



May 12th, 2021

Senate Judiciary and Ballot Measure 110 Implementation Committee
Oregon State Legislature
900 Court St. NE
Salem, OR 97301

RE: Testimony in Support of HB 3164A, Interfering with a Police Officer

Chair Prozanski, Vice-Chair Thatcher, and members of the committee,

Thank you for the opportunity to provide testimony on behalf of the American Civil Liberties Union of Oregon (ACLU of Oregon). We are a nonpartisan, nonprofit organization dedicated to the preservation and enhancement of civil liberties and civil rights, with more than 28,415 members and supporters statewide. We are here today in support of HB 3164A.

As we continue to come together with a commitment to fundamentally redesign and realign our communities around what public safety means and looks like, the ACLU of Oregon is grateful to be here today in support of HB 3164, and we thank Speaker Kotek for bringing this important bill forward on our behalf. In Oregon, we have seen organizers protest against police violence against Black people and demand that its government officials and systems ensure that Black Lives Matter. As these protests occur, we are seeing civil liberties like free speech tested, suppressing BIPOC voices and creating a dampening effect on our first amendment rights.

Regardless of the viewpoints being expressed in Oregon streets, both the federal and Oregon constitution provide expansive protection for our freedom of expression and right to gather together. In the context of current events, it is imperative that we move forward with the understanding that the role of police should be to facilitate and protect our freedoms, not control and dictate them.

Law enforcement is using ORS 162.247 incorrectly, wielding the spectre of criminalization for those who dare disobey any command. Law enforcement do not need nor should they have such broad authority to arrest Oregonians for mere disobedience, without any required public safety nexus or necessity for a given order. It is no surprise that this tool has been used to criminalize expression, criminalize those gathered with a message challenging how we invest in police, criminalize press reporting on police activities, or criminalize people for asserting their rights to remain silent. This tool has also been disproportionately used against Black Oregonians and houseless Oregonians¹. Officers should follow the law, and the court precedent is clear: the breadth of authority afforded in ORS 162.247 is restricting freedom.

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<https://www.oregonlive.com/crime/2020/08/hundreds-of-protesters-have-been-charged-with-interfering-with-a-peace-officer-but-should-it-remain-a-crime.html>



We support the passage of HB 3164A. We appreciate that the A-Engrossed bill that is before you today clearly address the issues we have identified by:

- 1. Deleting Section 1, 1(b).** An appropriate application of refusing to comply would also meet the definition of 1(a), so deletion ensures clarity.
- 2. Maintaining Section 1, 3(b).** ORS 162.247 cannot be applied when someone is participating in passive resistance, and the Oregon Supreme Court, in *Oregon v. McNally*, clarified that passive resistance is a broad exception.
- 3. Prohibiting charge stacking.** Charge stacking drives mass incarceration and racial disparities in the justice system and should be prohibited where possible.

While we value officers committed to public safety and racial justice, we know that this is a standard that has not been consistently met in Oregon. We've heard the repeated claim that those in the streets are not engaged in speech but rather conduct that they can punish: interfering with a peace officer for refusing to obey a lawful order. The breadth of these laws gives police wide latitude to unleash severe and life-threatening levels of force against the public, as well as strap people like journalists and medical graduate students providing first aid to protesters with arrest and criminal records.

For these reasons, the ACLU of Oregon urges you to support HB 3164A.

Thank you,

Kelly Simon
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ACLU of Oregon