great teamwork in agencies across the state of Texas.

First, an update about some numbers from the Texas Department of Public Safety. They have made over 39,000 criminal arrests. They have apprehended more than 480,000 illegal migrants. They have deterred more than 95,000 illegal entries and engaged in more than 4,300 bailouts.

They have filed more than 19,000 charges for smuggling. Those charges for smuggling now face a new consequence because of members of the legislature who stand behind me. They passed a bill that I signed into law that increases the mandatory minimum time behind bars for smugglers to 10 years.

If you smuggle somebody into or through and across the state of Texas illegally, you will be spending a long time behind bars. In addition to what the Texas Department of Public Safety has been doing, we have also had unprecedented success by the Texas National Guard.

They have more than a million encounters with illegal immigrants. They have turned back more than 90,000 people who were trying to get into the country illegally. In addition to what they're doing through other agencies and in part through what the National Guard themselves are doing, there have been more than 160 miles altogether of barriers placed up, not counting the border wall.

They include the razor wire, fencing, anti-climbing barriers, these CONEX boxes, and the buoys that are in the river. Those together add up to more than 160 miles of barriers that have been placed up. Also, Texas is the first and only state in the history of the United States of America to build our own border wall.

We -- if you look at the amount of wall already constructed and the amount of wall that is going to be under construction, Texas will have built more of the Trump border wall than even Trump built in the state of Texas.

Now, the results are amazing. If you look at what has changed with regard to illegal border crossings in the past half-year or so, you see that, even though Texas represents about two-thirds of the border, we represent only about 30 percent of the crossings.

The lead crossing areas are California, Arizona and New Mexico that represent 70 percent of the crossings. Now, unlike before, migrants are choosing to go to states other than Texas. And that's because Texas has put up the resistance that it has.

Early on, under the Biden administration, most of the migrants were coming through Texas. That's not true. The same is true for this area that we gather in right now. If you look at this massive park area, this is an area where you would regularly see 2,000, 3,000, maybe 4,000 people crossing the border illegally.

Since this park has been taken over by the National Guard, the daily average is under 10 a day. It shows that deterrents can achieve results at decreasing illegal immigration. The only reason why it's not happening is because the president of the United States is not enforcing the laws that are already on the books.

He does not need more laws. He has the tools in his toolbox to do exactly what Texas is doing. And that's to deny illegal entry into the country, which he is required to do by laws already passed by Congress.

Part of the teamwork that we're seeing is tremendous leadership by the Texas National Guard to look forward about where we are going. We are working with the Texas National Guard on strategies to both add and to accommodate more National Guard in this area. We will also work with the National Guard to continue their strategies of adding more miles of razor wire and anti-climbing barrier.

To also recognize another branch of government in Texas that is a partner in this effort, and that's the legislative branch, the tools and strategies that DPS, the National Guard that I and others have to do anything to secure the border would not exist if it weren't for the efforts of the members of the Texas House of Representatives.

I want to have some of them speak at this time, including the chair of House Appropriations, Chairman Greg Bonnen.

STATE REP. GREG BONNEN (R-TX): Thank you, Governor.

And, Governor, thank you for your leadership on this issue. I remember, in mid-2021...

CAVUTO: Continuing to monitor this.

I just want to get the significance of this, because these are going to be tough -- to toughen up the border security here. The governor is fond of saying, and this is -- we have heard this before -- that even though Texas does disproportionately represent two-thirds of the border issues that come up, not nearly that many, of course, those, of course, who are apprehended or those got-aways that you hear about in other states, where the security, he seems to be inferring, is more lax.

But it is a big issue here. And some of the efforts he's taking will no doubt get an administration response, sometimes a legal one.

Doug Schoen is with us right now, former Clinton adviser, also a Democratic strategist, Julia Manchester, The Hill national ***politics*** reporter.

Julia, he hasn't laid out all the details of this, but, again, he has been claiming that land along that area, he's just going to sort of take control of it. The federal government will not do anything to stop those who try to get into the country. He will and take that upon itself. Of course, this has led to multiple lawsuits back and forth.

But this tough policy comes at a time when that security measure fell to defeat and a lot of people are trying to resurrect it. It looks kind of dicey, but he has and is seizing the issue now. And it's a number one political issue. I found it interesting, the number one issue in Iowa when I was there, the number one issue in New Hampshire when I was there.

So it's a big one, isn't it?

JULIA MANCHESTER, NATIONAL POLITICAL REPORTER, THE HILL: Yes, it's a big one for many voters across the country, no matter if you're in a border town or in another part of the country.

Look, Neil, it's interesting to see the contrast between what's happening here in Washington with Republicans and the action they're taking on the border and what you're seeing in Texas with Greg Abbott. I think Greg Abbott is asserting himself to be much more proactive.

And, obviously, since he's a state official, it's his state's borders there, he can be. But we saw this with the razor wire he put there and with the additional security. So I think he's very much trying to assert himself to be someone in charge here.

But it's just interesting to see that contrast. When you look back here at Washington, the House Republican effort to impeach Alejandro Mayorkas, the homeland security secretary, that failed. And, of course, the border bill in the Senate, that failed.

So it's interesting to see how states have really taken this into their own hands, particularly Texas, which is obviously a major border state.

CAVUTO: It's interesting, when you look at it, Doug, that it is a standoff right at the border. And it's a standoff in more ways than one involving the president of the United States and the governor of Texas and one that pits one party against the other.

Someone will prove politically prescient on this, the other not. Some Republicans have been criticized for being too zealous to impeach a Cabinet official, yet ignore a balanced agreement that could have alleviated a lot of this. Others say it was a lousy measure and it's a good thing it didn't the muster of day.

Where is this going?

DOUG SCHOEN, FORMER BILL CLINTON POLLSTER: It's going to a full-scale political fight, Neil.

Julia touched on it, but let me be very clear. The Republicans in Washington have had a bad couple of weeks. The Mayorkas failed impeachment, the failure of the bipartisan bill leaves them vulnerable on an issue where Joe Biden is 35 points behind Donald Trump.

This was an attempt, among other things, by the governor to help the Republicans shore up their credentials, both in Texas and nationally, as being tough on border security and to attack President Biden for the failings that I think Democrats and Republicans would acknowledge. Certainly, I would.

So I think we're into a political fight, and this has to be seen in the context of the national election as well as border security on the Texas- Mexico border.

CAVUTO: Still, I would imagine, Julia -- and you're both far better at reading the polls than I am. I mean, this is an overwhelmingly big issue that favors Republicans, because they were criticizing this president for reversing a lot of Donald Trump's policies, whatever you think of Donald Trump, and saying if you have the executive authority to rescind those policies, you have the executive authority to un-rescind them.

Can I say un-rescind them? I just did.

(LAUGHTER)

CAVUTO: What do you make of that they're putting the onus on him?

MANCHESTER: Yes, look, I mean, this is a -- you're right, this is politically, I think, beneficial for Republicans, and they put the onus on him because they're trying to portray this administration as an administration in chaos.

And it's like this issue, like the issue of crime, like the issue of pulling out of Afghanistan, it really falls into that category of saying that this is -- there's a lack of control that the Biden administration has at this point.

And I think this issue certainly appeals to Republicans, obviously, but I think it definitely has the ability to appeal to independent voters and maybe even some moderate Democrats. Look, Neil, we have seen Abbott and other governors ship these migrants or fly these migrants or bust them to cities like Chicago, like New York City.

And you're starting to see how these bigger cities, these Democratically run cities, are understanding what it's like to be a border town now.

CAVUTO: Right.

MANCHESTER: And I think, especially last week, with the migrants attacking those New York City police officers in Times Square, it certainly puts that -- it connects to this issue with the issue of crime.

Now, I'm not painting all migrants like that.

CAVUTO: Right.

MANCHESTER: But it does sort of make this a broader issue.

CAVUTO: Yes. And I believe that Governor Abbott is -- was saying, essentially, with all these cases, well, welcome to my world is what I have been dealing with. So welcome to reality.

But you know what is interesting, Doug, when you talk about the collapse of that border security bill -- and people had different points on it. It even divided those who protect our border and that community, some who have said it was better than nothing. Others argued that doing nothing would be better than this.

I found it interesting that a number of conservatives had attacked some provisions that would have weakened Texas' power to deal with these border issues by saying that legal challenges could only be made in Washington, D.C. In other words, it would have nationalized it, had Washington handling this, which last time I checked wasn't exactly a border city, but that didn't sit well with many in Texas.

They say, well, we're now going from the frying pan into the fire and hoping the same Washington that has been ignoring us and the intensity of this problem now has built into a security measure something that could make it a bigger problem. What do you think?

SCHOEN: Yes, and I think we can't underestimate the degree of anti- Washington sentiment that exists, particularly on this issue.

You're right, Neil. Democrats are blamed overwhelmingly. It's a Republican issue. But, also, increasingly, people see it as a state-by-state issue. And what Governor Abbott is doing with other Republican governors is saying, give us a chance. We will control the border if Washington can't do it, and President Biden fails to do it.

That's what I think...

(CROSSTALK)

CAVUTO: Yes, it is interesting. And I'm sorry there.

Julia, on -- there's one provision in this measure that obviously they're trying to re-tinker. I don't know how far or even how promising it is. But quoting here: "The United States District Court for the District of Columbia shall have sole and original jurisdiction to hear challenges, whether constitutional or otherwise, to the validity of this section of any written policy directive, written policy guideline, written procedure, or implementation thereof."

So, and -- what they're saying is the right of judicial review for illegal immigrants then about who's deported and when, if that isn't controversial enough for you, and whether it should be adjudicated on this side of the border, the Mexican side of the border, as it was under Donald Trump, all these decisions would be made in Washington.

And that -- again, we're monitoring the governor what he's saying about it. But that stuck in his craw. And that stuck in a lot of the people who had a chance, even these Texas representatives he has gathered around him, and said, whoa, whoa, whoa, whoa, Democrat or Republican, that's just nuts. This is us. This is what we're dealing with. We think we know it.

We don't want to share the cost of an exclusively deal with the burden. But we don't want it totally taken out from our control, because we're pretty good at it, and have Washington do something, because they're pretty lousy at it.

MANCHESTER: Yes, absolutely.

And to layer on to that you also have this debate in Washington, or you have Republicans with this legislation that Lankford and McConnell were pushing, that legislation would have -- takes -- puts this in Congress' hands. And you have a lot of Republicans, a lot of the Republicans that have oppose this legislation, they -- in the Senate, they said, look, this should be done by the president. The president has the authority to do this.

So there's not only the debate between is it Washington or is it the individual states, but it's also who in Washington does this. So I think that adds to more of the debate and the chaotic nature of this issue.

CAVUTO: Yes.

If you could both stay there, guys, I want to know if Peter Doocy can come into this, because, Peter, this measure is beleaguered, to put it mildly. It might be just dead, dead on arrival period, and even re-arrival, but the administration's view has been that this was the closest thing to getting something done, and Republicans botched it.

Now, they had plenty of reason to doubt that and plenty of reason to be suspicious of a president who they say has ignored the problem, and now Governor Abbott doubling down. What's the take there?

PETER DOOCY, FOX NEWS WHITE HOUSE CORRESPONDENT: Well, the take here is, they won't even tell us what kind of executive actions this president is considering, even though everybody in town admits there is no legislation right now that is going to fix the border.

They have moved on. They're doing this package where it fixes to funding for foreign allies like Ukraine and Israel. There's nothing happening in Congress or here at the White House with the border. And President Biden doesn't seem like he is that involved at all. They keep pushing -- they say they don't read out every single call he has with a lawmaker about everything.

But they keep pointing us to a meeting that he had here at the White House with Speaker Johnson in January.

CAVUTO: Yes. And that was not...

(CROSSTALK)

DOOCY: And so we hear from guys like Abbott and his colleagues down there.

CAVUTO: Yes.

DOOCY: They are talking about this as an urgent matter.

Here, it is as urgent as an in-person meeting with the speaker in January.

CAVUTO: So where does this go, Peter? It looks to me, at least from that building behind you, nowhere.

DOOCY: Well, Republicans are insisting that this president has the authority, the legal authority, to close down the border if he wants to.

There are many different legal opinions about that.

CAVUTO: Yes.

DOOCY: But if executive orders are being considered at all, it is an election year, so it would stand to reason that they will come at some point before people start voting if immigration remains the top issue.

CAVUTO: But he does have the legal power to do that. He can issue executive orders. I think you reported better than 90 of them having to do with this issue as soon as he took office.

So he can issue executive orders to reverse those orders. He hasn't and doesn't. Maybe he was waiting for this thing to implode. And it did. So there's no indication they're going to change policy right now, right?

DOOCY: No, no indication of that at all.

CAVUTO: Got it. All right, Peter Doocy, thank you very much.

That will sum it up here. Again, we are monitoring this.

But what you're getting from Governor Abbott, as he meets with this Texas delegation, some Democrats in there, Republicans in there, is, we need help from Washington, but not the kind of help they were considering, wants to take matters into his own hands, particularly along disputed land that the federal government says is their responsibility, Mexico actually says is close to their responsibility.

And this churns away, much like the Rio Grande, on and on, with no end in sight.

That will do it here. "The Five" is now.

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