

Custody of Inmates

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Administrative Director

Frequently there is some confusion as to who has custody of an inmate of a state institution produced in court in response to a writ of habeas corpus. To avoid any possible confusion, the following procedure should be followed:

1. Upon the inmate's production in court, the judge should sign the endorsement on the writ acknowledging the production of the inmate, and
2. Either direct the institutional guards producing the inmate to retain custody of him or her, or direct that the institutional guards deliver custody of the inmate to the sheriff who shall thereafter have the responsibility for the inmate's security and for his or her return to the state institution upon completion of the proceedings.

If the institutional guards are directed to retain custody, it is important that every effort be made to dispose of the matter for which the inmate was produced as expeditiously as possible. In any instance where it may be necessary for the inmate to remain overnight, the court should direct that custody be delivered to the sheriff.

The Department of Corrections has been requested to have the guards producing the inmate advise the court if the inmate presents any special security risk so that appropriate security measures may be taken.

Your cooperation with the foregoing procedures will be most helpful.

EDITOR'S NOTE

The reference to the former State Department of Institutions and Agencies has been deleted from the first sentence of the introductory paragraph and from the unnumbered fifth paragraph. In the fifth paragraph, the department name has been replaced by the insertion of the Department of Corrections. The former Department of Institutions and Agencies has been separated into two new departments, Human Services and Corrections.