

Interstate Agreement on Detainers

Case Study Self-Help Trial by Sister County

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Self-Help

Self-Help

Prisoner:

- Bypasses sending notice/request to prison officials – sends directly to prosecutor/court
- No detainer lodged against prisoner
- Notice/request may be incomplete

Article III does not permit a prisoner's self-help effort to start the running of the 180-day period under the IAD

Check your state's case law. Some state courts have found that the IAD does not require literal and exact compliance by the prisoner with the directions of the IAD in order to avail themselves of its benefits – FACT SPECIFIC

Prisoner's Request

Proper Procedures

ARTICLE III(a): "after he shall have **caused to be delivered to the prosecuting officer and the appropriate court** of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition. . . . **The request . . . shall be accompanied by a certificate of the appropriate official having custody of the prisoner. . . .**"

ARTICLE III(b): "The . . . request for final disposition . . . in paragraph (a) . . . shall be **given or sent by the prisoner to the warden . . . who shall promptly forward it** . . . to the appropriate prosecuting official and court by registered or certified mail, return receipt requested."

- **Prisoner:** gives or sends notice/request to officials in prison
- **Officials:** promptly forwards notice/request to prosecutor and court
 - Must include Certificate of Prisoner's Status (FORM III)
 - Must be sent registered/certified mail, return receipt requested

Self-Help

EXAMPLE

SISKAYOU COUNTY COURT
SISKAYOU COUNTY CALIFORNIA

STATE OF CALIFORNIA
v.
DAVID ANDREW BOFF

} Case No. 23CF01913 ←

MOTION FOR FINAL DISPOSITION / SPEEDY TRIAL UNDER THE INTERSTATE
AGREEMENT ON DETAINERS AND CALIFORNIA PENAL CODE SECTION 1389

Requests "final disposition/speedy trial . . . under the Interstate Agreement on Detainers and California Penal Code Section 1389."

facility in Pennsylvania (See Exhibit 1 - Inmate Data Report). The PCI-McKean facility sent the Siskayou Sheriff's Office a Detainer Action Letter to determine the disposition of this matter. (See Exhibit 2). The Defendant requests the timely disposition in this matter or the timely dismissal of the charges.

The Interstate Agreement on Detainers ("IAD"), codified by California Penal Code Section 1389, is "an agreement between California, 47 other States, and the federal government. It facilitates the resolution of detainers, based on untried indictments, informations, or complaints in one jurisdiction, lodged against persons who have 'entered upon a term of imprisonment' in another jurisdiction", *People v. Javin*, 88 Cal. App. 4th 609, 612, 106 Cal. Rptr.2d 40 (2001). The "IAD establishes a procedure by which a prisoner against whom a detainer has been lodged may demand trial within 180 days of a written request for final disposition", *Id.*

Under Article III of the IAD, a prisoner shall be brought to trial within 180 days

Why is this Self-Help?

- Detainer not filed (possibly)
- Not on BOP/IAD Forms
- Prisoner personally mailed notice/request directly to prosecutor/court
- Mailing not sent by registered or certified mail, return receipt requested
- **No Offer of Temporary Custody from Warden FORM IV**

Respond

[NAME]
[STREET ADDRESS]
[CITY, STATE, ZIP]

RE: California Penal Code, section 1389 Demand – Interstate Agreement on Detainers

Dear [DEFENDANT]:

We are in receipt of a request for disposition of charges or sentencing pursuant to PC § 1389, Interstate Agreement on Detainers (IAD). After researching the request, we are unable to proceed for the following reason(s):

- _____ We are unable to locate any outstanding [warrant(s)] [charge(s)] [sentencing] based on the information provided.
- _____ PC § 1389 (IAD) does not apply to probation or parole violations/revocation proceedings.
- _____ A detainer has not been lodged with the records personnel of the institution where the inmate is currently incarcerated; a detainer must be lodged before the provisions of PC § 1389 (IAD) apply.
- _____ "Self-Help" procedures, such as a letter directly from the inmate, will not invoke the IAD; all requests for disposition under the IAD must proceed through prison officials.
- _____ The prisoner is not serving a term of imprisonment in a State or Federal Prison *outside* the State of California

NOTE: PC § 1389 (IAD) only applies to prisoners serving a term of imprisonment *outside* the State of California in either a State or Federal Prison.

If the prisoner is serving a term of imprisonment in a California State Prison or Federal Prison located in the State of California, the prisoner may be able to request trial or sentencing pursuant to either PC § 1381 or PC § 1381.5.

Therefore, no action will be taken.

Trial by Sister County

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Article III(d): A prisoner who seeks a transfer under Article III is deemed to be requesting disposition of **ALL** charges in the prosecuting state ***on which detainees have been lodged***

Failure to dispose of all detainees lodged before the prisoner's return to Sending State Custodial Authority will result in dismissal of those charges

Trial by Sister County

- **Prisoner:** untried criminal cases in 4 Receiving State Counties
 - Placer
 - Sacramento
 - Solano
 - Sonoma
 - **Receiving State Counties:** 4 Detainers Filed with Sending State Custodial Authority
 - 3 Detainers filed prior to Sending State Custodial Authority forwarding FORMs II, III & IV to prosecutors and courts
 - Placer, Sacramento, Sonoma
 - 1 Detainer filed after Sending State Custodial Authority forwarded FORMs II, III & IV to 3 Receiving State Counties
 - Solano
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Trial by Sister County

- **Solano:** Inquires of Sending State Custodial Authority
 - **Sending State:** Prisoner already in Placer County
 - **What to Do?**
 - Contact all Counties
 - Become an Intermediary
 - Introduce all Counties
 - Paperwork
 - FORM II
 - FORM VI
 - Follow up
 - **Return – Who is Responsible?**
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Other Oddities
