YES on SB 271: 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 some limited exceptions for alcohol-related offenses.

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. 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.

When soccer mom Gail Atwater took the City of Lago Vista to the Supreme Court over her arrest on a seat belt violation, the dissent in the 2001 decision (4-5) noted: “A broad range of conduct falls into the category of fine-only misdemeanors... Such unbounded discretion [given to law enforcement] carries with it grave potential for abuse. The majority takes comfort in the lack of evidence of ‘an epidemic of unnecessary minor-offense arrests.’” Fifteen years later, we face that epidemic.

Wasted Public Safety Resources, Less Safety
A recent study found that officers spend four times longer on an arrest than they do issuing a citation. In addition, taxpayers pay more to process that person into jail. None of that investment is making anyone any safer. Meanwhile, when an officer moves to arrest a driver for a minor traffic offense, many Texans believe this is a violation of their rights and question the officer’s authority to do so. Resistance can make the encounter less safe for everyone.

Other State Limits on Arrests for Non-Jailable Offenses
Ohio, Maryland, and Kentucky have created a presumption of citation instead of arrest for non-jailable offenses with certain exceptions. Some states do specifically exempt from the citation requirement arrests for non-compliance with an officer’s order regardless of the nature of the underlying offense (i.e., traffic infraction), but this undermines the goal of safer and more peaceful traffic stops.

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.” This makes a mockery of the 4th Amendment.

BIPARTISAN SUPPORT FOR REFORM

- Texas Public Policy Foundation
- ACLU of Texas
- Texas Criminal Justice Coalition
- Austin Justice Coalition
- Texans for Accountable Government
- Restore Justice USA, a project of Empower Texans
- Just Liberty
- Texas Fair Defense

The platform of the Republican Party of Texas directs lawmakers as follows:

Restricting Arrest Powers—Republican Party of Texas calls upon the Texas Legislature to authorize the arrest and jailing of individuals only for offenses for which jail is a punishment or to prevent family violence.

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 Citation in Lieu of Arrest: Examining Law Enforcement’s use of Citation Across the United States, April 2016.