

Chapter 10

Discovery

10.1	Overview	10-2
10.2	Terminology Used in this Chapter	10-3
10.3	Procedures for Obtaining Discovery	10-3
	A. Motion and Order Required	
	B. When to File Motion	
	C. Contents of Motion	
	D. Hearing on Motion for Discovery	
	E. Continuing Duty to Disclose	
	F. Continuances and Sanctions	
10.4	Juvenile’s Statutory Right to Discovery	10-6
	A. Statement of the Juvenile and Co-Respondents	
	B. Within the Possession, Custody, or Control	
	C. Names of Witnesses	
	D. Documents and Tangible Objects	
	E. Reports and Examinations	
	F. “Work Product” Exception	
	G. Consequences of Juvenile Obtaining a Discovery Order	
	H. Local Discovery Rules	
10.5	Juvenile’s Constitutional Right to Disclosure of Exculpatory Evidence	10-9
	A. <i>Brady</i> Material	
	B. Evidence Required to be Disclosed under <i>Brady</i>	
10.6	North Carolina Rules of Professional Conduct	10-11
10.7	Voluntary Disclosure by State	10-11
10.8	Other Sources of Information	10-11
10.9	Public Records Request	10-12

10.10 State’s Statutory Right to Discovery	10-13
A. Names of Witnesses	
B. Right Based on Juvenile’s Order for Discovery Following State’s Motion and Order for Discovery	
10.11 Protective Order	10-14

10.1 Overview

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.

10.2 Terminology Used in this Chapter

Brady material is evidence or information that is favorable to the defense and material to the outcome of either the guilt-innocence or sentencing phase of a trial. This evidence must be disclosed by the State in a criminal case under the Due Process Clause of the 14th Amendment pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. *See infra* § 10.5A, *Brady Material*.

Petitioner is “the individual who initiates court action by the filing of a petition or a motion for review alleging the matter for adjudication.” G.S. 7B-1501(20). The discovery statutes describe the obligation of the “petitioner” to provide discovery to the juvenile (and vice versa). *See, e.g.*, G.S. 7B-2300. As used in the discovery statutes, the term “petitioner” appears to be broader. It essentially refers to agents of the State acting on behalf of the petitioner, including the prosecutor, law enforcement officers, and juvenile court counselors—that is, the State.

10.3 Procedures for Obtaining Discovery

A. Motion and Order Required

The categories of information that each party is statutorily entitled to obtain are set forth in G.S. 7B-2300. *See infra* § 10.4, Juvenile’s Statutory Right to Discovery, and § 10.10, State’s Statutory Right to Discovery. Each statutory section providing for discovery requires that a motion be filed and an order obtained. G.S. 7B-2300. It is common practice to file a single motion identifying all the categories of information sought. A sample discovery motion is available on the [Office of the Juvenile Defender website](#). Counsel should ask that discovery be produced by a specific date and request a hearing on the motion, if necessary.

In some districts the prosecutor has an open file policy or the juvenile court counselor routinely provides discovery materials to the juvenile’s counsel. Even if discovery materials are voluntarily provided, counsel should file a discovery motion to protect the juvenile’s rights to discoverable information that might not have been provided by the State. In criminal cases in which the defendant has failed to make a formal request for

discovery from the State pursuant to the statutory requirements, the courts have held that the defendant has no remedy if the State fails to produce the information voluntarily. *See State v. Abbott*, 320 N.C. 475, 483 (1987) (prosecutor not barred from using defendant's statement at trial even though it was discoverable under statute and was not produced before trial; open-file discovery policy was no substitute for formal request and motion).

Counsel should therefore file a motion for discovery and secure an order compelling discovery to protect the juvenile's rights in all cases. Although G.S. 7B-2300 does not require the court to enter a written discovery order, counsel should request a written order so the requirements of the order are clearly documented and preserved.

G.S. 15A-902(b), a part of the Criminal Procedure Act, requires an adult criminal defendant to make a written request for discovery before making a discovery motion. If the prosecutor voluntarily agrees to provide discovery in response to an adult defendant's written request, the agreement is binding without an order of the court. There is not a specific provision to that effect in the Juvenile Code. The absence of such a provision further underscores the need for counsel to prepare and file a written, comprehensive motion for discovery in juvenile cases and obtain a court order.

B. When to File Motion

The Juvenile Code does not specify a deadline for moving for discovery. A motion for discovery should be filed early in the proceeding, however, so that counsel will have as much time as possible to review the information and evidence produced, investigate the evidence, and make additional motions if necessary. Discovery material may also be important for a probable cause hearing. Because adjudicatory hearings are usually set for hearing soon after the filing of the petition, discovery must proceed in a timely manner so that counsel will be prepared for the hearing. It is particularly important to act expeditiously with discovery and avoid unnecessary continuances when the juvenile is in secure custody pending adjudication.

C. Contents of Motion

A discovery motion should be broad enough to include all evidence and information covered by statute. Although cases after *Brady* have held that a specific request is not required, the motion should also ask for all exculpatory information to put the State on notice of the information it should produce and to strengthen the record in the event of an appeal. *See infra* § 10.4, Juvenile's Statutory Right to Discovery, and § 10.5, Juvenile's Constitutional Right to Disclosure of Exculpatory Evidence.

The motion for discovery should also request any other information believed to be helpful to the juvenile's case regardless of whether the information is specified by statute. The duty to advocate zealously for the juvenile requires that counsel seek all evidence necessary to mount an effective defense.

Although the Juvenile Code does not set a deadline for production of discovery, counsel should request that the court specify a deadline in its order. Local rules in some districts provide deadlines for production of discovery. Counsel should be familiar with these rules to protect the juvenile's rights.

D. Hearing on Motion for Discovery

The discovery statute does not specify that a hearing is required, as the wording is mandatory that "upon motion" the court "shall order" disclosure of the information. G.S. 7B-2300(a)–(d). It may be necessary to schedule a hearing and give notice, however, if required by the court, local rules or custom, or the State objects to entry of an order for discovery. Also, a hearing may be beneficial to obtain an order setting a deadline for production of discovery or if the State has not produced requested information in a timely manner.

At the hearing, counsel should be prepared to cite the statutory bases for disclosure of the material, as well as the constitutional bases for exculpatory material requested under *Brady*. See *infra* § 10.5, Juvenile's Constitutional Right to Disclosure of Exculpatory Evidence.

E. Continuing Duty to Disclose

Each party who has been ordered to disclose information or evidence is under a continuing duty to disclose newly-discovered evidence that is subject to discovery. The other party must be given prompt notice of the new or additional evidence. G.S. 7B-2303. The State has an additional continuing duty under *Brady* and related cases to disclose evidence that is favorable to the juvenile and is material to the outcome of the case. See *infra* § 10.5, Juvenile's Constitutional Right to Disclosure of Exculpatory Evidence.

F. Continuances and Sanctions

Counsel may need additional time to review evidence that has just been disclosed by the State. In some instances, the failure of the State to disclose evidence under a discovery order in a timely manner may justify a continuance or other remedy for violation of the juvenile's statutory or constitutional rights. See *In re A.M.*, 220 N.C. App. 136, 138 (2012) (trial court erred by depriving juvenile of any remedy, such as granting a motion in limine or continuing the case, for the State's failure to disclose the name of a witness during discovery).

Likewise, counsel for the juvenile should promptly turn over required information to avoid a request for a continuance by the State or sanctions.

10.4 Juvenile’s Statutory Right to Discovery

A. Statement of the Juvenile and Co-Respondents

The State must provide information regarding both written and oral statements made by the juvenile or by any co-respondents. G.S. 7B-2300(a). Specifically, on motion and order, the State must:

- allow the juvenile to inspect *and* copy any relevant written or recorded statements within the possession, custody, or control of the petitioner made by the juvenile or any other party charged in the same action; and
- divulge, in written or recorded form, the substance of any oral statement made by the juvenile or any other party charged in the same action.

G.S. 7B-2300(a)(1), (2).

Counsel should also include in the discovery motion a request for copies of any waiver forms read to or signed by the juvenile during questioning. Counsel should then review the waiver forms to determine whether the juvenile’s constitutional or statutory rights were violated. If an adult waiver form was used, it is likely that the juvenile did not receive adequate information regarding statutory rights, such as the right to have a parent or guardian present during questioning. *See infra* § 11.4I, Knowing, Willing, and Understanding Waiver of Rights.

B. Within the Possession, Custody, or Control

The State is required to produce the statements described above if they are “within the possession, custody, or control” of the State. G.S. 7B-2300(a). Thus, any information subject to discovery received by the State must be disclosed to the juvenile. These materials could include statements within DSS reports, psychological evaluations, or reports of school resource officers. *See, e.g.*, G.S. 7B-307(a) (DSS must report to the district attorney evidence of child abuse, and law enforcement must coordinate its investigation with the protective services investigation). The phrase “possession, custody, or control” has been construed to mean “within the possession, custody, or control of the prosecutor *or those working in conjunction with him and his office.*” *State v. Pigott*, 320 N.C. 96, 102 (1987) (emphasis in original). The State is therefore obligated to produce the required materials and information, such as information in the possession of law enforcement, whether or not contained in the prosecutor’s files.

C. Names of Witnesses

The State must provide, on motion and order, the names of all people to be called as witnesses. If the juvenile files a motion under G.S. 7B-2300 requesting disclosure of the State’s witness list, the trial court must grant the motion. *See In re A.M.*, 220 N.C. App. 136, 138 (2012) (holding that the trial court erred by “failing to allow [the juvenile’s] motion in limine, continue the case, or find another way to remedy a situation created by

the petitioner’s failure to comply with the plain mandate of N.C. Gen. Stat. § 7B-2300(b).”). Counsel should include in the motion a request for the records of any witnesses under the age of 16, which must be provided “if accessible to the petitioner.” G.S. 7B-2300(b). The requirement that the State provide the records of juvenile witnesses implies that they may be used to impeach the credibility of a juvenile witness. *See also infra* § 12.5C, Rules of Evidence (prior adjudication of delinquency may be used to impeach juvenile or juvenile witness). Impeachment by a juvenile record may be particularly important if a co-respondent is testifying against the juvenile.

D. Documents and Tangible Objects

The State must allow the juvenile, on motion and order, to inspect *and* copy books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, and tangible objects. G.S. 7B-2300(c). These materials must meet two conditions:

- First, the information must be within the possession, custody, or control of the petitioner, prosecutor, or an investigating law enforcement officer. This language reinforces the obligation of the prosecutor to turn over discoverable information even if it is not in the immediate possession of the prosecutor. *See supra* § 10.4B, Within the Possession, Custody, or Control.
- Second, the information must be material to the preparation of the defense, *or* intended for use by the State as evidence, *or* obtained from or belonging to the juvenile.

G.S. 7B-2300(c)(1), (2).

Counsel should include in the motion a request for any documents or tangible objects obtained from the scene of the offense or from the alleged victim. The motion may include a request for such items as videotapes of the alleged victim or the scene of the offense, which may have to be copied from a computer hard drive, as well as any audio recordings describing the scene of the offense, of a call to 911, or of the alleged victim’s statement. In some instances it may be easier for counsel to obtain information directly from the source. For example, counsel may be able to obtain copies of 911 calls directly from law enforcement under G.S. 7B-3001. *See infra* § 10.8, Other Sources of Information. It may be necessary to file a motion to preserve evidence that law enforcement may routinely destroy after a certain amount of time has elapsed. A sample motion to preserve rough notes of investigators is available on the [Office of the Juvenile Defender website](#).

E. Reports and Examinations

Tests. The State must allow the juvenile, on motion and order, to inspect and copy the results of tests and examinations within its possession, custody, or control. Results of physical or mental examinations, and tests, measurements, or experiments made in connection with the case, as well as underlying data, must be disclosed. G.S. 7B-2300(d); *see State v. Cunningham*, 108 N.C. App. 185 (1992) (defendant entitled to data

underlying lab report based on language in the version of G.S. 15A-903 in effect at the time, which is similar to the language that currently exists in G.S. 7B-2300(d)). Counsel should request copies of any physical or mental examinations of the alleged victim, the juvenile, or witnesses. Further, the data underlying tests, experiments, and measurements should be specifically requested in the motion, particularly regarding evidence obtained from the alleged victim or scene of the offense.

Physical evidence. Physical evidence that the State intends to offer at the adjudication hearing is discoverable by the juvenile. On motion of the juvenile, the court must order the State to allow the juvenile access to the physical evidence, or a sample of it, for the juvenile to inspect, examine, and test under appropriate safeguards. G.S. 7B-2300(d).

F. “Work Product” Exception

The State is not required under Article 23 of the Juvenile Code to produce “reports, memoranda, or other internal documents made by the petitioner, law enforcement officers, or other persons acting on behalf of the petitioner” in the investigation or prosecution of the case unless required pursuant to G.S. 7B-2300(a)–(d). G.S. 7B-2300(e). Additionally, there is no requirement under Article 23 that the State produce statements made by witnesses, the petitioner, or anyone acting on behalf of the petitioner unless otherwise required by the statute. *Id.* This type of information is sometimes referred to as “work product.” This provision does not override other rights to obtain information, however.

Information that falls within the discovery statute, or that must be disclosed pursuant to constitutional mandates, must be produced. Statutory and constitutional disclosure requirements override any work product exception. *See infra* § 10.5, Juvenile’s Constitutional Right to Disclosure of Exculpatory Evidence.

Further, according to G.S. 7B-3001(b), which appears in a separate article of the Juvenile Code, a juvenile is entitled to “examine and obtain copies” of law enforcement records and files concerning the juvenile. *See infra* § 10.8, Other Sources of Information. Counsel should therefore request copies of law enforcement files concerning the juvenile under the authority in G.S. 7B-3001(b) to obtain information that would normally be protected from disclosure under the work production exception in G.S. 7B-2300(e).

In addition, if the witness has reviewed the material before testifying—for example, an officer may review his or her report or a witness his or her statement—the juvenile should request disclosure under Rule 612 of the North Carolina Rules of Evidence, which authorizes the court to order disclosure.

G. Consequences of Juvenile Obtaining a Discovery Order

Except for the names of the juvenile’s witnesses, the State’s statutory right to discovery depends on the juvenile’s exercise of statutory rights under G.S. 7B-2300 and is limited to evidence that the juvenile intends to introduce at the hearing. G.S. 7B-2301. If the

juvenile obtains an order for *any* discovery under the statute, the State may obtain information from the juvenile as allowed by statute. G.S. 7B-2301(b), (c); *see infra* § 10.10, State’s Statutory Right to Discovery.

In most cases, the State has more information than the juvenile, so the benefits of obtaining information from the State outweigh the risks of disclosing evidence. It is therefore generally best to file a broad request for discovery as early as possible in the proceeding.

H. Local Discovery Rules

Some districts have adopted local rules governing discovery. Local rules are authorized by G.S. 7A-34 and Rule 2(d) of the General Rules of Practice for the Superior and District Courts Supplemental to the Rules of Civil Procedure, if they are supplemental to and not inconsistent with acts of the General Assembly. These rules may expand the information available to the juvenile or set deadlines for requesting and producing discovery. It is vital for counsel to be familiar with any local rules to ensure that all discoverable information is requested and obtained in a timely manner. Local rules for each district are available on the [Administrative Office of the Courts website](#).

10.5 Juvenile’s Constitutional Right to Disclosure of Exculpatory Evidence

A. *Brady* Material

The U.S. Supreme Court recognized the constitutional right of a criminal defendant under the Due Process Clause of the 14th Amendment to disclosure by the State of evidence that is:

- favorable to the defense, *and*
- material to the outcome of either the guilt-innocence or the sentencing phase of the trial.

Brady v. Maryland, 373 U.S. 83, 87 (1963). Subsequent cases have clarified that the right to disclosure does not depend on a request by the defendant for the exculpatory information. *Kyles v. Whitley*, 514 U.S. 419, 433 (1995); *United States v. Bagley*, 473 U.S. 667, 676 (1985). Citing *Brady*, the North Carolina Court of Appeals has stated in a juvenile appeal that “it is true that suppression of evidence favorable to an accused upon request violates due process where the evidence is material to guilt.” *In re Coleman*, 55 N.C. App. 673, 674 (1982).

Although not required by *Kyles* and *Bagley*, it is good practice to file a motion requesting that the State produce exculpatory evidence and specifying to the extent known the evidence that counsel wants the State to produce. This will put the State on notice and will strengthen the record in the event of an appeal.

B. Evidence Required to be Disclosed under *Brady*

Defender Manual. The North Carolina Defender Manual contains a more complete discussion of information required to be disclosed under *Brady* and related cases. See 1 NORTH CAROLINA DEFENDER MANUAL § 4.5, *Brady* Material (2d ed. 2013).

Favorable to the defense. Categories of evidence that must be disclosed as favorable to the defense are discussed, with case citations, in 1 NORTH CAROLINA DEFENDER MANUAL § 4.5C, Favorable to Defense (2d ed. 2013). Favorable evidence includes evidence that tends to negate guilt, mitigate an offense or sentence, or impeach the truthfulness of a witness or reliability of evidence. Examples of favorable evidence include:

- impeachment evidence, such as:
 - false statements of a witness
 - prior inconsistent statements
 - bias of a witness
 - witness’s capacity to observe, perceive, or recollect
 - psychiatric evaluations of a witness
 - prior convictions and other misconduct
- evidence discrediting police investigation and credibility
- other favorable evidence, such as:
 - evidence undermining identification of defendant
 - evidence tending to show guilt of another
 - physical evidence
 - “negative” exculpatory evidence (e.g., defendant not mentioned in statement regarding crime)
 - identity of favorable witnesses

Material to outcome. Under *Brady*, evidence must be material to the outcome of either the guilt-innocence or the sentencing phase of the case, in addition to being favorable to the defense. *Brady v. Maryland*, 373 U.S. 83, 87 (1963). The U.S. Supreme Court, in *Kyles v. Whitley*, 514 U.S. 419 (1995), provided further guidance regarding when evidence is material to the outcome of the case and must be disclosed. In *Kyles*, the Court stated four aspects of materiality under *Brady*:

- The standard of review for constitutional error for failure to disclose by the State is a “reasonable probability” that the outcome of the trial would have been different.
- The test is not the sufficiency of the evidence presented, but rather whether the favorable evidence might have cast a different light on the evidence presented, thereby undermining confidence in the verdict.
- If the appellate court finds constitutional error, the defendant is entitled to a new trial; the harmless error standard is not applicable.
- Materiality is determined by the cumulative effect of all undisclosed evidence, not on an item-by-item basis.

Kyles v. Whitley, 514 U.S. 419, 434–37 (1995).

10.6 North Carolina Rules of Professional Conduct

Rule 3.8(d) of the Rules of Professional Conduct requires that the prosecutor in a criminal case disclose evidence that “tends to negate the guilt of the accused or mitigates the offense” and information that might mitigate at sentencing. Although this rule does not specifically apply to juvenile cases, the reasons underlying the duty to disclose are equally applicable. The rule requires the State to make “reasonably diligent inquiry” and to disclose non-privileged evidence as required by law, rules of procedure, or court opinions unless a protective order is entered.

10.7 Voluntary Disclosure by State

The Juvenile Code specifically provides that the State is not prohibited from making voluntary disclosure of evidence “in the interest of justice.” G.S. 7B-2300(f). It is important, however, for counsel to file a broad motion for discovery even when the State voluntarily discloses evidence. The right to discovery under the statute requires that a motion be filed and an order for discovery be entered. *See supra* § 10.3A, Motion and Order Required. Although *Brady* does not necessarily require that a motion be filed to invoke the State’s duty to disclose, counsel should file a written motion to highlight the information being sought and to strengthen the record in the event of appeal. If the prosecutor fails to produce discoverable information after receiving a specific request, the juvenile may have a stronger argument for sanctions.

10.8 Other Sources of Information

Juveniles also have access to a significant amount of information beyond the information available through discovery. Under G.S. 7B-2901(a), the juvenile and the juvenile’s attorney are entitled to examine and obtain copies of written parts of the clerk’s records for cases involving the abuse, neglect, or dependency of the juvenile under Subchapter I of the Juvenile Code. A motion or court order is not required to obtain the records.

G.S. 7B-2901(b) also gives the juvenile the right to examine DSS records of cases in which the juvenile is under placement by a court or has been placed under protective custody by DSS. These records include “family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile’s family; interviews with the juvenile’s family; or other information which the court finds should be protected from public inspection in the best interests of the juvenile.” G.S. 7B-2901(b). There is no requirement that the juvenile file a motion or obtain a court order before examining the records. The Court of Appeals acknowledged, in *In re J.L.*, 199 N.C. App. 605, 609 (2009), that juveniles have a “right” under G.S. 7B-2901(b) to access such records.

The juvenile and the juvenile’s attorney are also entitled to examine and obtain copies of records concerning the juvenile that are maintained by law enforcement and the Division

of Adult Correction and Juvenile Justice. G.S. 7B-3001(b) and (c). No motion or court order are required to obtain the records. If the records are not turned over on request, however, counsel for the juvenile should file a motion for an order compelling production.

The juvenile's rights under G.S. 7B-2901 and 7B-3001 are not grounded in discovery principles, but rather effectuate the juvenile's right to access records that are shielded from public inspection. Counsel should be familiar with the provisions of these statutes and should seek the records available under them.

10.9 Public Records Request

Counsel may make a request to inspect and examine public records under Chapter 132 of the North Carolina General Statutes. For example, counsel may obtain operations manuals, policies, and standard operating procedures developed by police and sheriffs' departments. The right to access public records is governed by G.S. 132-6. The statute does not require a specific form for requesting access to public records. Instead, the custodian of public records must permit "any person" to inspect and examine public records "at reasonable times and under reasonable supervision." G.S. 132-6(a). G.S. 132-6.2 permits the custodian to charge fees for copies of public records. Such fees must only reflect the "actual cost" of making the copies, which is "limited to direct, chargeable costs related to the reproduction of a public record as determined by generally accepted accounting principles and does not include costs that would have been incurred by the public agency if a request to reproduce a public record had not been made." G.S. 132-6.2(b).

When the General Assembly enacted Chapter 132, it intended that, as a general rule, the public should have "liberal access to public records." *News & Observer Pub. Co. v. State*, 312 N.C. 276, 281 (1984). This policy is reflected in the definition of "public record," which includes "all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions." G.S. 132-1.

For more information about public records requests, see DAVID M. LAWRENCE, PUBLIC RECORDS LAW FOR NORTH CAROLINA LOCAL GOVERNMENTS (UNC School of Government, 2d ed. 2009); and Frayda Bluestein, *Public Records in North Carolina* (UNC School of Government, 2012).

10.10 State’s Statutory Right to Discovery

A. Names of Witnesses

The juvenile must provide, on motion and order, the names of all people to be called as witnesses. G.S. 7B-2301(a).

B. Right Based on Juvenile’s Order for Discovery Following State’s Motion and Order for Discovery

If a juvenile has obtained an order for discovery of *any* information under G.S. 7B-2300, the State has the right to discover the evidence or information listed below. G.S. 7B-2301(b), (c). The juvenile has no obligation to disclose evidence or information unless the State has filed a discovery motion and obtained an order compelling disclosure. Further, the categories apply only when the juvenile intends to make use of the evidence at trial, as described below.

Documents and tangible objects. On motion of the State, the court must order the juvenile to allow the State to inspect and copy books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, and tangible objects *if* the materials are

- within the possession, custody, or control of the juvenile; *and*
- intended to be introduced as evidence by the juvenile.

G.S. 7B-2301(b).

Reports of examinations and tests. On motion of the State, the court must order the juvenile to allow the State to inspect and copy the results of certain tests and examinations. Results of physical or mental examinations, tests, measurements, or experiments made in connection with the case must be disclosed *if* the information is

- within the possession and control of the juvenile; *and*
- intended to be introduced as evidence or prepared by a witness whom the juvenile intends to call to testify about the result of the examination or test.

G.S. 7B-2301(c).

Physical evidence. On motion of the State, the court must order the juvenile to allow the State to inspect, examine, and test physical evidence that the juvenile intends to offer as evidence to the court. G.S. 7B-2301(c). The statute also permits the State to examine and test a sample of the physical evidence instead of the entire object. *Id.* Any examination or testing of the evidence by the State must be completed under “appropriate safeguards.” *Id.* The juvenile must also permit the State to inspect and examine any tests or experiments made in connection with physical evidence that the juvenile intends to offer as evidence to the court. *Id.*

10.11 Protective Order

Either party is allowed to file a motion requesting an order that discovery be denied, restricted, or deferred. G.S. 7B-2302(a).

In the court's discretion, a party moving to restrict discovery may submit supporting affidavits or statements for in camera inspection. If the motion for relief is granted, the material inspected in camera by the court must be preserved for review by the Court of Appeals on appeal. G.S. 7B-2302(b).