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**Exemption Statute and Title: [ORS 40.275](#) Identity of Informer**

**Summary:** Permits a public body to refuse to disclose the identity of an informer in an investigation of a possible violation of law.

**Relevant Text:** [ORS 40.275](#)

(2) A unit of government has a privilege to refuse to disclose the identity of a person who has furnished information relating to or assisting in an investigation of a possible violation of law to a law enforcement officer or member of a legislative committee or its staff conducting an investigation.

**Enumerated Exceptions or Public Interest Balancing Test?**

[ORS 40.275\(4\)](#) No privilege exists under this section:

(a) If the identity of the informer or the informer's interest in the subject matter of the communication has been disclosed to those who would have cause to resent the communication by a holder of the privilege or by the informer's own action, or if the informer appears as a witness for the unit of government.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Martinis](#) (4/4/86) (denying petition seeking the disclosure of the name of an informant because none of the exceptions to the privilege applied in that instance)

**Exemption Statute and Title: [ORS 59.505](#) Provision of Records to Law Enforcement and Certain State Agencies**

**Summary:** Excludes from the definition of a public record any records related to suspected financial exploitation of a vulnerable person provided by a broker-dealer or state investment adviser to DCBS, DHS or law enforcement.

**Relevant Text:** [ORS 59.505](#)

(1) Upon request of the Department of Consumer and Business Services, the Department of Human Services or a law enforcement agency, a broker-dealer or state investment adviser shall provide copies of records related to any suspected financial exploitation of a vulnerable person to the requester. The records may include historical records if relevant to suspected financial exploitation of a vulnerable person.

(2) A record made available to an agency under this section is not a public record for purposes of [ORS 192.311](#) to [192.478](#).

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 131.925](#) Complaints Alleging Profiling**

**Summary:** Makes personal information provided to the Law Enforcement Contacts Policy and Data Review Committee regarding profiling complainants or law enforcement officers who are the subject of profiling complaints expressly exempt from disclosure.

**Relevant Text: [ORS 131.925](#)**

(1)(a) A law enforcement agency shall provide to the Law Enforcement Contacts Policy and Data Review Committee information concerning each complaint the agency receives alleging profiling, and shall notify the committee of the disposition of the complaint, in the manner described in this subsection.

\*\*\*

(3)(a) The committee may not release any personal information concerning a complainant or a law enforcement officer who is the subject of a profiling complaint.

(b) The personal information of complainants and of law enforcement officers who are the subject of profiling complaints are exempt from public disclosure under [ORS 192.355](#).

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 131.935](#) Collection of Officer-Initiated Stop Data**

**Summary:** Exempts from disclosure data gathered by law enforcement in relation to officer-initiated pedestrian stops and officer-initiated traffic stops that may identify any stopped individual or any law enforcement officer.

**Relevant Text: [ORS 131.935](#)**

(1) No later than July 1, 2018, the Oregon Criminal Justice Commission, in consultation with the Department of State Police and the Department of Justice, shall develop and implement a standardized method to be used by law enforcement officers to record officer-initiated pedestrian stop and officer-initiated traffic stop data. The standardized method must require, and any form developed and used pursuant to the standardized method must provide for, the following data to be recorded for each stop:

- (a) The date and time of the stop;
- (b) The location of the stop;
- (c) The race, ethnicity, age and sex of the pedestrian or the operator of the motor vehicle stopped, based on the observations of the law enforcement officer responsible for reporting the stop;
- (d) The nature of, and the statutory citation for, the alleged traffic violation, or other alleged violation, that caused the stop to be made; and
- (e) The disposition of the stop, including whether a warning, citation or summons was issued, whether a search was conducted, the type of search conducted, whether anything was found as a result of the search and whether an arrest was made.

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(6) Data acquired under this section shall be used only for statistical purposes and not for any other purpose. The data may not contain information that reveals the identity of any stopped individual or the identity of any law enforcement officer. Data collected by law enforcement agencies or held by the Oregon Criminal Justice Commission under this section that may reveal the identity of any stopped individual or the identity of any law enforcement officer is exempt from public disclosure in any manner.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 132.270](#) Release and Use of Recording, Transcript, Notes or Report**

**Summary:** Makes confidential the audio recordings, notes or reports of a shorthand reporter produced in grand jury proceedings.

**Relevant Text:** [ORS 132.270](#)

(1) Audio recordings and the notes or report of a shorthand reporter produced pursuant to [ORS 132.250](#) and [132.260](#) are confidential and may not be released except as described in this section.

**Enumerated Exceptions or Public Interest Balancing Test?** Exceptions for certain official uses, but none that would permit disclosure to the general public.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 132.410](#) Finding of Indictment**

**Summary:** If designated by a district attorney, makes an indictment confidential until after the arrest of a defendant who has not been held to answer the charge.

**Relevant Text:** [ORS 132.410](#)

An indictment, when found and indorsed, as provided in [ORS 132.400](#) and [132.580](#), shall be filed with the clerk of the court, in whose office it shall remain as a public record. Upon being designated by the district attorney as confidential and until after the arrest of a defendant who has not been held to answer the charge, the indictment or any order or process in relation thereto shall not be inspected by any person other than the judge, the clerk of the court, the district attorney or a peace officer in the discharge of a duty concerning the indictment, order or process.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 132.420](#) Disclosure Relative to Indictment Not Subject to Inspection**

**Summary:** Prohibits grand jury participants and district attorneys from disclosing any fact about an indictment while it is not subject to public inspection.

**Relevant Text:** [ORS 132.420](#)

No grand juror, reporter or other person except the district attorney or a peace officer in the exercise of duties in effecting an arrest shall disclose any fact concerning any indictment while it is not subject to public inspection.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**



**Exemption Statute and Title: [ORS 133.723](#) Records Confidential**

**Summary:** Makes confidential the application and supporting documents submitted to a circuit court to obtain an *ex parte* order to intercept communications.

**Relevant Text:** [ORS 133.723](#)

The application for any order under [ORS 133.724](#) and any supporting documents and testimony in connection therewith shall remain confidential in the custody of the court, and these materials shall not be released or information concerning them in any manner disclosed except upon written order of the court and as required under [ORS 135.805](#) to [135.873](#). No person having custody of any records maintained under [ORS 133.721](#) to [133.739](#) shall disclose or release any materials or information contained therein except upon written order of the court and as required under [ORS 135.805](#) to [135.873](#).

**Key Terms:**

[ORS 133.724](#) relates to *ex parte* orders for the interception of wire, electronic or oral communication issued by circuit courts upon application of a district attorney.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 133.729](#) Recording Intercepted Communications**

**Summary:** Requires a judge who approved an *ex parte* order to intercept communications to seal the recordings.

**Relevant Text:** [ORS 133.729](#)

The contents of any wire, electronic or oral communication intercepted in accordance with the provisions of [ORS 133.724](#) shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire, electronic or oral communication under this section shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order issued under [ORS 133.724](#), or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under the direction of the judge. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed before the expiration of the minimum retention period established by the State Court Administrator under [ORS 8.125](#). Duplicate recordings may be made for use or disclosure pursuant to the provisions of [ORS 133.737\(1\) and \(2\)](#) for investigations. The presence of the seal provided for by this section, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire, electronic or oral communication or evidence derived therefrom under [ORS 133.737\(3\)](#).

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 137.225](#) Order Setting Aside Conviction or Record of Criminal Charge**

**Summary:** Authorizes a court to set aside certain convictions or records of a criminal charge, and directs the court to seal the record of conviction and other official records in the case, including the records of arrest, citation or charge whether or not the arrest, citation or charge resulted in a further criminal proceeding.

**Relevant Text:** [ORS 137.225](#)

(3) Upon hearing the motion, the court may require the filing of such affidavits and may require the taking of such proofs as the court deems proper. The court shall allow the victim to make a statement at the hearing. Except as otherwise provided in subsection (12) of this section, if the court determines that the circumstances and behavior of the applicant from the date of conviction, or from the date of arrest, citation or charge as the case may be, to the date of the hearing on the motion warrant setting aside the conviction, or the arrest, citation or charge record as the case may be, the court shall enter an appropriate order that shall state the original arrest or citation charge and the conviction charge, if any and if different from the original, date of charge, submitting agency and disposition. The order shall further state that positive identification has been established by the Department of State Police and further identified as to Department of State Police number or submitting agency number. Upon the entry of the order, the applicant for purposes of the law shall be deemed not to have been previously convicted, or arrested, cited or charged as the case may be, and the court shall issue an order sealing the record of conviction and other official records in the case, including the records of arrest, citation or charge whether or not the arrest, citation or charge resulted in a further criminal proceeding.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 147.517](#) Notice**

**Summary:** When a crime victim seeks an order granting relief, the prosecutor may set forth good cause to suspend the victim's right to relief. The prosecutor's *ex parte* response and affidavit setting forth good cause are exempt from disclosure and must be sealed.

**Relevant Text: [ORS 147.517](#)**

(1) (a) Except as provided in subsection (3) of this section, the victim or the prosecuting attorney shall provide notice of a claim asserted by the victim to any person the victim wishes to have bound by an order granting relief by providing the person with a copy of the order to show cause described in this section.

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(4) (a) If the court issues an order to show cause under this section, a victim, the prosecuting attorney, the defendant or any person against whom relief is requested may contest the claim by filing a response with the court before the date specified in the order under subsection (2)(a) of this section.

(b)(A) When a claim alleges a violation of a right granted to the victim under section 42, Article I of the Oregon Constitution, the prosecuting attorney may file an *ex parte* response that includes an affidavit setting forth good cause to suspend the rights established in section 42, Article I of the Oregon Constitution.

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(D) The response and affidavit described in this paragraph may not be disclosed and must be sealed and made a part of the record for purposes of appellate review.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 180.075](#) Disclosure of Information Obtained Under Subpoena**

**Summary:** Prohibits the Attorney General from disclosing any information obtained under a subpoena issued in a criminal investigation.

**Relevant Text:** [ORS 180.075](#)

Except as provided in this section, the Attorney General may not disclose any testimony or materials obtained under the provisions of [ORS 180.073](#). The Attorney General may disclose testimony or materials only if:

- (1) The disclosure is to a federal, state or local law enforcement agency or prosecutor and the purpose of the disclosure is to facilitate a criminal investigation or prosecution;
- (2) The disclosure is to a state or federal grand jury; or
- (3) A circuit court concludes upon application and affidavit by the Attorney General that there is a particularized need for disclosure of the testimony or materials in a civil, administrative, disciplinary or personnel investigation or proceeding.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 181A.328](#) Committee on Tracking of Sexual Assault Forensic Evidence**

**Summary:** Exempts from disclosure any records and information within the sexual assault forensic evidence tracking system.

**Relevant Text:** [ORS 181A.328](#)

(1) The Department of State Police shall establish a multidisciplinary committee on the tracking of sexual assault forensic evidence kits.

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(4) Records and information within the tracking system described in this section are exempt from disclosure under [ORS 192.311](#) to [192.478](#).

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 181A.825](#) Disclosure of Information About Certain Employees of Law Enforcement Agencies**

**Summary:** Temporarily exempts from disclosure information about an undercover law enforcement officer.

**Relevant Text:** [ORS 181A.825](#)

(2) Unless a law other than [ORS 192.311](#) to [192.478](#) requires disclosure or the employee consents in writing to the disclosure, a law enforcement agency may not disclose information about an employee of the agency while the employee is assigned duties the agency considers undercover investigative duties and for a period of six months after the conclusion of those duties.

**Key Terms:**

“Information” includes, but is not limited to, an address, telephone number, date of birth and photograph. [ORS 181A.825\(1\)\(b\)](#).

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Forgey](#) (11/13/01) (although an undercover officer’s name is not specifically included in the definition of “information,” OSP was permitted to maintain the confidentiality of names under the statute)

**Exemption Statute and Title: [ORS 181A.830](#) Disclosure of Information About Certain Public Safety Employees**

**Summary:** Prohibits the disclosure of photographs of public safety employees without consent.

**Relevant Text:** [ORS 181A.830](#)

(2) A public body may not disclose a photograph of a public safety employee of the public body without the written consent of the employee. This subsection does not apply to the use by the public body of a photograph of a public safety employee.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**



**Exemption Statute and Title: [ORS 192.345\(3\)](#) Public Records Conditionally Exempt From Disclosure**

**Summary:** Conditionally exempts from disclosure investigatory information compiled for criminal law purposes.

**Relevant Text:** [ORS 192.345](#) The following public records are exempt from disclosure under ORS 192.311 to 192.478 unless the public interest requires disclosure in the particular instance:

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(3) Investigatory information compiled for criminal law purposes. The record of an arrest or the report of a crime shall be disclosed unless and only for so long as there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the record of an arrest or the report of a crime includes, but is not limited to:

- (a) The arrested person's name, age, residence, employment, marital status and similar biographical information;
- (b) The offense with which the arrested person is charged;
- (c) The conditions of release pursuant to ORS 135.230 to 135.290;
- (d) The identity of and biographical information concerning both complaining party and victim;
- (e) The identity of the investigating and arresting agency and the length of the investigation;
- (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and
- (g) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

**Enumerated Exceptions or Public Interest Balancing Test?** Not exempt if the public interest requires disclosure in the particular instance.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?** Yes - many.

*Jensen v. Schiffman*, 24 Or App 11 (1976) (pending or contemplated proceedings will ordinarily remain secret because disclosure would likely interfere with enforcement proceedings; such records are generally not exempt once the criminal process concludes, unless disclosure would result in a particular harm)

*Pamplin Media v. Salem*, 293 Or App 755 (2018) (exemptions for criminal investigatory information and for information compiled under child abuse reporting law do not apply to the record of arrest in a case of suspected child abuse)

**Public Records Orders:** The following PROs denied petitions seeking the disclosure of criminal investigatory information in the context of ongoing investigations:

[PRO Upham](#) (8/16/21); [PRO Mattingly](#) (5/13/21); [PRO Mora-Contreras](#) (9/30/20); [PRO Burks](#) (8/26/20); [PRO Bial](#) (1/17/20); [PRO Upham](#) (4/1/19); [PRO Hasenstein](#) (2/26/19); [PRO Zaitz](#) (2/27/07); [PRO Meyer](#) (7/8/04); [PRO Forgey](#) (11/13/01); [PRO Padgett](#) (8/15/01); [PRO Garrettson](#) (7/3/95); [PRO Mayes](#) (12/23/91).

**Additional Note:** The Attorney General has consistently concluded that the exemption applies not only to information generated during a criminal investigation, but also to information originally compiled for ordinary business purposes by non-law-enforcement agencies that is subsequently gathered in the course of an investigation, if disclosure would interfere with an ongoing investigation. *See Attorney General's Public Records and Meetings Manual* at 59 (2019).

**Exemption Statute and Title: [ORS 192.345\(40\)](#) Public Records Conditionally Exempt From Disclosure**

**Summary:** Conditionally exempts from disclosure audio and video recordings from law enforcement body cameras.

**Relevant Text:** [ORS 192.345](#) The following public records are exempt from disclosure under ORS 192.311 to 192.478 unless the public interest requires disclosure in the particular instance:

(40) Audio or video recordings, whether digital or analog, resulting from a law enforcement officer's operation of a video camera worn upon the officer's person that records the officer's interactions with members of the public while the officer is on duty. When a recording described in this subsection is subject to disclosure, the following apply:

- (a) Recordings that have been sealed in a court's record of a court proceeding or otherwise ordered by a court not to be disclosed may not be disclosed.
- (b) A request for disclosure under this subsection must identify the approximate date and time of an incident for which the recordings are requested and be reasonably tailored to include only that material for which a public interest requires disclosure.
- (c) A video recording disclosed under this subsection must, prior to disclosure, be edited in a manner as to render the faces of all persons within the recording unidentifiable.

**Enumerated Exceptions or Public Interest Balancing Test?** Not exempt if the public interest requires disclosure in the particular instance.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 476.090](#) Records of Fires**

**Summary:** Makes exempt from disclosure evidence gathered in certain fire investigations.

**Relevant Text:** [ORS 476.090](#)

(1) The State Fire Marshal shall keep a record of all fires occurring in this state and of all facts concerning the same, including statistics as to the extent of such fires and the damage caused, whether such losses were covered by insurance, and if so, in what amount. All such records shall be public, except any testimony, information or other evidence taken in an investigation under [ORS 476.010](#) to [476.090](#), [476.155](#) to [476.170](#), [476.210](#) to [476.270](#) and [479.180](#), which shall be considered investigatory information as described in [ORS 192.345](#).

**Enumerated Exceptions or Public Interest Balancing Test?** Because such information is treated as investigatory information under ORS 192.345(3), it is not exempt if the public interest requires disclosure in the particular instance.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 802.220](#) Availability of Records**

**Summary:** Makes confidential the vehicle registration information for undercover law enforcement vehicles.

**Relevant Text: [ORS 802.220](#)**

(1) Except as otherwise provided in this subsection and [ORS 802.177](#), the records the Department of Transportation maintains under [ORS 802.200](#) on vehicles are public records. The records of vehicles registered under [ORS 805.060](#) are not public records and are exempt from public inspection as provided under [ORS 181A.220](#) and are for the confidential use of criminal justice agencies described under [ORS 181A.010](#). The department may charge the fee established under [ORS 802.230](#) for furnishing information under this section concerning a vehicle or its owner.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 807.725](#) Issuance of Fictitious Driver Licenses and Identification Cards**

**Summary:** Makes confidential all information pertaining to the true identity of a law enforcement official who maintains a fictitious driver license or identification card to conduct undercover investigations.

**Relevant Text:** [ORS 807.725](#)

(5) All information submitted to and maintained by the department regarding the true identity of a law enforcement official under this section is confidential. The department may only disclose information regarding the true identity of a law enforcement official to a law enforcement agency upon request.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 837.310](#) Restrictions**

**Summary:** Subject to several exceptions, generally prohibits the disclosure of information obtained by law enforcement through the operation of an unmanned aircraft system.

**Relevant Text:** [ORS 837.310](#)

(1) Except as otherwise provided in [ORS 837.310](#) to [837.345](#), a law enforcement agency may not operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system or disclose information acquired through the operation of an unmanned aircraft system.

**Enumerated Exceptions or Public Interest Balancing Test?** Exceptions if there is a search warrant, consent, exigent circumstances with probable cause, for purposes of search and rescue, and to reconstruct a specific crime scene or accident scene. *See* [ORS 837.320](#) to [837.340](#).

**Applied in Court Cases, AG Opinions and/or Public Records Orders?** No.