DATA REPORT

OPERATION LONE STAR

Misinformation and Discrimination in Texas Border Enforcement

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EXECUTIVE SUMMARY

Texas Governor Greg Abbott launched Operation Lone Star (OLS) in March 2021 as a state-run immigration enforcement program. The program[1] has cost more than $11.2 billion[2] to date and aims to "detect and repel illegal crossings, arrest human smugglers and cartel gang members, and stop the flow of deadly drugs like fentanyl into our nation."

The American Civil Liberties Union of Texas and the ACLU used open records requests to gather arrest data from the Texas Department of Public Safety (DPS) and court data from the Office of Court Administration of the Texas Judicial System (OCA) between 2021 and 2023.

We have consistently argued that OLS is unconstitutional and identified rampant civil rights abuses in the program. This analysis of state-provided data goes further to show that the program fails to meet its stated mission and overwhelmingly targets racial minorities for misdemeanor offenses. The program places arrestees in a separate criminal prosecution and detention system, which has failed to provide due process.

Our analysis reveals that OLS spends billions of dollars to racially profile and arrest people who pose no threat to public safety, then forces them into a separate and unequal legal system run by the state.

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[1] Operation Lone Star, Office of the Texas Governor, https://gov.texas.gov/operationlonestar
[2] Serrano, A (April 22, 2024) Migrant apprehensions are down at the Texas border. Have state policies had an impact?, Texas Tribune, https://www.texastribune.org/2024/04/22/texas-border-migrant-apprehensions-abbott-operation-lone-star/

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KEY FINDINGS

- **OLS demonstrates racial profiling and unconstitutional policing.** Arrest rates for trespassing were significantly higher for Latine people. More than 96% of arrests for alleged trespassing were Latine people, and among trespassing arrests, Latine people received 98.1% of charges that were enhanced for occurring in a "Disaster Area."

- **OLS has primarily arrested people accused of low-level offenses like trespassing rather than drug-related offenses, human smuggling, or weapon charges.** Nearly 70% of court appearances were for misdemeanor charges.

- **OLS has overwhelmingly prosecuted U.S. nationals[1] rather than migrants for drug-related offenses, human smuggling, and weapon charges.** U.S. nationals comprised approximately 75% of all court proceedings for these offenses.

- **OLS has expanded far beyond the border.** Thirteen thousand six hundred arrests occurred in non-border counties, many of them hundreds of miles from the nearest port of entry.

- **OLS data is inconsistent across state agencies.** While the the Department of Public Safety reported 38,030 arrests, only 13,306 people appeared before a magistrate according to the Office of Court Administration.

RECOMMENDATIONS

Texas should end the Operation Lone Star program and repurpose the billions of taxpayer dollars consistently allocated in the state budget to other challenges. Funds used for OLS could improve our communities by addressing the most pressing needs at the border, such as expediting crossing at ports of entry for goods being shipped into the U.S., improving water management and retention infrastructure, or improving public hospitals and schools.

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[1] This report refers to "nationals" rather than "citizens" because the agencies' production does so. Likely, all U.S. nationals represented in this dataset are U.S. citizens. "Non-citizen nationals" is reserved for individuals born in United States territories. They hold United States passports but are denied political rights. See https://www.aclu.org/news/voting-rights/nationals-but-not-citizens-how-the-u-s-denies-citizenship-to-american-samoans.https://gov.texas.gov/operationlonestar

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Texas government officials have not provided any quantifiable target or objective that must be met for OLS to have achieved success. It is also unclear what would need to happen for the government to decide to wind down OLS.

As long as Operation Lone Star is ongoing, the following recommendations will help stop the human and civil rights violations of this program, reduce its harsh impacts on border communities, and ensure taxpayer dollars are not wasted:

- **Repeal enhanced trespass penalties.** Some 97 percent of trespass prosecutions did not include any other offense, forcing people to go on trial on the lone charge of entering land on private property. OLS fails to improve actual public safety, and, as demonstrated by the large percentage of court cases for trespassing, the program fails to target cartel operatives and drug smugglers or related high-level crimes.

- **Return access to local parks and banks of the Rio Grande to border communities.** Cease any operation that requires the takeover of public lands, like the operation in Shelby Park in Eagle Pass.

- **Stop abusing emergency disaster declarations.** Texas has renewed a Border Security Disaster Declaration to access additional local and state resources since May 2021, even when <u>encounters at the border dropped.</u>[1] The declarations use a state authority to unconstitutionally regulate migration, a power vested exclusively in the federal government. Border prosecutors should stop using the emergency declaration as the basis for increasing penalties for trespass offenses committed by crossing private property, for example. Without the emergency declaration, trespassing offenses normally would be treated as a Class C misdemeanor that's punishable by a ticketed fine.

- **Coordinate with the federal government to ensure that people seeking asylum are given their lawful right to do so.**

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[1] Serrano, A (April 22, 2024)

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- **Establish an independent monitor for OLS actors like DPS and the Texas National Guard.** The monitor would be tasked with ensuring the program complies with state and federal law, and does not violate the rights of members of border communities or any community where OLS is active.

- **Redirect OLS funds to impacted ranchers and farmers, and other members of border communities that face land use issues.** State and federal forces placed along the Texas border have disrupted or disturbed landowner's property, according to reports.[1]

- **Ensure the program is transparent and accountable to Texans and policymakers by improving data collection and reporting for the Operation Lone Star program.** Require DPS, OCA, Texas Department of Criminal Justice (the agency running state prisons), and the Texas Military Department to provide detailed information and regular reporting about their operations.

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[1] García., U. J. (Aug. 7, 2023), Eagle Pass residents sour on Texas Gov. Greg Abbott's Operation Lone Star, Texas Tribune, https://www.texastribune.org/2023/08/07/texas-border-eagle-pass-abbott-operation-lone-star/

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METHODOLOGY

The analysis herein uses two data sources. First, arrest-level data for a snapshot of records was provided by the **Texas Department of Public Safety (DPS) for March 4, 2021, to Jan. 11, 2024**. The snapshot of DPS data was reported on Jan. 12, 2024, and does not represent the totality of criminal arrests and charges.[1] The second set of data is from the **Office of Court Administration of the Texas Judicial System (OCA)** records of defendants' appearances before a magistrate.[2] The court records span **July 20, 2021, to Dec. 31, 2023,** and the report was generated on Feb. 23, 2024. Both sets of data were obtained from a records request by the ACLU of Texas. In the report, references to arrests are from DPS data, while references to magistrations are from OCA data.

The raw arrest data included 401 different charges. We grouped them into five common charge categories that were present in at least 4.9% of all arrests and which were nominally related to the operation: drug-related (any charge that involves possession or distribution of any illicit drug), transport of persons, trespass, evading arrest, and weapon-related (any charge that involves possession or use of any weapon). Though some arrests incorporate charges across multiple categories, a charge from at least one of these categories was present for 90.3% of arrests.

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[1] Charges reflected in the DPS data include Texas Penal Code 20, 20a, 30.05, 31.07, 34.02, 37.09, 38.03, 38.04, 46, and 71.02; Texas Health and Safety Code 481 and 483; Texas Transportation Code 545.421; Titles 8 USC, 18 USC § 922, 18 USC § 1546, 18 USC § 1956, 18 USC § 1960, 21 USC § 801-971, 26 USC § 5861, 26 USC § 7206; and all warrants.

[2] These appearances were with magistrates operating under the Supreme Court of Texas Renewed Emergency Order Regarding Indigent Defense and the Border Security State of Disaster Order Misc. Docket No. 23-9086 and preceding orders.

Arrest data was joined to population data from the Census Bureau's 2021 American Community Survey. The arrest rate was calculated as the number of arrests per 1,000 members of the population. This approach was limited by DPS records not including the arrested population's nationalities or places of residency. Still, the rate shows how different communities are policed relative to their presence.

The figures we received from DPS and OCA showed alarming disparities despite both agencies tracking arrests made under OLS. Within these datasets, there were 38,030 arrests reported by DPS, but only 13,306 people appeared before a magistrate as reported by OCA. Additionally, arrests for drug charges made up 40% of arrests but only 3% of first appearances. Misdemeanors accounted for 40% of arrests and 70% of court appearances.

A note on the data: It is likely that both OCA and DPS collect fundamentally different data and that many arrests do not lead to an appearance before a magistrate. This data raises the question: If people are being arrested but not appearing before a magistrate, who decides whether an individual is funneled into the separate legal system Texas has created under OLS?
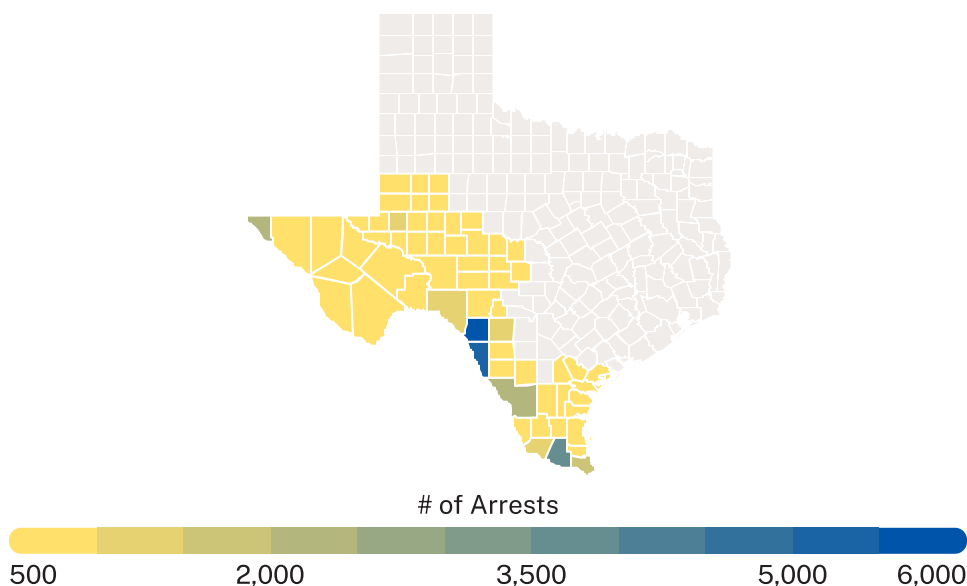
COUNTIES

This report analyzes Operation Lone Star arrests and magistrations. The DPS arrest data comprises 38,030 arrests that took place in 63 (of Texas' 254) counties. The OCA court data includes 13,306 defendants' appearances before magistrates.

Although arrests were made in 10-plus counties according to OCA, all magistrations occurred in Val Verde and Jim Hogg counties. While not all arrests lead to a trial, the large gap in data indicates that many arrests are not leading to appearances before a magistrate either.

Map of Arrests Made Under Operation Lone Star Between 2021 and 2023
Source: Texas Department of Public Safety

# of Arrests

| 500 | 2,000 | 3,500 | 5,000 | 6,000 |

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Abbott's underline original declaration[1] of a border disaster named 34 counties as the target of border enforcement measures. Of those counties, four have had no arrests take place under Operation Lone Star from its announcement through January 2024. In January 2024, Abbott renewed the underline disaster declaration,[2] naming 58 counties as disaster areas. Of those counties, 18 counties have had no arrests under Operation Lone Star through January 2024.

🔍 Search

Arrest County	Total DPS Arrests	Included in Original Disaster Declaration (June 2021)	Included in Declaration Renewal (January 2024)
Kinney	5,831	Yes	Yes
Maverick	5,093	Yes	Yes
Hidalgo	3,702	Yes	Yes
El Paso	2,260	Yes	Yes
Webb	2,054	Yes	Yes
Cameron	1,918	Yes	Yes
Starr	1,407	Yes	No
Val Verde	1,277	Yes	Yes
Uvalde	1,227	Yes	Yes
Ector	1,128	No	No
Jim Hogg	861	Yes	Yes
Zavala	783	Yes	Yes

[1] Office of the Texas Governor (June 01, 2021), Governor Abbott Issues Disaster Declaration In Response To Border Crisis In Texas, https://gov.texas.gov/news/post/governor-abbott-issues-disaster-declaration-in-response-to-border-crisis-in-texas

[2] Office of the Texas Governor (Jan. 18, 2024), Governor Abbott Renews Border Security Disaster in January 2024, https://gov.texas.gov/news/post/governor-abbott-renews-border-security-disaster-declaration-in-january-2024

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According to DPS, the three counties with the most arrests were all counties that border Mexico: Kinney, Maverick, and Hidalgo. These three counties had 38.5% of all arrests.

Top 10 Counties by Number of Arrests Under Operation Lone Star

County	# of Arrests	% of Arrests
Kinney	5,831	15.3%
Maverick	5,093	13.4%
Hidalgo	3,702	9.7%
El Paso	2,260	5.9%
Webb	2,054	5.4%
Cameron	1,918	5.0%
Starr	1,407	3.7%
Val Verde	1,277	3.4%
Uvalde	1,227	3.2%
Ector	1,128	3.0%

CHARGES

To assess the types of charges made under OLS, we grouped charges into the five categories in the table below. These five categories are meant to represent various aims of the operation. At least one of the five categories of charges was made in over 90% of the arrests.

According to DPS records, OLS arrests were most frequently for drug-related, trespass, and transport of persons charges.

Operation Lone Star Arrests Included Drug-Related, Trespass, and Transport of Persons Charges at High Rates

Charge Type	# of Arrests Including Charge Type	% of Arrests Including Charge Type
Drug-Related	15,022	39.5%
Evading Arrest	3,333	8.8%
Transport of Persons	8,664	22.8%
Trespass	9,545	25.1%
Weapon-Related	1,857	4.9%
Other	5,601	14.7%

Note: The percentages don't sum to 100 because an arrest can have multiple charges associated with it.

The DPS arrest records indicate that 39.5% of arrests included drug-related charges, and 4.9% of arrests included weapon-related charges. By contrast, according to OCA records, only 2.8% of magistrations included drug-related charges, and only 2.2% included weapon-related charges. This dramatic difference from arrests to first appearance before a magistrate, especially for drug-related charges, indicates arrests are not leading to trial or that the two state agencies are keeping records in vastly different ways.

43% of Operation Lone Star Arrests Were for Misdemeanors Only

| Severity of Charges	# of Arrests	% of Arrests
Misdemeanor	16,157	42.5%
Felony	14,355	37.7%
Misdemeanor, Felony	4,452	11.7%
Federal/Other	2,612	6.9%
Felony, Federal/Other	226	0.6%
Misdemeanor, Federal/Other	139	0.4%
Misdemeanor, Felony, Federal/Other	89	0.2%

From arrests to magistrations, the distribution of charge severity differs significantly.

DPS records indicate that 42.5% of arrests only included misdemeanor charges. By contrast, 69.8% of magistrations had only misdemeanor charges, according to OCA records.

Nearly 20% of DPS arrests had split charges, while only 2.9% of all magistrations had charges split across multiple levels of severity in OCA records.

The majority of magistrations — 77.2% — involved a single charge, and 87.4% of those single-charge magistrations were for trespassing. Abbott and state officials claim Operation Lone Star is needed to stem the tide of drug smuggling and human trafficking, but the truth is that OLS largely targets people who are simply trespassing.

Arrests by Whether the Included Charge Type Was Alone or Combined With Other Charge Types

Legend:
- # of Arrests With Only That Charge Type
- # of Arrests With Multiple Charge Types
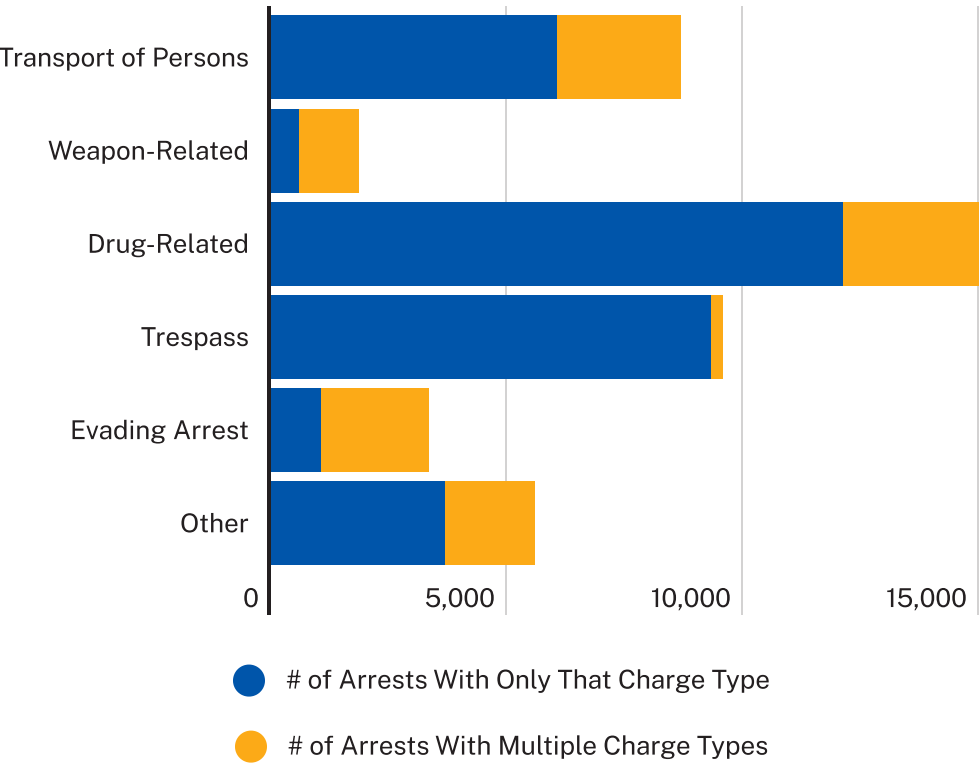
Arrests for trespassing alone made up 24.4% of arrests according to DPS, but OCA records indicate 67.5% of magistrations were for only a trespassing charge, without any accompanying charges.[1] Since state data fails to track each arrestee, our analysis cannot address what happens to OLS arrestees who do not make it to magistration.

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[1] For more on trespassing arrest data, see pages 19-21.

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The two counties with the most arrests, Kinney and Maverick, had a greater share of arrests that featured trespass charges. Other counties with a significant number of arrests had a greater share of arrests that featured drug charges.

**Top 10 Counties by Number of Arrests and Charges Included**
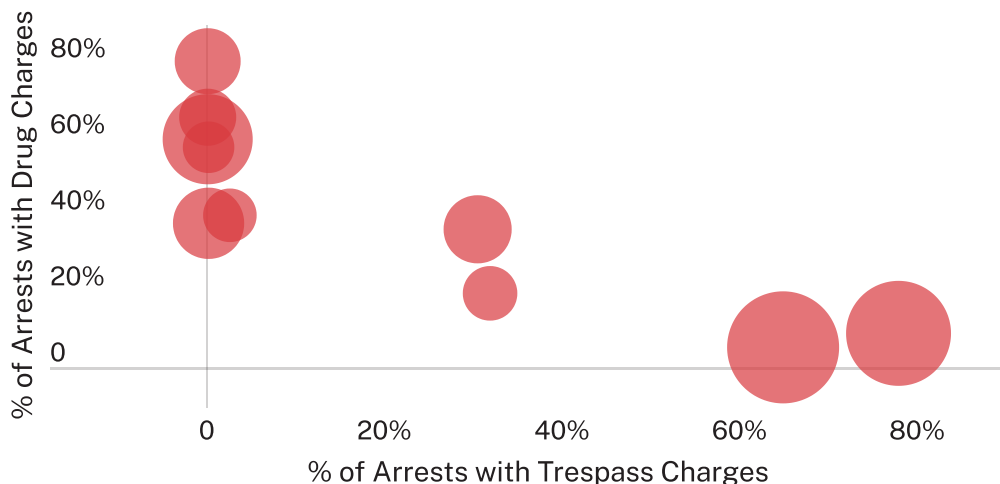
County	Total Arrests	% of Arrests with Drug Charges	% of Arrests with Trespass Charges
Kinney	5,831	5.4%	64.9%
Maverick	5,093	8.9%	77.9%
Hidalgo	3,702	59.8%	0.1%
El Paso	2,260	37.8%	0.2%
Webb	2,054	36.1%	30.5%
Cameron	1,918	80.7%	0.1%
Starr	1,407	65.8%	0.1%
Val Verde	1,277	19.7%	31.9%
Uvalde	1,227	39.9%	2.6%

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RACE

The DPS arrest records included the person's race but not their nationality. The following analysis of race pertains to DPS data.

Latine people made up the vast majority of arrests across charge types, especially trespassing. Black and Latine people had disproportionately high arrest rates compared to their population.
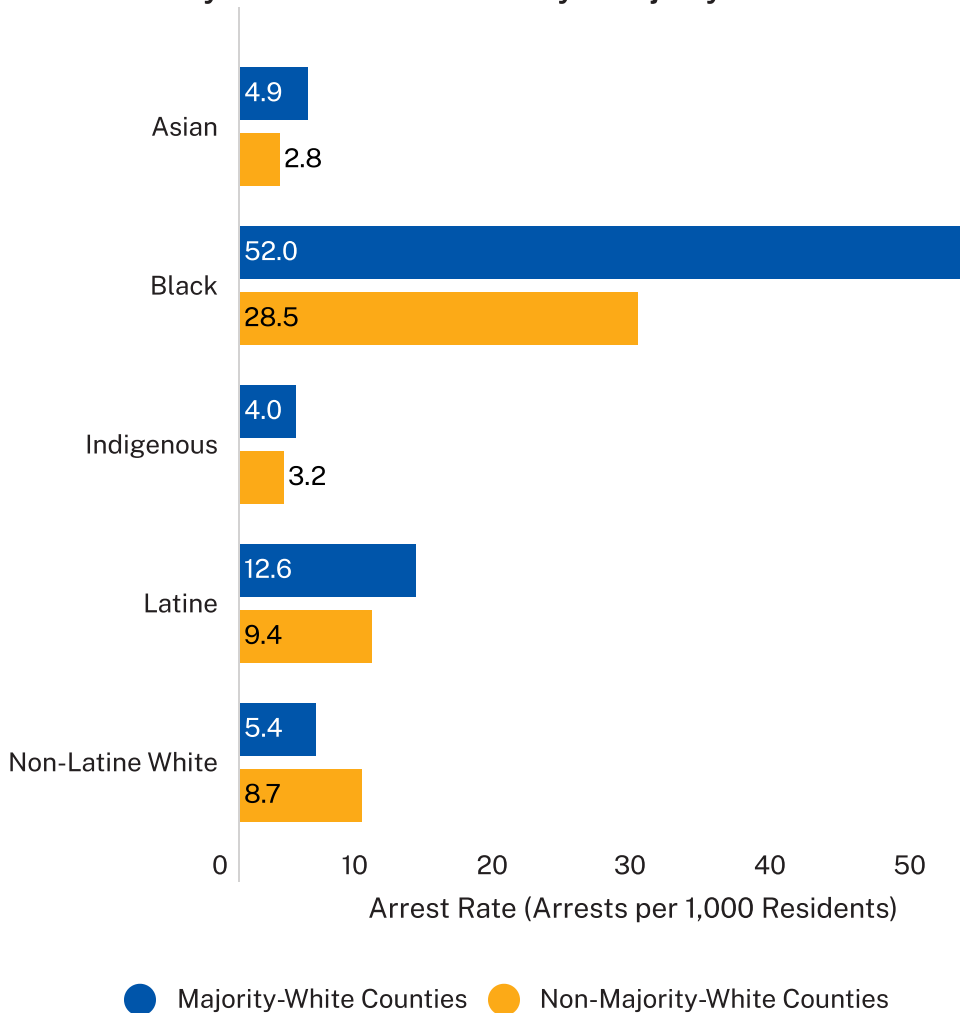
Share of Arrests Including a Charge Type by Race of Arrested Person
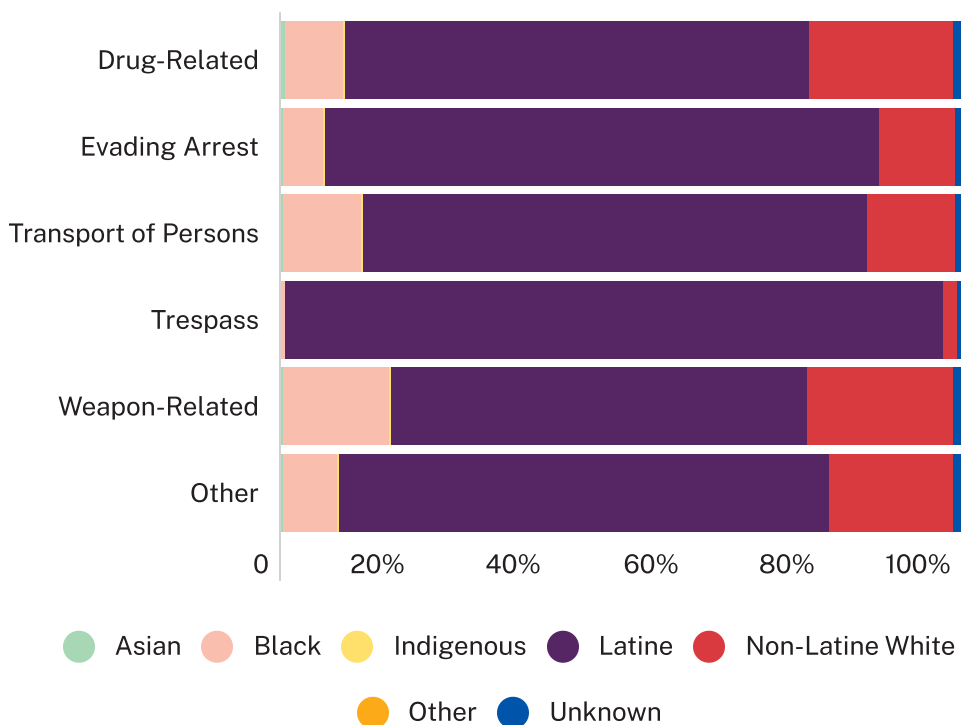
Majority-Latine counties had an arrest rate of 10.0 arrests per 1,000 residents, significantly greater than the arrest rate of 7.3 in non-majority-Latine counties.

Majority-white counties had an arrest rate of 9.4 arrests per 1,000 residents, similar to the arrest rate of 9.7 in non-majority-white counties. However, broken down by race, arrests in majority-white counties disproportionately targeted Black and Latine people.

Arrest Rates by Race and Whether County Is Majority-White

Race	Majority-White Counties	Non-Majority-White Counties
Asian	4.9	2.8
Black	52.0	28.5
Indigenous	4.0	3.2
Latine	12.6	9.4
Non-Latine White	5.4	8.7

Arrest Rate (Arrests per 1,000 Residents)

● Majority-White Counties ● Non-Majority-White Counties

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NATIONALITY

The OCA records of magistrations listed the person's nationality but not their race or ethnicity. The following analysis of nationality pertains to OCA data. Magistration data included people of nationalities from all continents except Antarctica.

Number of Magistrations by Nationality of Person

| 0 | 1,000 | 2,000 | 3,000 | 4,000 | 5,000 |
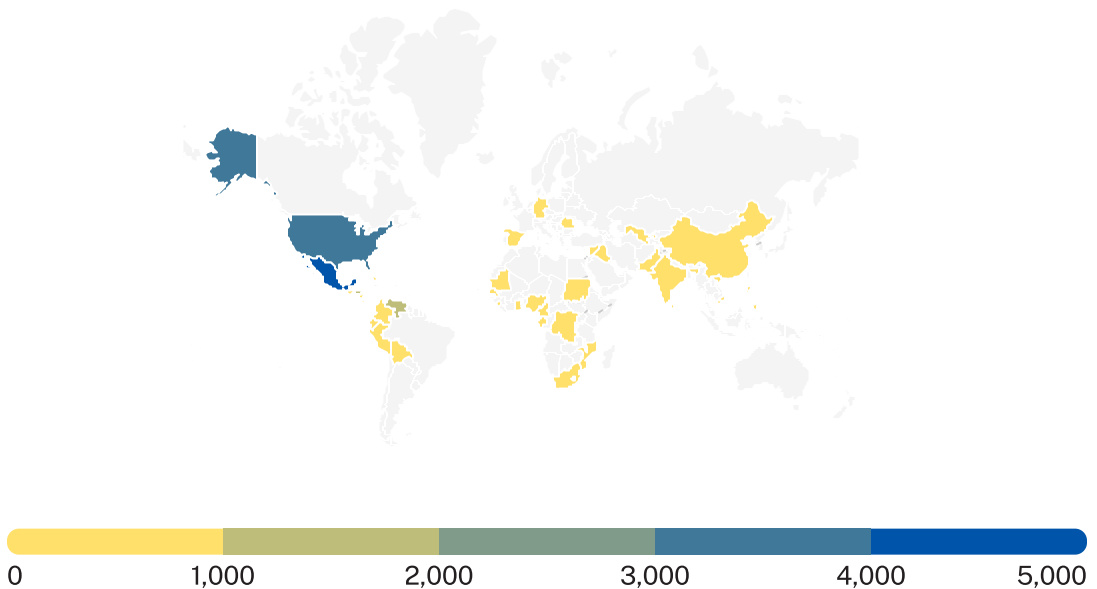
After <u>Mexican nationals</u>, U.S. nationals were by far the most prevalent group taken before magistrates under Operation Lone Star.[1]

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[1] See footnote on Page 4 for the usage of "nationals" in this report, a term used by the agencies that produced this data. Likely, all U.S. nationals represented in this dataset are U.S. citizens.

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Magistrations for Most Prevalent Nationalities

Nationality of Person	# of Magistrations	% of Magistrations
Mexico	5,285	39.7%
USA	3,076	23.1%
Honduras	1,679	12.6%
Venezuela	1,305	9.8%
Guatemala	459	3.4%
El Salvador	322	2.4%
Cuba	295	2.2%
Nicaragua	226	1.7%
Colombia	210	1.6%

U.S. nationals (primarily citizens) comprised the majority of all magistrations involving drugs, smuggling of persons, or weapons. Trespassing-only magistrations mostly involved a variety of nationalities from Latin America.

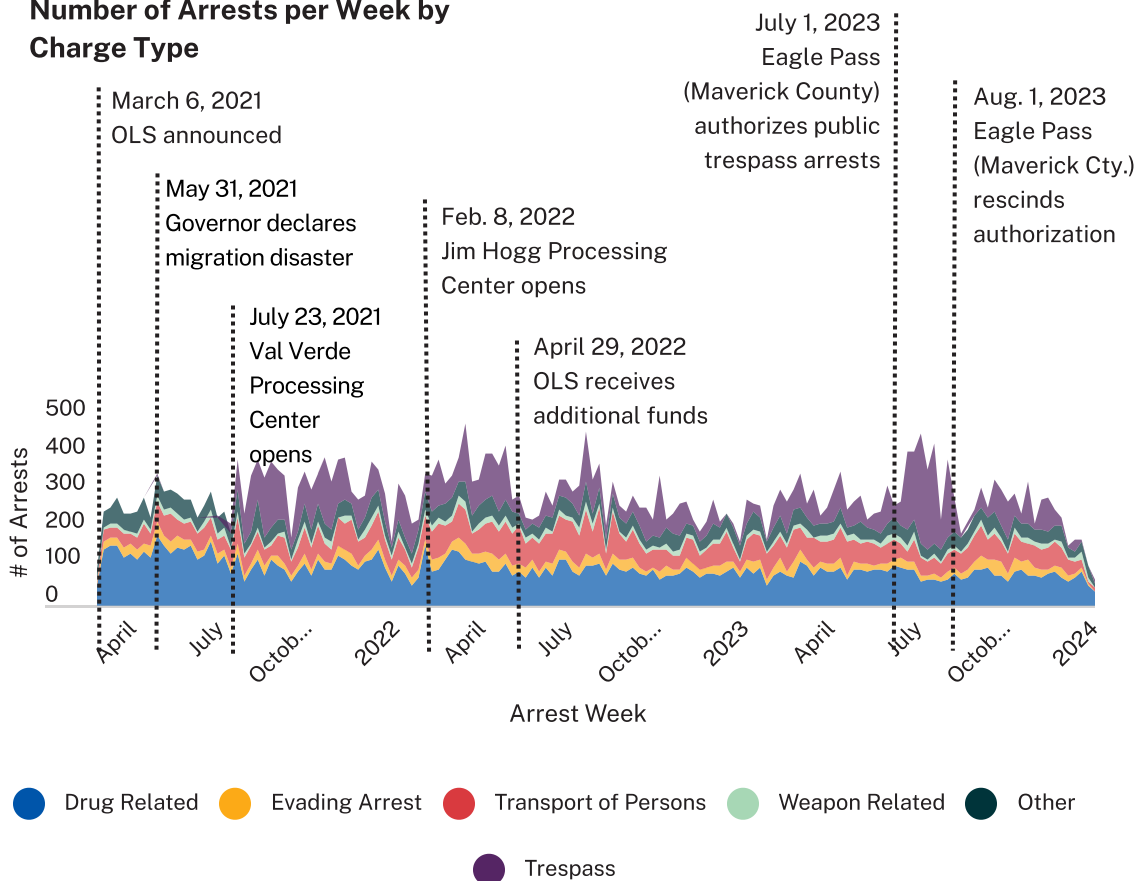## Charge Group by % of Magistrations for a Nationality

Nationality	Involves Drugs	Involves Smuggling of Persons	Involves Weapon	Only Trespassing
USA	85.8%	76.3%	90.1%	0.2%
Colombia	0.3%	0.4%		2.1%
Cuba	0.8%	3.1%	1.0%	1.9%
Ecuador		0.0%		1.5%
El Salvador	0.5%	2.3%	1.0%	2.5%
Guatemala	0.8%	1.7%	0.7%	4.3%
Honduras	3.8%	4.8%	1.4%	15.9%
Mexico	5.7%	7.9%	3.8%	52.8%
Nicaragua		0.8%	0.3%	2.2%
Venezuela		0.8%		14.0%

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The timeline of arrests by charge type tells the story of enforcement. As funding for OLS increased and centers for processing and detaining people proliferated, spikes in arrests followed, especially for trespassing. Toggle the charge types by clicking the legend.

Number of Arrests per Week by Charge Type

March 6, 2021
OLS announced

May 31, 2021
Governor declares
migration disaster

July 23, 2021
Val Verde
Processing
Center
opens

Feb. 8, 2022
Jim Hogg Processing
Center opens

April 29, 2022
OLS receives
additional funds

July 1, 2023
Eagle Pass
(Maverick County)
authorizes public
trespass arrests

Aug. 1, 2023
Eagle Pass
(Maverick Cty.)
rescinds
authorization

# of Arrests

500
400
300
200
100
0

April · July · Octob... · 2022 · April · July · Octob... · 2023 · April · July · Octob... · 2024

Arrest Week

● Drug Related   ● Evading Arrest   ● Transport of Persons   ● Weapon Related   ● Other
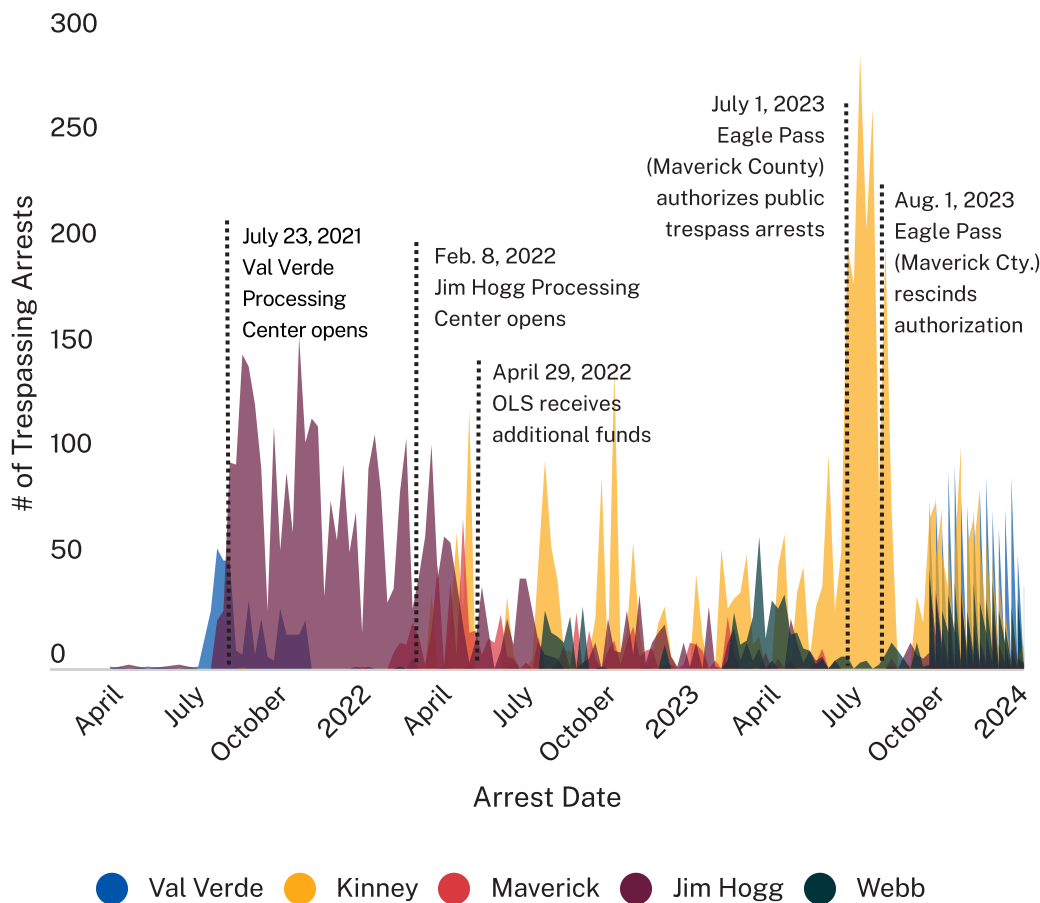
● Trespass

Trespassing arrests spiked in Val Verde County after a new intake center was opened there, as did trespassing arrests in Jim Hogg County once an additional processing center opened there.

Trespassing arrests in Maverick County spiked after Operation Lone Star received an infusion of an additional $500 million in state funding.

The five counties shown each had at least one week with over 50 trespassing arrests, and all are border counties, except Jim Hogg County (28 miles north of the border).

## Number of Trespassing Arrests per Week by County

Limited to counties with at least one week with over 50 trespassing arrests

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TRESPASS

On Sept. 21, 2022, a Texas judge ruled that the Department of Public Safety had engaged in unconstitutional sex discrimination in its enforcement of anti-trespassing laws and vacated the cases pending against six male plaintiffs.[1] The plaintiffs had argued that the arrests for trespassing under Operation Lone Star disproportionately targeted men.

People arrested for trespassing were almost exclusively men until the ruling, after which the department started arresting women. Total trespassing arrests per week did not significantly change following the ruling, outside of the Maverick County spike in arrests in the summer of 2023 (see page 21).

Share of Trespassing Arrests per Week by Sex of Person Arrested
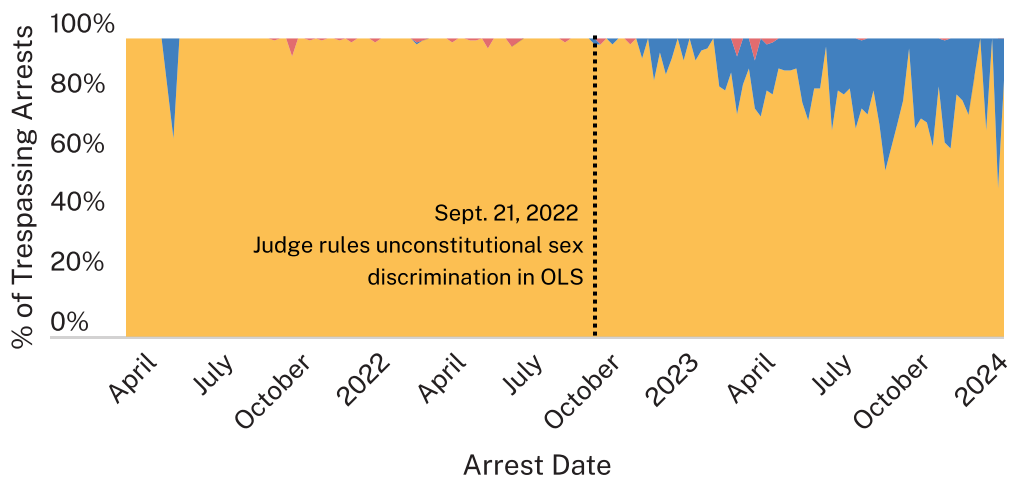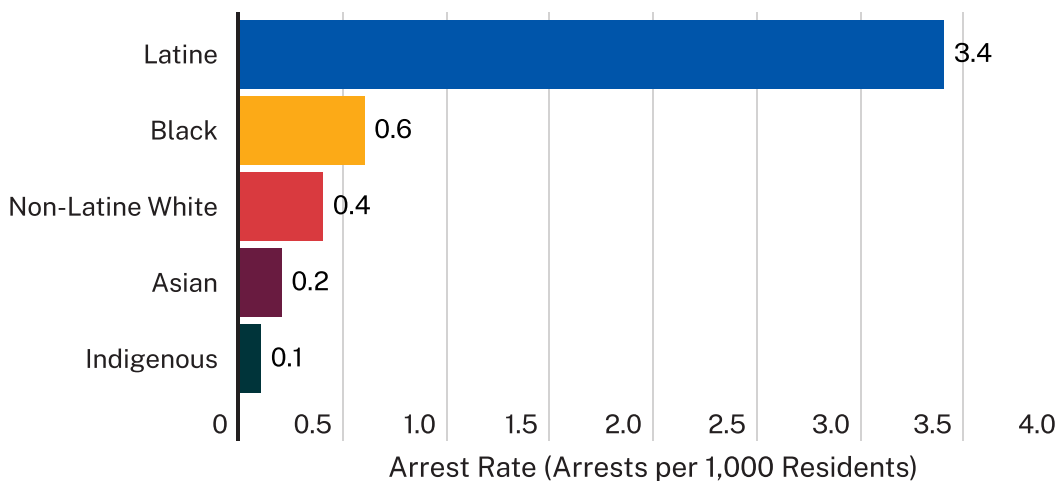

Legend: ● Male ● Female ● Other/Unknown

[1] Harris, G (Sep. 21, 2022) , Operation Lone Star: South Texas judge dismisses case of 6 migrants accused of trespassing, KHOU 11, https://www.khou.com/article/news/local/texas/south-texas-operation-lone-star-sex-based-discrimination/285-5dc99465-a8ce-4631-82a8-14af85f6d49c

Trespassing arrests were also disproportionately concentrated in border counties. The share of charges that were for alleged trespassing was seven times greater in border counties compared to non-border counties (31.5% versus 4.4%). Other charge types did not have this same disparity.

Charge Type	% of Arrests in Border County	% of Arrests in Non-Border County	Border:Non-Border Ratio
Drug-Related	27.7%	45.3%	0.6
Evading Arrest	8.2%	6.5%	1.3
Transport of Persons	20.1%	18.9%	1.1
Trespass	31.5%	4.4%	7.2
Weapon-Related	2.9%	6.6%	0.4
Other	9.6%	18.3%	0.5

Arrest rates for trespassing were significantly higher for Latine people. More than 96 percent of arrests for alleged trespassing were Latine people, and among trespassing arrests, Latine people received 98.1% of charges that were enhanced for occurring in a "Disaster Area."
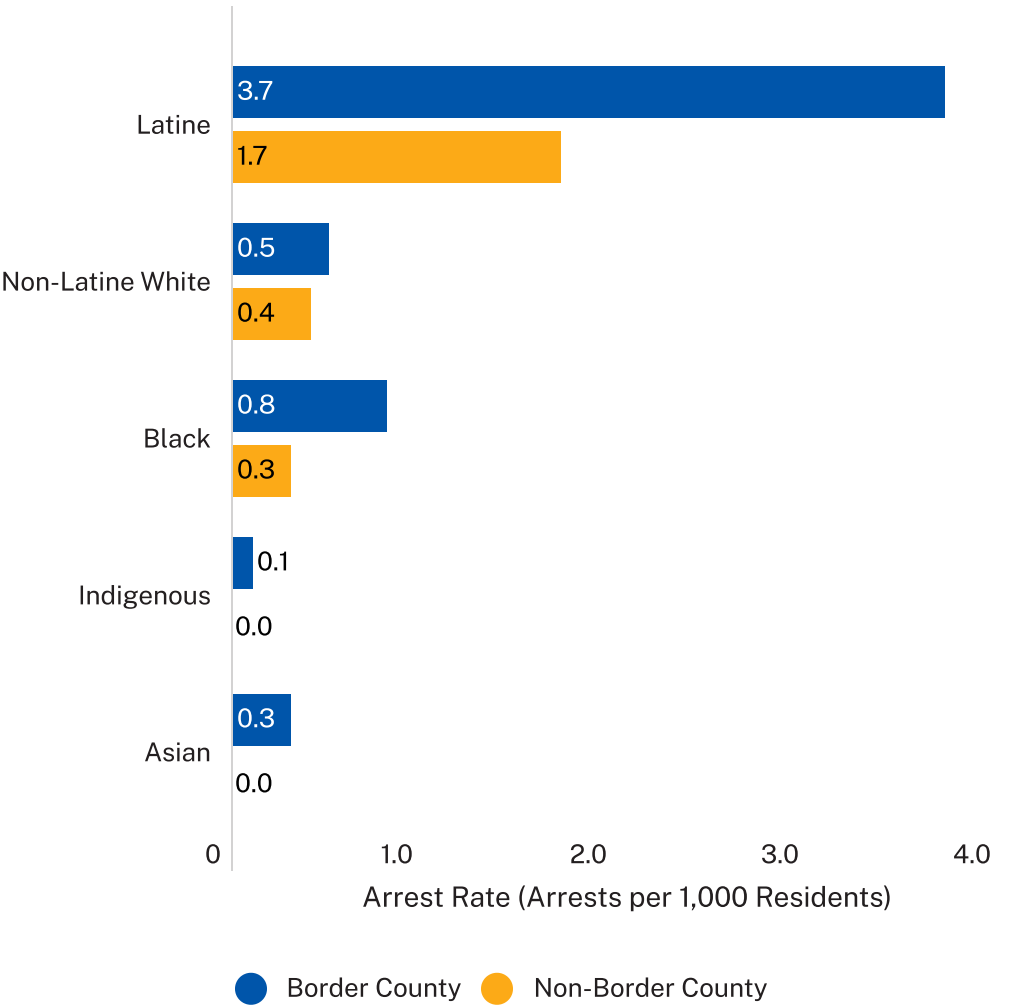
Arrest Rates for Trespassing by Race of Person Arrested

Latine 3.4
Black 0.6
Non-Latine White 0.4
Asian 0.2
Indigenous 0.1

Arrest Rate (Arrests per 1,000 Residents)

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Latine people in border counties bore the brunt of trespassing arrest enforcement. Among Latine people, counties bordering Mexico had 3.7 trespassing arrests per 1,000 residents, compared with 1.7 in non-border counties.

All these arrests occurred as a result of Abbott's border emergency declaration. Without the declaration, alleged trespassing offenses would be treated as a Class C misdemeanor that's punishable by no more than a ticketed fine.

Trespass Arrest Rates by Race and Whether County Borders Mexico

Race	Border County	Non-Border County
Latine	3.7	1.7
Non-Latine White	0.5	0.4
Black	0.8	0.3
Indigenous	0.1	0.0
Asian	0.3	0.0

Arrest Rate (Arrests per 1,000 Residents)

● Border County ● Non-Border County

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CONCLUSION

Texas Governor Greg Abbott and other state officials claim that Operation Lone Star is needed to stem the "invasion" at the border. This rhetoric is dangerous because of its roots in white supremacy and has stoked anti-immigrant sentiment in Texas, as was on display in the 2019 mass shooting by a white nationalist in El Paso. Additionally, the governor contends OLS targets drug smuggling and human trafficking. However, the scope of arrests, in terms of charges brought, arrest locations, and arrest rates by race, demonstrates that enforcement under Operation Lone Star has strayed beyond its stated purpose while doing little to measure the program's "successes."

A significant share of arrests focused on misdemeanors, like trespassing, without any other accompanying charges. Arrests disproportionately targeted people of color, especially in non-border and majority-white counties. Patterns in court proceedings demonstrated similar, if not more pervasive, disparities. Moreover, DPS and OCA records reveal inconsistencies in Texas agencies' reporting on Operation Lone Star. Both sets of data nonetheless reveal discriminatory enforcement patterns and evidence of overreach past OLS' stated mandate.

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Abbott has continuously touted the success of OLS but has yet to offer concrete objectives or a clear final goal to measure the program's effectiveness. The Texas legislature funded Operation Lone Star until 2025,[1,2] but neither officials nor Abbott have indicated how long the state will continue the program or what requirements must be met for it to end.

The data demonstrates a need to continue ensuring complete and accurate reporting of arrests made under Operation Lone Star, scrutinizing sex and race discrimination in arrests, and investigating overreach of enforcement. These findings undermine the claim that people attempting to migrate threaten public safety and help validate the myriad of public concerns raised against Operation Lone Star.

Our immigration system is broken and we need solutions to create a more fair, humane, and efficient system. Operation Lone Star has proven to be nothing more than a cruel exercise with an expensive price tag.

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[1] In the most recent Texas legislative session in 2023, the state approved an additional $5.1 billion for OLS during the regular budget, and then added $1.5 billion more during a special session. As noted in the executive summary, the total amount of funding now exceeds $11 billion. See the following:
https://www.lbb.texas.gov/Documents/Appropriations_Bills/88/Conference_Bills/CCR_HB1.pdf
[2] https://capitol.texas.gov/tlodocs/884/billtext/pdf/SB00003F.pdf#navpanes=0

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