

A PATH FORWARD Steven P. Dinkin

# PEACEMAKER AWARD WINNER SEEKING JUSTICE FOR ALL

As a consumer, I expect certain things to be reliable. A reliable product provides a consistent, predictable experience when used. When I pick up a hammer, I know that with an accurate swing, it will drive a nail. When I get in my car, I know it's going to start (and get me to my destination).

Reliability inspires confidence: a feeling of certainty that something will be dependable and suited for its intended purpose.

In the same way, as an American, I expect our institutions to be reliable. But when it comes to the criminal justice system, I'm not confident it's working as it should.

It seems I'm not alone. Gallup, which has been tracking public confidence in our institutions for 50 years, has found that just 20 percent of us have a "great deal" or "quite a lot" of confidence in the criminal justice system. In their 2021 poll, only Congress inspired less confidence (12 percent).

Over those same 50 years, our penchant for incarceration has grown. In 1972, there were 300,000 people in our jails and prisons; by 2023, the number stood at 1.68

million, second only to China. For every 100,000 people, 505 Americans are imprisoned, according to Statista, a sixth-place showing (El Salvador, Rwanda and Cuba are among the top five).

Yet, as Bryan Stevenson observed, most of us are disconnected from the reality of the criminal justice system, not seeing it as our problem or struggle. Stevenson is executive director of the Equal Justice Initiative in Montgomery, Ala.; his story was told in the 2019 movie "Just Mercy."

Stevenson has said that a person is treated much better if they are rich and guilty, rather than poor and innocent. It's wealth, not culpability, that shapes outcomes in our justice system. As a result, there are more innocent people in our jails and prisons today than ever before. Securing their freedom is Stevenson's life work.

As jails and prisons fill, the rate of exonerations is rising, according to the Equal Justice Initiative. Since 1989, more than 3,175 people have been freed; together, they

spent more than 27,200 years in prison for crimes they did not commit. That's a lot of precious, unrecoverable time.

The reasons for wrongful convictions are well documented. They include witnesses who made false accusations or lied in court, eyewitness misidentification, false confessions and inadequate representation. Faulty forensics also lead to wrongful convictions; DNA, for example, can be unknowingly transferred or improperly stored.

Race, of course, is entwined with poverty. As the Equal Justice Initiative noted, "African Americans are burdened by a presumption of guilt that most defense lawyers are not prepared to overcome." While 13 percent of the general population, they make up 47 percent of exonerations. Innocent Black people are about seven times more likely to be convicted of murder than innocent White people.

Locally, there is an organization working to exonerate people who are wrongfully incarcerated. Founded in 1999, the California

Innocence Project (CIP) reviews more than 2,000 claims of innocence from California inmates each year. Students at California Western School of Law work alongside CIP staff attorneys on cases where there is strong evidence of factual innocence.

Since its inception, CIP has secured the release of dozens of innocent people who otherwise may have spent the rest of their lives wrongfully incarcerated. In addition, the organization has been involved in changing laws and policies that would improve the criminal justice system in our state.

On Saturday, CIP will be recognized by the National Conflict Resolution Center as our Local Peacemaker honoree. Justin Brooks, director of CIP, will accept the award on behalf of the organization.

Brooks, author of "You Might Go To Prison, Even Though You're Innocent," will no doubt share the story of Marilyn Mulero, his first client. Mulero was convicted of first-degree murder for the 1992 slaying of two gang mem-

bers in Chicago. Her lawyer failed to properly investigate the case; two detectives fabricated evidence against her.

Mulero was wrongfully imprisoned for 27 years, her death sentence commuted to life without the possibility of parole. In 2019, CIP filed a clemency petition on Mulero's behalf. In 2020, she walked out of prison, and in 2022, her conviction was reversed and charges dismissed.

Marilyn Mulero was the 190th person to be exonerated from death row. Believing her story, Justin Brooks took a swing at justice — and he nailed it.

NCRC's Peacemaker Awards dinner honoring the California Innocence Project and other peacemakers will be held on Saturday, May 13, at 5:30 pm. For information, or to purchase tickets, visit [NCRConline.com](http://NCRConline.com).

Dinkin is president of the National Conflict Resolution Center, a San Diego-based group working to create solutions to challenging issues, including intolerance and incivility. To learn about NCRC's programming, visit [ncrconline.com](http://ncrconline.com)

## PROBLEMS • Most cases at county skilled nursing facilities now resolved

FROM B1 suspending some nursing home surveys, including those used for relicensing and recertification. During that time, standard surveys for nursing homes weren't authorized to occur.

That CMS order announced that in addition to infection control-related surveys through collaboration with the Centers for Disease Control, only certain types of other surveys could continue. That included complaints or facility-reported incidents that were considered "immediate jeopardy level," meaning that it had or was likely to cause serious harm or death to a resident.

Phil Lyndsey, an attorney at San Diego Elder Law Center, said the suspension of complaint investigations had a major effect on determining whether a facility was at fault.

"It's just difficult for the inspectors the colder something gets," Lyndsey said. "They're tough because the people to talk to, things to consult, evidence — all that stuff — goes away."

The CDPH said relicensing and recertification inspections resumed in April 2021.

In addition to being in charge of investigations at the county's 83 skilled nursing homes, the surveyors, who are registered nurses, also look into complaints at 38 different types of medical facilities throughout the region, including adult day cares, hospices, hospitals and transplant centers.

There was a slight dip in the number of surveyors during the pandemic.

Tony Chicotel, a senior staff attorney with the California Advocates for Nursing Home Reform, has tracked California nursing home complaints for nearly a decade. CANHR is a statewide nonprofit that strives to improve quality of life for long-term care residents.

Chicotel said that prior to the pandemic, filings were at an all-time high, in part due to better access to filing complaints.

"It's easier (to file), but I think the majority of the increase is due to just residents having bad experiences and wanting to voice their concern," Chicotel said.

Analysis of state data by The San Diego Union-Tribune found that many of the nursing homes with the highest complaint rates prior to the pandemic also had high rates of COVID-19 infections among residents and staff.

"I've seen some studies that show that facilities with infection control deficiencies prior to the pandemic had worse outbreaks," Chicotel said. "In retrospect, it was damn near impossible to prevent COVID from getting into the building, but where I think the real differences in quality showed up was in the size of the outbreak."

From the start of the pandemic through the end of last year, more than 8,950 skilled nursing residents in San Diego County con-

## Most complaints per bed

These 10 skilled nursing facilities have the highest number of complaints per bed count from 2019 to 2022.

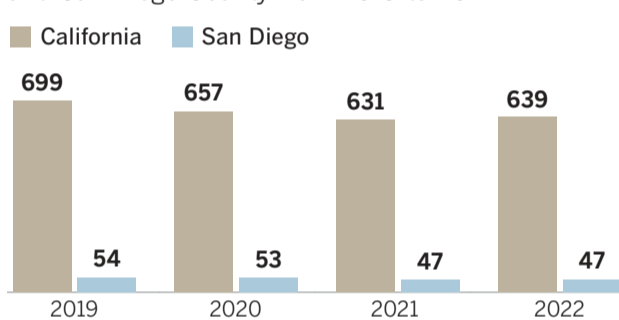
Skilled nursing facility	Bed count	Total complaints	Complaints per bed
Amaya Springs Health Care Center	50	148	2.96
Avocado Post Acute	256	684	2.67
Parkway Hills Nursing & Rehabilitation	60	155	2.58
The Pavilion at Ocean Point	133	330	2.48
Golden Hill Post Acute	99	242	2.44
Lakeside Special Care Center	94	228	2.43
Lemon Grove Care & Rehabilitation Center	158	334	2.11
Brighton Place Spring Valley	75	157	2.09
Community Care Center	119	248	2.08
Hillcrest Heights Healthcare Center	96	177	1.84

Source: California Department of Public Health

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## State field surveyors

The number of field surveyors in California and San Diego County from 2019 to 2022.



Source: California Department of Public Health

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tracted COVID-19, state data shows, and more than 397 residents died from the virus.

At The Shores Post Acute Rehab in the Birdland neighborhood of San Diego, 452 residents contracted COVID-19 — the most of any nursing home in the county.

Senior Administrator Marianne Matusalem said that he expected The Shores coronavirus figures to be higher because it is tied as

the largest skilled nursing facility in the county with a 305-bed maximum capacity. The other facility of the same size, Country Hills Post Acute in El Cajon, had the second-largest number of patients test positive for coronavirus.

Matusalem added that The Shores also accepted COVID-positive patients to free up space in local hospitals. On March 30, 2020, the state mandated that facili-

ties accept patients with suspected or confirmed COVID-19 after facing initial resistance from some nursing homes.

The facility with the greatest number of nursing home resident deaths was Escondido Post Post Acute Rehab, where 31 people have died from the novel coronavirus as of Dec. 31.

When a resident, their family or partner alleges an issue occurred at a skilled nursing facility, they can file a complaint online through the California Department of Public Health.

State inspectors then visit the facility to look for evidence and determine whether the nursing home was at fault. If a facility is found to have missed the mark on meeting federal requirements, it is marked as a deficiency.

CMS reports that a nursing home may then be subject to one or more enforcement actions, such as being required to pay a fine or a forced closure of the facility. Those remedies can vary de-

pending on the severity of the deficiency, ranging from no actual harm to immediate jeopardy to resident health or safety.

From 2019 to 2022, Avocado Post Acute in El Cajon had the greatest number of complaints among all skilled nursing facilities in the county with 684. That's more than three times higher than the second-highest facility, Village Square Healthcare Center in San Marcos, which had 207.

According to data from the California Department of Public Health, Avocado Post Acute's complaints hit a high in 2021 when 205 were filed against the facility.

Allegations filed against Avocado Post Acute that were confirmed by the state included issues related to resident safety, employee abuse of a resident, resident abuse of another resident, quality of care and patient rights, among others.

CDPH data shows that from 2019-2022, the facility received six enforcement actions. These actions included four penalties totaling \$44,000 for deficiencies in two patient care cases, one abuse case that Avocado Post Acute didn't self-report and an insufficient number of direct care hours per patient day.

Last year, an allegation that a resident was sexually abused at Avocado Post Acute was substantiated by the state.

In its most recent inspection last June, the survey report shows Avocado had 13 different types of deficiencies, all of which were considered of "minimal harm or potential for actual harm."

Avocado Post Acute did not respond to requests for an interview.

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DAVE SICCARDI

The 12 honorees: From left, Cindy Goodman, Janice Kurth, Sara Wilenski Napoli, June Chocheles, Stephanie Brown, Vivian Crawford Tuck, Suzanne Newman, Michelle Presscott, Kimberly Alessio, Maria Provencher, Linda LeGerrette and Martha Dennis.

### SCENE

## The Salvation Army Women's Auxiliary

Annual Women of Dedication luncheon raises more than \$300K

BY U-T STAFF

The Salvation Army Women's Auxiliary celebrated its 57th Women of Dedication luncheon on April 21 at the Marriott Marquis San Diego Marina. This year's theme was "Hearts of Gold, Women Who Inspire." The event honored 12 women from throughout San Diego County for their dedication to the community through volunteerism and service.

Event co-chairs were Lynne Doyle and Julie Cowan Novak. Honorary chairs were Dorothea Laub,

and T.K. and Ellen Bryson, known for their business achievements and philanthropic commitments to The Salvation Army and many other organizations.

The event included musical performances by MacKenzie Cartmill and The San Diego Master Chorale. Bryan Mero created music and lyrics especially for the honorees.

The luncheon raised \$310,000. Women of Dedication is the signature fundraiser of The Salvation Army Women's Auxiliary. Founded in the 1950s, the auxiliary supports The

Salvation Army's social service programs through fundraising, donations, and volunteer work.

If your organization has held a philanthropic event, you're welcome to email a high-resolution photo along with information on the event to [society@suniontribune.com](mailto:society@suniontribune.com). Please clearly identify those in the photo, make them aware their image might appear in print and online, include the photographer's name for credit and be sure to include the who, what, where, when and why information on the event.

### TODAY IN HISTORY

Today is Sunday, May 7, 2023.

#### Today's highlight in history

On May 7, 1945, Germany signed an unconditional surrender at Allied headquarters in Rheims, France, ending its role in World War II.

#### On this date

In 1889, the Johns Hopkins Hospital in Baltimore opened its doors.

In 1915, a German U-boat torpedoed and sank the British liner Lusitania off the southern coast of Ireland, killing 1,198 people, including 128 Americans, out of the nearly 2,000 on board.

In 1928, the minimum voting age for British women was lowered from 30 to 21 — the same age as men.

In 1939, Germany and Italy announced a military and political alliance known as the Rome-Berlin Axis.

In 1941, Glenn Miller and His Orchestra recorded "Chattanooga Choo Choo" for RCA Victor.

In 1954, the 55-day Battle of Dien Bien Phu in Vietnam ended with Vietnamese insurgents overrunning French forces.

In 1963, the United States launched the Telstar 2 communications satellite.

In 1975, President Gerald R. Ford formally declared an end to the "Vietnam era." In Ho Chi



AP FILE

Gen. Alfred Jodl (center) signs the unconditional surrender of all armed German forces on May 7, 1945.

Minh City — formerly Saigon — the Viet Cong celebrated its takeover.

In 1977, Seattle Slew won the Kentucky Derby, the first of his Triple Crown victories.

In 2010, a BP-chartered vessel lowered a 100-ton concrete-and-steel vault onto the ruptured Deepwater Horizon well in an unprecedented, and ultimately unsuccessful, attempt to stop most of the gushing crude fouling the sea.

In 2019, two students opened fire inside a charter school in a Denver suburb not far from Columbine High School, killing a fellow student, 18-year-old Kendrick Castillo, who authorities said had charged at the shooters to protect classmates.

In 2020, Georgia authorities arrested a White father and son and charged them with murder in the February shooting death of Ahmaud Arbery, a Black man they had pursued in a truck after spotting him running in their neighborhood near the port city of Bruns-

wick. (The two men and a third White man would be convicted of murder in state court, and hate crimes in federal court.)

**Five years ago:** First lady Melania Trump unveiled what she called the "Be Best" public awareness campaign to help children, focusing on childhood well-being, social media use and opioid abuse. Retired Lt. Col. Oliver North, the Marine at the center of the Iran-Contra affair in the Reagan administration, was named president of the National Rifle Association.

#### Today's birthdays

Singer Thelma Houston is 80. Actor Robin Strasser is 78. Songwriter Bill Danoff is 77. Musician Bill Kreutzmann (Grateful Dead) is 77. Director Amy Heckerling is 71. Actor Michael E. Knight is 64. Musician Phil Campbell (Motorhead) is 62. Singer Eagle-Eye Cherry is 52. Actor Breckin Meyer is 49. Actor Aidy Bryant is 36. Actor Alexander Ludwig is 31.

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