



Research Brief: Jail Sentences for Fines and Fees in Texas

April 2017

A recent report co-authored by Texas Appleseed and the Texas Fair Defense Project, [*Pay or Stay: The High Cost of Jailing Texans for Fines and Fees*](#),¹ presented data on the number of jail bookings in seven Texas county jails for fine-only offenses, like traffic tickets and other Class C misdemeanors. The report explained that, in those seven counties, more than 24,000 people had been booked into jail for offenses intended to be punished by only a fine in one year.

Generally, an individual is booked into county jail for a fine-only offense as a result of one of three situations:

- People may be booked into jail after a **warrantless arrest** for a fine-only offense. While citations are more common than arrests for fine-only offenses, current law gives law enforcement officers the option to either arrest an individual or write them a citation.² For the Class C offense of Public Intoxication, arrest rather than citation is typical.³
- People may be booked into jail after they are **arrested on a warrant issued for a fine-only offense** – either a warrant for failure to appear in court or a capias warrant for not paying fines. As highlighted in *Pay or Stay*, a huge number of warrants are issued in fine-only cases: 2.9 million in 2015. With “warrant round-ups” occurring across the state every February and March, these arrests ramp up as cities and counties make a concerted effort to collect outstanding fines owed. Other arrests occur as a result of routine traffic stops.
- Finally, people may actually be **sentenced (also known as committed) to jail to “sit out” or “lay out” fines that they have not paid**. In this situation, a judge sentences a person to jail for a certain period of time to pay the amount owed at a rate of at least \$50 per day spent in jail.⁴

As explained in more detail in *Pay or Stay*, jail has tremendous costs, both to local governments and therefore taxpayers, as well as to the individuals sentenced. Given these costs, jail should be reserved for dangerous offenders who present a public safety threat, and steps should be taken to reduce all three of these paths to jail in fine-only cases.

Since the report was released, Texas Appleseed has conducted additional research to determine how many people were actually being sentenced to jail to sit out fines in fine-only cases. We requested data directly from municipal courts and when that was not available from local governments, for 30 Texas cities regarding the number of individuals sentenced to jail by each city’s municipal court in 2015.⁵ We received responsive data from 13 of those jurisdictions.

Based on these responses, we found that **13,955 individuals were sentenced to jail by ten municipal courts for not paying their fines in fine-only cases over the course of a single year, 2015.**

¹ Report available at https://www.texasappleseed.org/sites/default/files/PayorStay_Report_final_Feb2017.pdf.

² Tex. Code of Crim. Pro. art. 14.06.

³ *Id.*

⁴ Tex. Code of Crim. Pro. art. 45.046 & 45.048.

⁵ Included in the list of cities were the 20 most populous cities as well as 10 additional cities reporting high jail credit numbers reported to the Office of Court Administration.

Municipal Court	Individuals Sentenced to Jail for Fines (2015)	2015 City Population	Jail Rate Per 1000 Residents
Arlington Municipal Court	4,590	379,716	12
Austin Municipal Court	885	887,061	1
Fort Worth Municipal Court	1,584	796,614	2
Houston Municipal Court	1,654	2,217,706	1
Irving Municipal Court	1,533	228,776	7
Lubbock Municipal Court	208	240,719	1
McAllen Municipal Court	13	136,993	0.1
McKinney Municipal Court	204	150,064	1
Plano Municipal Court	2,607	275,645	9
San Angelo Municipal Court	677	97,595	7
Total	13,955		

These 13,955 individuals jailed by ten of Texas' more than 900 municipal courts represent only a fraction of the people who are sentenced to jail statewide for not paying their fines. Other large cities that reportedly jail a significant number of people, like El Paso and Amarillo,⁶ are not included in this data, nor are any of the state's justice courts.

Notably, **we also identified three municipal courts that did not jail anyone for fines during 2015**. One of these courts, the San Antonio Municipal Court, was discussed in *Pay or Stay* and has not sentenced people to jail for over a decade. That court has not faced problems enforcing its judgments or collecting amounts owed from people with the ability to pay. The municipal courts in Odessa and Corpus Christi also responded that they did not send anyone to jail for failure to pay fines and fees during 2015. Like San Antonio, the Odessa Municipal Court has had a policy in place for at least the last ten years that no one will be sentenced to jail for unpaid fines.

The fact that almost 14,000 individuals were sentenced to jail for failure to pay fines by only ten courts in a single year is troubling. There is compelling evidence that some people being jailed across the state are indigent, meaning it violates the U.S. Constitution and state law for a judge to order them to sit out their fines in jail.⁷ For example, the Houston Municipal Court provided additional data about each individual jailed, and approximately **1 in 7 of the 1,654 individuals jailed by the Houston Municipal Court for not paying fines were homeless**—compelling evidence of indigence. Across the state, people are also being jailed without being represented by defense counsel in violation of their constitutional right to counsel.⁸ Not only is jailing individuals who are unable to pay illegal, it drives them deeper into poverty, putting them at risk of losing employment, housing and transportation.

Jail sentences in fine-only cases make no economic sense and have led to *de facto* debtors' prisons across Texas. The Texas legislature should end this practice by preventing fines and court costs in Class C misdemeanor cases from being converted into jail sentences, which would ultimately save taxpayer money, protect individuals' constitutional rights and promote fairness in the criminal courts. Other reforms like requiring judges to inquire about defendants' ability to pay, providing defendants with information about alternatives when they are unable to pay, and expanding community service options would also improve the ability of courts to hold people accountable without resorting to jail sentences.

⁶ Both El Paso and Amarillo have been sued recently related to their municipal courts' practices of jailing indigent individuals. See *Canaan et al. v. City of El Paso*, No. 3:16-cv-00132-DCG (W.D. Tex. filed Apr. 20, 2016); *McKee et al. v. City of Amarillo*, No. 2:16-cv-00009 (N.D. Tex. filed Jan. 14, 2016).

⁷ See *Tate v. Short*, 401 U.S. 395 (1971); Tex. Code of Crim. Pro. art. 45.046(a).

⁸ See *Argersinger v. Hamlin*, 407 U.S. 25 (1972).