

DATE:	FEBRUARY 11, 2016
NUMBER:	Q.39
SUBJECT:	WRIT OF HABEAS CORPUS
RELATED SECTIONS:	

PURPOSE

To establish a procedure for properly receiving and returning a writ of habeas corpus.

POLICY

Any writ of habeas corpus received shall be promptly answered with a Return of Writ of Habeas Corpus form (J-126 form).

PROCEDURE

- I. A writ of habeas corpus is a formal legal document ordering a detained person to be brought before a court at a specific date and time to decide the legality of the detention.

- II. Processing a writ of habeas corpus:
 - A. Make two additional copies of the writ.
 - 1. The first copy is given to the watch commander, who notes the appearance date and will keep the copy on file.
 - 2. The second copy is to be filed in the inmate's custody record.
 - B. The original of the writ is to be handled the same as a remand in that the required court appearance date is entered into the computer.
 - C. The watch commander then completes a Return of Writ of Habeas Corpus form (J-126 form).

- III. Return on the writ of habeas corpus
 - A. The J-126 form is to be made out in duplicate with both copies signed. If the party is detained by virtue of any writ, warrant or other written authority, a copy or copies thereof must be annexed to the J-126 form. The original will be produced and exhibited to the court at the hearing (the courts have not been requiring us to surrender the original). The copy or copies must each be certified with the certification stamp.
 - B. The two-signed copies of the J-126 form and a copy or copies of the "detaining authority" are delivered to the day shift watch commander. The watch commander will make arrangements for the court deputy, transportation officer, or other designated personnel to give these to the court with instructions for the court clerk, to sign the original copy of the J-126 form (denoting receipt). The day shift watch commander will

enter the required information in the Return on Writ of Habeas Corpus file. The watch commander will then have the original copy of the J-126 form filed in the inmate's custody record.

- C. The original writ of habeas corpus and the inmate are sent to court on the required court appearance date. The writ is then returned to the facility and filed in the inmate's custody record.

IV. Non-Custodial Returns

If it is determined a writ of habeas corpus is received for a person not in custody, the watch commander shall contact the Records Division to determine to whom, at what time and place, for what cause, and by what authority such transfer took place. A J-126 form shall be prepared documenting this information. The J-126 form will be forwarded to the requesting court.