



# MACDL

## *Action Report*

*Newsletter*

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MISSOURI ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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**FALL 1995**

**Vol. V, No. 2**

### **PRESIDENT'S LETTER**

As the current president of the Missouri Association of Criminal Defense Lawyers, I want to thank everyone associated with the Fall Criminal Practice Institute -- the "Defending the Ozarks" program held October 20th and 21st at the Thousand Hills Conference Center and Resort in Branson, Missouri. The program was a tremendous success from the standpoint of the quality of the presentation and the camaraderie shared by all. The half-day format on Friday afternoon and Saturday morning seemed to be well received. The speakers were superb and, while the number of attendees (approximately 75) was smaller than we had anticipated, we have received extremely favorable comments about the content of the program. If you have any suggestions for other topics or ideas for the 1996 Annual Meeting, please advise me as soon as possible.

Upcoming MACDL events include our next board meeting, scheduled for January 12th at 4:00 p.m. at Pat Eng's law office in Columbia. All board members are invited, and any interested member of our organization is welcome to attend to offer suggestions on topics of concern.

We are also planning the **Defending Criminal Cases** seminar in connection with

MACDL's 1996 Annual meeting, scheduled April 26-27 at the Ritz-Carlton in Kansas City. We anticipate presenting several noteworthy national speakers, as well as qualified regional speakers, on various topics affecting criminal practice. Again, please feel free to share your thoughts or suggestions in this regard.

During the past several months, we have established an Education Committee. The committee is working on putting together a set of materials that can be used for presentations at civic organizations, service clubs, schools, colleges or other forums, including church groups and other gatherings. The materials touch upon the role of the criminal lawyer, criminal defense issues and the administration of justice in general. We have had requests for this sort of package for some time and hope to have finalized materials ready for distribution at the Annual Meeting next April.

We are working toward improving our newsletter and publishing an updated membership directory. Your input on both projects would be much appreciated.

MACDL has also been actively involved in assisting attorneys. We have developed an Amicus Committee and Strike Force Unit.

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The *Action Report* is published quarterly by the Missouri Association of Criminal Defense Lawyers. We welcome articles submitted by MACDL members. Please submit articles, letters to the editor, sample motions, etc. on 3.5" or 5.25" high density or double density disk, along with a hard copy; if not WordPerfect 5.1, please advise what program you've used. Mail to: Francie Hall, Executive Secretary, MACDL, 416 E. 59th Street, Kansas City, MO 64110.

**PRESIDENT'S LETTER** *(cont'd from p. 1)*

I would especially like to thank Bruce Simon and Jacqueline Cook for their efforts on behalf of one of our members, and Elizabeth Unger Carlyle for her efforts on behalf of another MACDL member. Their advocacy has been exceptional, and is very much appreciated.

On behalf of MACDL, I want to congratulate a long-time member, J.D. Williamson, on his appointment as Circuit Court Judge of Division 11 in Jackson County, replacing the Honorable Donald L. Mason, who retired last summer. Congratulations, also, to Robert Beard, Charlie Atwell and Linda Murphy for being selected to various circuit and associate circuit court panels.

The challenges of criminal defense work continue! We are saddened by the demise

of the Missouri Capital Punishment Resource Center; however, we hope qualified volunteer attorneys will assist in this very important work. The organization applauds the efforts of those lawyers who, through negotiations or litigation, continue to protect the rights of their clients -- as well as those of every citizen of the country! Through your individual and collective efforts, we will see that the rights of our clients are protected.

*Sincerely,*

*J. R. Hobbs*

President, Missouri Association of Criminal Defense Lawyers

## MISSOURI LEGISLATIVE REPORT

*by Dan Viets*

MACDL had a substantial impact on the form and substance of many criminal justice issues which came before the General Assembly this year. The issue with the highest profile was the reform of juvenile justice statutes. Although the new law makes prosecution of juveniles as adults easier, the legislature resisted pressure to pass some of the harsher proposals in this area.

And once again, we are pleased to report that the legislature chose not to pass witness immunity legislation which would permit witnesses to be compelled to testify in a manner which might incriminate them

after a grant of immunity. The General Assembly rejected this idea despite the fact that it has been designated among the highest priorities of the very powerful lobby of the Missouri Association of Prosecuting Attorneys.

We also succeeded in persuading legislators to reject the idea of once again allowing police and prosecutors to profit directly from the proceeds of criminal forfeitures. Public school administrators were actually hoodwinked into believing that it was in their best interest to support a proposed constitutional amendment

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**LEGISLATIVE REPORT** *(cont'd from p. 3)*

which would allow one-half of forfeiture proceeds to go directly into the coffers of police and prosecutors rather than to public school education as the Missouri Constitution presently mandates.

School administrators were taken in by the argument that under the present law, state prosecutors refer forfeitures to federal authorities so they can get partial kickbacks, and the schools are thus deprived of any funds whatsoever from those cases. However, the present forfeiture statutes mandate that property owners are entitled to a hearing and the prosecution must show why a forfeiture would be better handled in federal court rather than state court. Some prosecutors are attempting to evade this, and it is unclear whether the requirement of a hearing before transfer will be enforced.

As with witness immunity, we can be certain that we will be fighting off similar efforts in the 1996.

One of the greatest disappointments of the 1995 session was the passage of legislation encouraging courts to require the use of an "ignition interlock device" for first offense DWI offenders and requiring courts to order the use of such devices for second and subsequent alcohol-related driving offenses. The legislature had rejected such proposals for many years, but the very aggressive lobby on behalf of the companies which manufacture these devices succeeded in getting the bill passed this year.

Apparently, the devices can only be ordered as a condition of probation, and so

would not be required in cases where no probation is ordered.

"Ignition interlock devices" are designed to prevent a car from being started until someone has blown into what is essentially a portable breath alcohol analysis machine.

Certain exceptions are permitted under the law: where the devices are not available within the community, or where a great hardship would result from the requirement to use the devices.

The same bill, Senate Bill 102, in its final form permits courts to require such devices as a condition of granting a hardship driver's license.

It may be possible in future sessions to persuade the legislature to allow those who are otherwise prohibited from driving altogether to drive conditioned on the use of these devices. In other words, under the newly passed law, only those people who are presently permitted to drive anyway can be required to use the device. If the device actually accomplishes its purpose, we should be able to persuade the legislature that those who are otherwise unable to drive legally should be permitted to do so if they agree to install one of these devices.

The new law also creates the offense of blowing into someone else's ignition interlock device, and the new crime of knowingly allowing a person with such an order to drive a vehicle without such a device.

All of these provisions take effect on January 1, 1996.

## A BOUQUET OF INEFFECTIVE ASSISTANCE OF COUNSEL CASES

by Elizabeth Unger Carlyle © 1995

This article includes summaries of Missouri cases holding that the defendant received ineffective assistance of counsel, organized by categories. I hope this collection will be helpful to those who are raising an ineffective assistance of counsel claim in a post-conviction proceeding. Those who try cases will also, I hope, find this listing helpful as suggesting things which need to be done or avoided in effectively representing a client.

### 1. Failure to interview witnesses and present testimony.

Clay v. State, 876 S.W.2d 760 (Mo. App. 1994)

Counsel's failure to investigate witnesses identified by the defendant was ineffective assistance of counsel.

State v. Ivy, 869 S.W.2d 297 (Mo. App. 1994)

Where the defendant told his attorney about a witness who the defendant said would confess to the crime, an evidentiary hearing was required to see if it was ineffective assistance of counsel not to obtain the witness's presence at trial or at least interview the witness.

State v. Baldrige, 857 S.W.2d 243, 259 (Mo. App. 1993)

Failure to investigate facts relevant to a plausible defensive theory which was not presented could be ineffective assistance of counsel, "[S]trategy decisions made in the

absence of investigation may be held to be ineffective assistance of counsel"

State v. Moore, 827 S.W.2d 213 (Mo. 1992)

Failure to get proper blood tests, which showed the defendant was not the perpetrator, was ineffective assistance of counsel where the other evidence was inconclusive, and counsel was mistaken about the possibility that conclusive tests could be performed.

State v. Twenter, 818 S.W.2d 628 (Mo. 1991)

Defense counsel's failure to contact and call family, friends and co-workers on punishment phase was ineffective assistance of counsel.

State v. Griffin, 810 S.W.2d 956, 958 (Mo. App. 1991)

Failure to present witnesses who testified at post-conviction evidentiary hearing that the charged sale of marijuana did not take place was ineffective assistance of counsel. "Regardless of what defendant believed the [witnesses] would testify to, counsel... should determine whether those witnesses are in a position to furnish testimony favorable to his client. It is counsel's responsibility, not the client's, to evaluate the value of a witness's testimony to the defense."

(continued on page 6)

**INEFFECTIVE ASSISTANCE** (cont'd from p. 5)

State v. Hayes, 785 S.W.2d 661, 663 (Mo. App. 1990)

There was no proper trial strategy not to interview and call an alibi witness where the defense was alibi; the alibi witness was not "cumulative" of defendant's testimony, which is "always received with doubt because of his interest in the case."

Frederick v. State, 754 S.W.2d 934 (Mo. App. 1988)

The allegation that the failure to obtain evidence that a doctor examined the victim and found no evidence of sexual abuse required an evidentiary hearing.

Perkins-Bey v. State, 735 S.W.2d 170 (Mo. App. 1987)

Failure to interview and subpoena an alibi witness was ineffective assistance of counsel. Counsel has a duty both to investigate evidence and present it in court "The presence of the alibi witness may not have changed the result, but the probability cannot be ignored and meets the minimum standard of undermining confidence in the outcome."

Bonner v. State, 734 S.W.2d 606 (Mo. App. 1987)

The failure to investigate, through discovery, the witness's prior record could be ineffective assistance of counsel.

Poole v. State, 671 S.W.2d 787 (Mo. App. 1983)

The defense attorney's failure to investigate the case and presentation of harmful testimony, cumulatively amounted

to prejudicial ineffective assistance of counsel.

State v. Moon, 602 S.W.2d 828, 837 (Mo. App. 1980)

Ineffective assistance of counsel was rendered where defense counsel failed to request a mental evaluation of the defendant even though prior counsel had filed a not guilty by insanity plea. "The power to review *sua sponte* for plain error is rarely exercised-- and properly so. [Citation omitted] It should be exercised in this case because both areas of error affect fundamental rights under our Federal Constitution, and it is clear that a manifest injustice has been done. If such review is not undertaken in a case like the present one, it never will be."

Milentz v. State, 545 S.W.2d 688 (Mo. App. 1977)

Where there was no showing in the record of trial strategy in the defense attorney's failure to call witnesses who would testify that the defendant didn't do it, the defendant was entitled to an evidentiary hearing on his post-conviction motion.

Thomas v. State, 516 S.W.2d 761, 767 (Mo. App. 1974)

The failure to investigate alibi witnesses was ineffective assistance of counsel. "The gamble of counsel, that his pretrial motions would be sustained and the case dismissed, was a dangerous one and resulted in a deprivation of movant's constitutional right to effective assistance of counsel at his trial."

(continued on page 7)

**INEFFECTIVE ASSISTANCE** *(cont'd from p. 6)*

**2. Failure to present defendant's testimony.**

State v. Young, 882 S.W.2d 291, 293 (Mo. App. 1994)

Where the record said only "I think it's important that the court consider the fact that in this case the defendant has decided, upon the advice of counsel presumably, not to testify..." no "conclusive" waiver of the right to testify was shown, and an evidentiary hearing was required on the defendant's allegation that he had been denied the right to testify because of ineffective assistance of counsel. "Defendant's right to testify in his own behalf is a fundamental constitutional right, waivable only by himself."

State v. Hutton, 825 S.W.2d 883 (Mo. App. 1992)

Ineffective assistance of counsel may occur where the defendant's right to testify is violated, citing Rock v. Arkansas, 483 U.S. 44 (1987). See also Dixon v. State, 763 S.W.2d 204 (Mo. App. 1988).

**3. Failure to make proper objections.**

State v. McKee, 826 S.W.2d 26, 28 (Mo. App. 1992)

Ineffective assistance of counsel occurred where counsel failed to challenge jurors who would be affected by failure to testify. "The idea that the failure to challenge [the prospective jurors] for cause was a matter of trial strategy is undermined by the fact that there is no support in the record for a belief that the failure to challenge the two venirepersons was a matter of trial

strategy... Neither [of defendant's trial attorneys] could remember any reason for the failure to challenge the two for cause... It is fundamental that a criminal defendant is entitled to a jury composed of only those who are free from any bias or prejudice."

Bonner v. State, 765 S.W.2d 286, 287 (Mo. App. 1988)

Ineffective assistance of counsel was shown by failure to object to admission of evidence seized in a warrantless search, failure to impeach a state's witness with the witness's prior convictions, failure to object to admission of evidence without chain of custody. "It is not necessary for purposes of this appeal to decide whether the suppression motion should, if filed, have been granted. The issue here is whether a reasonably competent attorney under the same or similar circumstances would have filed the motion and would have objected to the introduction of the evidence..."

Salkil v. State, 736 S.W.2d 428 (Mo. App. 1987)

Failure to object to a misleading verdict form was ineffective assistance of counsel.

Adams v. State, 677 S.W.2d 408, 412 (Mo. App. 1984)

Failure to object to admissibility of the weapon in a carrying concealed weapons case was not trial strategy; the defendant put on no evidence, and his only chance of success would be to suppress evidence of the weapon. "That 'chance' could never materialize as the issue of the legality of the arrest was expressly waived by the 'no

*(continued on page 8)*

**INEFFECTIVE ASSISTANCE** *(cont'd from p. 7)*

objection' at trial... The test of merit is not whether the judge would have reversed his earlier ruling but rather whether, in the light of case law, the objection was a valid one as considered on appeal."

Gilmore v. State, 710 S.W.2d 355 (Mo. App. 1986)

Failure to make a double jeopardy objection was ineffective assistance of counsel. See also Green v. State, 721 S.W.2d 197 (Mo. App. 1986)

**4. Miscellaneous trial errors.**

State v. McCarter, 883 S.W.2d 75, 78 (Mo. App. 1994)

It was ineffective assistance of counsel to introduce evidence of a report which included prior sex abuse allegations. "The wide latitude trial counsel has in matters of trial strategy does not amount to unconstrained discretion. The constraints imposed on trial counsel regarding trial strategy is that his or her actions must be *reasonable* under prevailing professional norms... [T]rial counsel's exercise of trial strategy, although presumed effective, is not beyond challenge for ineffectiveness."

Peeler v. State, 750 S.W.2d 687 (Mo. App. 1988)

Failure to request an interpreter for a defendant who had a severe hearing loss and could not understand what was being said in the courtroom was ineffective assistance of counsel.

State v. Harvey, 692 S.W.2d 290 (Mo. banc 1985)

Trial counsel's refusal to participate in the defendant's trial resulted in a finding of ineffective assistance of counsel despite the defendant's failure to object during trial.

**5. Guilty plea advice**

Hampton v. State, 877 S.W. 2d 250 (Mo. App. W.D. 1994)

The defendant is entitled to an evidentiary hearing to attempt to prove the claim that his guilty plea was not voluntary because he was misled by counsel.

State v. Crenshaw, 852 S.W.2d 181 (Mo. App. 1993)

If trial counsel's incorrect advice about a plea bargain results in a defendant's accepting a plea offer he would not otherwise have accepted, ineffective assistance of counsel is shown. (The case here was remanded for factual findings)

Wiles v. State, 812 S.W.2d 549 (Mo. App. 1991)

If trial counsel's incorrect advice about the possible maximum sentence for the offenses resulted in the defendant's accepting the plea offer when he would not have otherwise done so, the defendant is entitled to withdraw his plea. See also Perryman v. State, 755 S.W.2d 598 (Mo. App. 1988).

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**INEFFECTIVE ASSISTANCE** *(cont'd from p. 8)*

Hemme v. State, 680 S.W.2d 734 (Mo. App. 1984)

The defendant's guilty plea was involuntary because of ineffective assistance of counsel where counsel, although he had doubts about the defendant's competency to proceed, did not attempt to have a determination on the issue made by the court.

**6. Conflict of interest.**

State v. Chandler, 698 S.W.2d 844 (Mo. banc 1985)

Where the defendant was represented by an attorney who had previously been charged with the same offense, and a potential witness for the defendant implicated his attorney in the offense, the defendant was denied effective assistance of counsel because of the conflict of interest.

**7. Ineffective assistance of counsel on appeal.**

Collins v. State, 887 S.W.2d 442 (Mo. App. 1994)

Failure of counsel to file direct appeal after being directed to do so by defendant is ineffective assistance of counsel; no showing of prejudice is required. This case was decided on a motion to recall mandate.

State v. Zweifel, 615 S.W.2d 470 (Mo. App. 1981)

Failure to raise instruction error on failing to give a lesser included offense instruction

was ineffective assistance of counsel on appeal. This case was decided on a motion to recall mandate.

**8. Abandonment by Rule 29.15 counsel.**

(With the impending amendment of Rule 29.15, some of these cases may be less authoritative; however, appeals from prior Rule 29.15 cases will continue for some time, and these cases will be applicable to them.)

State v. White, 873 S.W.2d 590 (Mo. banc 1994)

The defendant was abandoned by the substitution of counsel by the public defender's office 14 days before the end of the time for filing the amended motion and by the failure of counsel to file a timely amended motion.

Trehan v. State, 835 S.W.2d 427 (Mo. App. 1992)

Where post-conviction counsel simply incorporated the inadequate pro se motion into the amended motion, it was presumed that counsel abandoned his client. (Note that State v. White, 873 S.W.2d 590 (Mo. banc 1994) holds that the defendant has no right to have counsel include all meritorious grounds in an amended motion.)

Bass v. State, 808 S.W.2d 416 (Mo. App. 1991)

Where no amended motion is filed, a record that does not state that appointed counsel made the determinations required by Sup.

*(continued on page 10)*

**INEFFECTIVE ASSISTANCE** *(cont'd from p. 9)*

Ct. R. 29.15(e) creates a presumption that counsel failed to comply with the rule. See also White v. State, 835 S.W.2d 529 (Mo. App. 1992).

Luleff v. State, 807 S.W.2d 495 (Mo. banc 1991)

Counsel's failure to file a timely, proper amended motion under Sup. Ct. R. 29.15 is "abandonment," entitling the defendant to

new counsel and time to amend the pro se motion. See also Sanders v. State, 807 S.W.2d 493 (Mo. banc 1991).

State v. Keenan, 779 S.W.2d 743 (Mo. App. 1988)

Where post-conviction counsel failed to take any action on behalf of the defendant, he was deprived of his right to counsel under Sup. Ct. R. 29.15.

## 1995 NACDL LEGISLATIVE FLY-IN

*by Bruce Houdek*

Last June, I was privileged to be part of Missouri's delegation to the Fourth Annual Legislative Fly-In in Washington, D.C., sponsored by the National Association of Criminal Defense Lawyers.

We met first with Rudy Rhodes and Bartlett Cleland of Senator John Ashcroft's staff. (The Senator was busy attending a debate on Sen. Exon's bill to make obscenity on the Internet a federal offense.) We had a good exchange with his staff members. The main subjects of discussion were asset forfeiture reform and Form 8300 reform. We received favorable responses and requests for additional information from Mr. Rhodes and Mr. Cleland.

We met with Representative Ike Skelton for about 45 minutes. He was quite receptive to our presentation concerning asset forfeiture reform and Form 8300 reform. Rep. Skelton was also receptive to our suggestions concerning increases in rates for court-appointed counsel in federal

criminal cases. He was not optimistic for current increases, but felt the matter would be considered seriously in a year or two.

Fifteen minutes into our meeting with his staffer John Bartling, Senator Christopher Bond left the senate floor and met with us for about half an hour. With us was Richard Troberman, NACDL member from Seattle and co-chair of the asset forfeiture reform subcommittee. Troberman made an excellent presentation to Sen. Bond, who seemed very interested. We gave him a copy of Henry Hyde's book. Sen. Bond was also responsive to our discussion of Form 8300 reform and the inadequacy of CJA funding and hourly rates. I feel that if we approach him on selected, mainly conservative, issues, Sen. Bond will give us some favorable consideration.

Next we met with Representative Karen McCarthy and her legislative director, Chris Yatooma. Rep. McCarthy is very receptive to almost all our issues. She is, however,

LEGISLATIVE FLY-IN (cont'd from p. 10)

a freshman and in the minority party. Anyone who has an issue or a concern should contact her, as I believe she will be very helpful.

Jane Arnold, administrative assistant to minority leader **Representative Richard Gephardt**, met with us and seemed very receptive to our views on asset forfeiture and 8300 reform. She should be a good source for assistance on specific issues when they arise.

**Representative Pat Danner** met with us for about 45 minutes. She listened politely, but would make no comment or response to our presentation. My impression is that

she is more conservative, and less intelligent, than some of the Republicans we have in office now.

Also representing Missouri at the Fly-In were Dan Viets, MACDL's immediate past president and long-time legislative chair, and Dan Dodson of Jefferson City. Both had much to contribute to our sessions with the legislators. I believe MACDL's participation in this annual event is beneficial to our association and its goals. It give us a chance to remind the senators and representatives of MACDL's existence, and introduces us to contact persons in their offices whom we will want to contact on specific issues in the future.

## RECORDING PHONE CALLS FROM MISSOURI PRISONS

*by Elizabeth Unger Carlyle*

Two recent developments may be of interest to attorneys who receive calls from clients at Missouri prisons. First, MCI, which handles inmate calls, is in the process of implementing the recording of outgoing calls at 8 of the 15 facilities. I do not have the exact list, but I understand the higher security facilities are involved. The system should be in place by the end of the year. Inmates are to be notified of this, and also given a form to use to provide their attorneys' phone numbers so the equipment can be programmed not to record calls to that number. (By special arrangement, the public defender office has arranged for all their numbers to be programmed statewide; individual public defenders need not be concerned about this.) If an inmate does not fill out the form, calls to his attorney may be recorded.

Second, MCI is implementing a process to disconnect calls from prisons when a third-party call is detected on the line. Currently, a recording is heard saying a third-party call has been detected and will be reported. Inmates have already been notified that if the recipient of the call has call waiting and interrupts the inmate's call to answer a second call, the equipment will interpret this as a third-party call. I and a number of other attorneys have heard the third-party call recording when calls have been connected through the law office switching equipment. I have written to the Department of Corrections about this problem, but have not yet received a response. Obviously, we will have a serious problem if ordinary calls are disconnected because they come through a switchboard.

I would like to keep abreast of these phone problems and any other mail or phone problems you have with the prisons. Please let me know of any difficulties you've had or any solutions you're aware of. (Phone: 816/525-2050; Fax: 816/525-1917; 200 SE Douglas, Ste. 200, Lee's Summit, MO 64063; E-Mail: VDKT51B @ prodigy.com)

## BULLETIN BOARD

**MACDL's Annual Spring Seminar, *Defending Criminal Cases*, will be held April 26-27, 1996, at the Ritz-Carlton Hotel on the Plaza in Kansas City.  
Mark your calendar now.**

### LAWYERS FOR LITERACY

The Public Service Committee of the Lawyer's Association of Kansas City/Young Lawyer's Section is seeking volunteers to participate in its Lawyers for Literacy Program. The project is associated with the Adult Basic Education Program of the Kansas City School District, and provides tutors for illiterate and semi-literate individuals. Volunteers are trained in the Laubach method through a ten- to twelve-hour training program. Then each volunteer is paired with an adult student with reading skills at the 6th grade level or below who has expressed an interest in learning to read or improving his/her reading skills. Volunteers conduct tutoring sessions with their students each week. At least a six-month commitment is required of the volunteer. To participate, contact Richard Chatfield-Taylor, Program Chair, at Morrison & Hecker (816/691-2600).

### GOOD NEWS FROM FEDERAL BUREAU OF PRISONS

The BOP has published interim rules governing early release consideration for participation in drug abuse treatment programs. As authorized by 18 USC § 3621(e)(2), the rules provide for up to a 12-month reduction in sentence for inmates who participate in a residential drug abuse treatment program. To be eligible, an inmate must: have a verifiable, documented drug abuse problem; suffer from no serious mental impairment; be eligible for the security level of the residential program; sign a statement acknowledging his/her program responsibility; and be within 36 months of release. Inmates who have already completed a residential drug abuse program are, under certain circumstances, also eligible for early release consideration.

Do not compute the totality of your poultry population until all the manifestations of incubation have been entirely completed.

*William Jennings Bryan on the appropriate moment to begin counting one's chickens.*

**You can lead a dead horse to water, but you can't make him drink.**

*Toronto mayor Allan Lamport.*

## NEW MEMBERS AND MEMBERSHIP RENEWALS

Robert E. Ahrens, St. Louis  
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*(Sustaining Member)*

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Catherine Earnshaw-Hobbs,  
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*(Sustaining Member)*

T. D. Pawley, Columbia  
*(Public Defender)*

David E. Pettyjohn, Kansas City  
Charlie Rogers, Kansas City  
*(Sustaining Member)*

David R. Rosener, Cape Girardeau  
Edward B. Rucker, Kansas City  
James L. Rutter, Columbia

Scott W. Turner, Kansas City  
Stephen E. Walsh, Poplar Bluff  
Lawrence E. Wines, St. Louis

George M. Winger, Kansas City  
Andrew Wood, Neosho  
Frank Yankoviz, Monett  
*(Public Defender)*

MACDL sincerely appreciates your financial support. We can't function without it. Your dues pay for postage and printing, expenses of continuing legal education, lobbying efforts in the Missouri General Assembly, scholarships to the National College of Criminal Defense, partial expenses of our representatives to the NACDL Legislative Fly-In, and the computer on which this newsletter is composed, among other things. Special thanks to the assistant public defenders who support our efforts, and to sustaining members for voluntarily doubling the amount of their annual dues.

Please check the back page of your newsletter. If there's a red "X" on your mailing label, it's time to renew your membership. You'll find a renewal form inside the back cover.

## FYI

by Francie Hall

First, I'd like to apologize for the tardiness of this edition of **MACDL's Action Report**, which is due solely to my own near-terminal procrastination. I really appreciate receiving articles for publication from members, especially Elizabeth Unger Carlyle and Dan Viets, who faithfully contribute to every issue. Receiving a comment, tip or article from some of you whom I've not heard from before would make me feel my efforts, and those of regular contributors, are worthwhile.

In August, I was privileged to represent **MACDL** at the NACDL Council of Affiliates Annual Meeting in Snowmass, Colorado. We were welcomed by Bob Fogelnest of New York, installed as NACDL's new president the following day, and Membership Chair Drew Findling of Atlanta. The Council elected two members to the NACDL Board, Fred Metos of Utah and Michael Black of Arizona. We also approved admission of the Austin Criminal Defense Lawyers Association and the Michigan Criminal Defense Lawyers as NACDL affiliates. The business meeting was followed by a Death Penalty Symposium, which lasted well past its scheduled deadline because of continued interest. Our recommendations were presented to the board the following day. Of most value to me was the opportunity to meet and share ideas with other affiliate directors from around the country, as well as new NACDL staff members including Executive Director Stuart Statler and Executive Assistant Cecelia Hannon. Of course, it was good to see old friends from Missouri as well, including NACDL Board Member Charlie Atwell, MACDL President-

Elect Jim Worthington, and MACDL Board Member T.D. Pawley.

My goal is to publish the second edition of the **MACDL Roster** in January of 1996. Please be sure you've notified me of any changes to your entry in the 1995 edition, and that your membership status is current. Use the form on the next page to pay annual dues, and the change of address form on the back cover if you've moved. Also, now is the time to encourage your colleagues who are not current members to join **MACDL** in our efforts to assist and support criminal defense practitioners in Missouri.

For the second year in a row, **MACDL** gave financial assistance to the Western Missouri Coalition to Abolish the Death Penalty, which held its annual meeting on October 19-21. WMCADP sponsors educational and legislative efforts in support of its goal, and is becoming more visible all the time. For further information, contact board members Cathy Burnett (816/235-1600) or Pat Bartholome (816/363-8222).

It's not too soon to mark your calendars in anticipation of **MACDL's** 1996 Annual Meeting and Seminar, scheduled for April 26-27 at Kansas City's Ritz-Carlton Hotel on the Country Club Plaza. CLE Coordinators Larry Schaffer and Marco Roldan are working on the program now, and would appreciate your suggestions and comments.

The next **MACDL** Board Meeting will be at Pat Eng's office in Columbia on Friday, January 12, 1996, at 4:00 p.m.

MACDL MEMBERSHIP APPLICATION

If you are not currently a member of MACDL, or if a red "X" appears on your mailing label indicating it's time to pay annual dues, please take a moment to complete a photocopy of this form and mail it today, with your check, to:

Francie Hall, Executive Secretary,  
MACDL,  
416 East 59th Street, Kansas City, MO 64110

ANNUAL DUES: (CIRCLE APPLICABLE AMOUNT)

Sustaining Member -	
Officers, Board Members & Past Presidents:	\$200.00
Regular Member -	
Licensed 5 years or more:	100.00
Licensed less than 5 years:	50.00
Public Defender (Head of Office):	50.00
Assistant Public Defender:	25.00
Provisional (Nonvoting) Member -	
Judges, Law Professors & Students, Paralegals & Legal Assistants:	20.00

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\_\_\_\_\_ Check here and add \$10.00 to the amount of your dues check to contribute to MACDL's PAC Fund. (Note: A PAC contribution is not a requirement of membership in the Missouri Association of Criminal Defense Lawyers.)

**MACDL**

416 E. 59TH ST.  
K.C., MO 64110

**A RED "X" ON YOUR ADDRESS LABEL INDICATES THAT YOU OWE ANNUAL DUES. PLEASE USE FORM ON INSIDE BACK COVER TO RENEW YOUR MEMBERSHIP IN *MACDL*. THANK YOU.**

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