



CRIMINAL JUSTICE BRANCH, MINISTRY OF ATTORNEY GENERAL
CROWN COUNSEL POLICY MANUAL

ARCS/ORCS FILE NUMBER: 55340-00	EFFECTIVE DATE: November 7, 2003	POLICY CODE: WAI 1.1
SUBJECT: Waiver of Criminal Charges Between Provinces		CROSS-REFERENCE: WAI 1 Practice Directive

POLICY

When the Attorney General of another province has consented to waive charges to British Columbia under section 478(3) of the *Criminal Code*, Crown Counsel in British Columbia have exclusive conduct of the case, including decisions regarding appeal. Crown Counsel in British Columbia may consult Crown Counsel in the sending jurisdiction.

When Crown Counsel in British Columbia are considering a request to waive charges to another province under section 478(3) of the *Criminal Code*, the following considerations apply:

1. Waiver should not be approved unless the accused has some valid connection with the location to which the charge is proposed to be waived, for instance, where the accused is in custody at that location, lives at or near that location, or wants to dispose of other charges arising from that location. This is to discourage accused persons from requesting waiver to avoid media attention or select a particular court before which to enter a guilty plea.
2. Waiver should not be approved if there is a need to keep the prosecution in the community where the offence was committed.
3. Where the accused has outstanding charges in different locations within the Province, waiver may not be appropriate unless the accused agrees to waive all of the charges.

DISCUSSION

Heads of Prosecution in 2002 agreed that:

When a charge is waived from one province to another, Crown Counsel in the receiving jurisdiction has exclusive conduct of the case, including any decision whether an appeal should be taken. Crown Counsel in the receiving jurisdiction may consult Crown Counsel in the sending jurisdiction.

Under section 478(3) of the Criminal Code, the waiver of a charge to another province requires the consent of the Attorney General of the sending jurisdiction and a guilty plea by the accused. Under the Practice Directive entitled Consent of the Attorney General, the consent of the Attorney General may be given by any Crown Counsel.

PROCEDURE

The following applies to a request from an accused to waive BC charges to another province:

1. When a request for waiver is received, it should be forwarded to the Crown Counsel office where the charge originates. Provincial statute offences (e.g. *Motor Vehicle Act*) cannot be transferred outside of BC.
2. A check should be conducted via JUSTIN to determine if the accused has any additional charges outstanding in BC for which the accused has not signed a Request for Waiver. If there are other outstanding charges, the Crown Counsel office where those charges are located should be contacted to see if they have received a Request for Waiver. If not, the accused should be contacted and advised of the additional charges.
3. After waiver, the file should be brought forward by the sending Crown Counsel office to ensure that a final disposition has occurred.