

NO on SB 178

Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee. My name is Marcus Gunn. I'm a criminal defense attorney at Gunn & Gunn here in Salem, and I testify today in opposition to Senate Bill 178.

I want to tell you about my client, Matthew Betschart (he has provided written consent to share this with the committee). In March of 2024, a Salem police officer confronted Matt at his home regarding a car accident, and he did not stop at the scene of the crash. Matt had no idea he had been in an accident, so he took the officer to his garage and showed her his truck. The officer took pictures of his truck and found no damage. The officer admitted that because Matt did not know of any damage, there was no crime. However, she insisted that he provide his contact information for the crash report. The officer kept asking for *two hours*. The officer then resorted to charging Matt with the crime of hit and run to get what she wanted.

When I received the discovery, I found the officer's admission that she did not have probable cause for the crime in her body cam. I also saw the surveillance video of the "crash," which showed that maybe a collision occurred, but the reporting party likely caused it. The case was eventually dismissed months later because the arresting officer had retired, and she was nowhere to be found.

Members of the committee, this story shows that regardless of someone's guilt or innocence, this bill would require Mr. Betschart to pay a fee just to see the State's evidence. The proposed change would require Mr. Betschart to pay to see the bodycam video and surveillance video, which contained exculpatory evidence. That is fundamentally wrong, especially when no other jurisdiction in this country charges what Oregon district attorneys do for discovery.

Additionally, the costs of discovery vary tremendously. I have seen discovery bills as small as \$25 and some as large as \$400 for *misdemeanors*. Another client of mine, Alexander Parra, was charged with a single count of misdemeanor hit and run in the Salem Municipal Court. His discovery bill? \$235.00.

Senators, this bill makes a fundamentally wrong assumption: It assumes that if someone can afford a lawyer, they should pay a discovery fee. The correct analysis should be: "Should someone presumed innocent who hires a private attorney be required to pay to see the evidence?"

I have clients who qualified for court-appointed counsel but hired me by relying on family members, friends, or coworkers, or taking out personal loans to pay my attorney fees.

My final point is this: Digital discovery holds the key to a more efficient criminal justice system. I have had multiple cases where I can advise my client that the plea offer is great because of what I saw in the body cam. I have convinced prosecutors to change their offer or dismiss the charges based on the body camera. Funds are needed, but the burden of that funding should not be on OPDC and certainly not on a defendant presumed innocent only because they hired a lawyer.

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