

CPL ARTICLE 195: WAIVER.

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Defendant held by a Local Criminal Court may waive indictment and consent to prosecution in Superior Court by Superior Court Information. District Attorney's consent required. **NO** such waiver for Class A Felonies.

Waiver can be in Local Criminal Court at time of holding order, **OR** in Superior Court *before* indictment filed.

Waiver is a written instrument:

- 1) naming court where executed;
- 2) specifying title of action;
- 3) listing name of each offense to be charged, and designating date and *approximate* time of occurrence;
- 4) statement by defendant acknowledging constitutional right to grand jury indictment, waiving such, consenting to charges being filed by district attorney to same force and effect.

Waivers must be signed by defendant in open court, with attorney present. District attorney shall endorse consent.

If Court approves waiver, shall make written order. If waiver in Local Criminal Court, papers must be sent to Superior, action still pends until, such be received.

District Attorney must file Superior Court Information within 10 days of Local Criminal Court order, **OR**: at *same time* as Superior Court waiver.

If District Attorney fails to file within 10 days, a **committed** defendant shall be Released on Recognizance upon application, *UNLESS*: delay due to defendant's request, by his consent, **OR**: for good cause by "compelling facts & circumstances".