5-07/040.00 - Writ of Habeas Corpus

A Writ of Habeas Corpus directed to the Sheriff commands him to bring a prisoner before a designated court at a specified time. To be valid, a Writ of Habeas Corpus must:

- Be issued by a court of competent jurisdiction;
- Be dated;
- Be directed to the Sheriff;
- Name the prisoner; and
- Specify the date, time, and court or judge for appearance of the prisoner.

A Writ of Habeas Corpus may be used as a release document if the bail specified is tendered (P.C. Section 1490).

When a Writ is served, a copy of the petition should also be provided. This is not a legal requirement but is desirable because the petition contains information useful in making the return.

A Writ of Habeas Corpus not directed to the Sheriff shall be referred to the Court Services Division for service on the person to whom it is directed.