

PUBLIC COMMENT

Submitted to:

Public Safety and Homeland Security Committee
The City of Houston, City Council
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In RE:

The Use of Cite and Release in the City of Houston

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Dear Members of the Public Safety and Homeland Security Committee,

Thank you for your time and review of cite and release practices in the City of Houston. Please accept this document (and its attachments) as written comment for consideration during your upcoming meeting. In December 2022, Texas Appleseed released a report examining the use of cite and release practices in eight municipalities – one of those being Houston. In this report, you will find descriptive statistics for citation-eligible arrests made by the Houston Police Department (HPD) for the year of 2019. A copy of this report has been attached to this comment for further review.

What is not included in this report, however, is a more in-depth analysis that we have conducted of citation-eligible arrests made by HPD for the period of January 1, 2019 – August 19, 2021. The time frame associated with this evaluation coincides with the period at which we began to examine the data and we are currently working with partners to extend this examination to include the arrests made in the remainder of 2021 and 2022. The results of this preliminary analysis will be provided in this comment.

We define “citation-eligible” as an arrest on a charge (or charges) that, (1) qualify for a citation and summons under Texas law (see Article 14.06, Texas Code of Criminal Procedure), (2) is of someone who is 17 years or older, (3) is of a resident of Harris County, and (4) were not charged with a disqualifying Class C misdemeanor including *failure to ID*, *public intoxication*, or *having a warrant out for one’s arrest*. If someone received multiple charges at the time of their arrest, then all offenses were required to be citation-eligible to be considered.

From January 1, 2019, to August 19, 2021, a reported 105,519 arrests were made by Houston Police Department officers. Citation-eligible arrests represented approximately 4% of this total, or 3,949 arrests (see Table 1).

Table 1. # Of Citation-Eligible Arrests made by HPD, 2019-2021*

	# Of Citation-Eligible Arrests	# Of Total Arrests	% Of Total Arrests
2019	2,576	42,263	6.10
2020	912	38,010	2.40
2021*	461	25,246	1.83
Total/Average†	3,949	105,519	3.74†

Notes: * Data for 2021 reflects arrests made from January 1, 2021 – August 19, 2021; † Average

Finding 1: Most Houstonians being arrested for citation-eligible charges are being arrested for only one offense.

Non-citation-eligible charges excluded, very few arrests that were citation-eligible consisted of multiple charges. In fact, only about 3% of all citation-eligible arrests made during the period of analysis were of people who had 2 or more citation-eligible charges (see Table 2). Meaning that those who are being arrested are largely being detained for one, non-violent offense.

Table 2. Total # of Charges per Citation-Eligible Arrest, 2019-2021*

	2019	2020	2021*
1 charge only	2,484	892	459
2 charges	91	20	2
3 charges	1	-	-
Total	2,576	912	461

Note: * Data for 2021 reflects arrests made from January 1, 2021 – August 19, 2021

Finding 2: Citation-eligible arrests show to be affecting Houstonians living within Central and Southwest Houston at a higher frequency.

As illustrated in Figures 1 and 2, the residents who are being most impacted by citation-eligible arrests are residents who live in central and southwest Houston. The zip code with the highest number of citation eligible arrests has had 109 residents arrested for a citation-eligible charge over the period of analysis, while the zip code with the highest rate of arrest is exhibiting arrests for citation-eligible offenses at a rate of 652 for every 100,000 residents.

Figure 1: Count of Citation-Eligible Arrests by Resident Zip Code, 2019-2021

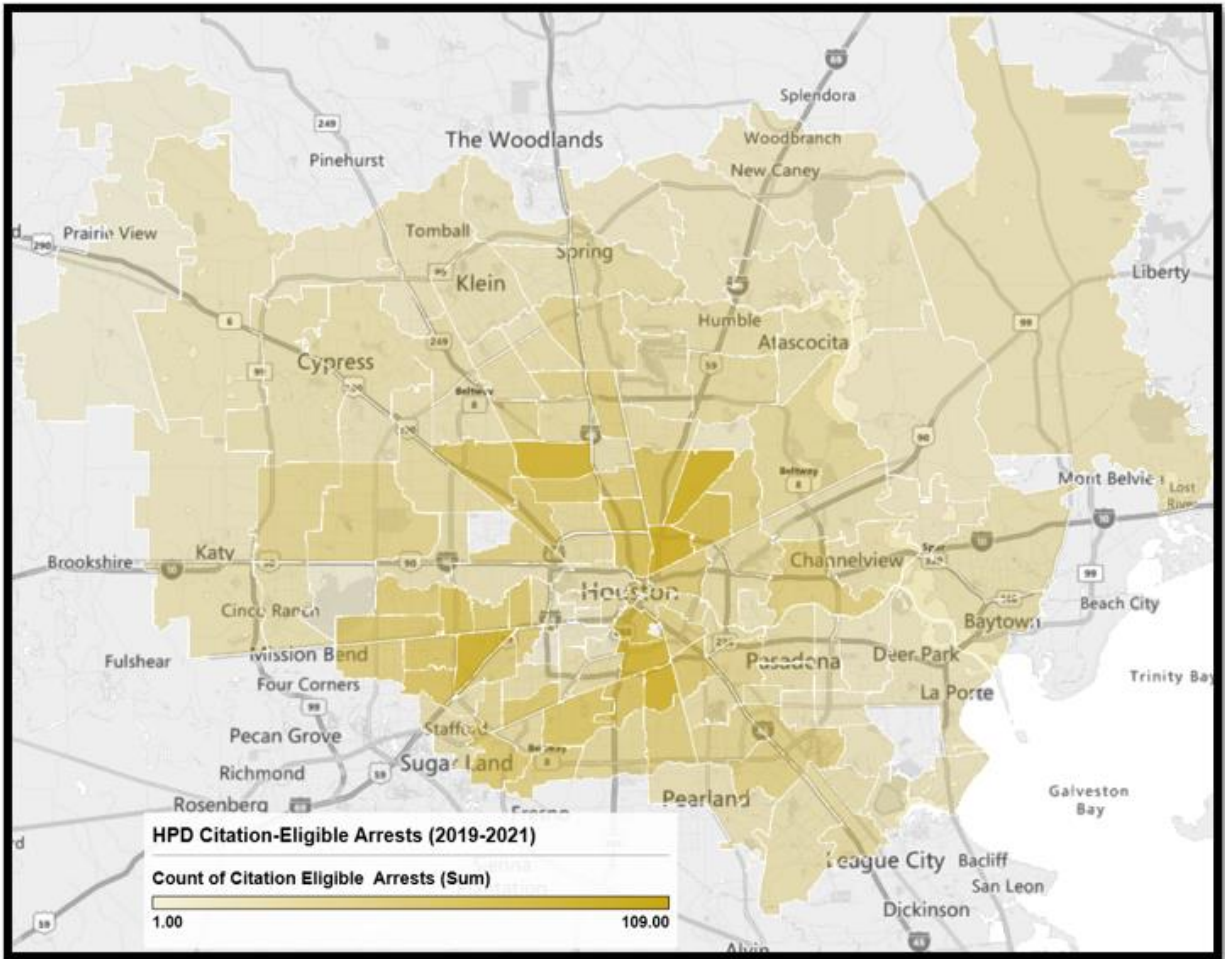
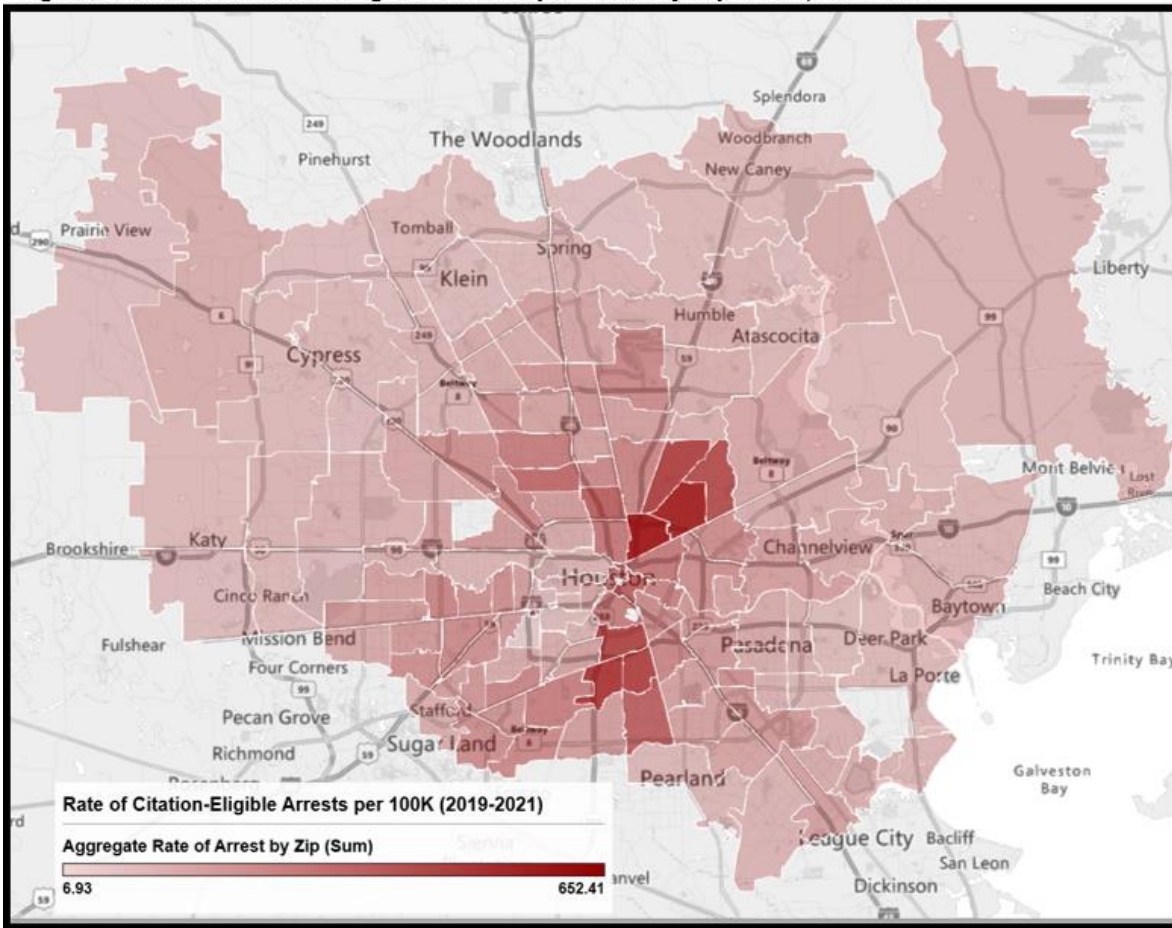


Figure 2: Rate of Citation-Eligible Arrests per 100K by Zip Code, 2019-2021



Both Figures 1 and 2 exist on a gradient. Darker colored zip codes correspond to an area that is experiencing a higher count and rate of citation-eligible arrests. The top 5 zip codes that contain the highest number of citation-eligible arrests and the highest rates of arrest, can be viewed in Table 3.

Table 3. Top 5 Zip Codes w/the Highest # and Rates for Citation-Eligible Arrests (2019-2021)

Zip Code	# Of Citation-Eligible Arrests	Zip Code	Rate of Citation-Eligible Arrests per 100K
77016	109	77026	652.4
77026	108	77028	612.7
77033	103	77051	528.5
77036	103	77016	481.0
77088	99	77033	476.4

Finding 3: Arrests for low-level theft, criminal mischief, and driving while one’s license is invalid constitutes the majority of arrests.

Of the 3,949 citation-eligible arrests made during the period of analysis, almost half (47.7%) were for Class B misdemeanor thefts. Nearly a quarter (23.2%) were arrested for driving without a valid license; and a little under a fifth (18.7%) were for criminal mischief. A visual breakdown of these arrests can be seen in Figure 3 below. While Table 4 offers a more detailed breakdown of not just the number of people arrested (n=3,949), but the number of charges that lead to those arrests as well.

Figure 3: Types of Citation-Eligible Arrests Made by HPD (2019-2021)

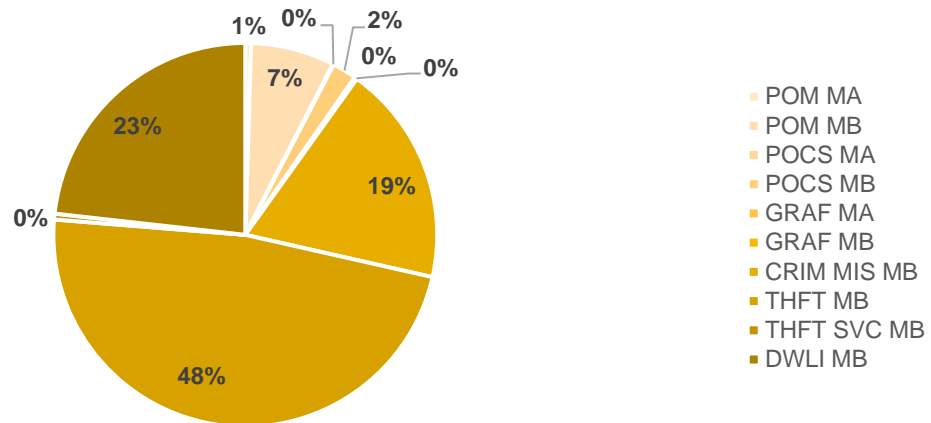


Table 4. Breakdown of Citation Eligible Arrests by Charge, 2019-2021 (n = 3,949)

Citation Eligible Charge	#	%
Possession of Marijuana (MA)	20	0.49
Possession of Marijuana (MB)	287*	7.06
Possession of a Controlled Substance PG2A (MA)	3	0.07
Possession of a Controlled Substance PG2A (MB)	83	2.04
Graffiti (MA)	4	0.10
Graffiti (MB)	5*	0.12
Criminal Mischief (MB)	758*	18.65
Theft (MB)	1,940*	47.74
Theft of Service (MB)	20	0.49
Driving While License Invalid (MB)	944*	23.23
Total	4,064	100.00

Note(s): The numbers presented in this table represent the number of citation eligible charges filed by HPD for Jan. 2019 to August 19, 2021. The total at the bottom reflects the total number of people arrested for either one or more citation-eligible charges. An explanation of how these numbers factor into said total are denoted by an * and explained in more detail below. The actual number of *people* arrested, is represented by the “n” provided in the parentheses underneath the department’s abbreviation at the top of the chart.

* 113 people arrested by HPD were arrested for 2 charges, while 1 was arrested for 3 charges. The * indicates which categories people attained multiple charges for.

Finding 4: Black Houstonians are significantly overrepresented in those being arrested for citation-eligible charges.

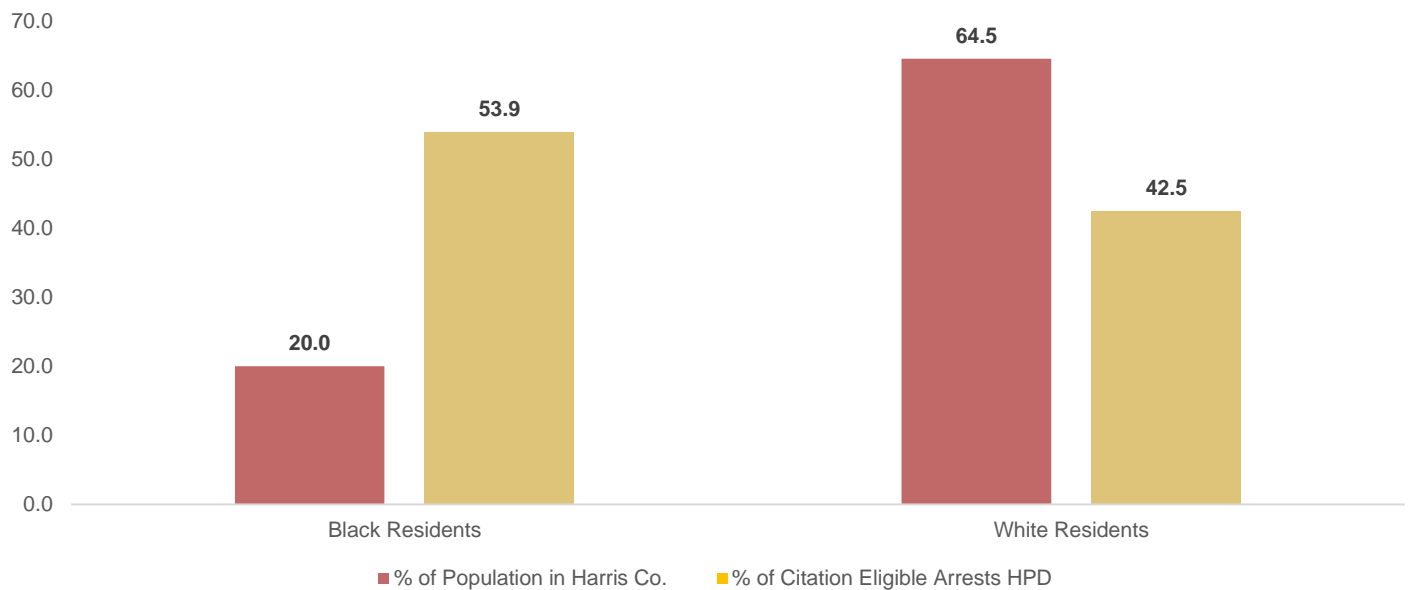
Black people were significantly more likely than White people to be arrested for citation-eligible offenses in Houston during the period examined. Between January 2019 and August 19, 2021, 54% of the people arrested by HPD for citation-eligible offenses were Black, despite only making up roughly 23% of Houston’s total population. However, because state law requires someone to be a resident of the county in which they were stopped to qualify for cite and release, the population parameters that were used to examine racial impact were extended beyond the City of Houston to account for the racial makeup of Harris County.

Table 5 and Figure 4 represents a racial makeup of citation-eligible arrests and the comparison of those arrests to the racial makeup of Harris County.

Race	2019 (n=2,576)	2020 (n=912)	2021* (n=461)
Asian	1.28	2.08	2.60
Black	54.97	52.85	50.11
Indigenous American	0.16	0.00	0.00
White	41.27	44.41	45.77
Unknown	2.33	0.66	1.52

Note: * Data for 2021 reflects arrests made from January 1, 2021 – August 19, 2021

Figure 4: the Racial Makeup of the Harris County Population vs. the Racial Makeup of Citation Eligible Arrests made by HPD, 2019-2021 (ACS, 2019 5YR)



Considering the makeup of population allows for an examination of arrest rates, rather than counts. In examining the rate at which citation-eligible arrests occur for every 100,000 residents, for example, standardized values can be generated and then in turn tested for a significance of difference. Because arrests made by HPD did not encompass the entirety of Harris County, the population values used in this analysis only include population totals for those zip codes that had a resident who received a citation-eligible arrest.

As illustrated in Table 6, Black residents are subject to citation-eligible arrests at rate that is 3.6 times higher than their White counterparts.

Table 6. Rates (and Ratios) of All Arrests per 100,000 made by HPD

	Rate of Arrest for All Residents	Rate of Arrest for Black Residents	Rate of Arrests for White Residents	Rate Ratio
2019	890.3	2,336.5	658.8	3.6
2020	790.1	2,074.5	589.3	3.5
2021	525.4	1,384.4	386.5	3.6
2019-2021	2,200.9	5,789.3	1,630.5	3.6

Notes: The Rate Ratio was calculated by dividing the rate of arrests for Black residents by the rate of arrests for White residents. Data for 2021 reflects arrests made from January 1, 2021 – August 19, 2021

To determine whether the difference in these rates is statistically significant a non-parametric test was conducted. The result of this analysis shows the mean of citation-eligible arrest rates among Black residents to be occurring at a significantly higher rate than the mean rate of arrests for all residents ($z = 7.1, p < 0.001$). While the average rate of arrest for White residents shows to be significantly lower ($z = -5.3, p < 0.001$). All assumptions of the test, including the identification and removal of outliers, were met. The mean arrest rate for citation-eligible arrests for all residents, after removing these outliers, was 118.5 per 100,000, while the mean rate of arrest for Black and White residents was 318.7 and 85.0 per 100,000, respectively.

Table 7 offers a look at the top five zip codes in which Black residents are being affected by citation-eligible arrests.

Table 7. Top 5 Zip Codes w/the Highest Citation-Eligible Arrest Rates (and Ratios) for Black Residents per 100k, 2019-2021

	All Residents	Black Residents	White Residents	Rate Ratio
77587	166.9	5,608.7	185.8	30.2
77009	260.8	1,623.6	230.2	7.1
77037	107.3	1,481.5	100.5	14.7
77023	188.3	1,412.4	205.5	6.9
77093	215.5	1,101.2	137.9	8.0

Notes: Further review of the data showed the zip code 77587 to be an outlier in the sample and it was later removed to test for significance in the comparison of means (i.e., rate of all residents vs. black residents; rate of all residents vs. white residents). The next “highest” rate of citation-eligible arrests occurs in 77006, where the rate of citation-eligible arrests per 100k for all residents is 87.2, for black residents is 953.3, for white residents 48.6, with a rate ratio of 19.6. The Rate Ratio was calculated by dividing the rate of arrests for Black residents by the rate of arrests for White residents.

Changes in Arrests for Citation-Eligible Offenses Over Time

Figure 5 compares the change in monthly citation-eligible arrest volume for 2019, 2020, and 2021. As shown by this figure, citation-eligible arrests fell substantially after 2019 and these types of arrests made up a smaller percentage of all arrests over time (see Table 1). A steep decrease in citation-eligible arrests is also observable after the coronavirus pandemic hit in March of 2020. Citation-eligible arrests fluctuated up and down after Executive Order EO 1-68 went into effect (see Figure 6).

Figure 5: # of Citation Eligible Arrests made by HPD 2019-2021

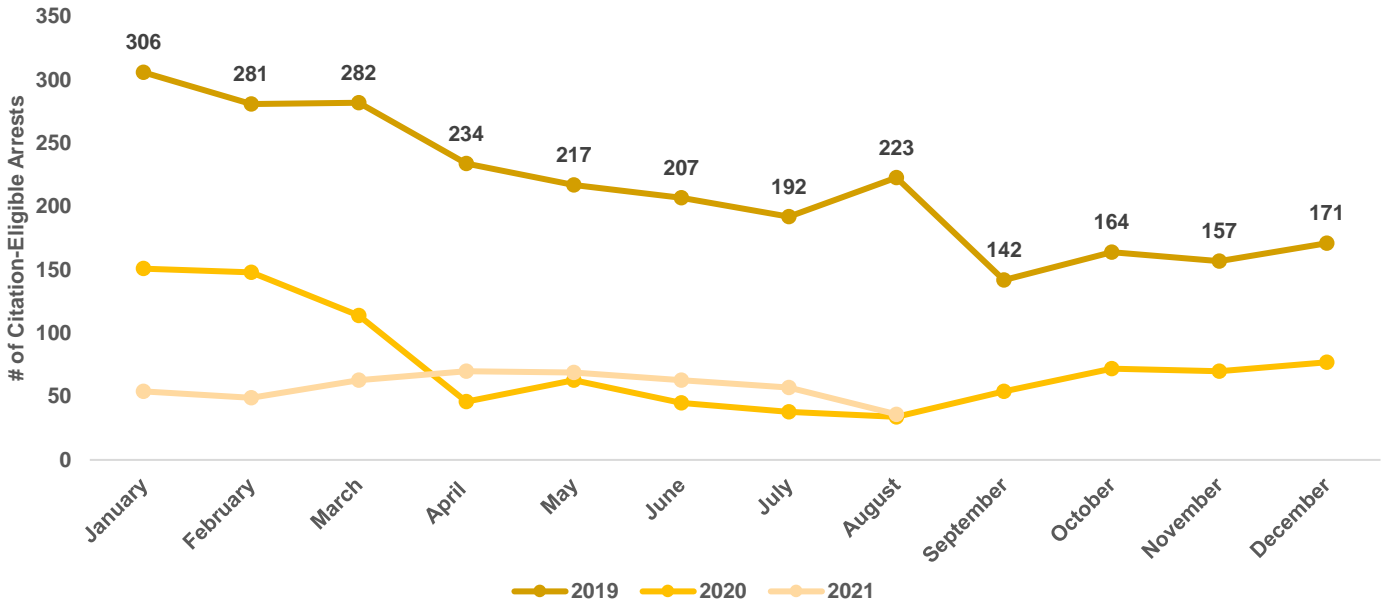
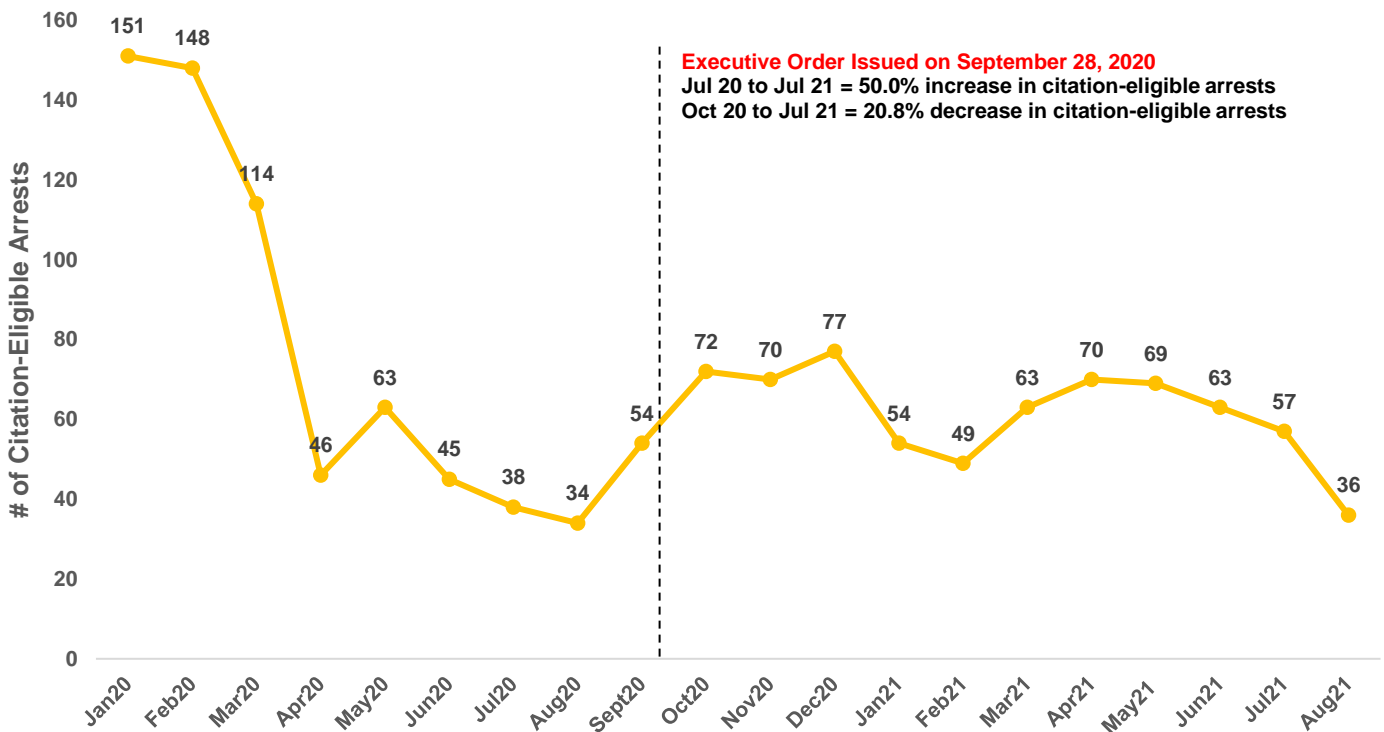


Figure 6: # of Citation Eligible Arrests made by HPD After Executive Order Instituting the City's Cite and Release Program



Recommendations

1. Improve Data Collection and Management of Cite and Release Practices

There are a couple of things worth noting regarding the data that was used in this analysis. First and foremost, it is important to mention that there are a number of requirements associated with this data that are needed to even perform this kind of assessment. The most noteworthy being that the data needs to have either a unique identifier per person and the offense/charge information needs to include the charge level (misdemeanor v. felony), degree (Class C, B, A), and type (e.g., theft, possession of marijuana, or graffiti). This level of information could unfortunately not be obtained through HPD directly and instead had to be requested from the Harris County District Clerk's Office. When HPD representatives were asked about where they get their information from regarding cite and release practices, their response was that it came from Harris County. With data originating outside of HPD, it is difficult to fathom how the Department can keep adequate and sufficient tabs on how and when cite and release practices are being used.

The second area of concern regarding data collection, is the inability to determine *why* citation-eligible arrests are occurring. In Executive Order EO 1-68, there are a number of factors that disqualify someone from being cite and release eligible. These factors include but are not limited to, whether the person subject to arrest presents a threat to themselves or others, whether they are on parole, whether they refuse to sign a citation agreeing to appear in court, or whether they need immediate medical attention. To identify the variables that contribute to an officer's decision to arrest over issuing a citation, data on this information should be collected and reported moving forward.

2. Improve Data Transparency and Reporting of Cite and Release Practices

In June of 2021, Mayor Turner launched a "Police Transparency Dashboard" to give the public new tools to search for information about the Houston Police Department's encounters and demographics. The dashboard is missing critical information for assessing performance of Executive Order EO 1-68. Demographics of those arrested/cited, reason for arrests over citation, number of arrests versus citations, over time, by location, and charge degree/type, for example, are all data points that could be useful in the continued assessment of this order. The dashboard should be updated to display this information and the Department is strongly encouraged to reference the cite and release dashboard (and quarterly reports) produced and managed by the San Antonio Police Department and the Bexar County District Attorney's Office. This dashboard serves as a real time supplement to their quarterly reports, which also assesses the amount of time/resources saved by issuing citations over arrests.

3. Conduct Consistent Racial Impact Analyses for the Purpose of Identifying and Correcting Disproportionate Application.

The results of the analysis show Black Houstonians to be disproportionately impacted by citation-eligible arrests, and significantly so. Meaning that even though they may qualify to be cited and released, the chances of being arrested instead of being given a ticket and a court date is 3.6 times higher for a Black Houstonian than their White neighbor. These numbers hold true for the roughly 2.5 years examined and will continue to occur unless monitored and addressed. As disproportionate application of enforcement can be indicative of larger issues at the officer, precinct, and even department level.

Again, thank you for time and consideration of this comment. Please contact us if you any questions or concerns.