

# PREFACE TO THE 2026 EDITION

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During 2025, the United States Supreme Court broke no new ground in regard to criminal procedure, although it continued the pattern of permitting additional delay in capital cases by recognizing a claim of a due process violation due to irrelevant, inflammatory and prejudicial evidence, raised many years after conviction, and by authorizing civil rights suits to challenge post-conviction DNA procedures provided by state law.

The Missouri Supreme Court in 2024–2025 handed down a number of decisions of significance in regard to criminal procedure, but the Court also avoided (evaded?) deciding at least one issue of importance. The issue left unresolved was whether lack of counsel at the preliminary hearing contravenes the Sixth Amendment, invalidating subsequent proceedings. The issue undoubtedly will resurface.

Otherwise in 2024–2025, the Court reinforced the timeliness requirements with regard to postconviction motions and clarified the proper procedure when non-appointed counsel fail to file a timely postconviction motion. In addition, the Court held that double jeopardy did not preclude multiple convictions for operating the same stolen car in more than one county, rejected an effort to use habeas to raise a procedurally defaulted claim regarding a supposedly excessive sentence, and upheld lifetime electronic supervision of certain sex offenders. The Court also decided cases involving the proper construction of the kidnapping and interfering with arrest statutes, overruling several cases. The Missouri Court of Appeals handed down a decision requiring a jury to determine persistent offender status in regard to offenses committed at different times, applying the U.S. Supreme Court’s *Erlinger* decision from 2024. The case is now on transfer to the Missouri Supreme Court—together with a case involving persistent DWI offenders.

In 2025, the General Assembly enacted a number of statutes relating to substantive criminal law, including statutes aimed at organized shoplifting and stunt driving and street “takeovers”—issues mainly in metropolitan areas. The legislature also enacted a specific statute regarding the State’s obligation to disclose informants and any consideration for their cooperation. The stat-

ute has now been incorporated in Supreme Court rules. The statutes regarding the admissibility of out-of-court statements of children were broadened to embrace statements of children under the age of 18 rather than 14.

Since leaving the bench in 2017, I have been privileged to serve as Chief Trial Assistant to the St. Louis Circuit Attorney and as an associate and deputy City Counselor for the City of St. Louis. I have since retired from the City's service but remain in active practice, including mediation, municipal law, and select criminal matters.

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