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The limits of criminal discovery in Virginia.

Sadly, Virginia law does not guarantee enough discovery to criminal defendants: "There is no general constitutional right to discovery in a criminal case, even where a capital offense is charged. *Strickler v. Commonwealth*, 241 Va. 482, 490-91, ... cert. denied, 502 U.S. 944 (1991). While a defendant has the right to exculpatory evidence in the Commonwealth's possession upon request, *Stover v. Commonwealth*, 211 Va. 789, 795 (1971), Rule 3A:11 defines the other discovery available to the accused in a felony case. See *Hackman v. Commonwealth*, 220 Va. 710, 713, 261 S.E. 2d 555, 558 (1980) (decided under previous Rule 3A:14). Under Rule 3A:11, a felony defendant is entitled to his own 'written or recorded statements' made to law enforcement personnel, certain written reports in the possession of the Commonwealth, and 'tangible objects . . . within the possession, custody, or control of the Commonwealth' which 'may be material to the preparation of [the] defense.' Rule 3A:11(b). The Rule specifically does not authorize discovery of 'statements made by Commonwealth witnesses or prospective . . . witnesses to agents of the Commonwealth . . . in connection with the investigation or prosecution of the case.' Rule 3A:11(b)(2)." *Juniper v. Commonwealth*, 271 Va. 362 (2006). Jon Katz.

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