



June 12, 2025

House Committee on Rules  
Oregon State Legislature  
900 Court St. NE  
Salem, OR 97301

**RE: Testimony in Opposition to Senate Bill 238**

Dear Chair Bowman, Vice-Chair Drazen, Pham and members of the Committee,

Thank you for the opportunity to provide written testimony on behalf of the ACLU of Oregon. The ACLU of Oregon is a nonpartisan, nonprofit organization dedicated to preserving and enhancing civil liberties and civil rights, with more than 48,000 members and donor supporters statewide. We oppose SB 238A and the -11. Both the -11 Amendment and the base bill would expand the use of “unmanned aircraft systems”, that is, “drones”, by law enforcement throughout Oregon without clear language, without transparency, and without oversight and accountability from a court or communities.

Current law allows police to use a drone when they have probable cause of a crime, in exigent circumstances when getting a warrant is not practical, with written consent of people and property owners, for accident reconstruction, and for search and rescue. The ACLU acknowledges that there could be legitimate uses of police drones for some emergencies when there are things like natural disasters or to support fire suppression that current law does not already permit. However, neither SB 238A nor the -11 explicitly permit those uses. Instead, they create broad new uses like “responding to a police call for service” or “public safety emergencies” with low standards that are ripe for abuse.

**Technical Concerns**

While the ACLU of Oregon appreciates some changes in the -11, like the new language in Section 1(4) making clear that the purpose of SB 238A’s language in Section 1(2) (permitting use “not in connection with police activity”) was only to allow drones to fly to and from a site at which drone usage was authorized. However, the -11 does not go far enough to ensure that privacy and expression are protected from invasive or chilling drone usage.

The following concerns still remain about the -11 changes:

**1. The grants of authority are still too broad and vague.**

→ Section 1(1)(a) uses a “reasonable suspicion” standard that is a significantly lower bar than the current standard. Currently, police need “probable cause” to get a warrant. This provision both removes court oversight *and* reduces the standard of factual information needed to deploy a drone. The reasonableness standard is the same standard that has been abused in other settings to justify overpolicing of BIPOC communities. For example, this is the standard that police rely on to make stops for things like “stop and frisk.”

→ Section 1(1)(a)'s limitations are insufficient. For example, 1(1)(a)(B) prohibits "general surveillance," which is an undefined term, that leaves open questions about whether the use in 1(1)(a) permits targeted surveillance or mass surveillance that invades privacy or chills expression.

→ Section 1(1)(b) permits use for an undefined "public safety emergency." This currently vague term needs a definition.

→ The language in Section 1(1)(b) that modifies the term "public safety emergency" is also too broad. Other states qualify the definition of emergency with terms like "immediate" to require the threat of harm to be close in time; this language has no such requirement. Even Oregon defines an emergency to require "widespread" harm. See ORS 401. 025. The ACLU of Oregon is not opposed to the use of drones to support responding to natural disasters or fires, but this language must be modified to avoid abuse. Without requiring immediacy or threat of a high degree of harm, this risks giving the police the ability to deploy drones based on the mere possibility of a broken window.

→ Section 1(1)(b) also sets a low bar of "reasonable suspicion." Reasonable suspicion of future harm does little to address the concerns we have repeatedly raised about predictive policing permitted by language like allowing drone deployment based on what "could occur" as permitted in SB 238A.

→ Section 1(1)(b) exclusion of "lawful assembly" from the meaning of "public safety emergency" offers little comfort because police maintain full discretion to justify the use of drones at protests. Neither "lawful assembly" nor "unlawful assembly" is defined in Oregon law. Furthermore, there is a historical pattern in Oregon policing of declaring overwhelmingly peaceful protests "unlawful assemblies" as a pretext to justify force, dispersal, and arrest. "Unlawful assembly" is also a phrase—and in some states, a crime—that has historically been used to silence BIPOC movements.

→ The same concern with the phrase "lawful assembly" arises in section 1(6)(b).

## **2. There are no minimum standards to ensure there will be transparency and accountability available for violations of this law.**

→ The only data retention provision is limited in scope to data collected under Section 1(1)(a) (responding to calls for service). *See* Section 1(1)(a)(B). There should be clear standards for what law enforcement is obligated to do with all of the information collected by drones no matter the reason for deployment.

→ Section 1(1)(a)(B) also allows data from calls for service to be retained for 30 days even if there is no law enforcement need or purpose to have that data. That retention period, as a general matter, is too long.

→ Section 1(1)(a)(B) also does not make a data retention exception for use of force incidents or incidents of police misconduct. This could prove to be a significant barrier to accountability in the courts or communities if police are free to delete evidence of their own wrongdoing.

→ Section 1(2) only requires documentation "in accordance with record keeping and retention requirements adopted by the law enforcement agency." This just kicks the transparency can

down the road at best and permits local governments to block transparency at worst. For example, nothing in this language prevents local law enforcement from adopting a policy that prohibits documenting drone usage; the no documentation, then, would be “in accordance with” that policy. Without minimum documentation standards, there will be an entire spectrum of degrees of accountability available to the public based arbitrarily on where a person lives.

→ Neither the current language or the -11 provides any mechanism for accountability if the law is violated. This is deeply concerning as courts are simultaneously being removed from the picture. Under Oregon law, evidence suppression is not available when police gather information about the accused in ways that violate Oregon statutory law. [ORS 136.432](#). It is only available if the police violate the Constitution. However, SB 238 risks eroding current search and seizure protections.

→ Section 1(5)(d) may be a well intentioned prohibition on information sharing with federal law enforcement, it does not explicitly say “no sharing with federal law enforcement without a warrant.” Instead it takes a more convoluted language approach that requires a warrant for any party that is not local law enforcement. This may inadvertently give police grounds to refuse to provide to the public videos and other data gathered by drones. That would be a major transparency and accountability problem, especially if there is drone footage of police violence or misconduct.

Documentation of drone usage should also be freely and easily accessible by the public. Some law enforcement have public web-based dashboards. This should be the norm. If police want to use high tech against the public, they should use high tech to inform the public too. Resource constraints should not be ignored for law enforcement surveillance tools on the one hand and emphasized to prevent accountability for the use of those tools on the other hand.

### **Overarching Concerns**

Zooming out, we have the following additional concerns about SB 238A:

#### **1. The communities that risk being most harmed by improper, invasive, or chilling drone usage have not been meaningfully engaged.**

The ACLU of Oregon recognizes the diverse perspectives that have expressed overwhelming opposition to this bill, but we also know that community-initiated testimony is different than being engaged and heard in the process of developing legislative concepts leading up and through the session. Until this bill was being heard in the House Judiciary Committee, no effort to convene stakeholders was made. Outreach from the ACLU of Oregon went unresponded to.

We have heard repeated testimonies from community-based organizations and individuals that communities, especially communities of color, who stand to be the most impacted by expanded use of police technology have not been heard or meaningfully engaged. This is an imperative component of deliberations needed to find a path that meets the needs of police and of the community, and a path that balances safety, civil rights, and civil liberties. The ACLU of Oregon urges you to take time to have a more robust and inclusive conversation.

## **2. Privacy concerns go beyond those prohibited by constitutional floors and should be more carefully considered.**

The rapidly evolving industry of police technology is introducing new privacy concerns that need to be thoughtfully considered and addressed. Oftentimes, police permit private companies, including companies that provide drones like Flock or Axon, to store their data at a given rate. There is little oversight or regulation of these companies, and there are serious risks that data breaches at these companies can expose all manner of private information about people's daily lives.

Data can also be bought and sold. The ability of law enforcement to purchase data from or sell data to private companies creates serious problems for the privacy of Oregonians. This is why states and federal officials, like Oregon's Senator Ron Wyden, are championing bills like the Fourth Amendment is Not For Sale Act. *See, e.g.,* Kate Ruane, "Privacy Rights Do Not Come With a Price Tag," ACLU (Apr. 21, 2021), <https://www.aclu.org/news/privacy-technology/privacy-rights-do-not-come-with-a-price-tag>. These types of protections have garnered bipartisan support because everyone values privacy.

The complex issues that police technology raises do not benefit from rushed and piecemeal approaches like SB 238A. They require a more thoughtful and deliberate approach that gathers a wide range of perspectives and expertise beyond the perspective of law enforcement groups and police officers. Modern policing requires modern thinking, too.

## **3. A needlessly urgent expansion of police authority to use surveillance technology is dangerous when fascism is at our doorstep looking to leverage these very same technologies.**

One of the strongest supporters of this bill is the Law Enforcement Drone Association or LEDA. LEDA is a national organization based in Eugene that is sponsored by high-powered police technology companies, like Flock and Axon.

Flock is a tech company that is actively lobbying state legislatures and police department to expand the use of their ever-expanding technologies. *See, e.g.,* Baryl Lipton, "Beware the Bundle: Companies are Banking on Becoming Your Police Department's Favorite 'Public Safety Technology' Vendor," Electronic Frontier Foundation (May 6, 2025), <https://www.eff.org/deeplinks/2025/04/beware-bundle-companies-are-banking-becoming-your-police-departments-favorite>.

The Flock system, which was expanded to include drones last year, provides police with a centralized, nationally accessible database that tracks movements of anybody passing by a Flock camera, whether it be on a pole or a drone, and whether it be controlled by police or a homeowners association. Flock has also been recently exposed for the ways in which their mass surveillance system is a threat to immigrant justice and reproductive justice. For example, police in Texas used the Flock system to seek information from states with shield laws about a woman seeking an abortion. And investigative reporting uncovered thousands of requests from ICE to friendly local police to run searches in the Flock network.

Similarly, we know the Trump Administration is working with companies like Palantir to consolidate large troves of all of our personal data to create profiles of every one of us. Flock is also seeking to expand the ability of its system to pool large data sources, including from publicly-available hacked data.

The ACLU of Oregon would be remiss if we did not also mention that this testimony is being submitted the same week that President Trump commandeered the California National Guard to respond to peaceful protests of immigration enforcement activities in Los Angeles, California. That military response is ongoing and has included the use of large drones the size of aircrafts, called MQ-9 Predators. *See, e.g.*, Rebecca Schneid, “U.S. Immigration Agency Using Drones Capable of Surveillance During L.A. Protests,” TIME (June 12, 2025), <https://time.com/7293743/drones-los-angeles-protests-law-enforcement/>.

Mass surveillance is not consistent with Oregon values and the fundamental notion of freedom that makes our democracy worth fighting for. It also risks undermining the protections we all fought hard for together, things like our sanctuary and shield laws.

**We are at a moment in our history when fascism is at our doorstep; Oregon should be holding the line for our freedom, not expanding the very things that fuel authoritarian power.**

**The stakes have never been higher.**

**Vote no on SB 238A.**

Thank you,

Jessica Maravilla  
Policy Director