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4.021 Bind over of felony and misdemeanor cases. If at initial appearance a defendant appears on both felony and misdemeanor charges (other than minor misdemeanors), the presiding Judge shall determine at the initial appearance whether the charges arose from the same act or transaction. Crim.R. 5(B)(1).

If the presiding Judge determined at initial appearance that the misdemeanor and felony charges arose out of the same act or transaction, the misdemeanor case(s) shall not be assigned and shall be scheduled for hearing on the same date and time as the preliminary hearing scheduled for the felony case(s).

If the defendant waives the preliminary hearing in writing, the case(s) shall be referred to the Duty Judge who shall order one of the following:

1. If the defendant is charged only with one or more felonies, the Duty Judge shall order the felony case bound over to the Court of Common Pleas.
2. If the defendant is charged with one or more misdemeanors previously determined to arise out of the same act or transaction as a felony, the Duty Judge shall issue an order allowing the parties three business days to file objections showing good cause why the misdemeanor case(s) should not be bound over with the felony case. After the deadline for objections, if no objections were filed, the misdemeanor case(s) shall be ordered bound over with the felony case. If objections were filed, the Duty Judge shall review the objections and determine whether good cause has been shown. Upon a finding of good cause, the misdemeanor case(s) shall be referred to the Assignment Commissioner and the felony shall be ordered bound over. If good cause has not been shown, the misdemeanor case(s) shall be ordered bound over with the felony case.

If the defendant does not waive the preliminary hearing, and the felony case(s) is dismissed, any misdemeanor case(s) previously determined to arise out of the same act or transaction as the felony case(s) shall be referred to the Assignment Commissioner for individual assignment to a Judge.

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