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

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ARCS/ORCS FILE NUMBER: <b>59000-00</b>	EFFECTIVE DATE: <b>May 16, 2007</b>	POLICY CODE: <b>PRO 2</b>
SUBJECT: <b>Prosecutorial Responsibility for Federal Statutes – Major/Minor Agreement</b>		CROSS-REFERENCE: <b>ENV 1 Practice Directive</b>

## POLICY

The Criminal Justice Branch is responsible for prosecutions under the *Criminal Code*.

The Public Prosecution Service of Canada is responsible for prosecutions under all other federal statutes, unless a provincial investigating agency has provided a report to Crown Counsel, in which case the Criminal Justice Branch is responsible (e.g. under the federal *Fisheries Act* or the *Migratory Birds Convention Act*).

Notwithstanding the above, where on one Information or Indictment there are charges which are a Criminal Justice Branch responsibility and charges which are a Public Prosecution Service of Canada responsibility, the prosecutorial authority with responsibility for the more significant offences will assume conduct (including charge assessment) of the whole prosecution, as set out in the Major/Minor Agreement attached as appendix A (which does not apply to the *Firearms Act* – see the Practice Directive entitled *Firearms Offences – Prosecutions under Part III of the Criminal Code and the Firearms Act*).

## DISCUSSION

R. v. Sacobie and Paul (1979), 51 CCC (2d) 430 (N.B.C.A.); affd. (1983), 1 CCC (3d) 446 (SCC) sets out the rule as to when provincial Crown Counsel may conduct prosecutions for offences under federal statutes other than the *Criminal Code*:

- if an Information is laid on behalf of the Government of Canada and counsel appears on behalf of the Attorney General of Canada, the federal Crown has exclusive legislative jurisdiction

- if an Information is laid by the federal government and counsel for the provincial Attorney General appears, and counsel for the Attorney General of Canada does not appear, the provincial Crown has the exclusive right to prosecute
- if an information is laid by anyone other than on behalf of the federal government, the provincial Crown may appear, as the *Criminal Code* requires, to conduct the prosecution

Provincial firearms officers provide Reports to Crown Counsel to the Public Prosecution Service of Canada for *Firearms Act* offences which are the sole responsibility of the Public Prosecution Service of Canada.

Attached as appendix B is a precedent for a letter of authorization under the Major/Minor Agreement.

APPENDIX A  
**MAJOR/MINOR AGREEMENT**

BETWEEN:

THE PUBLIC PROSECUTION SERVICE OF CANADA

- and -

THE ATTORNEY GENERAL OF BRITISH COLUMBIA

WHEREAS the Public Prosecution Service of Canada (PPSC) and the Attorney General of British Columbia (AGBC) have authority to conduct certain proceedings under the definition of “Attorney General” in the *Criminal Code*,

AND WHEREAS it is in the public interest that such authority is delegated from one to the other in certain circumstances, the parties agree:

I. **Standing Authorization for those combinations of offences for which one specified party should ordinarily handle the prosecution.**

Subject to Part VII of this agreement, where on one information or indictment there are multiple charges arising out of related circumstances which fall under the exclusive prosecutorial authority of each of the parties to this agreement, and those charges are limited to one of the combinations in Appendix I, standing authorization to prosecute is granted by one party to the other as set out in Appendix I.

For the purpose of this Part and Part II, “multiple charges arising out of related circumstances” means offences arising out of the same factual pattern and bearing some relationship to one another, for example where identical witnesses are involved or offences result from the same search warrant – a mere temporal connection is not enough.

II. **Authorizations in specific cases (on major/minor analysis)**

Subject to Part VII of this agreement, where on one information or indictment there are multiple charges arising out of related circumstances which fall under the exclusive prosecutorial authority of each of the parties to this agreement, and Part I does not apply, the party with responsibility for the prosecution of the more significant charge or charges will, on request, receive authorization from the other party to conduct the prosecution on all of the charges on the information or indictment.

Authorization is required in each case and may be oral or in writing.

**III. Standing Authorization for Ancillary Matters**

Subject to Part VII of this agreement, where an authorization is made under Part I or II, the authorized party has standing authorization to prosecute or conduct all ancillary matters relating to or arising out of the authorized matter. Ancillary matters include prosecutions under sections 117.01 (possession of weapon while prohibited), 145(2), (3), (4), (5) and (5.1) (various offences involving failure to appear and failure to comply with conditions of release), 733.1 (breach of probation), 811 (breach of recognizance(s), hearings under section 742.6 (breach of conditional sentence order) and providing consent of the Attorney General to the transfer of probation orders and conditional sentence orders under sections 733 and 742.5 respectively, all under the *Criminal Code*.

PPSC has standing authorization to prosecute ancillary matters (as defined above) relating to or arising out of offences which PPSC has authority to prosecute under the definition of "Attorney General" in the *Criminal Code*.

**IV. Application of This Agreement**

All authorizations granted under this agreement include the charge assessment analysis and the decision to prosecute, such analysis to be conducted in accordance with the charge assessment policy of the authorized party.

Authorizations given by either party to the other under this agreement extend to the conduct of preliminary inquiries, appeals (subject to Part VI), judicial interim release proceedings, prerogative writ applications and any other proceedings relating to or arising out of the authorized matter.

Where there is a severance of counts on an information or indictment on a matter delegated under this agreement, the effect of which is that the original information or indictment, or a consequent information or indictment, contains only counts over which one party to this agreement has exclusive authority to prosecute, that party will conduct the prosecution.

**V. Exception To This Agreement**

*Firearms Act* offences are not covered by this agreement and remain the exclusive responsibility of PPSC.

**VI** **Appeals**

Before initiating an appeal on a matter delegated under this agreement, the party that would have conduct of the appeal should consult with the other party. Any disagreement regarding the decision to appeal should be referred to the heads of both parties for resolution.

**VII** **General**

Each party retains ultimate control over matters delegated under this agreement, which shall include the ability to obtain information and the authority to supervise directly or assume conduct of a delegated matter notwithstanding any other provision of this agreement. The parties reserve the right to decline conduct of a matter under this agreement in appropriate circumstances.

Where a matter is delegated by AGBC to PPSC under this agreement, the federal prosecutors are designated as Crown Counsel pursuant to Section 4(1) of the *Crown Counsel Act*.

Signed by:



Robert W.G. Gillen, QC  
Assistant Deputy Attorney General  
Criminal Justice Branch  
Ministry of Attorney General of British Columbia

at VANCOUVER, British Columbia on the 11<sup>th</sup> day of MAY, 2007.



Robert A. Prior  
Regional Director (BC Region)  
Public Prosecution Service of Canada

at Vancouver, British Columbia on the 11<sup>th</sup> day of May, 2007.

**MAJOR/MINOR AGREEMENT**

**APPENDIX I**

This Appendix provides standing authorization to prosecute those combinations of provincial and federal offences, set out in the chart below, for which one party, as specified, will conduct the prosecution (subject to Part VII of this agreement).

<b>Offences under the <i>Criminal Code</i> (which are the prosecutorial responsibility of the Province)</b>	<b>Offences under the <i>Controlled Drugs and Substances Act</i> (which are the prosecutorial responsibility of the Federal Government)</b>	<b>Party provided with standing authorization to prosecute when the offences are on the same Information</b>
Any <i>Criminal Code</i> driving offence	Possession	AGBC
<i>Criminal Code</i> driving offences not causing bodily harm or death	Any offence other than possession	PPSC
<i>Criminal Code</i> driving offences causing bodily harm or death	Any offence	AGBC
Assault or obstruct peace officer	Possession	AGBC
Assault or obstruct peace officer	Any offence other than possession	PPSC
Theft of hydro	Production of a controlled substance	PPSC
Mischief	Production of a controlled substance	PPSC
Theft or possession of stolen property	Possession	AGBC
Theft or possession of stolen property	Any offence other than possession	PPSC
Possession of a prohibited or restricted weapon	Possession	AGBC
Possession of a prohibited or restricted weapon	Any offence other than possession	PPSC

**APPENDIX B**

**PRECEDENT FOR AUTHORIZATION LETTER**

**UNDER MAJOR/MINOR AGREEMENT**

**RE: R. v. Full Name of Accused**

**Information/Indictment # \_\_\_\_\_**

Pursuant to the Major/Minor Agreement between The Attorney General of Canada and The Attorney General of British Columbia signed on \_\_\_\_\_ date \_\_\_\_\_, \_\_\_\_\_, you are authorized to conduct the above-noted prosecution on all of the charges on the Information/Indictment.

Take note that under the Major/Minor Agreement, you are authorized to prosecute or conduct all ancillary matters as set out in that agreement.

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(authorizing party signs)