

2016 APAAC ANNUAL SUPPORT STAFF CONFERENCE

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EXTRADITION: The Long Road to AZ

Presented By:

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Distributed By:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
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INDIANA WANTS ME . . .
The Basics of Extradition

4/30/2009 California Sheriff, Deputy County Attorney, Extradition

TOOLS:

- ☐ Uniform Criminal Extraditions Act (Requisition or Extradition)
- ☐ Interstate Agreement on Detainers (31-481)
- ☐ Executive Agreements
- ☐ Writs



4/30/2009 California Sheriff, Deputy County Attorney, Extradition

Which Tool To Use?

- ☐ Defendant is in:
 - City or county jail: Governor's Requisition (U.C.E.A.; A.R.S. 13-3834 et. seq.)
 - State prison:
 - Untried charges – IAD 31-481
 - Prob. violation or sentencing – Executive agreement and requisition
 - Federal Prison: Writ ad prosequendum
 - U.S. Marshall: Writ (if in Ariz.)
 - Reservation: Requisition & Exec Agree.

Catherine Leach, Deputy County Attorney, Lake Mead

To Waive or Not to Waive?

A.R.S. 13-3885.01

- ☐ Defendant's Choices:
 - 1. Waive extradition to demanding state:
 - A. becomes non-bondable
 - B. reasonable time to take custody (30 days.)
 - 2. Don't waive: formal extradition:
 - A. 90 days to obtain governor's warrant.
 - Opportunity to file writ of *habeas corpus*.
 - B. Reasonable time to take custody.



Catherine Leach, Deputy County Attorney, Lake Mead

GOVERNOR'S REQUISITIONS

Used when a defendant is in a city or county jail *outside of Arizona*

Handouts:

- Requisition on untried charges
- Requisition for sentencing
- Requisition for probation violation

Catherine Leach, Deputy County Attorney, Lake Mead

Fugitive in Custody on a Reservation in Arizona

- ❖ Reservations are outside the jurisdiction of Arizona
- ❖ Requisitioned through the Governor
- ❖ Forms: Similar as State Requisition
[See Handouts]



4/2/2016 Federal Marsh, Detain, Courts Arizona, USA/Arizona 7

Accompanying Documents

1. Certified documents: indictment, information, complaint or warrant.
2. Photograph and fingerprints:
 - If no fingerprints, a photograph with affidavit will be required [see handout]
 - A witness who recognizes the defendant must sign an affidavit stating the identity of the person and how she/he knows the person. For example, the victim, a relative of the victim, an officer who interviewed the defendant, an officer who conducted a photo lineup...
 - Sometimes a defendant cannot be identified.

4/2/2016 Federal Marsh, Detain, Courts Arizona, USA/Arizona 8

Interstate Agreement on Detainers

- ⊖ State Prison:
 - Untried Charges:
 - Forms I, II, III are the forms used by a prisoner to request extradition under the IAD.



When received they must be handled quickly because they trigger strict time limits for trial.

1/19/2018 California Marsh, Detain, Courts Arizona, USA/Arizona 9

STATE FORMS

- Form V: Request for Temporary Custody
- Form VI: Evidence of Agent's Authority
- Form VII: Prosecutor's Acceptance of Temporary Custody
- Form IX: Inform Prison of Outcome of Case



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10

EXECUTIVE AGREEMENTS

Uses:

- Probation violation or sentencing when a defendant is in a state prison.
- Death penalty case.



Include a cover sheet with appropriate requisition form [see handout].

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11

Time Limits

1. Under the IAD, trial must commence within 120 days of defendant's arrival in requesting state. (subject to dismissal w/ pre)
2. Rule 8.3 (a): trial must commence within 90 days of arrival.
3. Prisoner must be returned to sending state as soon as possible after conclusion of trial.
4. All applicable time limits are in effect.



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12

EXECUTIVE AGREEMENTS A.R.S. §13-3870

- 1. Used to resolve detainers from or to non-signatory states. (Louisiana & Mississippi, along with formal extradition request.
- 2. Death penalty cases.
- 3. Indian Reservations (A.R.S. §13-3869)



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Attorney, El Paso County

11

EXECUTIVE AGREEMENTS, Cont'd

Allows states to agree on particular provisions of the transfer, especially if the parties intend that if the defendant is sentenced to death in the requesting state, that state would retain custody.



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12

WRITS AD PROSEQUENDUM

- Used to obtain custody of prisoner from U.S. Marshall or federal prison.
- Much faster and more efficient than IAD, also does not involve time limits.
- Can use IAD with federal prison if detainee placed (but why would you?)
- If detainee is already placed, simply contact prison and remove it. Then send writ.

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California Linnick, Deputy Clerk
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13



QUESTIONS?

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11
