

## 10.1 Overview

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**Generally.** The parties to a juvenile proceeding have rights to obtain evidence and information from each other through the process of discovery. A juvenile has the right to discovery in all cases, regardless of whether the underlying offense alleged is a misdemeanor or felony. This chapter discusses grounds and procedures for obtaining discovery, including statutory rights to discovery of each party under the Juvenile Code and constitutional rights of the juvenile to obtain information from the State. Discovery is essential to development of a strong defense for the juvenile and evaluation of the State's case.

**Statutory rights.** The parties' statutory rights to discovery are set forth in Article 23 of the Juvenile Code. G.S. 7B-2300 through 7B-2303. Counsel must file a motion and obtain an order for disclosure of specific information or materials. G.S. 7B-2300(a).

The State's statutory right to discovery depends largely on the juvenile's exercise of rights under G.S. 7B-2300 and is limited to evidence that the juvenile intends to introduce at hearing. G.S. 7B-2301.

**Constitutional rights.** Disclosure by the State of exculpatory evidence that is material to the defense, commonly known as *Brady* material, has been recognized by the U.S. Supreme Court as essential under the Due Process Clause of the Fourteenth Amendment to ensuring fairness in a criminal case. The constitutional requirements of due process under the 14th Amendment are applicable to juvenile cases under *In re Gault*, 387 U.S. 1 (1967). *See infra* § 10.5, Juvenile's Constitutional Right to Disclosure of Exculpatory Evidence.

**Local rules governing discovery.** Some districts have adopted local rules of discovery that may include deadlines for filing discovery motions and for producing discovery.

**Other bases for disclosure.** There are several other means of obtaining information in juvenile proceedings. Voluntary disclosure by the State is specifically allowed by statute. G.S. 7B-2300(f). G.S. 7B-2901 and 7B-3001 give the juvenile access to records concerning the juvenile maintained by the clerk in abuse, neglect, and dependency cases under Subchapter I of the Juvenile Code, by the Department of Social Services (DSS), by law enforcement, and by the Division of Adult Correction and Juvenile Justice. Rule 3.8(d) of the North Carolina Rules of Professional Conduct requires disclosure by the prosecutor of exculpatory or mitigating information in criminal cases and may be applicable to juvenile proceedings. In addition, counsel may use a subpoena to require a witness to appear and produce documents or may move for production of documents from a non-party witness. *See* 1 NORTH CAROLINA DEFENDER MANUAL § 4.6A, Evidence in Possession of Third Parties; § 4.7, Subpoenas (2d ed. 2013). Counsel also may make a request to inspect and examine public records under Chapter 132 of the North Carolina

General Statutes. These alternative means of discovery are discussed in more detail *infra* in §§ 10.6–10.9.