

The following summary of Section 1-215 of the Freedom of Information Act was drafted by counsel at the Freedom of Information Commission. It is provided only as a guide. While every effort has been made to ensure an accurate interpretation of its provisions, the public is encouraged to consult an official copy of Section 1-215.

A Primer Regarding the Disclosure of Arrest Records
During a Pending Prosecution under the Freedom of Information Act

➤ **Minimum Disclosure Requirements:**

- Section 1-215 of the Freedom of Information (“FOI”) Act details the information that a police department is required to disclose from the time of an arrest and until a prosecution or prospective criminal law enforcement action is no longer pending against the person arrested. A police department has the discretion to disclose *more* than this amendment requires, if it chooses to do so.
- Section 1-215 **requires** law enforcement agencies to disclose:

(1) blotter information – name, race and address of the person arrested, the date, time, and place of arrest, and the offense for which the person was arrested;

and

- (2) i) In the case of an arrest by warrant which has not been judicially sealed: the arrest warrant application, including the affidavits in support thereof.
- ii) In the case of a warrantless arrest: the *official* arrest, incident or similar report.
- iii) In the case where the court has ordered an affidavit or report sealed in whole or in part:
- a. the portion of the affidavit or report that has not been sealed, if applicable *and*
 - b. a report summarizing the circumstances that led to the arrest of the person in a manner that does not violate the court sealing order.

* The **only redactions** permitted in this area are:

- (1) the identity of witnesses and
- (2) specific information about the commission of the crime, the disclosure of which law enforcement reasonably believes may prejudice the pending prosecution or a prospective law enforcement action. *For example*, information only the perpetrator of the crime would know.

- **Public Records Documenting or Depicting the Arrest or Custody of the Arrested Person** – such as dash camera and body camera images - must be disclosed during the period in which the prosecution is pending *unless* they are otherwise subject to an applicable exemption.

- **Notice to State's Attorney:**
 - Law enforcement agencies must provide notice to the local state's attorney when they receive requests for records documenting or depicting the arrest or custody of an arrested person.
 - This notice requirement does not give the state's attorneys the power to prohibit or delay a law enforcement agency from disclosing a record.

- **Opportunity to Intervene:**
 - The State's Attorney's office will have an opportunity to intervene in Freedom of Information Commission proceedings regarding requests for records documenting or depicting the arrest or custody of the arrested person.

- **Finite Time Period:**
 - Section 1-215 applies only to a finite time period: beginning with an arrest and until a prosecution or prospective criminal law enforcement action is no longer pending against the person arrested.
 - After that time, the FOI Act's general rule applies, that all public records must be disclosed unless subject to an exemption contained in any provision of the general statutes.