

WEBER COUNTY CORRECTIONAL FACILITY

Volume

GENERAL PROVISIONS

Chapter

JA 07 - GRAMA: ACCESS TO RECORDS

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JA 07/01.00 **GENERAL**

JA 07/01.01 **Purpose**

The purpose of this chapter is to provide an overview of the requirements and procedures for accommodating public access to WCCF records and information pursuant to the Government Records Access and Management Act (GRAMA).

JA 07/01.02 **Cross Reference**

Chapter 2; Title 63; Utah Code Annotated

JA 05 - GRAMA: General Requirements

JA 06 - GRAMA: Classification of Records

JA 08 - GRAMA: Denials and Appeals

Utah Jail Standards:

- B 02.01.01 Policy and Procedure Directives Required
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JA 07/01.03 **Distribution**

- A. In addition to the standard distribution, provide copies of this chapter to:
1. Weber County Sheriff's Office Records Bureau;
 2. WCCF Records Bureau
 3. the WCCF GRAMA Coordinator; and
 4. the Weber County Attorney's Office.

- B. This series, chapters JA 05 through JA 08, are not chapters of which individual staff members must have a working knowledge. It is only necessary that each staff member understands that all requests from outside entities (i.e., public, news media) for records must be immediately routed to the GRAMA Coordinator.

JA 07/01.04 **Definitions**

controlled record	any record containing data on individuals that is controlled as provided by § 63-2-303; refer to JA 06/03.07
designation, designate	under Subsection 63-1-103 (7), “mean indicating, based on a governmental entity’s familiarity with a record series based on a government entity’s review of reasonable sample of a record, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.”
governmental entity	under Subsection 63-1-103 (9) (v), includes county government
GRAMA	Government Records Access and Management Act, Chapter 2, Title 63, Utah Code Annotated
person	as used in this directive means any individual, nonprofit or profit corporation, partnership, sole proprietorship, or other type of business organization
private record	any record containing data on individuals that is private as provided by § 63-2-302
protected record	any record that is classified protected as provided by § 63-2-304
public record	any record that is not private, controlled, or protected and that is not exempt from disclosure as provided in § 63-2-201 (3)(b)
requester	the person making a request for records
WCCF	Weber County Correctional Facility

JA 07/02.00 **ACCESS UNDER GRAMA**

JA 07/02.01 **Policy**

It is the policy of the WCCF that access shall be provided to WCCF records and information consistent with the requirements of the Governmental Records Access and Management Act (GRAMA).

JA 07/02.02 **Rationale**

Public access to WCCF records which are deemed to be public under Chapter 2, Title 63, must be provided to be in compliance with GRAMA.

JA 07/02.03 **Procedure: Right of Public to Inspect Records**

- A. UCA § 63-2-201, states every person has a right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63-2-203, Fees, and 63-2-204, Requests-- Time limit for response and extraordinary circumstances.
- B. Refer to JA 07/03.09, "Procedure: Duplication"; and JA 07/03.03, "Procedure: Public Requests."

JA 07/02.04 **Procedure: Access to Private, Controlled and Protected Records**

- A. All records are *public* unless otherwise expressly provided by statute. Records are not public if they are properly classified as *private* (refer to § 63-2-302); or are protected by court rule, another state statutes federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.
- B. **Section 63-2-201 (5)(a) prohibits public access to any record that is private, controlled, or protected**, unless otherwise authorized by statute.
- C. If a request is made for an WCCF record and that record, record series, or other information that has not previously been classified, WCCF officials may classify the record following, and in response to, the access request. UCA § 63-2-306 allows that WCCF officials may classify a particular record, record series, or information within a record at any time, but it is not required that WCCF officials actually classify a record until access to the record is requested.
- D. WCCF officials may also re-designate a record series or reclassify a record, record series, or information at any time; including, at the time of request.

1. If an WCCF official responding to a request for access believes a document has been erroneously classified as public, private, controlled, or protected, he may initiate the process for reclassification.
2. WCCF officials involved in reclassifying the document should be mindful of the time limits for responding to the request. Refer to JA 07/03.04, "Procedure: Time Limit for Response."

JA 07/02.05 **Procedure: Sharing Files With Other Governmental Entities**

UCA § 63-2-206 provides that:

- A. WCCF officials **may** provide a record that is *private, controlled, or protected* to another government entity—state or federal if the requesting entity:
 1. serves as a repository or archives for purposes of historical preservation, administrative maintenance, or destruction;
 2. enforces, litigates, or investigates civil, criminal, or administrative law, and the record is necessary to proceeding or investigation;
 3. is authorized by state statute to conduct an audit and the record is needed for that purpose; or
 4. is one that collects information for presentence, probationary or parole purposes.
- B. WCCF officials **may** provide a *private, controlled, or protected* record to another government entity if the requesting entity provides written assurance that:
 1. the record is necessary to the performance of the government entity's duties and functions;
 2. the record will be used for a purpose similar to the purpose for which the information in the record was collected or obtained; and
 3. the use of the record produces a public benefit that outweighs the individual privacy right that protects the record.
- C. WCCF officials **may** provide a record that is protected under § 63-2-304 (1) (2) to another government entity if:
 1. the record is necessary to the performance of the requesting entity's duties and functions; or

2. the record will be used for a purpose similar to the purpose to which the information in the record or record series was collected or obtained.
- D. WCCF officials **shall** provide a *private, controlled, or protected* record to another governmental entity if the requesting entity:
1. is entitled by law to inspect the record;
 2. is required to inspect the record as a condition of participating in a state or federal program or for receiving state or federal funds; or
 3. is an entity described in § 63-2-206 (1)(a)-(d) and the requested record is one described in § 63-2-304 (4).
 4. before disclosing a *private, controlled, or protected* record to another governmental entity, WCCF officials shall:
 - a. inform the recipient of the record's classification and the accompanying restrictions on access; and
 - b. if the recipient is not a government entity to which GRAMA applies, obtain the recipient's written agreement that it will abide by the required restrictions.
- E. WCCF officials can disclose a *private, controlled, or protected* record without complying with these procedures if disclosure is authorized or required by executive agreement, treaty, federal or state statute, federal regulation, court rule or order, or compact.
- F. Weber County is subject to the same restrictions on disclosure of the material as the originating entity.

JA 07/02.06 **Procedure: Prisoners' Access to Records**

- A. The WCCF houses convicted and accused criminal offenders, most of whom are manipulative, aggressive, and/or dangerous security risks. Thus, it is necessary to protect many jail records, record series, and other information from being obtained by prisoners who could use the information to identify informants, harm staff or other prisoners, and compromise security.
1. **GRAMA does not exempt prisoners from the general right of public access to government records.**
 2. Prisoners also use GRAMA to frustrate efficient correctional

management by filing frequent information requests to force WCCF officials to engage in endless hours responding to GRAMA requests and potentially to have to transport prisoners to State Records Committee hearings.

- B. Although GRAMA language provides no relief from requests by prisoners who may employ the GRAMA request process as a means of harassing WCCF officials, the statute does provide provisions for denying requested access.
- C. To protect records from prisoner access, WCCF officials shall classify any documents which should be kept from prisoners as *private*, *controlled*, or *protected*.
 - 1. UCA § 63-2-302, “**Private records**,” includes provisions which can be used to limit prisoners’ **access to staff information** including:
 - a. specified personnel records concerning current or former WCCF employees, Subsection 63-2-302 (2)(a); and
 - b. records which contain data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy, Subsection 63-2-302 (2)(d).
 - 2. UCA § 63-2-303, “**Controlled records**,” includes provisions which can be used to limit access to WCCF **medical, psychiatric, or psychological data**, § 63-2-303.
 - 3. UCA § 63-2-304, “**Protected records**,” includes provisions which can be used to limit prisoners’ access to **general facility records**, including, but not limited to:
 - a. 63-2-304 (9) (a)-(e), “records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:
 - “a. reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;
 - “b. reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;
 - “c. would create a danger of depriving a person of a right to a fair trial or impartial hearing;

- "d. reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or
 - "e. reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;"
- b. 63-2-304 (10), "records the disclosure of which would jeopardize the life or safety of an individual;"
- c. 63-2-304 (11), "records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental record-keeping systems from damage, theft, or other appropriation or use contrary to law or public policy;"
- d. 63-2-304 (12), "records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;"
- e. 63-2-304 (13), "records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections [or] the Board of Pardons and Parole . . . that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;"
- f. 63-2-304 (16), "records prepared by or on behalf of a government entity solely in anticipation of litigation that are not available under rules of discovery;"
- g. 63-2-304 (17), "records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of a governmental entity concerning litigation;"

- h. 63-2-304 (18), “records of communications between a governmental entity and an attorney representing, retained, or employed by the governmental entity if the communications would be privileged as provided in Section 78-24-8;”
 - i. 63-2-304 (22), “drafts, unless otherwise classified as public;”
 - j. 63-2-304 (23), “records concerning a governmental entity’s strategy about collective bargaining or pending;”
 - k. 63-2-304 (25), “records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;”
 - l. 63-2-304 (31), “records provided by the United States or by a governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to a public disclosure if retained by it.”
- D. In addition to the private, controlled, and protected records discussed above, the WCCF is authorized under Subsections 63-2-301 (1)(b)(i-ii) to exclude from public access.
- “(i) records undercover law enforcement personnel; and
 - “(ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual’s safety.”

JA 07/02.07 **Procedure: Rights of Individuals on Whom Data is Maintained**

- A. Weber County must file with the state archivist a statement explaining the purposes of which record series designated private or controlled are collected and used by that government entity.
 - 1. This requirement does **not** extend to documents designated **protected**.
 - 2. That statement is a public record.
- B. Upon request, Weber County officials must explain to the individual:
 - 1. the reasons the individual is asked to furnish information which could be classified as private or controlled;
 - 2. the intended use of the information; and

3. the consequences for refusing to provide the information.

JA 07/03.00 **ACCESS PROCESS**

JA 07/03.01 **Policy**

It is the policy of the WCCF that access shall be provided to public records consistent with the requirements of the Governmental Records Access and Management Act (GRAMA).

JA 07/03.02 **Rationale**

Access to public records controlled by the WCCF is required under Chapter 2, Title 63, to be in compliance with GRAMA.

JA 07/03.03 **Procedure: Public Requests**

A. **Initiating Requests**

1. GRAMA requests may be made by mail or in person.
2. Persons attempting to obtain records by telephone will be provided the two proper options for initiating a request.
3. All requests for records under the GRAMA shall be made through the GRAMA Coordinator.
4. In the absence of the GRAMA Coordinator, requests shall be handled by a staff member designated by the Sheriff/ designee.

B. **In-person Requests**

1. In-person GRAMA requests may be made between Monday through Friday, 0800 and 1700 hours, at the reception office in the main lobby of Weber County Sheriff's Complex.
2. At the reception office, the requester shall be provided a blank Weber County Sheriff's Office GRAMA Request Form and instructed to complete the form, providing;
 - a. the requester's name, mailing address, and daytime telephone number;
 - b. the specific document or documents requested; and
 - c. whether copies of the document or documents will be requested.

3. After the requester completes the form, the receptionist shall take the form to the GRAMA Coordinator for initial processing.
4. The GRAMA Coordinator shall review the request and determine whether the documents requested exist and, if so, whether they are designated *public*, *protected*, *controlled*, or *private*.
 - a. If the requested documents are designated *public*, the documents or copies of the documents should be provided to the requester for review. The requester may take a copy of a public record. Refer to JA 07/03.09, "Duplication Fees."
 - b. If the requested documents are designated *private*, *controlled*, or *protected*, the requester shall be denied access. Refer to JA 08, "Denials and Appeals."
 - c. If the request cannot be immediately granted or processed, the GRAMA Coordinator should notify the requester, providing the probable response time that will be required. Refer to JA 07/03.04, "Time Limit for Response"; and JA 07/03.05, "Failure to Respond in Timely Manner."
 - d. If a requested document has not been pre-classified and there is any question concerning its proper designation the GRAMA Coordinator should notify the County Attorney's Office and request a ruling on the proper designation of the document.
5. If the document is determined to be *public*, the requester shall be notified by mail, and instructed that the document is available for review or copying.
6. If the document is determined to be *private*, *controlled*, or *protected*, the requester shall be notified that the document is protected under GRAMA and cannot be reviewed. Appropriate appeal language will be included, see below.

C. Requests by Mail

1. GRAMA requests received by mail shall be routed to the GRAMA Coordinator in the Records Office.
2. The requester shall furnish:
 - a. his name, mailing address, and daytime telephone number; and

- b. a reasonably specific description of the document or documents requested.
- 3. The GRAMA Coordinator shall review the request and determine whether the documents requested exist and, if so, whether they are designated *public*, *protected*, *controlled*, or *private*.
 - a. If the requested documents are designated *public*, the requester shall be notified by mail that the documents are available for review Monday through Friday, 0800 to 1700 hours, at the Weber County Justice Center, reception office. The requester should also be notified of the fees and procedures for duplicating public records.
 - b. If the requested documents are designated *private*, *controlled*, or *protected*, the requester shall be notified by mail that his request is denied. Refer to JA 08, “Denials and Appeals.”
 - c. Requests should be processed within the statutory time limits. Refer to JA 07/03.04, “Time Limit for Response” and JA 07/03.05, “Failure to Respond in timely Manner.”
 - d. If a requested document has not been pre-classified and there is any question concerning its proper designation, the GRAMA Coordinator should notify the County Attorney’s Office and request a ruling on the proper designation of the document.
- 4. If the document is determined to be *public*, the requester shall be notified by mail, and instructed that the document is available for review and/or duplication.
- 5. If the document is determined to be *private*, *controlled*, or *protected*, the requester shall be notified that the document is protected under GRAMA and cannot be reviewed.

D. Obtaining Requester’s Identity

It is required under § 63-2-202 (6) that before releasing a private, controlled, or protected record, the GRAMA Coordinator or designee shall obtain evidence of the requester’s identity.

JA 07/03.04 Procedure: Time Limit for Response

A. General Response Requirements

1. It is required by § 63-2-204 that, as soon as is reasonably possible, but **no later than ten business days** after receiving a written request, Weber County shall respond to the request by:
 - a. approving the request and providing the record;
 - b. denying the request;
 - c. notifying the requester that Weber County does not maintain the record; or
 - d. notifying the requester that because of one of the extraordinary circumstances listed under JA 07/03.04,B, Weber County cannot immediately approve or deny the request.
2. If the requester demonstrates that expedited response to the record request benefits the public rather than the person, the time limit is **five business days** after receiving the written response. The five-day exception applies primarily to the news media, because § 63-2-204 (3)(b) states, “Any person who requests a record to obtain information for a **story or report for publication or broadcast** to the general public is presumed to be acting for the benefit of the public rather than a person.”
3. If, due to *extraordinary circumstances*, it is not possible to immediately approve or deny the request within the ten-working-day requirement (five days for the news media), the GRAMA Coordinator shall notify the requestor, describing the circumstances relied upon and specifying the date when the records will be available.

B. Extraordinary Circumstances

1. Under 63-2-204 (4), the following circumstances constitute “extraordinary circumstances” that allow Weber County to delay approval or denial if the GRAMA Coordinator and Jail Commander determine that due to extraordinary circumstances Weber County cannot respond within the required time limits. The time limits which apply to each of the *extraordinary circumstances* appear in italics print and parenthesis after each such circumstance.

- a. Another governmental entity is using the record, in which case the GRAMA Coordinator shall promptly request that governmental entity return the record. *(The governmental entity currently in possession of the record shall return it **within five days** of the request for return unless returning the record would impair the holder's work.)*
- b. Another governmental entity is using the record as part of an audit and returning the record before completion of the audit would impair the conduct of the audit. *(Weber County shall notify the requester when the record will be available for inspecting and copying.)*
- c. The request is for a voluminous quantity of records. *(Weber County shall (1) disclose the records that it has located which the requester is entitled to inspect; (2) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request; and (3) complete the work and disclose the records that the requester is entitled to **as soon as reasonably possible.**)*
- d. Weber County is currently processing a large number of records requests. *(Weber County shall (1) disclose the records that it has located which the requester is entitled to inspect; (2) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request; and (3) complete the work and disclose the records that the requester is entitled to **as soon as reasonably possible.**)*
- e. The request requires Weber County to review a large number of records to locate the records requested. *(Weber County shall (1) disclose the records that it has located which the requester is entitled to inspect; (2) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request; and (3) complete the work and disclose the records that the requester is entitled to **as soon as reasonably possible.**)*
- f. The decision to release a record involves legal issues that require Weber County to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law. *(Weber County shall either approve or deny the request **within five business days after the response time specified for the original request has expired.**)*

- g. Segregating information that the requester is entitled to inspect from information that he is not entitled to inspect requires extensive editing. (*Weber County shall fulfill the request **within 15 business days from the date of the original request.***)
- h. Segregating information that the requester is entitled to inspect from information that he is not entitled to inspect requires computer programming. (*Upon payment or waiver of fees, Weber County shall complete its programming and disclose the requested records **as soon as reasonably possible.***)

JA 07/03.05 **Procedure: Failure to Respond in a Timely Manner**

- A. Weber County may not use the physical form (electronic or otherwise) in which a record is stored to deny, or unreasonably hinder the rights of persons to inspect and receive copies of a record accessible under GRAMA. § 63-2-201 (11).
- B. If Weber County fails to provide the requested records or issue a denial within the specified time period that failure is, under § 63-2-204 (7), considered the equivalent of a determination denying access to records.
- C. Failure of an official to respond as required under GRAMA may result in criminal penalties (§ 63-2-801), injunctions (§ 63-2-802), attorneys' fees (§ 63-2-802), and/or disciplinary actions (§ 63-2-804).

JA 07/03.06 **Procedure: Response Format**

- A. Weber County is **not required to create** a record in response to a request.
- B. Upon request, Weber County shall provide a record in a particular format if:
 - 1. officials are unable to do so without unreasonably interfering with its duties and responsibilities; and
 - 2. the requester agrees to pay Weber County's costs incurred in providing the record in the requested format. Refer to § 63-2-201 (8) (b) (I-ii).

JA 07/03.07 **Procedure: Requests Made to Wrong Agency**

- A. The WCCF hold prisoners for other agencies, and some records which a requester may seek may belong to one or more of those other agencies. WCCF officials may not be in possession of and lacks jurisdiction over the requested documents; thus, is not empowered to provide the documents for review or duplication.

Example: requests for records regarding state inmates should be referred to the Utah Department of Corrections Records Bureau.

- B. When a request is made for a document which Weber County does not maintain, § 63-2-204 (3) (a) (iii) requires Weber County officials to notify the requester that County does not maintain the record and to provide, if known, the name and address of the governmental entity that does maintain the record.

JA 07/03.08 **Procedure: Special Considerations**

- A. Weber County may disclose jail records that are *private, or protected* to persons other than those specified in § 63-2-202 or 63-2-206 if the Sheriff determines there is no interest in restricting access to the record, or that interests favoring access outweighs the interest favoring restriction of access.
- B. Nothing in GRAMA requires Weber County to fulfill a person's request if the request unreasonably duplicates prior records requests from that same person.

JA 07/03.09 **Procedure: Duplication Fees**

- A. Weber County is permitted by § 63-2-203 (1) to charge a reasonable fee to cover its costs in duplicating a record. The fee must be approved by the Sheriff.
- B. The Weber County is authorized by § 63-2-203 (3) (b) to establish fees by ordinance or written policy adopted by the County.
- C. When Weber County in responding to a request compiles a record in a form other than that normally maintained by the county, it may charge for the actual costs, including:
 - 1. the cost of staff time for summarizing, compiling, or tailoring the record; and
 - 2. the cost of staff time for search, retrieval and other direct administrative costs for complying with a request.
- D. The hourly charge may not exceed the salary of the lowest paid employee who, in the discretion of the custodian of the records, has the necessary skill and training to perform the request. Weber County is not permitted, under § 63-2-203 (2) (b), to charge for the first 15 minutes of staff time.
- E. Weber County may not charge a fee for:
 - 1. reviewing a record to determine whether it is subject to disclosure, except as permitted under C, above (§ 63-2-203 (5) (a)); or

2. inspecting a record.

- F. If fees are expected to exceed \$50.00 or if the requester has not paid fees from previous requests, § 63-2-203 (8) permits Weber County to require payment of past fees and future estimated costs before processing the request. If estimate fees paid exceed actual costs, the excess amount shall be refunded.
- G. If the requester believes fees should be waived or are otherwise unreasonable, they may appeal. Refer to chapter JA 08, “GRAMA: Denials and Appeals.”

JA 07/03.10 **Procedure: Request Denials**

Refer to JA 08, “GRAMA: Denials and Appeals.”