

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

Proposal: Require a citation instead of 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 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 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 a combination of registration, inspection, or other traffic infractions. If this data is representative of the state, then tens of thousands of Texans are arrested on traffic infractions each year.²

Texas law already prohibits arrest for speeding. Such an arrest constitutes officer misconduct.³ And yet, among those arrested on a single traffic charge, this was the most common.

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.

Most of the charges were Class C 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 So Many Traffic Arrests?

Why do officers arrest some people at traffic stops and not others? In truth, the data doesn't 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." Finding nothing, the person can be booked on that original charge. 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 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.)

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. About 11% were picked up on only Class C charge(s).

² DPS [reports](#) statewide arrests (829,000 in 2015) but does not report arrests on traffic charges.

³ Transportation Code Art. 543.004 and 543.008.