



Advisory

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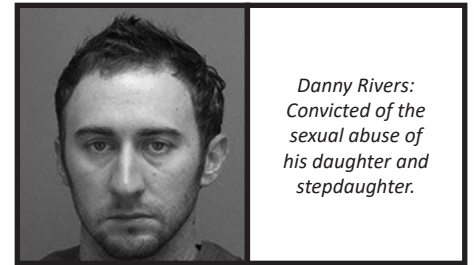
Summer/Fall 2025

DECISION LIMITING CRIMINAL APPEALS

*Unanimous decision in **Rivers v. Guerrero***

On June 12, 2025, the U. S. Supreme Court unanimously rejected a Texas child molester's attempt to create a loophole in a federal law that limits repeated appeals challenging convictions and sentences. In doing so, it corrected a misinterpretation endorsed by the federal court of appeals in New York but rejected by most of the other courts. In 1996, Congress passed the Antiterrorism and Effective Death Penalty Act (AEDPA), which limited most convicted criminals to one federal habeas corpus petition to challenge a conviction or sentence. Attorneys representing child molester Danny Rivers asserted that when Congress passed AEDPA it intended that a defendant could amend his petition four years after it was rejected by a judge and while the case is on appeal before an appellate court.

The Criminal Justice Legal Foundation (CJLF) joined the case, **Rivers v. Guerrero**, to oppose Rivers' claim, arguing that after a district judge has rejected his petition, federal law allows a defendant to ask the district judge to reconsider his ruling within 28 days or appeal the ruling within 30 days. If the judge agrees to reconsider, the defendant can amend his petition and the 30-day requirement for an appeal is stayed. After the judge issues a second ruling, the 30-day clock for an appeal starts again. A request to reconsider in order to make new claims four years later is prohibited by AEDPA.



*Danny Rivers:
Convicted of the
sexual abuse of
his daughter and
stepdaughter.*

In 2012, Rivers was convicted of the continuous sexual abuse of his daughter and his stepdaughter between 2005 and 2009. They testified that he began molesting them when they were nine years old. After listening to the girls describe what Rivers did to them hundreds of

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APPEALS COURT BLOCKS EARLY RELEASE OF MURDERERS

A unanimous panel of California's Third District Court of Appeal has held that state law does not authorize the early release of murderers serving indeterminate sentences in state prison. The court's July 28 decision in the case of **Criminal Justice Legal Foundation (CJLF) v. California Department of Corrections and Rehabilitation (CDCR)** invalidates regulations adopted by corrections officials which had allowed the release of convicted murderers years before they had served the minimum term of 15 or 25 years to life in prison. The lawsuit, brought by the CJLF on behalf of the families of murder victims, argued that the CDCR overstepped its authority by allowing the state's most violent criminals to earn credits for good behavior (called "good time" credits) to reduce their minimum terms.

Writing for the majority, Justice Shama Mesiwala states, "Although we conclude above that the department has broad authority to award credits, its power to apply those credits is a different issue. Petitioners contend section 32 does not authorize the department to use credits to advance indeterminately-sentenced inmates' minimum eligible parole dates in conflict with existing law. We agree."

The court's decision upheld, in large part, the December 13, 2023 Sacramento Superior Court ruling which also endorsed the CJLF position that the state did not have the authority to grant early releases to violent criminals serving indeterminate sentences. The Superior Court also issued a writ of mandate ordering the state to stop the early releases, which remains in force.

In both courts, Attorney General Rob Bonta's office argued that Proposition 57 gave the CDCR authority to accelerate the release schedule of roughly 70,000 inmates in state prison for good behavior or participation in rehabilitation programs. The year after the ballot measure was adopted in 2017, Governor Jerry Brown authorized the CDCR to adopt new regulations increasing "good time" credits for inmates who behaved well and participated in rehabilitation programs. In 2021 Governor Gavin Newsom authorized CDCR to increase the number of inmates eligible for credits and the number of credits awarded to expedite early releases. The Superior Court upheld the regulations as applied to inmates sentenced to fixed terms of years but rejected them as applied to advance the parole eligi-

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STUDY FINDS FEDERAL FUNDING FOR PUBLIC SAFETY WAS WASTED

New report finds little evidence that prison-reduction efforts backed by the U. S. Department of Justice have achieved their stated goals

The Criminal Justice Legal Foundation (CJLF) released a report by CJLF Research Associate Elizabeth Berger on June 30, which indicates that the federally-funded Justice Reinvestment Initiative (JRI) has largely failed to deliver on its promise of enhancing public safety while reducing incarceration. The grant program has spent about 380 million dollars since its inception, and it was funded for 32 million dollars in grants in fiscal year 2025. The administration's latest budget proposal, released May 30, would eliminate this funding.

The report, *Justice Reinvestment Initiative Falls Short of Achieving Public Safety Goals*, does not dismiss the value of community-based programs for certain nonviolent individuals. However, there is a widespread failure in the current program to produce data to demonstrate that the program has actually had any positive impact on crime rates or public safety.

Launched in 2010 and supported by the Bureau of Justice Assistance, the JRI provides grant funding to incentivize states to reduce incarceration rates and reinvest savings into community-based programs. While the initiative aims to reduce prison populations, improve rehabilitation, and enhance public safety, CJLF's report finds little evidence that the rehabilitation and safety goals have been met.

Although many supporters of the initiative point to reductions in prison populations as proof of success, the report argues that this metric is insufficient and misleading as a sole determinant of "success." In states where recidivism was measured, the results were mixed, directly contradicting claims that the initiative is enhancing long-term safety outcomes.

"These federal grants encourage states to adopt alternatives to incarceration, but too often states fail to track the most important outcomes like crime, recidivism, and rehabilitation," said Elizabeth Berger. She also notes, "Many state assessments paint an overly optimistic picture of success by celebrating milestones such as

fewer people incarcerated or increased probation populations, without demonstrating that public safety has actually improved. This lack of rigorous evaluation and transparency can mislead policymakers and the public about the true effectiveness of these reforms."



The report also criticizes the implementation of so-called "evidence-based" programs funded by JRI, noting that many were adopted without proper evaluation or were poorly executed, limiting their effectiveness.

There is a troubling disconnect between what the initiative promises and what it has actually delivered. After all this investment and effort, we still lack clear answers on whether these reforms improve safety. That uncertainty itself is cause for concern.

The report concludes that due to the lack of meaningful tracking and reporting on key outcomes, such as rehabilitation and recidivism, there is no substantial evidence that the federal funding has actually improved public safety. The report suggests two possible paths forward: overhaul the program with serious accountability measures, or end the federal grants entirely and allow states to make the relevant policy choices on their own.

"It appears that the current administration has chosen to end it, not mend it," said CJLF's Legal Director Kent Scheidegger. "That is a feasible choice, and better than the status quo," he added.

B O X S C O R E

An accounting of the state and federal court decisions handed down over the past year on cases in which CJLF was a participant. Rulings favoring CJLF positions are listed as WINS, unfavorable rulings are LOSSES, and rulings that have left the issue unsettled are DRAWS.

CJLF v. CDCR: 7/28/25. Unanimous California Third District Court of Appeal decision striking down Governor Gavin Newsom's effort to grant early parole to convicted murderers. The court held that state law does not authorize the early parole of murderers serving indeterminate sentences in state prison, partly invalidating regulations adopted by corrections officials which had allowed the release of convicted murderers years before they had served the minimum term of 15 or 25 years to life in prison. The lawsuit, brought by CJLF on behalf of the families of murder victims, argued that the CDCR overstepped its authority by allowing the state's most violent criminals to apply credits for good behavior (called "good time" credits) to reduce their minimum terms. The court's decision upheld, in large part, the December 13, 2023 Sacramento Superior Court ruling which also endorsed the CJLF position that the state did not have the authority to grant early releases to violent criminals serving indeterminate sentences. The Superior Court also issued a writ of mandate ordering the state to stop the early releases, which remains in force.

WIN

Rivers v. Guerrero: 6/12/25. U. S. Supreme Court decision unanimously rejecting the claim by a serial child molester that he was entitled to successive challenges to his conviction and sentence even though a federal law allows just one, with only narrow exceptions. Activist federal judges have evaded this law since Congress passed it 1996, in order to repeatedly review claims of trial or sentencing error having absolutely nothing to do with the criminal's guilt or innocence. In Danny Rivers' case, he was found guilty of molesting his daughter and stepdaughter hundreds of times over a four-year period. Both girls were nine years old when this started. A Texas jury sentenced him to 38 years in prison for these crimes. Years later after Rivers' final appeal, in the form of a habeas corpus petition, was rejected by a federal judge, he waited another four years to request that the judge allow him to amend it and add new claims. Both the judge and the court of appeals turned him down, citing the limit under federal law. Because other federal courts had skirted these limits in similar cases, the Supreme Court agreed to hear Rivers' appeal. CJLF joined the case to argue that the limit on repeated petitions applies to requests to amend a petition that has already been rejected. This limit has only narrow exceptions that Rivers does not qualify for. The Court's decision followed that argument.

WIN

Glossip v. Oklahoma: 2/25/25. U. S. Supreme Court ruling upholding a convicted murderer's claim that "new evidence" invalidates his conviction. CJLF had joined the case to urge the Court to reject the murderer's claim and uphold his conviction and death sentence. In 1997, Richard Glossip hired a handyman, at the motel he managed, to kill the owner. He was convicted on a mountain of evidence, including the handyman's confession. The new evidence is that the handyman had been treated with lithium, a medication for bipolar disorder, something that Glossip's defense attorneys knew, but chose not to introduce because it would have supported the fact that Glossip had manipulated the handyman. This evidence was actually included in Glossip's own appeal in 1998. CJLF argued that the state's highest court had already reviewed and dismissed the new evidence as both irrelevant and procedurally barred, and that the Supreme Court did not have jurisdiction to hear Glossip's claims. A majority voted to overturn the conviction and ordered Oklahoma to give the murderer a new trial.

LOSS

City of Grants Pass v. Johnson: 6/28/24. U. S. Supreme Court decision upholding the Oregon City of Grants Pass's challenge to a federal judge's ruling to strike down local ordinances prohibiting camping on public property. In July 2023, a divided panel of the Ninth Circuit upheld the judge's order, citing its 2019 ruling in **Martin v. City of Boise**. That ruling announced, in effect, that the homeless had an Eighth Amendment right to camp on public property anytime a city had fewer shelter beds than its homeless population. The ruling covered the nine western states in the Ninth Circuit: Alaska, Washington, Montana, Idaho, Oregon, Nevada, California, Arizona, and Hawaii. On January 12, 2024, after the high court agreed to hear the Grants Pass appeal, CJLF joined the case to argue that the Eighth Amendment was adopted to bar the cruel and unusual punishment of convicted criminals, which has nothing to do with cities and counties enforcing municipal ordinances to regulate camping on public land. The CJLF's brief also noted that no other federal circuit had discovered this right. The decision to overturn the Ninth Circuit has restored local and state authority to remove homeless camps from public property.

WIN

Smith v. Arizona: 6/21/24. U. S. Supreme Court ruling upholding a drug dealer's claim that his conviction was unconstitutional. In 2011, Jason Smith was convicted of possession of marijuana and methamphetamine for sale. Prior to trial, testing at the state crime lab confirmed that the drugs in Smith's possession were marijuana and methamphetamine. When the trial began, the lab analyst who did the testing no longer worked at the lab, so, relying on the original lab notes, another analyst testified on the testing process and the findings. Smith claimed that this long-established process regarding the

DRAW

continued on page 4

“BOXSCORE”

continued from page 3

introduction of forensic evidence violated his constitutional right to confront the original analyst. The Arizona Court of Appeals upheld the testimony on the theory that the notes were not introduced for their truth. After the U. S. Supreme Court agreed to hear Smith’s appeal, CJLF joined the case to argue that the term “witness” as understood when the Confrontation Clause was adopted does not extend so far as to cover the author of the lab notes. The expert who testified was the witness for the purpose of the Sixth Amendment, and the defendant’s right to confront him was honored. The high court rejected the state appeals court’s “for the truth” theory and sent the case back to the state court for reconsideration.

People v. Hardin: 3/4/24. California Supreme Court decision rejecting a murderer’s claim that he had a constitutional right to early release from his life without the possibility of parole (LWOP) sentence. The high court utilized CJLF arguments in its decision which held that while several recently enacted state laws do make convicted murderers eligible for parole years earlier than their sentences prescribe, murderers over the age of 18 who are sentenced to LWOP are specifically excluded. The crime of conviction and adult v. juvenile status are sufficient grounds to treat criminals differently. Hardin was convicted in 1990 of the brutal robbery and murder of an elderly woman who had befriended him. Thanks to this decision he and others like him will never see the outside of prison.

WIN

TOTAL

4 Wins

1 Loss

1 Draw

CJLF OPPOSES MURDERER’S DEATH SENTENCE CHALLENGE

The U. S. Supreme Court has agreed to review a federal appeals court decision overturning the death sentence of convicted Alabama murderer Joseph Clifton Smith. The Criminal Justice Legal Foundation (CJLF) has joined the case of **Hamm v. Smith** to encourage a decision overturning the lower court ruling and to clear up confusion regarding how courts determine if a murderer is too mentally retarded to be executed.

The case involves the robbery and murder of Durk Van Dam. Smith, who had just been released from prison, was staying in a motel when he learned that Van Dam was carrying \$1,500 in cash. Smith and acquaintance Larry Reid decided to rob Van Dam. On November 23, 1997, Smith and Reid convinced Van Dam, who had been drinking, to drive them to a remote area of Mobile County. Once there, Smith and Reid beat Van Dam with a hammer, cut him with a power saw, and left his body in his mud-bound truck after stealing \$140 and his tools.

The evidence of guilt was overwhelming, including Smith’s confession to police, witnesses who saw Smith leave with the victim, a witness who declined Smith’s invitation to join them in the rob-

bery/murder, and a pawn shop owner who bought the stolen tools from Smith. Due to the strength of the evidence, Smith’s attorneys presented a mental defense, claiming that he was mentally retarded and introduced an expert who tested him, finding an IQ of 72. The prosecution presented two earlier IQ tests with scores of 74 and 75. The jury found him guilty and recommended the death sentence.

In 2002, two years after Smith’s conviction, the Supreme Court ruled in **Atkins v. Virginia** that murderers who are mentally retarded cannot be executed. For the next 21 years, Smith’s claims of trial error and mental disability were considered by multiple state and federal courts. In 2015, the Eleventh Circuit U. S. Court of Appeals ordered the district court to reconsider Smith’s claim despite its rejection by the state courts. The review included two more tests, finding Smith’s IQ at 75 and 78. In 2023, the appeals court then ruled that accounting for the margin of error, Smith’s scores at the lower end of the scale were sufficient to find him possibly intellectually disabled and therefore turned to the battle of the experts concerning Smith’s claimed “adaptive deficits.” The court affirmed the district court’s finding that

the inmate’s experts were more convincing than the state’s and overturned the sentence. After the U. S. Supreme Court took up the case, CJLF filed a “friend of the court” brief, arguing that the lower federal court had failed to adequately consider the well-established principle of aggregation. That principle tells us that repeated measures taken together are more precise than the margins of error of the individual tests.

In its scholarly brief, CJLF Legal Director Kent Scheidegger disputes the holding that just because 70 is within the 95% confidence interval for four of the tests (although just barely for three of them), that was sufficient to move on to the second and third requirements of the diagnosis. While there is not yet a scientific consensus on precisely how to apply the principle of aggregation, the lower courts did not even try. The CJLF brief illustrates this point by combining the scores three different ways, all of which show that the chance of Smith meeting the first criterion for the diagnosis, an IQ of 70 or below, is extremely low.

Watch for the Court’s decision in this case in the spring or summer of next year.

Hamm v. Smith: U.S. Supreme Court case to review a federal appeals court decision overturning the death sentence of convicted Alabama murderer Joseph Clifton Smith. In November 1997, Smith and accomplice Larry Reid lured an acquaintance to a remote area of Mobile County to kill and rob him. Smith and Reid beat Durk Van Dam with a hammer, cut him with a power saw, and left his body in his mud-bound truck after stealing \$140 and his tools. The evidence of guilt was overwhelming, including his confession to police, witnesses who saw Smith leave with the victim, a witness who declined Smith's invitation to join them in the murder, and a pawn shop owner who bought the stolen tools from Smith. At trial, Smith's attorneys claimed he was mentally retarded and introduced an expert who tested him and found an IQ of 72. Two earlier IQ tests reported scores of 74 and 75. The jury found him guilty and recommended the death sentence. Two years later, the Supreme Court ruled in **Atkins v. Virginia** that murderers who are mentally retarded cannot be executed. In 2015, a federal court of appeals ordered the district court to review Smith's mental incompetence claim. The review included two more tests, finding Smith's IQ at 75 and 78. The appeals court then ruled that accounting for the margin of error, Smith's scores at the lower end of the scale were sufficient to find him possibly incompetent and therefore diagnosable as intellectually disabled based on debatable, subjective analysis of adaptive deficits. CJLF has joined the case to argue that the appeals court failed to properly consider the reduced margin of error that results from multiple scores.

Office of the State Public Defender v. Bonta: California Supreme Court review of a petition by the State Public Defender (OSPD) and two anti-death penalty groups seeking a writ of mandate prohibiting enforcement of the state death penalty. The petitioners claim that the state death penalty process is racially biased and unconstitutional. They are also asking the court not to allow anybody but Attorney General Rob Bonta, who opposes the death penalty, to defend it on behalf of the people of California. The District Attorneys of San Bernardino and Riverside Counties have

petitioned the court to allow them to represent the public in support of the law, but the court has not yet decided to allow this. CJLF has joined the case to argue that the OSPD, a tax-supported government agency, is not authorized to represent itself in a legal challenge to a state law. The CJLF also argues that restricting opposition to the OSPD petition to Bonta, a fellow death penalty opponent, represents collusion.

In re Kowalczyk: California Supreme Court case to review a criminal's claim that the Constitution requires that he receive a bail amount that he can afford. The case involves the bail set for habitual criminal Gerald Kowalczyk, who was charged with multiple felonies for identity theft and vandalism. Due to his record of 64 prior convictions and 100-page rap sheet, the court set Kowalczyk's bail at \$75,000. Kowalczyk appealed, but the appellate court held that the state Constitution gives the trial judge the discretion to deny bail or grant bail based upon the crime, the defendant's record, the threat to the public were he released, and the likelihood he would show up for his trial. Before the Supreme Court, CJLF argues that in 2008 state voters enacted Proposition 9, which spelled out the priorities for setting bail: "In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case. Public safety and the safety of the victim shall be the primary considerations." Affordability was not mentioned.

Jessica M. v. CDCR: Lawsuit on behalf of a rape victim and a victims' rights group to block the early release of a brutal rapist and to hold several state laws that provide for the early release of violent sexual predators unconstitutional. Jessica M., joined by Crime Survivors, Inc. and the Criminal Justice Legal Foundation, petitioned the Los Angeles Superior Court to block the release of illegal alien Sergio Linares, 16 years after he received a 50-year-to-life sentence for kidnapping and sexually assaulting 23-year-old Jessica M. at knifepoint. Proposition 83, adopted by California voters in 2006, requires sexual offenders like Linares to serve the their entire base term, in this case 50 years, before being considered for parole. Any amendment to the initiative requires a two-thirds vote of both houses of the state Legislature, but beginning in 2013, the Legislature had passed and the Governor had signed five bills into law that amended Proposition 83. None of these laws were passed with a two-thirds vote. The petition argued that the failure to meet that requirement renders those laws invalid. Last December after a trial judge rejected the suit, CJLF appealed that ruling to the state Court of Appeal on behalf of Jessica M. and Crime Survivors, Inc.

"Blocks Early Release"

continued from page 1

bility dates of inmates sentenced to life in prison.

"The CDCR has been releasing violent criminals, including murderers, years earlier than the law allows," said CJLF Legal Director Kent Scheidegger. "The appeals court decision confirms that this is unlawful with regard to murderers, third-strikers, and rapists sentenced under the 'one-strike' law. This is an important victory for the families of murder victims."

Attorney General Bonta has asked the Supreme Court to review the Court of Appeal's decision.

Why Is America No Longer Safe?

Over the past year, crime has emerged as a central topic of debate among politicians and the major media. The President is responsible for this. Crime was a primary issue in his campaign, and it helped him get elected. His decision to deploy the national guard to augment police in Washington, DC and send troops to assist the ICE removal of illegal alien criminals in Los Angeles and several other sanctuary cities has been met with harsh criticism by democrats who continue to claim that crime is not a serious problem. While crime rates are lower than during the Black Lives Matter crime explosion of 2020, the 299 murders in Chicago and 204 in New York City this year represent crisis-level violence to most people. The New York Post reports that on September 1, a stolen car pulled up to a popular deli in the Bronx at 7:30 PM and two young black men jumped out and opened fire, killing one and injuring four. All of the suspects were arrested, including a 16-year-old. A week earlier, a 15-year-old repeat offender on an ankle monitor was arrested by New York police for killing a man during a botched robbery. On August 23, four young black men, including a 16-year-old, were arrested for shooting up a basketball tournament at a New York park, killing one and injuring three others, including a 17-year-old girl currently fighting for her life from a gunshot to the face. Is anyone surprised that many New Yorkers don't feel safe?

In addition to having the most murders of any U. S. city, Chicago is currently plagued with carjackings, often by armed teen-aged boys. A July story in CWB Chicago reports that boys as young as 14 years old have been arrested for attacking drivers to steal their cars.

The widely reported August 22 stabbing murder of 23-year-old Ukrainian refugee Iryna Zarutka on a crowded Charlotte, N.C., commuter train by a habitual felon with 14 prior arrests, once again demonstrates the consequences of progressive criminal justice reform policies. In response to the murder, which was captured on security video, Charlotte Mayor Vi Lyles told reporters that incidents like the stabbing of Zarutka should “force us to look at what we are doing across our community to address root causes. We will never arrest our way out of issues such as homelessness and mental health.”

She is wrong, as are the mayors of crime-ridden Chicago, Boston, Philadelphia, Los Angeles, and Oakland, who are all liberal democrats. America has arrested its way out of crime epidemics in the past and the country can certainly stop enabling drug addiction, homeless-

ness, and mentally ill people wandering the streets. The greatest “root causes” of crime are bad parenting, the abandonment of personal responsibility, and the government's failure to enforce real consequences for criminals. Liberal states, led by California, Illinois, Pennsylvania, and New York have been reducing the punishment for criminals for over two decades, initially for juveniles and later for adults. The prevailing narrative is that teen-aged offenders and adults who commit so-called “low level” crimes can be persuaded with compassion and second chances to turn away from crime. This approach has failed miserably with juvenile crime today steadily approaching historic 1980s levels, and a generation of adult repeat felons who have never learned to fear the law. Deranged criminals, like the habitual felon who stabbed Ms. Zarutka to death or the seriously disturbed transgender Robin Westman, who recently killed two children and injured 18 at a Minneapolis Catholic church, should have been receiving treatment in a secure facility rather than left on the streets.

But another major contributor to today's crime surge is cultural. U. S. colleges and universities have been sanctuaries for liberal activists since the 1960s. A significant percentage of graduates from these places have been trained to hate America, its Constitution, its history, and its values. This disdain dominates journalism and the arts and has major influence on politics, the judiciary, and even science. For over two decades, the American public has been repeatedly told by the national media and liberal politicians that blacks who commit crime are the victims of systemic racism and do not deserve to be punished. As a result, we have more urban crime, with most of it committed by young black men and juveniles. The fact that most of urban crime victims are other blacks and juveniles is of no importance to these messengers. Their goal seems to be to create division in order to break down society.

The televised tragedy of a young woman brutally murdered by a habitual criminal, repeatedly turned loose by liberal soft-on-crime policies, should be the last straw for American voters who want public safety restored.

*Michael Rushford
President & CEO*

CONGRESSMAN KEVIN KILEY ADDRESSES CJLF MEETING



Congressman Kevin Kiley, California Third District

At a luncheon meeting held at The Sutter Club in Sacramento, Northern California Congressman Kevin Kiley laid out his plans to help restore law and order and prosperity to the Golden State. The June 19, 2025 meeting, hosted by McGregor Scott, Criminal Justice Legal Foundation Vice Chairman, included a closed session where trustees passed the foundation's 2025/2026 budget and elected former California Governor Pete Wilson and Roxbury Properties President & CEO William Shaw to successive terms.

Congressman Kiley's remarks touched upon support of the President's closing of the U. S. Southern border and the administration's aggressive effort to remove illegal alien criminals from the United States. He also discussed the growing public support for restoring law and order, particularly in California, where voters overwhelmingly adopted Proposition 36 to reduce crime and elected a tough-on-crime District Attorney in Los Angeles. Several law enforcement leaders were in attendance including the district attorneys from San Joaquin, Yolo, El Dorado, Solano, and Placer Counties.

At a preceding meeting on April 16 in Los Angeles, the Chief of the Los Angeles Police Department, Jim McDonnell, addressed board members and supporters at The California Club. Chief McDonnell discussed the LAPD effort to fully enforce Proposition 36 to take drug addicts, dealers, and gang members off the streets and the need to eliminate soft-on-crime policies that Sacramento has forced upon California in order to restore public safety in Los Angeles.



*Chief Jim McDonnell,
Los Angeles Police Department*

Thanks to your support CJLF won an appeals court ruling blocking Governor Newsom's early release of murderers and a U. S. Supreme Court decision preventing activist judges from delaying review of death penalty cases. We would be unable to continue fighting for crime victims and reining in pro-criminal judges in the year ahead without the annual support from people like you, so please make your 2025 tax-deductible contribution today. Fill out and return the card on the right with your check, or give at our website www.cjlf.org, or call us at (916) 446-0345 to contribute with your credit card. **Many Thanks.**

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Summer/Fall 2025

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“Decision Limiting Criminal Appeals”

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times over four years, the jury sentenced him to 38 years in prison. Rivers admitted to the sexual abuse of the girls to the three experienced, privately-paid attorneys representing him, according to the attorneys’ post-trial sworn testimony. One of his attorneys testified that Rivers said that the girls “wanted it.”

Following his conviction and state appeals, Rivers filed a petition in federal District Court on habeas corpus claiming, among other things, that his trial attorneys were incompetent. The District Court rejected his claims and Rivers appealed that rejection to the Fifth Circuit Court of Appeals. While that appeal was pending, Rivers went back to the District Court to ask to amend his petition with a new claim, but that court determined that it lacked jurisdiction and transferred the petition to the Fifth Circuit Court of Appeals. The Fifth Circuit rejected it as a successive petition prohibited by AEDPA, and it also affirmed the District Court’s denial of the original petition.

Because the Court of Appeals for the Second Circuit has allowed defendants to amend some or all of their claims years

later, the Supreme Court accepted **Rivers v. Guerrero** to settle the conflict.

In a scholarly *amicus curiae* (friend of the court) brief, CJLF Legal Director Kent Scheidegger argued that two earlier Supreme Court decisions laid out when and how a defendant can amend his petition and that Rivers’ claims do not qualify. There is an exception in cases where there is clear evidence of innocence, but Rivers did not meet that standard. If Rivers had won a decision favoring his position, it would have opened the door for thousands of other convicted criminals to submit late claims years after earlier rulings rejected their petitions. The finality of justice sought by Congress 29 years ago when it passed AEDPA would be decimated. The June 12 decision is in line with this argument.

“The Supreme Court today reaffirmed the intent of Congress to limit the number of times the federal courts must hear repeated claims from guilty criminals,” said Scheidegger. “It is particularly gratifying to see that the Court was unanimous in this decision.”

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