

August 6, 1964



Honorable Thomas D. Graham
State Representative, Cole County
201-204 Monroe Building
235 East High Street
Jefferson City, Missouri

Dear Mr. Graham:

This office is in receipt of your letter requesting a legal opinion upon the inquiry contained in the attached letter of Sheriff Debo of Cole County, Missouri. The inquiry referred to reads as follows:

"When no Governor's Warrant has been obtained, would it be held legal for a demanding state to take custody of a prisoner at the Missouri State Penitentiary providing that said prisoner had signed a Waiver before prison authorities, but had not done so before a Court of Record, nor had been produced before a Judge of a Court of Record and advised of all legal rights due him?"

We understand the question to ask whether or not an alleged fugitive from justice from another state, one who is in custody of Missouri State Penitentiary officials, may legally sign a written waiver of extradition proceedings before such officials, when no rendition warrant has been issued for such alleged fugitive by the Governor of Missouri, and the alleged fugitive has not been taken before a judge of a court of record for signing a written waiver of extradition proceedings and there advised of his legal rights in the matter.

Honorable Thomas D. Graham

In an opinion of this department written for Honorable W. H. Bates, Secretary-Attorney, Board of Police Commissioners, Kansas City 6, Missouri, on September 12, 1962, it was concluded that under provisions of Section 548.260 RSMo 1959, relating to written waivers of criminal extradition proceedings, such waivers must be signed and consented to in the presence of a court of record as provided in said section and does not authorize police officers to take such written waivers from the accused.

While the facts involved in that opinion and the present inquiry differ in minor details, the principles of law involved in each are the same, and it is believed said opinion fully answers your inquiry in the negative. A copy of such opinion is enclosed for your consideration.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

PNC:aa

Encl.