



# Confidentiality and Juvenile Records

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Introduction to Juvenile Court Proceedings

Overview

A/N/D - agency records, court records

Delinquency – agency records, court records

Information sharing

Overview

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Delinquency – agency records, court records

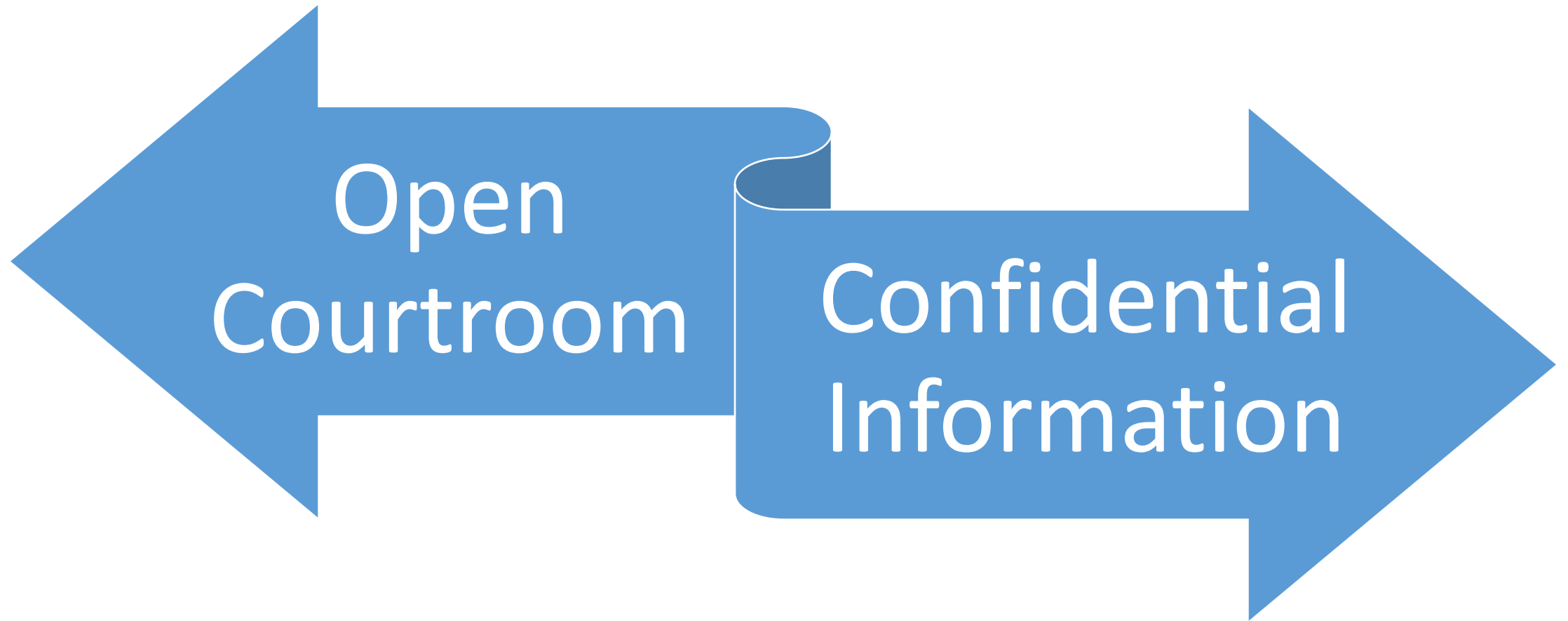
Information sharing



**CONFIDENTIAL**

General Rule: Confidential

# Recognize Difference



# Information Sharing – Confidentiality Still Applies

Mike's Impressions

## The Meaning of Confidentiality in the Life of a Youth

Overview

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# Types of Records



Agency  
(DSS, DJJ, Law Enforcement)



Court



Other Entities  
(e.g. school, medical provider)



# DSS Agency Records

Information in “strictest confidence” w/ limited disclosures

G.S. 7B-302(a1); G.S. 7B-2901(b)\*

Government  
Agency to protect  
a juvenile

DHHS licensed  
adoption agency  
to protect a  
juvenile

NC Court Order\*

Juvenile/GAL\*  
(even with 18+)

Discovery\*  
G.S. 7B-700

# DSS Agency Records

## DISCOVERY

- G.S. 7B-700: Information sharing and discovery in pending A/N/D court action

# DSS Agency Records

**What's the court order?**



Government  
Agency to protect  
a juvenile

DHHS licensed  
adoption agency  
to protect a  
juvenile

NC Court Order\*

Juvenile/GAL\*  
(even with 18+)

Discovery\*  
G.S. 7B-700



# Court Order (of this State)

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## 7B Action

## Civil Action

## Criminal/Delinquency Action

- DSS notice & opportunity to be heard
- Unavailable from another source
- May request in camera review

- No notice to DSS
- In camera inspection required

A person wearing a blue patterned button-down shirt is holding a smartphone with both hands. The person is wearing a gold chain bracelet on their left wrist and a black watch on their right wrist. The background is a soft-focus, slightly blurred image of the person's torso and hands. Overlaid on the image is the text 'Reporter Identity' in a large, white, outlined font. Below it, in a smaller white font, are the words 'Extra Protections' and the legal codes 'GS 7B-302(a1); 7B-700(a)'.

# Reporter Identity

Extra Protections

GS 7B-302(a1); 7B-700(a)

# On the Civil Side



## A/N/D Reporting: Rights, Protections, and Prosecutor Review

This entry was contributed by Sara DePasquale on June 21, 2017 at 6:00 am and is filed under Child Welfare Law.

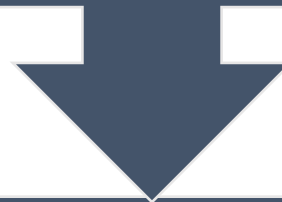


Like every other state, North Carolina has a mandated reporting law for child abuse and neglect. North Carolina's law requires *any* person or institution *with cause to suspect* a child is abused, neglected, or dependent by a parent, guardian, custodian, or caretaker to make a report to the county child welfare department (in most counties, DSS) where the child resides or is found. [GS 7B-301](#). What is in a report? Are there protections for the reporter? What are the rights of the reporter? If DSS decides not to initiate a court action, can the reporter challenge that decision?

### Making the Report

A/N/D Court Records  
7B-2901(a)

Withheld from Public Inspection



Unless Court Order or  
w/o court order may examine and obtain copies of the *written parts* of the record

Juvenile  
(or attorney)

GAL

DSS

Parent, Guardian, Custodian  
(or attorney)



# Written Transcript

Only if notice of appeal timely given  
G.S. 7B-806; 7B-2901(a); 7B-3000(d)





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## DJJ Records – G.S. 7B-3001(c)

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Only certain people can examine and obtain copies without a court order

- (1) The juvenile and the juvenile's attorney;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) Professionals in the agency who are directly involved in the juvenile's case; and
- (4) Juvenile court counselors.



# Law Enforcement Records – G.S. 7B 3001(b)

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Only certain people can examine and obtain copies without a court order

- (1) The juvenile and the juvenile's attorney;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The Prosecutor;
- (4) Juvenile court counselors; and
- (5) Law enforcement officers sworn in NC



# Delinquency Court Records – G.S. 7B-3000

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Only certain people can examine and obtain copies of the *written parts* of the record without a court order:

- (1) The juvenile or the juvenile's attorney;
- (2) The juvenile's parent, guardian, or custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The prosecutor;
- (4) Court counselors; and
- (5) Probation officers (for supervision risk assessment)

Prosecutor can share information from a juvenile court record verbally with magistrates and law enforcement officers sworn in NC, but the record cannot be copied.

G.S. 7B-3000(b)



## Allowable Uses of Delinquency Adjudication Record in Criminal Proceedings – G.S. 7B-3000 (e)

**Law enforcement, magistrates, courts, and prosecutors can use for pretrial release, plea negotiating decisions, and plea acceptance decisions ONLY if**

- Person was under 21 at time of criminal offense
- Criminal offense is A1 MDM or a felony
- Adjudication was A1 MDM or felony and person was at least 13 at time of adjudication
- Information remains confidential and does not enter any public record

## Allowable Uses of Delinquency Adjudication Record in Criminal Proceedings – G.S. 7B-3000 (e1)

### **Adult probation for assessing risk related to supervision, ONLY if**

- the person was under age 25 at the time of the criminal offense
- Adjudication was for a felony
- Information remains confidential and does not enter any public record

## Allowable Uses of Delinquency Adjudication Record in Criminal Proceedings – G.S. 7B-3000 (f)

### **404(b) evidence or aggravating factors at sentencing, ONLY if**

- Juvenile adjudication for Class A – E felony
- Prosecutor makes a motion in criminal proceeding
- Court holds in camera hearing to determine if record is admissible
- Court issues an order for the use of the records



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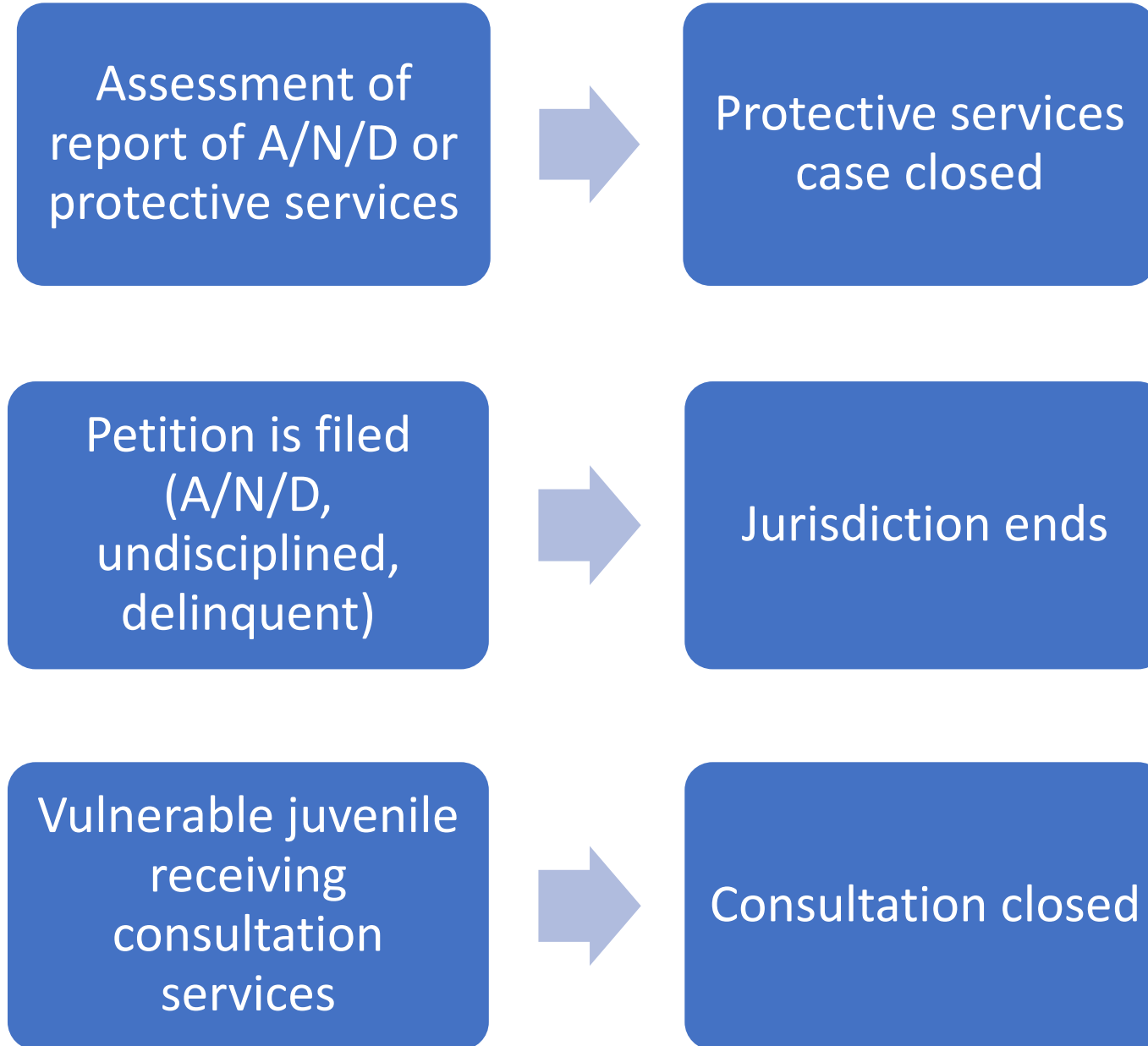
# Local Interagency Information Sharing

7B-3100

Designated agencies authorized to share information (14B NCAC 11A.0301)

- DJJ, GAL Office, DSS, LME, law enforcement, DA (not required to disclose), county mental health facilities, developmental disabilities and substance abuse programs, local school administrative units, local health departments, DAC Div. of Community Supervision and Reentry (to assess risk in certain cases), local agencies designated by judicial district administrative order

# When?



Information relevant to  
assessment or provision  
of protective services;  
case related to petition;  
consultation case

For: 1) protection of the  
juvenile and others or 2)  
to improve juvenile's  
educational  
opportunities



Strict  
Limitations on  
Redisclosure

# Information Sharing for A/N/D

## Limitation: Federal Law Requirements

- 7B-302(e): DSS may consult with; may make a written demand for information believe relevant
- 7B-601/7B-700(f): Guardian ad litem access to information believed relevant; no redisclosure unless submitting to court, court order, or local rule





# Delinquency School Notification

7B-3101 school notification

115C-404 school use of juvenile court information

[School Notification of Felony Delinquency Charges](https://civil.sog.unc.edu/school-notification-of-felony-delinquency-charges/)

<https://civil.sog.unc.edu/school-notification-of-felony-delinquency-charges/>

# Confidentiality

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Remember Mike's story

Be Aware of the Laws