

End arrests for violations that do not have jail time as a punishment

Proposal: Require a citation instead of an arrest for non-jailable violations, with exceptions for alcohol-related offenses where officers should take a person off the street.

Harris County Study of Arrests for Fine-Only Charges

The Texas Criminal Justice Coalition (TCJC) reviewed all arrests in Harris County over a 16-week period from July 13, 2016, to October 5, 2016.¹ Of the 23,578 people arrested during this period, 2,567 (11%) were arrested for Class C misdemeanors, which are punishable by a fine only. Of those, 763 people (30%) were arrested on a single Class C misdemeanor charge, mostly for a traffic violation. The remaining 1,804 people were arrested on a combination of fine-only charges, mostly for insurance violations combined with registration, inspection, or other vehicle violations. If this data is representative of the rest of the state, then tens of thousands of drivers are likely arrested for traffic infractions each year.

Texas law already prohibits officers from arresting a person for speeding. Such an arrest constitutes officer misconduct.² And yet, among those arrested on a single traffic charge, this was the most common.

The people arrested on a single *non-traffic*-related charge were most commonly picked up for violations of child support orders, public intoxication, theft under \$100, or the truancy of their children.

Altogether, most of the charges reviewed were Class C (fine-only) misdemeanors, but some were fine-only offenses with no specific classification; they fall in other parts of code and have fines as their set penalties. These include lack of safety belts, parking in privileged parking spaces, failure to show one's driver's license, and parents contributing to truancy.

Pretext Stops: Why Arrests are Occurring in the First Place

Why do officers arrest some people at traffic stops and not others? In truth, the data does not tell us. We do know that if a driver does not consent to a search of his or her vehicle, the officer may still arrest the person on the original traffic charge (if no citation has yet been issued), then search the vehicle "incident to arrest." If no contraband is found, the person can simply be booked on that original charge (again, speeding should be the exception). We all pay for extra officer, booking, and jail time when roadside fishing expeditions turn up nothing.

IN SHORT

- Thousands of Texans are arrested and spend time in jail each year for traffic violations that are not punishable by jail time.
- SCOTUS has allowed this (*Atwater v. Lago Vista*).
- If a driver refuses to consent to a search of the vehicle, officers can arrest for the traffic violation then search "incident to arrest."
- Arrests in Harris County for fine-only violations disproportionately involve Black drivers.

ARRESTS BY THE NUMBERS

- 2,567 people arrested on one or more Class C misdemeanor charges
- 763 of these arrested on just one Class C charge
- 406 of these cases were ordinary traffic violations
 - ✓ 95 speeding cases
 - ✓ 81 driver's license violations
 - ✓ 80 lack of insurance violations
 - ✓ 24 registration issues
 - ✓ 22 toll violations
 - ✓ 17 failure to stop at designated point/stop sign
 - ✓ 14 seat belt violations
 - ✓ Remainder: range of offenses (e.g., unsafe lane change, headlight off, failure to signal a turn, and similar minor traffic violations)
- The remaining cases:
 - ✓ 158 child support
 - ✓ 70 public intoxication
 - ✓ 39 theft
 - ✓ 18 parent/truancy
 - ✓ Remainder: range of offenses (e.g., fishing without license, failure to identify to a police officer, disregarding a police officer, minor altercations [fighting, hand grabbing], noise, trespassing, hitchhiking, littering, etc.)

Disproportionate Racial Impact of Fine-Only Arrests

In the dataset reviewed by TCJC, Black people were arrested at high rates relative to their overall representation in the Harris County population, where they total approximately 20% of residents. Black drivers made up nearly half of all drivers arrested on a single non-jailable transportation offense, as well as 41.1% of all people jailed for other non-jailable offenses. While approximately 70% of Harris County's population is white, white drivers made up only 22.9% and 24.0% of the arrests for traffic and other non-jailable offenses, respectively.

Arrests for Traffic Violations³ (406 total violations)

	Black	White	Hispanic	Other
Car maintenance issues	50.0%	0.0%	50.0%	0.0%
Moving violations	49.3%	26.7%	19.9%	4.1%
Nonmoving violations	41.7%	22.3%	32.0%	3.9%
Parking	40.0%	20.0%	40.0%	0.0%
Seat belt	61.9%	14.3%	14.3%	9.5%
Toll	59.1%	18.2%	18.2%	4.5%

Arrests for Other Non-Jailable Offenses⁴ (357 total violations)

	Black	White	Hispanic	Other
Assault	36.8%	36.8%	26.3%	0.0%
Child support	46.8%	24.7%	26.6%	1.9%
Disorderly conduct including Class C arson	100.0%	0.0%	0.0%	0.0%
Disregard police officer	50.0%	50.0%	0.0%	0.0%
Drug paraphernalia	55.6%	33.3%	0.0%	11.1%
Other	35.0%	40.0%	25.0%	0.0%
Public intoxication	19.7%	47.9%	29.6%	2.8%
Soliciting ride/employment	33.3%	66.7%	0.0%	0.0%
Theft	53.8%	25.6%	20.5%	0.0%
Trespassing	37.5%	62.5%	0.0%	0.0%
Truancy	38.9%	11.1%	27.8%	22.2%

¹ During this period a total of 23,578 people were arrested on 39,216 separate charges in Harris County, mostly for Class B misdemeanors or higher.

² Transportation Code Art. 543.004 and 543.008.

³ 406 people were arrested in Harris County for a single Class C traffic offense ranging from speeding to headlight and parking violations.

⁴ 357 people were arrested in Harris County for non-jailable offenses ranging from possession of drug paraphernalia to contributing to a child's truancy.