



24 Or App 11 **MICHAEL D. SCHRUNK**, District Attorney for Multnomah County  
600 County Courthouse • Portland, Oregon 97204 • 503 988-3162 • FAX 503 988-3643  
[www.co.multnomah.or.us/da/](http://www.co.multnomah.or.us/da/)

December 13, 2005

Su-jin Yim  
Staff reporter  
The Oregonian  
1320 SW Broadway  
Portland, OR 97201-3499

Debra Haugen  
Manager Records Division  
City of Portland  
Bureau of Police  
1111 SW 2<sup>nd</sup> Avenue  
Portland, OR 97204

Re: Petition of Su Yim for The Oregonian received December 7, 2005 to disclose certain records of the Portland Police Bureau

Dear Ms. Yim and Ms. Haugen:

#### BACKGROUND

On this public records petition, ORS 192.410 et. seq., petitioner Su Yim requests the District Attorney to order the Portland Police Bureau and its employees to make available for inspection or produce copies of the following record:

**Police reports about the October 2004 assault of Misty McElroy at the Rock and Roll Camp for Girls, 8900 "A" NE Vancouver Way.**

On December 5, 2005, Oregonian staff reporter Su Yim submitted a written request by email to Portland Police Bureau Records Division Manager Debra Haugen for a copy of records relating to the October 2004 assault of Misty McElroy. On December 6, 2005, Ms. Haugen denied the request by email. She advised Ms. Yim that the "investigation is still ongoing, and the Detective assigned to the case believes that disclosure of any part of the report at this time could hamper ongoing and future criminal law proceedings." Ms. Haugen claimed exemption under ORS 192.501(3), Criminal Investigatory Material.

Petitioner argued that the Bureau made "no showing of proof" regarding the Detective's belief and that the community has heavily supported the Rock and Roll Camp for Girls. Financial supporters and participants in the camp have a natural interest in the information.

In a December 12, 2005 letter response to this office (included with this order), Ms. Haugen continued to claim an exemption under ORS 192.501(3), based on Detective Jim McCausland's concern that "a release of the records at this time could hamper the ongoing criminal investigation and future criminal proceedings." Ms Haugen included a confidential letter explaining certain aspects of the case. The reports were not provided but were available for our review if needed.

### DISCUSSION

ORS 192.501(3) conditionally exempts:

Investigatory information compiled for criminal law purposes. The record of an arrest or the report of a crime shall be disclosed unless and only 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.

An application of the criminal investigatory material exemption requires identification and balancing of the various purposes for secrecy and a determination of the stage of the investigation or prosecution. See Jensen v. Schiffman, 24 Or App 11 (1976). This is a conditional privilege designed to protect active police investigations. The court in Jensen adopted the then federal law in the area: "investigations connected with pending or contemplated proceedings will ordinarily remain secret because disclosure would likely 'interfere with enforcement proceedings.'" 24 Or App at 16.

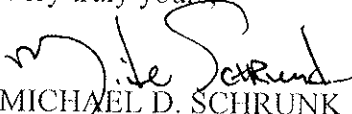
Records Manager Haugen related in her letter response that the criminal investigation involves a very serious assault and that a suspect has not yet been arrested. We have reviewed the contents of the confidential letter and are satisfied that the nature and extent of the investigation of this aggravated assault warrants continued secrecy. We accept the determination of the criminal investigator that, under the circumstances, it would be inappropriate to release the police reports at this time.

The materials sought by petitioner are being carefully maintained and protected from public scrutiny for the limited period of time necessary to complete the criminal investigation. We conclude that the public interest in the orderly progress of the investigation outweighs the public interest in disclosure at this time.

ORDER

Accordingly, it is ordered that the petition of Su-Jin Yim for The Oregonian to disclose certain records of the Portland Police Bureau is denied without prejudice to renewal upon completion of the criminal investigation.

Very truly yours,

  
MICHAEL D. SCHRUNK  
District Attorney  
Multnomah County, Oregon



## CITY OF PORTLAND, OREGON



### Bureau of Police

Tom Potter, Mayor

Derrick Foxworth, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000 • Fax: 503-823-0342

Integrity • Compassion • Accountability • Respect • Excellence • Service

December 12, 2005

John Hoover  
District Attorney's Office  
600 County Courthouse  
Portland, OR 97204

Re: Petition of Su-jin Yim of the Oregonian, December 7, 2005 to disclose certain records of the Portland Police Bureau

Dear Mr. Hoover:

On December 5, 2005 Su-jin Yim of the Oregonian requested a copy of a police report documenting an aggravated assault on Misty McElroy from October of 2004. (PPB case 04-97210.) On December 6, 2005 I denied her request. I claimed an exemption under ORS 192.501(3) Criminal Investigatory Material based on Detective Jim McCausland's concern that a release of the records at this time could hamper ongoing the ongoing criminal investigation and future criminal law proceedings. This was a very serious assault and a suspect has not yet been arrested. Detective McCausland is adamant that disclosure of this investigation be delayed at this time. In addition, there are aspects to this case that I must forward to you in an accompanying confidential letter.

As such, we are continuing to claim an exemption to release of these materials under ORS 192.501(3) Criminal Investigatory Materials for the present time. Should you need to review the report, it can be arranged.

If you have any questions, or need me to arrange a viewing of any written materials, I can be reached at (503) 823-0056.

Sincerely,

DEBRA R. HAUGEN  
Manager  
Records Division

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Police Information Line: 503-823-4636, TTY (for hearing and speech impaired): 503-823-4736 Website: <http://www.portlandpolicebureau.com>