

What GRAMA says about providing access to police reports?

Police reports are among the most frequently requested government records. For both requesters and governmental entities access can be challenging because police records are not always public, 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 defined as the “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 may be called by various names, including police reports and case reports. A dash cam or body camera 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 initial contact reports, to the extent that these contain the information described above, that information should be treated as if it were part of the initial contact report (Utah Code § [63G-2-103\(14\)](#)).

CLASSIFICATION OF INITIAL CONTACT REPORTS

Initial contact reports are normally public, which means that they are public to the extent that another statute does not take precedence (Utah Code § [63G-2-301\(3\)\(g\)](#)), authorizing restriction of access.

Because other statutes may take precedence over the public classification, records officers should review initial contact reports on a case by case basis to determine whether the entire report or information within it should be restricted.

Initial contact reports may be protected:

The report or information within it may be protected when releasing the report or information within it:

- 1) could reasonably interfere with an ongoing investigation (Utah Code § [63G-2-305\(10\)\(a\)](#));
- 2) could reasonably be expected to interfere with audits, disciplinary, or enforcement proceedings (Utah Code § [63G-2-305\(10\)\(b\)](#));
- 3) could create a danger of depriving a person of a right to a fair trial or impartial hearing (Utah Code § [63G-2-305\(10\)\(c\)](#));
- 4) could reasonably be expected to identify a source not generally known outside of government, and would compromise that source (Utah Code § [63G-2-305\(10\)\(d\)](#));
- 5) could reasonably be expected to disclose investigative techniques, procedures, policies, or orders not generally known outside of government (Utah Code § [63G-2-305\(10\)\(e\)](#));
- 6) could jeopardize someone's life or safety (Utah Code § [63G-2-305\(11\)](#));
- 7) could jeopardize the security of governmental property, programs, or record keeping systems; (Utah Code § [Section 63G-2-305\(12\)](#));
- 8) reveals 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 § [63G-2-305\(51\)\(a\)\(b\)](#)).
- 9) depicts images that were taken inside a hospital or health care facility. However, images taken inside a hospital or healthcare facility are not protected if:
 - a. the images depict the commission of a crime;
 - b. the images depict an encounter with a law enforcement officer that results in death or bodily injury, or includes an instance where a law enforcement officer fires a weapon;
 - c. they record an incident which is the subject of a complaint or legal proceeding against a law enforcement officer or agency;
 - d. they depict an officer-involved critical incident;
 - e. the subject or an authorized agent has requested reclassification (Utah Code § [63G-2-305\(68\)](#)).

Initial contact reports may be private:

The report or information within it may be private when releasing the report or information within it:

- 1) describes a person's medical history, diagnosis, condition, treatment, or evaluation (Utah Code § [63G-2-302\(1\)\(b\)](#)).
- 2) would be a clearly unwarranted invasion of personal privacy (Utah Code § [63G-2-301\(2\)\(d\)](#)). Most law enforcement agencies in Utah withhold names and information about juveniles based in this citation.
- 3) reveals the inside of a home or residence.
However, images taken inside a home or residence are not private if:
 - f. the images depict the commission of a crime;
 - g. the images depict an encounter with a law enforcement officer that results in death or bodily injury, or includes an instance where a law enforcement officer fires a weapon;
 - h. they record an incident which is the subject of a complaint or legal proceeding against a law enforcement officer or agency;
 - i. they depict an officer-involved critical incident;
 - j. the subject or an authorized agent has requested reclassification (Utah Code § [63G-2-301\(2\)\(g\)](#)).

These suggestions are not an exhaustive list, but are the most commonly applicable classification issues for initial contact reports. Beyond GRAMA, other may apply. In particular, Utah Traffic Code governs access to traffic accident reports. (Utah Code § [41-6a-404](#)).

CLASSIFICATION OF FOLLOW-UP AND INVESTIGATIVE REPORTS

GRAMA distinguishes between initial contact reports and investigative or follow-up reports. While initial contact reports are normally public, there is no clear classification direction for follow-up or investigative reports. Their exclusion from the list of normally public records implies that they are normally restricted.

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.

“A record is public unless otherwise expressly provided by statute.” (Utah Code § [63G-2-201\(2\)](#)). Unless a specific statute is identified as a basis for restricting access, follow up and investigative reports can also be disclosed. The above list of possible restrictions also applies to investigative or follow-up reports.

INFORMATION IN POLICE REPORTS MUST BE SEGREGATED

If police reports contain both information that can be released and information that is classified as private, protected, or otherwise restricted, the public information must be segregated from the restricted information so that access can be provided to public information and at the same time not provided to restricted information. (Utah Code § [63G-2-308](#)). Segregation is commonly referred to as redaction.

GRAMA REQUESTS ARE NOT DISCOVERY

Police reports deal with violations of law, accidents, and instances of conflict, and are often needed for litigation. In litigation, records are obtained through the process of Discovery. Although GRAMA is clear that a subpoena is not a GRAMA request (Utah Code § [63G-2-207](#)), there is no reason that records obtained through a GRAMA request cannot be used in litigation.

Because GRAMA and Discovery are different processes, it is important to keep them separate. Legal counsel should be involved in responding to a subpoena. Records already provided through one process should be provided again if they are requested through the other process.

CHILDREN'S JUSTICE CENTER INTERVIEWS

Video and audio recordings, and transcripts of interviews conducted at the Children's Justice Center are identified in GRAMA as not a record (Utah Code § [63G-2-103\(22\)\(b\)\(xv\)](#)). Access to these transcripts and recordings is governed by Utah Code § [77-37-4\(5\)\(6\)](#).

Although not specifically mentioned as a private record, 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 not be disclosed.

TRAFFIC ACCIDENT REPORTS

Access to traffic accident reports is governed by another state statute (see Utah Code § [63G-2-201\(3\)\(b\)](#)). Based on Utah Code § [41-6a-404\(3\)](#), the individuals identified in the following graph are eligible to receive access to accident reports as well as to any accompanying data. However, access to accompanying data can be denied to any of the authorized individuals if disclosure reasonably could jeopardize an ongoing criminal investigation or criminal prosecution.

Secondarily, GRAMA still applies to all records to which access is limited by another statute or rule. However, GRAMA applies only insofar as it is not inconsistent with the alternate statute, rule, or regulation. Therefore, based on GRAMA, private or protected information should be segregated from traffic accident reports prior to release to the specified individuals.

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.