

The Investigatory Exemption – ORS 192.355(3) currently reads as follows.

The following public records are exempt from disclosure under ORS 192.311 (Definitions for ORS 192.311 to 192.478) to 192.478 (Exemption for Judicial Department) unless the public interest requires disclosure in the particular instance:

- (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:

I would amend the language to read.

- (3) Investigatory information compiled for criminal law purposes.
 - (a) Notwithstanding anything in this Section (3), records will not be considered investigatory information compiled for criminal law purposes unless the public body that acquired such information is a law enforcement agency as that term is defined in ORS 181A.010(7)(a):
 - (b) Every record deemed exempt under this Section (3) shall be disclosed unless and only for so long as there is a clear and specific need to delay disclosure in the course of a specific investigation, including a need to protect the complaining party or the victim from physical harm that cannot reasonably be protected by redaction under ORS 192.XXX.
 - (c) Upon receipt of a public records request, a law enforcement agency must review each responsive record individually to determine if such record may be protected under subsection (b) above. For each record determined by the Attorney General or district attorney to have been wrongfully withheld, or over redacted, for any period of time under this section, public body must pay requester a fee of \$100 plus statutory interest calculated from the time of request until the record was disclosed.
 - (d) Nothing in this Section (3) modifies a public body's requirement to disclose all documents that can be made nonexempt through compliance with ORS 192.338.
 - (e) 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:

[Rest of the section repeated here.]

Additional thoughts.

1. The investigative exemption should END when an arrest has been made, an indictment filed, or probably cause hearing conducted. There is no good reason to keep information secret that has to be shared with defendant and his/her/their counsel.
2. LEA should be required to pay the legal fees incurred by requesters to successful appeal to DA or AG.
3. Fees charged for records in criminal cases / police shootings / internal affairs investigations should be waived for all requesters. Criminal case defendants/suspects and victims of police shootings are disproportionately BIPOC and the only way to combat systemic racism is through full transparency.
4. Fees in all PRR requests made by media should be waived.
5. Public bodies that do not comply with the PRR timelines (days to respond, 15 business days to produce) should be required to:
 - a. disclose all records responsive to the request unless it is otherwise illegal (most of the exemptions are discretionary and can be waived by the public body);
 - b. dedicate a minimum budget amount and percent of total budget to systems and personnel dedicated to responding to PRRs;
 - c. pay a nondiscretionary penalty to the requester of \$1,000, adjusted for inflation for years after 2023