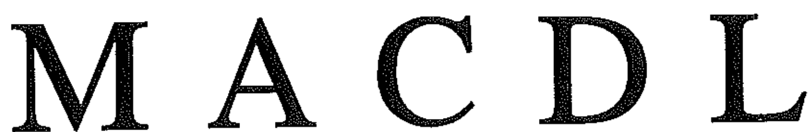

MACDL

Missouri Association of Criminal Defense Lawyers

Action Report

Fall 1996 Vol. VI, No. 4

President's Letter

by James D. Worthington

For my second installment of angst and ennui, I will at no time allow my hands to leave the ends of my arms.

HISTORICAL PERSPECTIVE: One hundred years ago, in 1896 (*Plessey v. Ferguson*), the United States Supreme Court issued its infamous "separate but equal" decision denying Homer Plessy's challenge to the State of Louisiana's Separate Car Law for Blacks and Whites riding on the railways. However, the climate of public opinion then, as now, was hostile. The decision reverberated with sub-issues of wealth (or the lack thereof), politics, opportunity and race. Society still reels and resonates with those same issues and perceptions in 1996. Most of white America has failed to appreciate these dichotomies. But therein lie three primary lessons of *California v. Simpson*:

WEALTH V. POVERTY: It is NOT wealth that blurs or skews the judicial system but the lack thereof. And it ALWAYS has been thus. There NEVER has been a level playing field when an impoverished defendant stood before the bar of justice without investigators, experts, paralegals or a qualified attorney against the manpower, might, money and skill of the police and prosecutorial establishment. Mr. Simpson, like Clause Von Bulow, and a few others before him, was able to stand toe-to-toe, dollar-to-dollar with Los Angeles County. The sad, tired, limp cacophony of "foul" from the prosecuting and police establishment is devoid of credibility when examined logically.

RACE: Race was an issue in this country when Jefferson owned slaves, when Lincoln issued the Emancipation Proclamation and when Atticus Finch defended an innocent Tom Robinson. Race was divisive when Homer Plessy challenged Louisiana's codification of Jim Crow (and failed) and when Oliver Brown challenged the Topeka Board of Education to allow his daughter full, fair, equal education and opportunities. Race and prejudice were significant issues which fostered Reverend Martin Luther King, Jr., Malcolm X, Rodney King, Stacey Koon, Mark Fuhrman and John F. Kennedy. Race was an issue when O.J. Simpson married Nicole Brown, and when the Los Angeles District Attorney went forum shopping, when Robert Shapiro hand-picked a talented black attorney (Johnnie

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The *Action Report* is published quarterly by the **Missouri Association of Criminal Defense Lawyers.** We welcome articles written by **MACDL** members. Please submit articles, letters to the editor, sample motions, etc., on a 3.5" or a 5.25" high density or double density disk, along with a hard copy, preferably in WordPerfect 5.1. Mail to: Francie Hall, Executive Director, **MACDL**, 416 E. 59th Street, KCMO 64110.

President's Letter *(cont'd from page 1)*

Cochran) and when the District Attorney countered with a talented black attorney (Christopher Darden). A Los Angeles jury undoubtedly considered all of the evidence (and reasonable inferences therefrom) in its deliberations and filtered it all through their rich, collective experience. Isn't that the very essence, nay beauty, of the jury system?!

More importantly, the public's perception of the case, and justice in general, is clearly affected by racial experience.

And the message to Washington and Jefferson City is poignant: This is no time to abandon education, jobs, minimum wage, welfare, unemployment, affirmative action, i.e., the poor, the uneducated, the untrained, the weak, the disenfranchised.

THE PRINCIPLES ARE FAIR; THE END DOES NOT JUSTIFY THE MEANS: When the tripartite advocacy and adversarial participants function at a high skill level, the system of principles, checks, balances and rules works. Anything less than equal skill tends to throw the entire playing field out of balance. But the end result is never justified by improper, illegal methods. That was the lesson for Pontius Pilate in the conviction and execution of Jesus, for Macbeth in the murder of King Duncan, for Nixon's dirty tricks and eventual criminal cover-up to win an election; and it remains the lesson for every essential participant in the process of criminal justice. The defense advocate is just as important to the triumvirate as the judge and the prosecutor.

ANTI-TERRORISM: The federal congress has stampeded to get "out front" of the Oklahoma City bombing/terrorism and the rush to impress the public from the floor of congress that "I am tougher on crime than my colleagues". That stampede resulted in an evisceration of post-conviction safeguards and safety-net procedures in death penalty cases. Thus, more people will be executed, INCLUDING INNOCENT PEOPLE. Our Board of Directors met in Kansas City on Thursday, September 19, 1996, to work on advice to the Ad Hoc Committee about standards for Post-Conviction Remedies (PCR) Counsel in Death Penalty cases. Our goal is to insure QUALITY representation by measurements of past experience, special education and training, sufficient manpower and financing. No judge works for free, no prosecutor works gratis; there is no reason to expect any public defender or private attorney to defend without fair and full compensation. Our Association's letter to the Ad Hoc Committee is printed in this issue. Please review it and offer your advice, analysis and critique. Send them to me or to Elizabeth Carlyle or Francie Hall.

INSPIRATION: In closing, I ask for your energy, support and participation in this Missouri Association and the National Association. Make your voice heard. Join us, bring your friends and colleagues as "LIBERTY'S LAST CHAMPIONS"!

In the words of John F. Kennedy:
"If not now, when?" "If not us, who?"

In the words of Pastor Martin Niemoeller:
"In Germany they came for the communists, and I didn't speak up because I wasn't a communist. Then they came for the Jews, and I didn't speak up because I wasn't a Jew. Then they came for the trade unionists, and I didn't speak up because I wasn't a trade unionist. Then they came for the Catholics, and I didn't speak up because I was a Protestant. Then they came for me, and by that time no one was left to speak for me."

Respectfully Submitted,

Jim Worthington, President

CASE LAW UPDATE

Summarized by Lew Kollias, edited by Elizabeth Unger Carlyle

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Missouri cases are based on advance sheets. Federal cases are drawn from BNA Criminal Law Reporter and West Digest. Please be aware that opinions may have been updated or superseded.

Missouri Supreme Court

State v. Taylor, No. 77365 (August 20, 1996)
The court affirmed the death sentence, imposed after an open plea of guilty. A previous judgment and sentence of death had been vacated in a summary decision by the court. This time, the court rejected the defendant's contention that he should have been entitled to withdraw his guilty plea because the sentencing judge was different from the judge at the original sentencing, and the plea was entered in the belief that the defendant would be sentenced by that judge. The court also found that the procedure used in taking the plea, in which most of the admonitions were given by defense counsel and the prosecutor, adequately complied with Rule 24.02. The court also rejected the defendant's argument of improper racial discrimination in the prosecutor's decision to seek the death penalty. The court also rejected allegations of ineffective assistance of counsel and affirmed the denial of a third continuance on the Rule 24.035 hearing.

State v. Copeland, No. 73774 (August 20, 1996)
The death sentence of this elderly woman, who was convicted with her husband for murdering transients, was affirmed. (Ray Copeland died of natural causes while on death row.) The court found that battered-spouse syndrome is available only on the issue of self-defense, and is not a general defense to murder. Therefore, there was no error in refusing to admit such evidence at the guilt phase of the trial. The evidence was also inadmissable under Chapter 552, because no notice of intent to rely on the defenses of mental disease or defense was given. There was no error in allowing testimony concerning the results of a court-ordered psychiatric examination at the penalty phase. MO. REV. STAT. §552.020.12 precludes such testimony only at the guilt phase. Nor was there error in the trial court's disqualification of the prosecutor after the prosecutor indicated his intent to allow the defendant to plead guilty in exchange for a life sentence, since there is no right to plead guilty. Ray Copeland's statements to third parties were admissible either as non-hearsay declarations or as statements of a co-conspirator. The court notes some arguments were improper, but finds no plain error. The court also rejected ineffective assistance of counsel claims and claims of instructional error.

State v. Kreutzer, No. 77041 (August 20, 1996)
The death sentence was affirmed. There was no error in denying individual voir dire or in denying defense counsel the right to ask a series of questions which regard to mental disease or defect and diminished capacity. Allegations of jury selection error were also rejected. Even though the testimony of the victim's young daughter that she last saw her mother alive before she went to school the morning of her mother's death might have provoked sympathy in the jury, it was not unduly prejudicial where the evidence showed that the victim was last seen alive at home alone, and this was relevant to the case. A BB gun seized from the defendant's car was admissible, since it had been purchased that morning and might have been used to gain entrance to the victim's home. The giving of MAI-CR3d 306.04, that the jury should not consider expert testimony concerning the defendant's mental condition as evidence that he did or did not commit the charged acts. This instruction does not unduly restrict the jury's consideration of the defendant's mental state. A variety of argument and ineffective assistance of counsel allegations were also rejected.

State v. Smulls, No 75511 (June 25, 1996)
The case was reversed and remanded for a new hearing on the post-conviction relief action because the judge failed to recuse himself because of his racial bias. The judge was quoted in a 1983 article as saying judges couldn't have a barbecue for legislators because "we can't have a barbecue because we don't have a black judge to do the cooking." During the defendant's trial, when a Batson challenge was made, the court refused the

defense request that he note the race of the venirepersons on whom the state used peremptory strikes saying that he doesn't know what constitutes a black person: "Years ago they used to say one drop of blood constitutes black." These comments were found by the court to be such that a reasonable person would have a factual basis upon which to question the trial judge's ability to judge defendant's postconviction hearing with impartiality. (The case was affirmed on direct appeal.)

State v. Clover, No. 78672 (June 25, 1996)
The court reversed the grant of a mistrial with prejudice, holding that the fact that the prosecutor intentionally asked an improper question did not establish intent on her part to goad the defendant into requesting a mistrial. Absent a finding of such specific intent, a mistrial with prejudice is improper.

State v. Schleiermacher, No. 78072 (May 28, 1996)
The Supreme Court upheld the constitutionality of MO. REV. STAT. §455.085.5, making it a crime to violate an order prohibiting harassment by "lingering outside" the residence of the protected party. The quoted language is not so vague as to make the statute constitutionally invalid. The court also found that the statute requires more than one act to constitute the offense of harassment, so the defendant's convictions on two counts cannot stand, and retrial is necessary so that the court's instructions may properly reflect the requirement of a repeated course of conduct that would cause a reasonable person substantial emotional distress. Additionally, the instructions should require a finding that the defendant engaged in the conduct with the appropriate culpable mental state, purposefully.

Western District, Missouri Court of Appeals

State v. White, No. WD 51927 (August 13, 1996)
The court rejected the defendant's contention that his acquittal of the charge of littering collaterally estopped the state from prosecuting him for possession of the bag of drugs which formed the basis for the littering charge. Because there was no record of the municipal court proceeding, it was impossible to tell what formed the basis of the acquittal of littering. The case contains a good discussion of when an acquittal on one charge may constitute a bar to a subsequent prosecution for a different charge based on the same operative facts. The court cites State v. Lewis, 599 S.W.2d 94, where the jury's acquittal of the charge of possession of burglar tools precluded the subsequent prosecution for burglary arising out of the same incident.

State v. Sexton, No. WD 51733 (August 13, 1996)
The court reversed one count of sodomy, holding that there was no evidence that the defendant forced the victim to touch his penis with her hand. "The prosecution argues that we can reasonably infer that hand-penile contact occurred due to the many occurrences of oral sex. We decline to outline the various ways that oral sex may be performed without such contact and hold that is not a reasonable inference."

State v. Weston, No. WD 49726 (July 30, 1996)
An evidentiary hearing was required on the movant's allegation in his Rule 29.15 motion that the state's key witness was legally blind and could not have observed the defendant on the night in question, and that the defendant had informed trial counsel of this and counsel failed to investigate or question the witness about it.

O'Haren v. State, No. WD51148 (June 25, 1996)
A post-conviction motion under Sup. Ct. R. 24.035 or 29.15 may not be used to challenge the legality of a probation revocation. The sole forum for such a challenge is a habeas corpus action. Christy v. State, 780 S.W.2d 704 is overruled.

State v. Adams, No. WD51164 (June 25, 1996)
The court dismissed the appeal because of counsel's failure to provide a complete record. The suppression hearing transcript contained only two of the three witnesses' testimony, and the trial transcript omitted 14 of the sixteen witnesses' testimony.

State ex rel. Lightfoot v. Schriro, No. WD51589 (June 25, 1996)
A person held in Kansas awaiting trial on bailable charges there, who had a Missouri detainer lodged against him, was entitled to jail credit for all time spent in Kansas until sentencing. However, once sentenced, he was no longer held in Kansas by virtue of the Missouri detainer, but rather by virtue of the

Case Law Update *(cont'd from page 5)*

Kansas sentence and conviction, and he was not entitled to any more credit for time spent on the Kansas sentence until his return to Missouri, plea of guilty, and subsequent sentence made concurrent to his Kansas time. Also, the court notes that when a new sentence is made concurrent to an existing sentence, a person is not entitled to credit for time served on the first sentence prior to the time the second sentence is imposed.

State v. Bowen, No. WD51621 (June 25, 1996)
The suppression of evidence seized under a search warrant is reversed. The court found that the probable cause statement reflecting that a reliable confidential informant gave information he had received from a "friend" and that the officer had corroborated some of the information was sufficient. The description provided by the informant from his friend was very specific as to the date of the delivery, the amount of marijuana, packing of the drug, place of delivery, and location of the marijuana inside the defendant's residence. This made the case different than State v. Hammett, 784 S.W.2d 293, as the description "bears the unmistakable marks of firsthand observation."

State v. Schnelle, No. WD 50066 (June 4, 1996)
A new trial was granted where the court required the defendant to proceed to trial without counsel, did not timely advise the defendant as to the dangers of self-representation, and did not timely advise the defendant that he would have to proceed without counsel if counsel was not secured by the trial date. Additionally, the defendant was told of the persistent offender amendment to the information, which more than doubled the range of punishment, only after the court indicated the defendant would have to proceed without counsel.

State ex rel. Mohart v. Romano, No. WD 51065 (May 21, 1996)
The court prohibited the trial court from enforcing criminal contempt against the director of the Kansas City Municipal Jail, who had released some inmates in what the court found to be a violation of the requirements for earlier release under municipal ordinance. The appellate court found the trial court's sweeping order dealing with early release to be invalid; no contempt judgment can arise from the violation of an invalid order. The court's order was overbroad and not limited to the issues raised by the pleadings, which only dealt with the early release of a single specific inmate.

State v. Miller, No. WD 51528 (May 7, 1996)
The court reversed a sodomy conviction where the doctor performing the SAFE exam was allowed to testify to the victim's statements to him that the defendant sodomized her. The state introduced this under the hearsay exception for statements to a physician, but the exception does not apply here because the statement was not made for the purpose of obtaining treatment. Therefore, §491.075 RSMo did not apply either, but in any event the hearing required under that statute was not held.

Eastern District, Missouri Court of Appeals

State v. Aye, No. 68834 (August 27, 1996)
The court reversed a conviction for possession of cocaine when the state when too far in cross-examining the defendant concerning the details of his prior convictions. The state offered the evidence to show that the defendant knew what cocaine was and the rebut his claim that the police planted the cocaine on him. The trial court instructed the jury that the priors could be considers on the issues of absence of mistake and intent. The court found that the prejudicial impact of the evidence outweighed the logical relevance.

State v. Branyon, No. 67432 (August 20, 1996)
The trial court improperly failed to give a lesser included offense instruction on the offense of misdemeanor stealing. The defendant was charged with first degree robbery and armed criminal action. He was convicted of the lesser offense of felony stealing from the person. The evidence that the defendant took the victim's wallet from his hand when the victim pulled it out of his pocket and removed $7.00 supports an instruction for misdemeanor stealing. (A dissent indicates that even this version supports a conviction for stealing from the person.)

State v. Foster, No. 67407 (August 13, 1996)
The defendant's conviction for carrying a concealed weapon was reversed. The weapon, a 16-inch tire

knocker with a handle at one end and a metal piece on the other, was found under the seat of the car defendant was driving; the car was not his. Defendant had been seen with an unknown item behind his back. There was no evidence that this item was the same one found in the car, nor that defendant placed the item in the car. Defendant's flight and false statement that he was not driving the car are not indicative of his guilt where he faced numerous other charges based on his driving the car.

Jensen v. State, No. 68921 (July 30, 1996)
The court reversed a denial of unconditional release where the lower court based its denial only on the defendant's continued need for medication. The court may grant unconditional release even if the defendant needs continued medication.

State v. Birkemeier, No. 68716 (June 28, 1996)
The court reversed the trial court's dismissal of an information charging defendant with four counts of making false or fraudulent statements for purposes of obtaining worker's compensation benefits. First, employer's insurance carrier need not have relied on the false statements, as it is the making of the statements which is actionable. Second, the attorney general has authority to prosecute under §287.128 RSMo whether or not a request is made by the Division of Worker's Compensation. Third, the information was not deficient for failing to allege the truth of the matter falsely stated and the purpose for which the false statement was made. The information was sufficient to inform the accused of the charges against her.

O'Neal v. State, No. 51541 (June 25, 1996)
A claim of denial of speedy trial within 180 days under the Uniform Disposition of Detainers Act, §210.450 RSMo is jurisdictional and not waived by a plea of guilty. However, a constitutional claim of lack of speedy trial is waived by a guilty plea. Here, defendant specifically waived his statutory and constitutional claims in a motion for new counsel.

State v. Newton, No. 63938 (June 18, 1996)
The court remanded for an in camera inspection of the psychological records of the state's key witness. The defendant was denied access to the records based on the state's assertion of the witness's physician-patient privilege. The defendant claimed that the witness's medication might have affected her ability to make a proper identification of him. The trial court must now examine the records to determine if they contain any material relevant to defensive contentions, and, if so, must disclose them to the parties. However, the court rejected the defendant's contention that the state was estopped from contending that the defendant was the shooter because it took the position in a co-defendant's trial that the co-defendant was the shooter. Since the defendant was not a party to that proceeding, there is no estopped and the state is not bound by its earlier position.

State v. Helmig, No. 68241 (June 11, 1996)
The state's appeal from the grant of relief under Sup. Ct. R. 29.15 was rejected. After trial but before sentencing, the statute was amended, and the defendant's conduct is now a class A misdemeanor. Remanded for resentencing under the range of punishment for the amended statute.

State v. McGuire, No. 68830 (June 11, 1996)
The defendant was discharged on sufficiency of evidence grounds for faire to prove the charged offense of assault on a law enforcement officer under MO. REV. STAT. §565.083.1(3), by purposefully placing the officer in apprehension of immediate physical injury. The officer's testimony was that the defendant had poked him in the chest and threatened to do so again. The evidence did not show that the officer actually feared "immediate physical injury" from a finger poke in the chest. Also, mere poling in the chest does not meet the definition of physical injury under MO. REV. STAT. §556.061.

State v. Goad, No. 65353 (June 4, 1996)
A sodomy conviction was reversed where the victim's testimony did not indicate that the defendant had touched the victim's genitalia with his hand. The social worker testified that the victim had told her that the defendant had touched the victim's vagina, but did not indicate whether the touching involved the defendant's hand.

Chambers v. State, 924 S.W.2d 561 (Mo.App.1996)
The court reflected the defendant's claim that he was entitled to the benefit of the change in MO. REV. STAT. §558.019, no longer designating burglary second degree as a dangerous felony. Since the

Case Law Update *(cont'd from page 7)*

defendant was sentenced before the effective date of the amendment, he would not reap the benefit of the change in the law.

Southern District, Missouri Court of Appeals

State v. Armstrong, No. 20735 (August 30, 1996)
The court rejected a constitutional challenge to MO. REV. STAT. §562.076 and MAI-CR3d 310.50 stating that voluntary intoxication is not a defense to crime. To preserve such a challenge, the matter must be effectively raised at the earliest opportunity during trial, the applicable sections of the Missouri Constitution must be specifically asserted, and the issue must be raised in the motion for new trial and briefed on appeal. On plain error review, the court found that the challenge was without merit, since the instruction was modified after State v. Erwin, 848 S.W.2d 476 to include a statement that the state must prove each element beyond a reasonable doubt.

State v. Taylor, No. 18754 (August 20, 1996)
The court reversed a conviction for murder due to the trial court's refusal to allow evidence of the defendant's intoxication in order to show why the defendant did not flee when the victim first made sexual advances towards him, and why he did not contact the police for several hours after the crime. The state argued that both of these facts showed consciousness of guilt and thereby that the defendant knowingly killed the victim.

State v. Mathis, No. 19922 (August 13, 1996)
The court reversed the denial of a post-conviction motion without the appointment of counsel. Upon the filing of a timely pro se motion, even though it is unverified, counsel must be appointed.

State v. Martin, No. 20853 (August 8, 1996)
The granting of a suppression motion was affirmed based on the lack of probable cause to arrest the defendant. Marijuana was found growing in a field located some 30-40 yards from the defendant's home. There was a well-worn path leading from the field in the direction of the house. After some fruitless surveillance of the path, the officers walked to the house, knocked, and arrested the defendant when he answered the door. After receiving Miranda warnings, the defendant made inculpatory statements. Since the officers did not know at the time of the arrest whether the defendant lived in the house or if he had any connection to the adjoining land. The statements were the product of the unlawful arrest and were properly suppressed.

State v. Yeargain, No. 20286 (July 15, 1996)
The court reversed convictions because defendant did not have counsel when he appeared for trial, and the court did not advise him of the dangers of self-representation. Even if the failure to obtain counsel is deliberate, the court must still advise defendant of the dangers of self-representation. Further, the court dismissed informations charging violations of protective orders under MO. REV. STAT. §455.085.7 and 455.085.8 because they do not include the necessary element of disturbing the peace.

State v. Colson, No. 20111 (July 11, 1996)
The court held that there was no error in refusing the defendant's requested self-defense instruction. The evidence raised doubt as to whether the defendant was the initial aggressor, and the instruction which was requested and refused did not comply with MAI. The court refused to consider whether the trial court should have instructed the jury sua sponte on self-defense because the issue was not briefed and argued.

State v. Smith, No. 20767 (June 28, 1996)
The court rejected the state's appeal of the trial court's sustaining a suppression motion. The trial court's finding that defendant did not consent to the search was not reversed by the court, and the fact that defendant had only food wrappers, a suitcase, water jug, map and tools in the car when he said he was moving to New York with everything he owned did not provide probable cause for the search.

State v. Duke, No. 20731 (June 24, 1996)
Reasonable suspicion of criminal activity existed when a deputy sheriff stopped the defendant's truck. The officers were watching a suspected drug house. Shortly before the defendant was stopped after leaving the house, they had stopped another car which had just left the house, and the occupant stated he had bought drugs inside. This provided reasonable suspicion for a Terry stop of the defendant's vehicle.

State v. West, No. 18834 (June 24, 1996)
The conviction for possession of a controlled substance was reversed because of the improper admission into evidence of two photographs, one of the defendant sitting behind a table full of money holding a large amount of case, and the other of the front of a motel and a table holding a large amount of cash. These photos were taken four years before the offense. The prosecutor argued that this evidence impeached the defendant's claim that he made a living cleaning cars. The appellate court found that the evidence suggested other crimes and was prejudicial.

State v. Scott, No. 20471 (June 21, 1996)
The stop of the defendant was valid, as was his subsequent consent to search. It was not error to refuse the defendant's discovery request of the officer's ticket book to show that the officer stopped him because the defendant was black. The ticket book itself would not support the challenge, and the defendant failed to offer other evidence supportive of an equal protection violation.

State v. Carson, No. 21057 (June 21, 1996)
The conviction of possession of drugs based on the defendant's reckless possession of drugs was reversed. At the time of the offense, the mental state required for the offense was "knowing." Because the jury rejected this mental state when they found recklessness, reversal and discharge was required.

Bauer v. State, 926 S.W.2d 188 (Mo. App. 1996)
An evidentiary hearing was required on the movant's claim that counsel erroneously advised him he would receive a 120-day callback in exchange for his guilty plea. The plea record did not refute this, as the record only reflected the case was an open plea, and the defendant's counsel requested the court retain jurisdiction under MO. REV. STAT. §559.115, but the defendant was never advised that he had no right to probation under this section and that the decision was solely the province of the court's discretion.

State v. Bearden, 926 S.W.2d 483 (Mo. App. 1996)
It was not error to allow the state to use a pair of pruning shears, which was not the actual weapon, as demonstrative evidence where the victim testified that the shears were similar in size and appearance to the ones used by the defendant. Therefore, it was also not ineffective assistance of counsel to fail to object when the state brandished the shears in front of the jury during closing argument.

U.S. Supreme Court

Felker v. Turpin, No. 95-8836 (June 28, 1996)
In the first case interpreting the Anti-terrorism and Effective Death Penalty Act, the court held that the act did not unconstitutionally deprive the Supreme Court of jurisdiction to consider successive habeas corpus petitions because the Supreme Court retains jurisdiction to entertain original petitions for habeas corpus even when lower courts deny leave to file successive petitions. Then, the court denied relief to the petitioner on the merits.

Montana v. Egelhoff, No. 95-566 (June 13, 1996)
No constitutional bar exists to a state law that evidence of voluntary intoxication may not be introduced to show the defendant lacked the mental state required to commit the offense. Although many states have moved away from the common law bar against such evidence, this is not sufficiently uniform or well-established to form the basis of due process challenge.

Whren v. United States, No. 95-5841 (June 10, 1996)
Officers need only an objectively reasonable basis for a traffic stop, regardless of their subjective motivation. The temporary detention of a motorist is reasonable under the Fourth Amendment where probable cause exists to believe that a traffic violation has occurred. This decision would appear to end any remaining viability of the pretext arrest doctrine. The court does note that a defendant may have an equal protection challenge if he can show a stop was racially motivated.

Ornelas v. U.S., No. 95-5257 (May 28, 1996)
The trial court's legal conclusion as to the existence of reasonable suspicion or probable cause is to be reviewed de novo by the appellate court. Independent appellate review will insure uniformity of decisions on Fourth Amendment issues.

Case Law Update *(cont'd from page 9)*

Eighth Circuit, U.S. Court of Appeals

U.S. v. Raether, 1996 WL 189303
No matter how overwhelming the evidence on a particular issue, here the materiality of a statement in a prosecution for making a false statement, the court may not direct a finding for the government on an issue and take it away from the jury.

U.S. v. Cannon, 59 CrLR 1440
Calling the black defendants "bad people" and "not from around these parts" (in North Dakota) denied the defendants due process of law and a fair trial.

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PRACTICE TIP - "KNOCK AND TALK"

by Larry Schaffer

Around these parts (Greater Kansas City), the police have been performing what they call a "knock and talk". You, too, may have encountered this critter. Hopefully not. If so, here'S a little something to think about. First I'll define a "knock and talk".

A "knock and talk" generally occurs when the police do not have what they believe to be "probable cause" to obtain a search warrant. Rather than simply placing whatever information they have in their log for "street information", at least two law enforcement units in the Greater K.C. area have opted to drive by the suspect's home or office and "knock" to see if the resident/owner will "talk" to them about the information they have. This "talk" usually begins with, or soon leads to, a request that the resident/owner "consent" to a search of the premises. If the resident/owner refuses consent, the officers use whatever information they have obtained from the visit (nervousness, furtive glances, etc.) to "bootstrap" their probable cause statement. Then they file an application for a search warrant.

In the first of two cases I handled recently, the "gang squad" of the KCMO Police Department obtained information from a young man who happened to be a passenger in an automobile stopped for a traffic violation. After running him in the computer and learning he had an outstanding warrant, police searched him and found a pound of marijuana hidden in the crotch of his pants. Subsequent discussions revealed that he had obtained the marijuana from my client's business office located in the basement of a multi-unit apartment complex.

Though there was no previous track record with this informant and he had no other "indicia of reliability", the police gang squad traveled to my client's office to "knock and talk" to my client regarding the informant's allegations. On the way, they were able to corroborate various descriptions given by the informant, though only of physical things (the apartment building, my client's automobile, the location of the office) which were not, in and of themselves, incriminating.

My client, confronted by four rather stout police officers in full battle regalia, was, understandably, nervous. According to police, he did not deny possession of marijuana when confronted with the accusations of the informant. He simply responded, "Who told you that?". Further, he "paced back and forth nervously". He "muttered obscenities under his breath". He REFUSED TO GIVE CONSENT to a search of his office and, after being told he was free to leave, he "glanced furtively" at a closet where the police later found fourteen pounds of marijuana.

In addition, my client opened a desk drawer in his office and attempted, without success, to extract roughly fourteen hundred dollars in cash (rent proceeds, of course). He also allegedly made several false starts toward a gym bag on the floor to the left of his desk. The bag was later found to contain a loaded handgun. About the only helpful thing he did was leave the premises. Police didn't.

When police filed their APPLICATION FOR SEARCH WARRANT and STATEMENT OF PROBABLE CAUSE, they relied heavily on my client's nervousness, furtive glances, failure to deny possession of marijuana, etc. A judge had no trouble issuing a search warrant. The trial judge had no trouble overruling my motions to suppress.

The second "knock-and-talk" case involved members of the Jackson County Sheriff's Department who arrested a suspect based upon a traffic violation. Subsequent developments led to the discovery of a quantity of methamphetamine. The detainee agreed to talk with the officers, and gave them information about an alleged meth lab at my client's residence.

Although eleven days of surveillance failed to turn up any additional incriminating evidence, five uniformed officers in three squad cars arrived at my client's house around 7:35 one August morning. They had "dropped by" for a little "knock and talk". Again, my client's nervous behavior and failure to consent, coupled with information received from several other people on the premises, led to the issuance, ten hours later, of a search warrant.

In this case, within three hours of their arrival the sheriff's deputies had much more information to include in their STATEMENT OF PROBABLE CAUSE than the "gang squad" members had in the previous case. Again, however, prominent in the STATEMENT OF PROBABLE CAUSE was a recitation of my client's perceived incriminating actions and attitudes. Once again, the sheriff's deputies had no trouble obtaining a search warrant!

We all know the courts tend to zealously guard a defendant's right not to testify at trial (see Rule 27.05 Mo.R.Crim.P. and § 546.270 RSMo) The courts have also been fairly consistent in excluding evidence that a defendant, once Mirandized, chose not to make a statement. Reference at trial to a defendant's exercise of his Fifth Amendment privilege in this regard is almost always error, often resulting in a mistrial or reversal on appeal.

When pressed to trial on the apartment-complex-office-search case first referenced above, I moved in limine for exclusion of any evidence of either my client's refusal to consent to a search of his office or his suspicious (?) behavior during his encounter with the "gang squad". When the judge sustained my motion in limine, the prosecuting attorney was placed at a distinct disadvantage. In effect, she was forced to begin her case by presenting testimony that the "gang squad" officers had "obtained a warrant" for the search of my client's office. Even though this search led to the recovery of fourteen pounds of marijuana, over $1400 in cash, a loaded handgun and a triple-beam scale, the nexus between my client and the office was much more tenuous than it would have been had the officers been able to testify regarding his muttered obscenities, nervous pacing, etc. Since my client was no longer on the premises when the warrant was served, and the original "informant" had long since left the K.C. area, the only real evidence they had regarding his "possession with intent to distribute" was the fact that he had an ownership/managerial interest in the office premises!

Although we could have pressed the issue at trial, the prosecutor's plea offer soon became much more reasonable. My client chose to accept the offer, and later received probation.

Knock and Talk *(cont'd from page 11)*

In arguing the motion in limine, I, of course, relied upon my client's Fourth Amendment protection from unreasonable search and seizure. Since searches of homes and offices are presumptively unreasonable unless authorized by search warrant, my client had every right not to consent. The judge agreed with me that allowing evidence regarding my client's refusal to consent to a search was analogous to allowing evidence that he (or any suspect) had refused to give a statement after being advised of his Miranda rights.

I know of no case law on this point (I really didn't need to cite any ... it just seemed to make sense to both me and the judge). I was fortunate to be in front of a judge who zealously guards individual constitutional rights. Perhaps you, too, will be as lucky. If not, you might want to extend the analogy between Fourth and Fifth Amendment rights, and a citizen's protection from negative inference when he asserts either of them.

Good luck and ... be careful out there!

Legislative Issue: Starving Gideon and the Sixth Amendment

by Jim Worthington

In 1963, in *Gideon v. Wainwright*, the United States Supreme Court held that every person is entitled to competent legal counsel, and the "basic tools" necessary to the adversary system must be provided to "any person hailed into court, who is too poor to hire a lawyer". However, if the legislative branch does not fulfill that constitutional mandate with adequate appropriations, the indigent defendant will be denied a level playing field on which to present her or his defense.

Last fiscal year, Congress gave the U.S. Attorney's Office $41,000,000 more than requested for its annual funding. The FBI received $53,000,000 more than it asked for. Defender Services got $28,000,000 less than requested. It's easy to see what's going on when you look at these numbers.

Meanwhile, there is a rush to execution in this country. As you know, last April Congress ended all federal funding for the Capital Punishment Resource Centers. Most of our fellow citizens do not see the danger inherent in allowing ineffective representation of indigent defendants, at trial or on appeal, even in capital cases. *Habeus corpus*, linchpin of freedoms asserted in the Bill of Rights, is widely seen as an irritating speed bump on the road to the gas chamber.

As individuals, we represent our clients to the best of our ability. As members of the Missouri Association of Criminal Defense Lawyers, we speak with one voice on behalf of ourselves and our clients, on national, state and local issues. Our efforts make a difference. Our voice is heard and respected.

Recently, Missouri's Ad Hoc Committee on Federal Habeas Corpus asked our opinion on standards for post-conviction counsel in capital cases. Elizabeth Carlyle initiated a discussion of the issues by fax, then led a spirited debate at MACDL's September 19 board meeting in Kansas City. MACDL's resulting letter to the Committee is reprinted below.

September 24, 1996

Ad Hoc Committee on Federal Habeas Corpus
Attention: Bill L. Thompson

Dear Mr. Thompson:

Upon receipt of your letter of September 9, I made contact with the Board of Directors of the Missouri Association of Criminal Defense Lawyers to solicit their suggestions on the question of standards for post-conviction counsel in capital cases to insure quality representation and fair administration of justice. The Board decided to make this submission to the Committee jointly, believing that these suggestions represent the best interests of all citizens of these United States of America as well as our membership and clients. Our membership includes approximately 300 attorneys, including public defenders, private practitioners, law professors and judges.

Attached are suggestions for standards which we believe address both the requirements of the Anti-Terrorism and Effective Death Penalty Act of 1996 and the more important interest of persons on death row in having their cases decided fairly. In addition to the specific requirements set out in the proposed rule, we want to offer the committee the following observations about the task.

Gideon v. Wainwright established that the role of defense counsel is as essential to the administration of justice as the prosecution, judge and jury. Strickland v. Washington established that such counsel must be competent in order to fulfill that role. The new law makes clear that it is appropriate that not only trial counsel but post-conviction counsel must meet certain standards. As practicing attorneys in the public and private sectors, experience has taught us that adequate resources, both for compensation of counsel and for investigation and expert assistance, are a basic requirement for the provision of competent representation.

Given the importance of the role of counsel, particularly where a client's life is at stake, we do not hesitate to recommend that adequate resources be devoted to capital post-conviction counsel. Their importance is particularly clear under the Anti-Terrorism and Effective Death Penalty Act of 1996, whose "opt-in" procedures presume that the state court will have given a thorough and fair consideration of the prisoner's constitutional claims prior to review by the federal court.

Although we offer specific standards for experience of counsel, we believe that training and adequate resources are more important than specific qualifications. Without adequate training and resources, the qualifications listed in the proposed rule will not insure competent representation. For that reason, one of our concerns is the administration of certifying that private attorneys meet the standards of the rule and compensating such attorneys. Because such attorneys are ordinarily only retained when a conflict exists with the Public Defender System, we think it far more appropriate for the appointment and compensation of private attorneys to be administered by the judiciary than by the Public Defender System.

We urge the committee and the court to reject the apparent bias of the Anti-Terrorism and Effective Death Penalty Act of 1996 towards limiting the opportunity of persons facing execution to assert defects in the procedure which resulted in their conviction and sentence. This court's rules should be drafted so as to give the condemned prisoner the opportunity, without undue procedural hindrance, to assert all of his or her reasonable claims. This means not only the provision of counsel and resources, but also the time to develop claims and the opportunity to present them at a fair hearing. The vast majority of persons who favor the death penalty, when surveyed, say they believe

Letter to Ad Hoc Committee *(cont'd from page 13)*
it should be administered fairly. The court can achieve that aim by creating and enforcing fair procedures for post-conviction litigation.

MACDL appreciates the opportunity to make our suggestions to the committee. We and other members of the board, in particular Prof. Ellen Suni and Public Defender Caterina DiTraglia, are available to discuss this matter with the committee and court.

/s/ James D. Worthington, President & Elizabeth Unger Carlyle, President-Elect

PROPOSED STANDARDS FOR POST-CONVICTION COUNSEL IN DEATH PENALTY CASES

1. **Appointment.**
a. Within ten days after notice of appeal from the conviction and/or sentence is filed, at least two attorneys should be appointed to represent any person under sentence of death who has been granted leave to appeal in forma pauperis in state post-conviction proceedings.

b. A person under sentence of death who has not been granted leave to appeal in forma pauperis should be notified of his right to request appointed counsel for state post-conviction proceedings via a request to the court of conviction. If such a request is received, and if the court finds that counsel should be appointed, at least two attorneys shall be appointed within thirty days of the request.

2. **Standards of Competence.** Two levels of standards are appropriate. At least one of the attorneys appointed to represent a person under sentence of death in state post-conviction proceedings should meet the higher standards; the second need only meet the second tier of standards. In addition, no attorney who has participated in the trial or direct appeal proceedings shall be appointed as post-conviction counsel unless the client makes a knowing and voluntary waiver of his/her right to conflict-free counsel.

We have no consensus about specific numbers to quantify experience. In general, we believe the qualify of experience is more important than its length. We believe lead counsel should have significant experience in the areas of felony jury trials, appeals and post-conviction and habeas corpus cases. Some of that experience should involve homicide. While we are not urging that the court adopt a particular scheme of criteria, we think the criteria the court adopts should be specific so they can be objectively evaluated.

Examples of schemes proposed by some of our members for lead counsel are as follows:

General: Counsel of record in at least 25 felony cases in state or federal court at the trial, appeal or post-conviction level.

or

At least 4 years experience in criminal law, as either a public defender or private practitioner. During this 4-year period, at least 1/3 of counsel's business or responsibilities should be in the criminal field.

Specific in addition to above:

Service as lead counsel in at least one felony jury trial and at least five among the following: criminal appeals, state or federal; Missouri post-conviction proceedings at trial and appellate levels; federal habeas corpus proceedings at trial and appellate levels. At least one of the qualifying cases shall have been a capital punishment case.

or

Jury trial of at least one death penalty case.

or

Jury trial of 3 Class A felony cases, or 5 felony cases, and author of at least 3 criminal briefs in state appellate courts; and served as counsel on at least 2 federal habeas corpus proceedings in federal district court and circuit court. At least one of the qualifying cases shall have been a capital punishment case.

3. Training requirements. We believe that counsel should undergo substantial training concerning the law related to capital cases and the law of habeas corpus. Estimates of the time required varied, with a minimum of 16 hours and a maximum of 32 hours proposed. We also feel strongly that counsel should be required to attend an annual update, since the law in this area changes rapidly.

4. Compensation and Expenses.

a. **Attorney fees.** Private counsel shall be compensated at a rate of at least $125 per hour. Subject to this floor, good benchmarks for attorney compensation are the prevailing hourly rate in the attorney's locality and the salary of the assistant attorneys general who handle capital cases, with an added component for overhead. The court shall require appropriate time records to be maintained and presented. Such records shall be closed records, not open to public inspection until the case is fully adjudicated in all courts. Upon presentation of proper time records, the court may approve interim payments of fees before termination of the case, and must do so if the case is pending for more than 90 days. If funds are not available to compensate counsel, the case should be stayed until funds become available.

b. **Expenses.** Counsel shall be entitled to reimbursement for reasonable expenses connected with the litigation, including but not limited to expert witnesses, use of computer-assisted legal research, travel, investigation, postage and copying. When counsel anticipates incurring a single expense exceeding $500, prior approval of the court should be obtained. All requests for approval or reimbursement of expenses should be closed records, not open to public inspection until the case is fully adjudicated in all courts. Reimbursement should be made within 30 days of submission. If funds are not available for these expenses, the case should be stayed until funds become available.

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Going, Going, Gone: One More Constitutional Right Down the Drain

by Dee Wampler

Several recent cases have considered whether a police officer conducts a "search" pursuant to the Fourth Amendment by looking over the door of a public toilet stall in which an accused (suspected of having just completed a drug sale) was sitting. The officer's conduct comes within his authority to make a *warrantless search* in a public place. *Most courts hold such toilet searches legal.*[1]

The usual scenario is that police, in a restaurant, barr or shopping mall, suspect a customer is doing drugs in a restroom. They enter the bathroom and clearly see something under the stall door, perhaps shoes or trousers, which match a previous description of the suspect. Looking over the door, police see a suspect, with pants up or down, sitting on the stool.

The question is whether police must obtain a warrant before making a search. Generally, if police have reasonable cause to believe the suspect is guilty of a felony,[2] a warrantless entry of his home or other private place violates the Fourth Amendment.[3]

Down the Drain *(cont'd from page 15)*

The Fourth Amendment protects people, not places[4].

An officer might see something through the gap between the door and the support post. One court found such surveillance "sufficiently offensive .. to be deemed an unlawful search."[5] Another stated, "Without question, an occupied toilet stall is properly characterizd as private."[6]

Courts use the Katz test, "reasonable expectation of privacy", to prove: (1) that a person exhibited an actual (subjective) expectation of privacy; and (2) such expectation is one society is prepared to recognize as reasonable.

However, most states hold that, if an officer has reasonable cause or suspicion to believe a person is involved in criminal activity and/or that a crime is being committed, s/he may peer under or over a toilet stall door[7] to look for a suspect (a stool pigeon, perhaps). Of course, if the officer can't substantiate cause or suspicion in court to justify such voyeurism, s/he may well be flushed.

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1 State v. White, 59 CrL. 1172 (WA 1996).

2 U.S. v. Watson, 423 U.S. 411 (1976).

3 Payton v. New York, 445 U.S. 573 (1980).

4 Katz v. U.S., 389 U.S. 347 (1967).

5 Tuckwila, Washington v. Nalder, 770 P.2d 670 (WA App. 1989).

6 State v. Berber, 48 Wash. App. 583, 740 P.2d 863 (WA 1987).

7 Other jurisdictions have recognized a reasonable expectation of privacy in enclosed toilet stalls. Barron v. State, 823 P.2d 17 (AK App. 1992); People v. Morgan, 200 IL App.3d 956, 558 N.E.2d 524 (1990); People v. Mercado, 51 N.E.2d 27 (NY 1986).

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Effect of Welfare Reform Legislation on Convicted Drug Felons

submitted by Elizabeth Unger Carlyle

A little-known aspect of the recent welfare "reform" legislation is its effect on persons with drug convictions. According to a memorandum from NACDL, eligibility for Aid to Families with Dependent Children (AFDC) and food stamps will be denied to applicants convicted of felony drug use, possession or distribution after the date the law is enacted.

Medicaid eligibility is not affected. Further, affected individuals can still obtain emergency medical services; short-term, noncash emergency disaster relief; immunizations; testing and treatment of communicable diseases; prenatal care; job training; and drug treatment. Benefits for family members of affected persons are not affected; the total family benefit will be reduced by the amount which would have been paid for the person with the felony conviction.

A state may opt out of this provision, or limit the period of ineligibility.

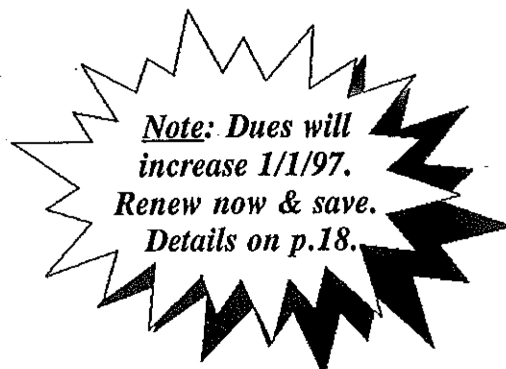
Congratulations and welcome to Tim Cisar of Lake Ozark, recently elected to serve the remainder of Marco Roldan's term on MACDL's Board of Directors. Tim was nominated, elected, appointed to at least one committee, and <u>then</u> advised of the great honor bestowed on him. We appreciate his sense of humor as much as his enthusiasm for the job.

NEW MEMBERS AND MEMBERSHIP RENEWALS

Anthony Cardarella, St. Joseph, *Public Defender*
Shane Cantin, Springfield
Larry Coleman, Kansas City
Lisa Preddy Crane, Union, *Public Defender*
William Crosby, Springfield
Ellen Flottman, Columbia, *Public Defender*
Irene Karns, Columbia, *Public Defender*
William Lampros, Union, *Public Defender*
Ann Koszuth, Springfield, *Federal Public Defender*
Richard McFadin, Gallatin
J. Gregory Mermelstein, *Public Defender*
Linda Murphy, Clayton, *Sustaining Member*
Linda Mary Neal, Shawnee Mission, KS
Robert Peterson, Union, *Public Defender*
H. Mark Preyer, Kennett
J. Marty Robinson, Jefferson City, *Public Defender, Sustaining Member*
David Rosener, Cape Girardeau
Karen Sims, Liberty, *Public Defender*
Scott Turner, Kansas City, *Sustaining Member*
Robert Welch, Independence, *Sustaining Member*
Frank Yankoviz, Monett, *Public Defender*

MACDL sincerely appreciates your financial support. We can't function without it. Your dues pay for postage, printing, travel expenses of CLE speakers, lobbying efforts in the Missouri General Assembly, scholarships to the National College of Criminal Defense, airfare for representatives to NACDL's Annual Legislative Fly-In, and computer supplies, among other things. Special thanks to Missouri Public Defenders and Assistants who support our efforts, and to our Sustaining Members for voluntarily doubling the amount of their annual dues.

Please check the mailing label on the back page of this newsletter to see if it's time to renew your membership. You'll find a renewal form inside the back cover. Feel free to make a copy for a friend or colleague.



FYI

by Francie Hall

The first cool, crisp morning, the first gloriously red tree, and old memories, smells, emotions rise up with breathtaking immediacy. Long-ago school days offer, for a moment, new beginnings, exciting possibilities, unblemished Big Chief tablets and smooth, yellow #2 pencils with virgin erasers.

A recent encounter with Sister Mary Celinda, my first-grade teacher, undoubtedly enhanced the colors and sensations of retrospective childhood experiences. I've been picturing blackboards and bulletin boards, chalk dust, half-pints of milk and pledges of allegiance given oh-so-seriously, no matter the incomprehensible parts ("... and to their public for witches stand ...")

Did all schools have ugly brown boxes mounted near the ceiling, from which emanated a voice - the principal's or, perhaps, that of a large and fearsome archangel - making IMPORTANT ANNOUNCEMENTS? But, enough of my autumn nostalgia trip --

May I have your attention, please?

MACDL's fall CLE program is scheduled for November 22 in K.C. and St. Louis, with video replays in January at several locations. You should receive the brochure within days of this newsletter.

At a meeting on September 19, MACDL's board voted unanimously to grant honorary lifetime membership in the association to all our former members who have been appointed to the bench. These include the following Honorables: Bob Trout, David Russell, Justine Del Muro, Chris Sill-Rogers, J.D. Williamson and Charlie Atwell. Congratulations, Judges!

At the same meeting, an increase in membership dues was proposed and carried. The board has considered the issue many times, but has not raised dues since approximately C. Darrow's day. Effective January 1, 1997, the schedule of annual dues for MACDL membership will be:

Sustaining:	$300
Regular:	$150
< 5 years:	$ 75
Public Defender:	$ 60
Asst. Public Defender:	$ 30
Judges, Law Professors:	$ 60
Paralegals, Law Students:	$ 25

You can lock in another year's membership at the old rate, regardless of your renewal date, by sending your check before the end of the year. Also, pass the word to your friends who've been intending to join MACDL, but haven't gotten around to it. Now is the time.

Somewhere on your desk is a flyer soliciting funds for MACDL's PAC fund. Why not dig it out of your in-tray and respond right now? Small donations can make a big difference.

Thanks to President Jim Worthington's initiative, attractive and comfortable shirts - white, cotton-knit, polo-style, with **MACDL logo** - are available for only $15. Call Jim at 816/259-2277 to order.

Interested in participating in the 1997 NACDL Legislative Fly-In in Washington, DC? Confirmed dates are March 24-25, 1997.

As mentioned earlier in this issue, Tim Cisar of Lake Ozark has been elected to serve the remainder of Marco Roldan's term on MACDL's Board of Directors. While Marco's energy and humor will be missed, we are pleased and proud of his appointment as Jackson County's Drug Court Commissioner.

Public Defender Christopher Slusher of the Columbia Capitol Litigation Unit has volunteered to serve on MACDL's Legislative Committee, co-chaired this year by Dan Viets and Tom Carver. Committee members Jim Worthington, Bruce Houdek, J.R. Hobbs, Bernie Edelman, T.D. Pawley, Cathy DiTraglia, Marty Robinson, Tim Cisar and Dan Dodson are planning strategies to meet the challenges expected in the next session of the Missouri Legislature.

Thank you for your attention to these important announcements. You are now excused for recess.

MACDL

MEMBERSHIP APPLICATION/RENEWAL FORM

To join the Missouri Association of Criminal Defense Lawyers, or to renew your membership, take a moment to complete this form and mail today, with your check, to:

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

ANNUAL DUES SCHEDULE ***(Through 12/31/96; increase effective 1/1/97.)***

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
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Provisional (Nonvoting) Member:
Judges, Law Professors & Students,
Paralegals & Legal Assistants $20.00

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FIRM ______________________________

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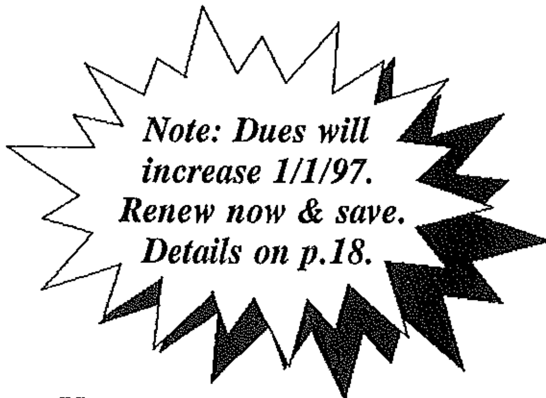
CITY ____________________ STATE __________ ZIP ____________________

PHONE ____________________ FAX ____________________

DATE ____________________ AMOUNT ENCLOSED ____________________

_____ 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
KC MO 64110



YOUR ADDRESS LABEL INCLUDES THE EXPIRATION DATE OF YOUR MACDL MEMBERSHIP. IF THAT DATE IS NEAR (OR PAST), PLEASE USE THE FORM INSIDE THE BACK COVER TO RENEW YOUR MEMBERSHIP AND EXTEND YOUR SUBSCRIPTION TO THE ***ACTION REPORT***. THANK YOU.

ADDRESS CHANGE/CORRECTION

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