

1 **RULE 7B. Preliminary Hearings**

2
3 (a) At the preliminary hearing, the state has the burden of proof and shall proceed first with its
4 case. At the conclusion of the state's case, the defendant may testify under oath, call witnesses,
5 and present evidence. The defendant may also cross-examine adverse witnesses.

6 (b) If from the evidence the magistrate finds probable cause to believe that the crime charged
7 has been committed and that the defendant has committed it, the magistrate shall order that the
8 defendant be bound over for trial. The findings of probable cause may be based on hearsay, in
9 whole or in part. Objections to evidence on the ground that it was acquired by unlawful means
10 are not properly raised at the preliminary examination.

11 (c) If the magistrate does not find probable cause to believe that the crime charged has been
12 committed or that the defendant committed it, the magistrate shall dismiss the information and
13 discharge the defendant. The magistrate may enter findings of fact, conclusions of law, and an
14 order of dismissal. The dismissal and discharge do not preclude the state from instituting a
15 subsequent prosecution for the same offense.

16 (d) At a preliminary examination, the magistrate, upon request of either party, may exclude
17 witnesses from the courtroom and may require witnesses not to converse with each other until
18 the preliminary examination is concluded. If the magistrate orders the defendant bound over for
19 trial, the magistrate shall execute a bind-over order and shall include any written findings in the
20 case record.