

3.1 Purpose of Hearing

- A. Screening
 - B. Discovery and Impeachment
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A. Screening

At a probable cause hearing, the district court must review the evidence to determine whether the case should be bound over (that is, transferred) to superior court. If the district court finds no probable cause, it must dismiss. *See* G.S. 15A-612(a)(3); *State v. Hudson*, 295 N.C. 427, 430 (1978) (hearing supposed to ensure that “defendant will not be unjustifiably put to the trouble and expense of trial”). The screening value of probable cause hearings is somewhat diminished by provisions allowing the State to reinstate prosecution after a finding of no probable cause—a finding of no probable cause and dismissal at the district court level does not prevent the State from subsequently seeking an indictment from the grand jury for the same offense. *See infra* § 3.6C, No Probable Cause.

B. Discovery and Impeachment

A probable cause hearing provides the opportunity for discovery and the development of impeachment evidence for use at trial. These may be the more important functions of the hearing because courts do not often dismiss for lack of probable cause.

Some cases have held that discovery is a legitimate purpose of a probable cause hearing. *See Coleman v. Alabama*, 399 U.S. 1, 9 (1970) (recognizing constitutional right to counsel at probable cause hearing because counsel can use hearing to obtain discovery and develop impeachment evidence); *Vance v. North Carolina*, 432 F.2d 984, 988–89 (4th Cir. 1970) (to same effect). Other cases state that the purpose of a probable cause hearing is to screen the case, not to provide discovery. Those cases still acknowledge that the hearing “may afford the opportunity for a defendant to discover the strengths and weaknesses of the State’s case.” *State v. Hudson*, 295 N.C. 427, 430 (1978). Thus, questions that provide the defendant with discovery should be permissible as long as they also bear on the determination of probable cause.