

Chapter 4

Discovery

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A defendant’s right to discovery is based primarily on statute and due process. The main statutory provisions appear in Sections 15A-901 through 15A-910 of the North Carolina General Statutes (hereinafter G.S.). In 2004, the General Assembly significantly rewrote those provisions

to give criminal defendants the right to “open-file” discovery. Since then, the General Assembly has made minor revisions to the defendant’s discovery rights but has maintained the commitment to open-file discovery for the defense.

This chapter discusses discovery in cases within the original jurisdiction of the superior court—that is, felonies and misdemeanors initiated in superior court. Discovery in misdemeanor cases tried in district court or for trial de novo in superior court is limited and is discussed only briefly. *See infra* § 4.1E, Discovery in Misdemeanor Cases. For a brief discussion of discovery in other types of cases, see *infra* § 4.1F, Postconviction Cases, and § 4.1G, Juvenile Delinquency Cases.

Sample discovery motions can be found in the [Adult Criminal Motions](#) section of the website of the Office of Indigent Defense Services (IDS). Selected motions are identified in the discussion below. For additional motions, see MAITRI “MIKE” KLINKOSUM, CRIMINAL DEFENSE MOTIONS Ch. 4 (Motions for Discovery), at 127–320, and Ch. 5 (Preventing and Litigating the Illegal Destruction of Evidence), at 321–448 (4th ed. 2018) [hereinafter KLINKOSUM].