

# Safe Seniors

Newsletter for the Prevention of Elder Abuse and Consumer Fraud in San Diego County

## OWL Releases Elder Abuse Report

Annually, the Older Women's League (OWL) observes Mother's Day as a "call to action" day to improve the well-being of older women. This year, OWL released a report on the issue of elder abuse.

"Elder Abuse: A Women's Issue" provides information on many facets of abuse against older women, including intimate partner violence and financial abuse. The report also highlights neglect, abuse in facilities, medication

misuse, proposed elder abuse legislation and other issues.

Below is the introduction of the report from OWL's President Donna L. Wagner:

"OWL -- The Voice of Midlife and Older Women -- celebrates Mother's Day as a 'call for action' day to improve the well-being of today's older women and future generations of women. Our topic for the 2009 Mother's Day Report is critical to women and those who love them -- Elder Abuse.

Elder abuse is a topic that is difficult to talk about and frequently a part of too many women's lives. Elder abuse is a term that encompasses a wide-reaching set of behaviors toward elders that are designed to diminish them and, in too many cases, physically harm them. Women are more likely to suffer the pain and turmoil of elder abuse than men. Research suggests some women have experienced abuse throughout their lives and others only begin to experience abuse when they have aged. In a 2006 study of women age 60 and older conducted

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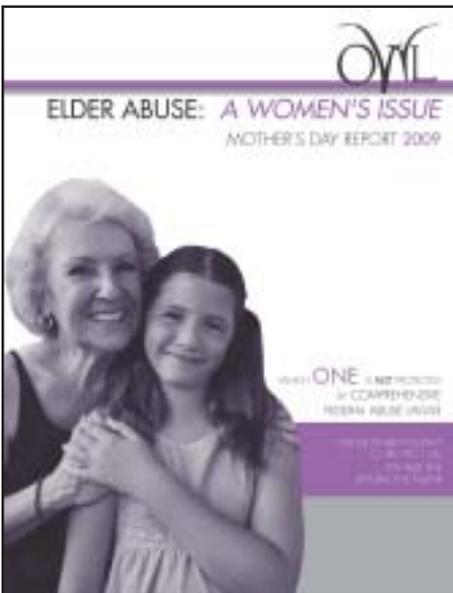
Third-degree black belt Mary Davis

## National Honor for Self-Defense Program

The "Senior Expo: Protect Yourself and Your Wallet" program, which incorporates both physical and financial self-defense for seniors, is receiving an award from the National Association for Counties, recognizing it as an "innovative program."

Black belt Mary Davis provides

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## Loan Modification and Foreclosures: Tips to Avoid Being Scammed

From Senior Shield  
A Program of Elder Law & Advocacy

As the recent housing market's bubble has burst, many people are finding themselves stuck in difficult situations. Some owe more on their loan than their home is worth, called "upside down" on their loan, while others have had their interest rate adjust to higher rates, making their monthly payments dramatically increase.

In response to this overwhelming volatility in the housing market, loan modification and debt reduction companies and service providers have popped up everywhere. While some of these companies are providing the services they promise

and have been successful in helping homeowners remain in their homes, there are many that prey on unsuspecting and desperate homeowners who are afraid of losing their homes.

If you are in danger of losing your home, or need assistance with loan modification, Elder Law and Advocacy encourages you to review the following tips on how to avoid being scammed. When in doubt call the free Scam Hotline at (858) 715-1648 and speak with an Elder Law & Advocacy attorney.

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# Elder Abuse Prosecutions

## District Attorney's Office

**Trevor Kuykendall:** Pled guilty to burglary and willful cruelty to an elder/dependent adult. Defendant has three active restraining orders against him by his 66-year-old mother and 65-year-old stepfather. The defendant has a history of physically abusing his mother and threatening to kill his parents or burn down their house. He also has a history of substance abuse. On Jan. 18, the defendant went to their mobile home demanding money. His mom refused to let him in the house. He tried to force his way in but was unsuccessful and left. Later, he returned, demanding money again. He forced his way into the home, struggling with his mom and scratching her. He took her truck keys and drove off without permission. The defendant was sentenced to 365 days in jail and 3 years formal probation.

**Jacob Wickline:** Pled guilty to elder abuse, battery and

assault. This is the second elder abuse case against this defendant with the same victim. The defendant has been living with his 82-year-old grandfather since coming out of drug rehabilitation. In this case, the victim gave the defendant \$120 to get a bus ticket to go to Phoenix to live with his mother. The victim then called another son. After getting off the phone, the defendant became angry with the victim and hit him on the mouth with his elbow and pushed him several times until he fell on a chair and table. The victim got away from the defendant, finding refuge with a neighbor. The defendant was sentenced to 3 years formal probation, 6 years suspended sentence and inpatient drug rehab.

**Stanton Stanley:** Pled guilty to theft from an elder/dependent adult. The defendant is a contractor. The victim is a 79-year-old woman who has a trustee to help manage her finances. The victim hired the defendant from the

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by Bonnie Fisher and Saundra Regan, almost half of the more than 800 women surveyed in a telephone survey reported they had experienced abuse and many had multiple exposures to abuse since turning 55. Whether the abuse was physical, emotional, psychological, or sexual, the abuse was linked with long-term health problems for these women.

In our work, OWL is a champion for social change that matters in the lives of women and their families. We work for accessible, affordable and high-quality health care, economic

### San Diego OWL

OWL is a nonprofit, nonpartisan grassroots organization founded in 1980 to better meet the needs of women as they age. A local chapter of OWL meets regularly at various sites in San Diego. To find out more, call the OWLine at (619) 645-8575 or email: [sandiegoco@gmail.com](mailto:sandiegoco@gmail.com)

security, and a quality of life that includes the right of all persons to remain in control of decisions throughout their lives and the right to live free from exploitation and abuse. We believe it is time to end elder abuse and

to make sure that our daughters and granddaughters and those they love can look forward to a long life free of coercion, physical and psychological harm. OWL is advocating for a federal standard that will ensure that future.

We have dedicated our Mother's Day report to this important topic and hope that you will feel as strongly as we do that it is time to put an end to elder abuse and will stand with us to work for women's dignity and independence every day of their lives."

For a copy of the report, go to the national Web site for OWL: [www.owl-national.org](http://www.owl-national.org).

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■ **DO NOT** pay advance loan modification fees to anyone (including an attorney) if your lender has already filed a notice of default.

■ **DO NOT** pay your mortgage to someone other than your lender.

■ **DO NOT** work with people who tell you not to call your attorney, lender, or a credit or housing counselor.

■ **DO NOT** transfer ownership of your home to someone who promises to save it. This is a common scam, in which the person offering to help steals the home's equity and still charges you rent.

■ **DO NOT** pay upfront fees to non-lawyers who promise to assist with loan modification without checking with the California Department of Real Estate. Real estate licensees are prohibited from collecting advanced fees for loan modification work before meeting strict requirements.

■ **DO** beware of unsolicited contacts and high-pressure sales techniques.

■ **DO** contact your lender as soon as possible if you are having trouble making mortgage payments.

■ **DO** remember there are many nonprofit agencies that can help you seek a loan modification without charge and real estate licensees who can assist for a fee paid only after they have completed their work.

Remember these are just simple rules of thumb; for further information and advice, call Elder Law and Advocacy's newest nonprofit program Senior Shield at the Scam Hotline (858) 715-1648 for further information and helpful resources, or see [www.seniorscamscreen.org](http://www.seniorscamscreen.org).

**Elder Law & Advocacy's Senior Shield program provides community education and prevention, legal help and Medicare fraud assistance to residents of San Diego County. For more information about Elder Law & Advocacy, to schedule an appointment or to schedule a presentation by legal staff for your organization, call (858) 565-1392.**

## Spotlighted Legislation: AB 329

### *Bill Focuses on More Safeguards for Reverse Mortgage Customers*

Reverse mortgages allow persons 62 years of age or older to convert home equity into tax-free monthly income or a lump sum cash payment to spend as they wish. In a conventional “forward” mortgage, the borrower makes payments to the lender so that debt decreases and equity increases. In a “reverse” mortgage, the lender makes payments to the borrower so that debt increases and equity decreases. The borrower generally does not repay the loan until the last borrower dies, sells the home, or moves out. A lender may demand repayment if the borrower fails to pay property taxes or the home falls into disrepair.

Most reverse mortgages are insured by the Federal Housing Administration (FHA) through the Home Equity Conversion Mortgage (HECM) program administered by HUD, but there are also a smaller number of so-called “proprietary” reverse mortgages that are not federally insured and are not subject to the same restrictions and requirements as the HECM loans.

For many “cash poor, equity rich” seniors, a reverse mortgage often appears to make good economic sense. But reverse mortgages can also be costly. In addition to higher-than-usual origination fees, closing costs, compound interest,

and servicing fees, the borrower is also required to pay an insurance premium (worth about 2 percent of the loan) that protects the lender in case the value of the property falls below the amount owed on the loan.

These loans can also be risky when the proceeds of the reverse mortgages are used to invest in annuities or other long-term insurance or investment products.

A number of lawsuits have been initiated in California in recent years, involving unscrupulous salespersons and originators that have encouraged older seniors to obtain reverse mortgages and purchase annuities that did not mature until well after the borrower’s life expectancy.

AB 329 would enact the Reverse Mortgage Elder Protection Act of 2009. The act amends California reverse mortgage law to strengthen existing counseling and cross-selling provisions (selling both the reverse mortgage and an annuity, for instance) and require lenders to provide the borrower with a checklist prior to counseling that highlights the risks and the alternatives to reverse mortgages.

This measure, authored by Assemblyman Mike Feuer from the 42nd District, passed the Assembly and is now in the Senate Committee on Banking, Finance and Insurance.



## State Elder Abuse & Consumer Protection Bills

Here are measures in the State Legislature related to elder abuse, elder protection and consumer protection. For more details, see [www.sandiego.networkofcare.org/aging](http://www.sandiego.networkofcare.org/aging) and click the “Legislate” button.

**AB 768 (Torres):** Amends existing law which proscribes various crimes related to the abuse of an elder or dependent adult. Deletes the language requiring that the person either know or reasonably should know that the victim was an elder or dependent adult from the definitions of those crimes. Expands those crimes to include willfully causing an elder or dependent adult to sustain any physical or psychological injury. *In Assembly Committee on Appropriations.*

**AB 773 (Lieu):** Would require, within 30 days of the issuance of a class “AA” or class “A” violation citation to a licensed health care facility, that the cited facility send written notification to the last known address of the primary contact for all current residents and patients. If the facility fails to send the notifications, the bill would allow the Department of Public Health to assess a penalty of \$1,000 per day for each day following the 30-day notification period. *Passed the Assembly; now in the Senate.*

**SB 18 (Oropeza):** Increases the allowable fine for misdemeanor elder abuse to a maximum of \$10,000 from \$6,000. Does not change the provision of the possible jail sentence. *Passed the Senate; in the Assembly Committee on Public Safety.*

**SB 40 (Correa):** Amends existing law related to filing a document with a county recorder to provide that a document containing more than the last 4 digits of a Social Security number is not entitled for recording. Requires that only the last 4 digits of a Social Security number be displayed on birth and death certificates. *Passed the Senate; in the Assembly Committee on Judiciary.*

**SB 110 (Liu):** This bill would include within the authority of an Elder Death Review Team the review of deaths involving dependent adults. *In the Senate Committee on Appropriations.*

**SB 246 (Benoit):** Requires that as part of a criminal background check, an In-Home Supportive Services (IHSS) provider be fingerprinted and submit the fingerprint images and any other related information required by the



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## Two Federal Bills to Watch

Two measures in Congress seek to enhance protection of older adults from physical and financial abuse:

**S. 631** -- The Patient Safety and Abuse Prevention Act would require states to establish background checks against abuse and neglect registries for those seeking employment with long-term care facilities or providers. *This measure has been referred to the Senate Finance Committee.*

**S. 906** -- The Senior Investment Protection Act would establish a state grant program to investigate and prosecute fraudulent marketing practices and develop training aimed at reducing fraudulent marketing of financial products for seniors. *This measure has been referred to the Senate Judiciary Committee.*

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Department of Justice to assist in obtaining information. Provides that, in order to be employed as an IHSS provider in a county that has contracted with an established public authority, an applicant must be placed on that registry. *In the Senate Committee on Human Services.*

**SB 344 (Stickland)**: Relates to exploitation of or exerting criminal undue influence upon an elder or dependent adult in order to acquire possession or control of an interest in funds or property. *In Senate Committee on Public Safety.*

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tips to avoid being a victim of crime. The information about financial crime is provided by the San Diego District Attorney's Office and Adult Protective Services.

The Senior Expo events are a partnership with the Aging & Independence Services, the District Attorney's Office, the County Library and the San Diego Public Library. Funding is provided by the Barona, Sycuan and Viejas tribal governments.

The next Senior Expo is from 11 a.m. to 1:30 p.m. on Tuesday, July 14, at the Point Loma/Hervey Branch Library, 3701 Voltaire St., San Diego 92107.

To reserve a seat, call (800) 510-2020 and press "4." Leave your name and phone number and say you want to attend the July 14 event.

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Yellow Pages to install a sliding glass door. He demanded she pay him \$3,254 upfront. He later returned to "remeasure" and demanded more money, which she paid. He cashed all the checks, but never did the job. The victim complained to the Better Business Bureau; the contractor ignored the bureau's request to mediate the complaint. After the defendant's arrest this April, his girlfriend paid the victim \$3,200. The defendant was sentenced to three years summary probation.