



Policy:

Waiver of Criminal Charges Between Provinces

Policy Code:

WAI 1.1

Effective Date:

March 1, 2018

Cross-references:

[RES 1](#) [VIC 1](#)

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.

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:

- 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
- waiver should not be approved if the public interest requires that the prosecution remain in the community where the offence was committed
- where requested, any victim should be advised of the disposition of the charge, or if the accused fails to appear, or refuses to plead guilty, of the file being returned to the sending province, so that the requirements set out in the policy *Victims of Crime – Providing Assistance & Information* to ([VIC 1](#)) can be met
- where the waiver involves a plea resolution agreement, the requirements in the policy *Resolution Discussions and Stays of Proceedings* ([RES 1](#)) should be met

- 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

Procedure

The following procedure applies to a request from an accused to waive British Columbia 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 British Columbia.
2. Crown Counsel should cause a search to be conducted via JUSTIN to determine if the accused has any additional charges outstanding in British Columbia 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 and that it has received the disposition results back from the receiving jurisdiction (this may include receiving original court documents back). Upon receiving the results back, it should promptly forward them to the original investigating agency so it can record them in the Canadian Police Information Centre and enforce any orders made by the court.