

What does GRAMA say about Providing Access to Police Reports?

GOVERNMENT RECORDS OMBUDSMAN

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Police reports are among the most frequently requested government records. For both requesters and governmental entities access can be challenging because police reports are not always public records, and determining classification requires thoughtful evaluation.

WHAT IS AN INITIAL CONTACT REPORT?

Police reports created by all law enforcement offices and fire departments are defined in the Government Records Access and Management Act as initial contact reports. Initial contact reports are written or recorded reports created by an officer in response to a public complaint or the discovery of an apparent violation of the law.

Initial contact reports are called by various names, including police reports, case reports, and Spillman. A dash cam recording can be an initial contact report. Not to be confused by a title, the law identifies the information that should be contained in the report:

- a. Nature of complaint, incident, or offense
- b. Date, time, and location
- c. Actions taken in response to the incident
- d. General nature of injuries or damages
- e. Identity and contact information for persons charged or arrested
- f. Identity of responding public safety personnel

Although follow-up or investigative reports are not, by definition, initial contact reports, to the extent that these contain the information described above, that information should be treated the same as if it were part of the initial contact report.

Utah Code Section 63G-2-103(14) -- Definitions

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection **63G-2-201(3)(b)**.

CLASSIFYING INITIAL CONTACT REPORTS

Initial contact reports are normally public, which usually means that they are public. To the extent that another statute applies in specific instances, that statute may take precedence and authorize restriction of access.

Utah Code Section 63G-2-301 – Public records

(3) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305;
(g) chronological logs and initial contact reports.

Before releasing an initial contact report, a records officer should consider whether the entire report or any of the information contained within it should be restricted. Following are some protected categories to consider. The report or information within it should be protected if disclosure would:

- 1) reasonably interfere with an investigation (Utah Code Section 63G-2-305(10)(a));
- 2) reasonably be expected to interfere with audits, disciplinary, or enforcement proceedings (Utah Code Section 63G-2-305(10)(b));
- 3) create a danger of depriving a person of a right to a fair trial or impartial hearing (Utah Code Section 63G-2-305(10)(c));
- 4) reasonably could be expected to identify a source not generally known outside of government, and would compromise that source (Utah Code Section 63G-2-305(10)(d));
- 5) reasonably could be expected to disclose investigative techniques, procedures, policies, or orders not generally known outside of government (Utah Code Section 63G-2-(10)(e));
- 6) jeopardize someone's life or safety (Utah Code Section 63G-2-305(11));
- 7) jeopardize the security of governmental property, programs, or record keeping systems; (Utah Code Section 63G-2-305(12));
- 8) reveal a home address or telephone number that was provided in order to comply with a law, ordinance, rule, or order and with the reasonable expectation that it will remain confidential (Utah Code Section 63G-2-305(51)(a) and (b)).

Reports or information within them should be restricted and classified as private when disclosure would:

- 1) describe a person's medical history, diagnosis, condition, treatment, or evaluation (Utah Code Section 63G-2-302(1)(b)), or
- 2) be a clearly unwarranted invasion of personal privacy (Utah Code Section 63G-2-301(2)(d)).

These suggestions are not an exhaustive list, but are the most commonly applicable issues to initial contact reports.

CLASSIFYING FOLLOW-UP AND INVESTIGATIVE REPORTS

The Government Records Access and Management Act definition distinguishes between initial contact reports and follow-up or investigative reports, stating only that initial contact reports are normally public. There is no clear direction for the classification of follow-up or investigative reports; however their exclusion from the list of normally public records implies that they are normally restricted.

Utah Code Section 63G-2-301 – Public records

(4) The list of public records in this section is not exhaustive and should not be used to limit access to records.

In the absence of specific direction, investigative and follow-up reports must be treated the same as other records that are not specifically mentioned with a classification in GRAMA or governed by some other statute. This means that unless a records officer can identify a specific statute as a basis for restricting access, these reports can also be disclosed. The same list of possible protected and private categories used to classify initial contact reports also can be used for follow-up and investigative reports.

Utah Code Section 63G-2-201 – Right to inspect records and receive copies of records.

(2) A record is public unless otherwise expressly provided by statute.

CHILDREN'S JUSTICE CENTER TRANSCRIPTS ARE NOT A RECORD.

Video and audio recordings, and transcripts of interviews conducted by the Children's Justice Center are identified in GRAMA as not a record. Although not specifically mentioned as private or protected, it is reasonable to assume that any information in a police report that is quoted or gleaned from a Children's Justice Center interview should be considered to be a clearly unwarranted invasion of the child's privacy, and should be segregated under Utah Code Section 63G-2-308.

Utah Code Section 63G-2-103(22)(b)-- Definitions

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section [67-5b-102](#).

INFORMATION IN POLICE REPORTS MUST BE SEGREGATED

When a report or information within it is classified as public, any private or protected information must be redacted before release.

Utah Code Section 63G-2-308 Segregation of Records

Notwithstanding any other provision in this chapter, if a governmental entity received a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this chapter, and, if the information the requester is entitled to inspect is intelligible, the governmental entity:

- (1) Shall allow access to information in the record that the requester is entitled to inspect under this chapter; and,
- (2) May deny access to the information in the records if the information is exempt from disclosure to the requester, issuing a notice of denial as provided in Section 63G-2-205).

SHOULD REPORTS BE PROVIDED IN RESPONSE TO A GRAMA REQUEST OR THROUGH DISCOVERY?

Because police reports deal with violations of law, accidents, and instances of conflict, they are often needed for litigation. In litigation, records are obtained through the process of discovery. GRAMA is not part of discovery, but is the process by which the public gains access to government records.

Utah Code Section 63G-2-207 – Subpoenas – Court ordered disclosure for discovery.

(1) Subpoenas and other methods of discovery under the state or federal statutes or rules of civil, criminal, administrative, or legislative procedure are not written requests under Section 63G-2-204.

Because discovery and records requests under GRAMA are different processes intended for different purposes, they should be treated separately. A person may request police reports through discovery, and at the same time make a GRAMA request. Because GRAMA standards of classification, and the rules of disclosure under discovery are different, each request must be answered independently because responsive records or reports may vary depending on the process by which the records were requested.

TRAFFIC ACCIDENT REPORTS

Traffic accident reports are not public because access to them is restricted by another state statute (see Utah Code Section 63G-2-201(3)(b)). Based on Utah Code Section [41-6a-404\(3\)](#), the individuals identified in the following graph are eligible to receive access to accident reports as well as any accompanying data. However, access can be denied to any of these authorized individuals if disclosure reasonably could jeopardize an ongoing criminal investigation or criminal prosecution. (See next page).

Utah Code Section [41-6a-404](#) describes who should have access to accident reports:

	Accident report means a report that provides sufficient detail to disclose the cause, conditions then existing, and the persons involved in the accident (41-6a-402(4)(c))	Accompanying data means all materials gathered by the investigating officer including identity of witnesses and their contact information, witness statements, photographs, videotapes, diagrams, and field notes (41-6a-404(1)(b))
Person involved in the accident	Yes	Yes
Person who was injured or whose property was damaged as a result of the accident	Yes	Yes
Witnesses	No	No
A parent, guardian or agent* of involved person or person who was injured or damaged	Yes	Yes
A member of the press or broadcast news media	Yes, but limited to the following: (d)(i) the name, age, sex, and city of residence of each person involved in the accident; (ii) the make and model year of each vehicle involved in the accident; (iii) whether or not each person involved in the accident was covered by insurance; (iv) the location of the accident; and (v) a description of the accident that excludes personal identifying information not listed in Subsection (3)(d)(i).	
Law enforcement personnel acting in an official capacity	Yes	Yes
Other government agencies that use the records for investigation or accident prevention	Yes	Yes
Licensed private investigator	Yes	Yes
Anyone else	No	No

***Agent** means a person's attorney, a person's insurer, a hospital with an emergency room that provided the person with service, and anyone else who has the person's written permission to have the records.

Law Enforcement Records in the Utah Code

In the same way the Utah Traffic Code governs access to traffic accident reports, other statutes are to be applied when they provide instruction about access to records or information. Additional statutes and rules that may be applicable to law enforcement records include:

- Accident reports (motor vehicles) [41-6a-402](#), [41-6a-404](#)
- Accident reports (boats/watercraft) [73-18-13](#)
- Child abuse and neglect records [62A-4a-412](#)
- Children -- additional rights (Children's Justice Center interviews) [77-37-4](#)
- Children's Justice Center [67-5b-102](#)
- Cohabitant abuse incident reports (victim's access) [77-36-2.2](#)
- Communicable disease information [26-6-27](#)
- Concealed weapon permits [53-5-704](#)
- Corporal punishment investigations in schools [53A-11-803\(2\)](#)
- Counselor information about sexual assaults [77-38-204](#)
- Court records ([Rule 4-202.02](#))
- Criminal history records [53-10-108\(5\)](#)
- DNA specimens [53-10-406\(3\)](#)
- Employee drug or alcohol test [34-38-13](#)
- Evidence concerning sabotage prevention [76-8-806](#)
- Expunged records
 - Utah Expungement Act [77-40-102](#)
 - Individual expungement records [77-40-110](#)
- Grand jury proceedings [77-10a-13\(8\)](#)
- Guardian ad litem records [78A-6-902\(11\)](#)
- Internal affairs (sheriff's deputies) [17-30-19](#)
- Juvenile court records [78A-6-209](#)
- Lineup records (access to subject) [77-8-4](#)
- Medical examiner records [26-4-17](#)
- Missing person records [53-10-204](#)
- Money laundering information [76-10-19\(1903\)](#)
- Peace officer candidates background investigations [53-14-101\(7\)](#)

- Pre-sentence investigations [77-18-1\(5\)](#)
- Reporting school drug abuse [53A-11-13\(1302\)](#)
- Sex offender registration [77-41-110](#)
- Vehicle insurance information [41-12a-805](#)
- Victim's right to privacy [77-38-3](#)