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# **Standing Committee on Justice and Human Rights**

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**EVIDENCE**

**Tuesday, October 16, 2012**

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**Chair**

**Mr. Dave MacKenzie**



## Standing Committee on Justice and Human Rights

Tuesday, October 16, 2012

•(1530)

[English]

**The Chair (Mr. Dave MacKenzie (Oxford, CPC)):** I call the meeting to order.

This is meeting number 44 of the Standing Committee on Justice and Human Rights. We are meeting pursuant to the order of reference of Wednesday, June 20, 2012, Bill C-36, An Act to amend the Criminal Code (elder abuse).

We have with us today Josephine Santos, program manager, long-term care best practices initiative, from the Registered Nurses' Association of Ontario; Melanie Perka, program supervisor of social work, elder abuse intervention team, from Catholic Social Services; and from the City of Edmonton, Patrick Power, community development social worker, elder abuse intervention team—and we see the elder abuse intervention team as one body here.

I know it has been explained to you in the letter from the clerk that if you have an opening address, you can take up to ten minutes to make that opening address to us. I'll let you know when you are at nine minutes so you can cut it off at ten minutes, to ensure a fair distribution of the time. After you have made all of your opening addresses, we will turn to the committee to ask questions.

I've already explained that the bells are scheduled to ring at 5:15, and we will end the meeting at 5:15.

Ms. Santos, if you have an opening address you wish to make now, please go ahead.

**Ms. Josephine Santos (Program Manager, Long-Term Care Best Practices Initiative, Registered Nurses' Association of Ontario):** Good afternoon. My name is Josephine Santos. I am here today representing the Registered Nurses' Association of Ontario, often known as RNAO. I am a registered nurse and the lead manager for RNAO's work on the prevention of elder abuse. Elder abuse has always been a priority for our association, and we appreciate the opportunity to provide feedback to the Standing Committee on Justice and Human Rights on Bill C-36.

Nurses know in the core of our being that no person ever deserves to be abused or neglected. All seniors should be able to live out their final years and enjoy a sense of respect, dignity, safety, and security. As individuals and as a society we must deliver on our duty to protect elders and fully eliminate elder abuse.

RNAO fully supports the amendment of the Criminal Code to include age and other personal circumstances, such as health and

financial situation. In itself, however, this amendment will not produce the changes needed to end elder abuse and neglect.

Given that many instances of elder abuse and neglect go unreported, RNAO urges a multi-faceted approach that also includes effective prevention of the root causes that make people more vulnerable to elder abuse and neglect, such as poverty, discrimination, social isolation, and lack of affordable housing. RNAO's recommendations on addressing these social determinants of health are available in more detail in our formal written submission to this committee.

From November 2011 until April 2012 I had the privilege to represent RNAO on Ontario's long-term care task force on resident care and safety. This task force was created in response to media reports of incidents of abuse and neglect, some of which were unreported, in long-term care facilities. In 2011 alone, there were more than 3,200 incidents of abuse and neglect reported to Ontario's Ministry of Health and Long-Term Care. That works out to about 3.5 cases per 100 nursing home beds.

What we learned through surveys, submissions, and a review of the evidence is that the top factors leading to abuse and neglect in this sector include staffing issues, for example, not enough staff, heavy workload, inadequate training and skills. Other factors included dementia, mental health, and addiction linked with responsive behaviours such as being aggressive or violent. A resident may sometimes be a victim of abuse and sometimes represent a danger to themselves, other residents, or staff. In fact, about half of the incidents reported in 2011 involved resident-to-resident abuse. This means that residents with specialized needs must be better supported to ensure safety for themselves and all others in that environment. Areas that need to be addressed towards improved safety include funding for specialized facilities, dedicated specialized units within long-term care homes, appropriate physical plant conditions, specialized programs, and appropriately skilled and knowledgeable staff in sufficient numbers to care for vulnerable residents with high needs.

In May of 2012, the long-term care task force on resident care and safety released its report along with a list of 18 actions to improve care and safety—actions not only relevant to Ontario but of value from coast to coast to coast. In addition to supporting these action items, RNAO recently submitted feedback to our provincial government to help inform Ontario's seniors care strategy. RNAO has brought along copies of this submission for the standing committee, because it includes our evidence-based recommendations on how to improve seniors' care, health care, and safety across sectors, including minimum standards of nursing care in long-term care.

With funding from the federal government, RNAO and the Canadian Nurses Association in 2010 launched the prevention of elder abuse centres of excellence—also called PEACE—in 10 long-term care homes across the country. Positive outcomes of the PEACE initiative included behavioural changes and increased confidence of staff in responding to instances of abuse. Building on the success of this project, RNAO, through federal funding, is now developing a best practice guideline that will focus on addressing awareness, prevention, identification, and strategies for intervention when instances of abuse or neglect are known or suspected. This guideline will complement other evidence-based RNAO clinical best practice guidelines such as client-centred care; screening and caregiver strategies for older adults with delirium, dementia, and depression; promotion of safety; alternative approaches to the use of restraints; and prevention and management of violence in the workplace.

All of these evidence-based guidelines, as well as implementation resources, are available to be downloaded from the RNAO website without charge, along with information on RNAO's long-term care best practices initiative.

Thank you once again for the opportunity to be here today. I look forward to answering any questions you might have.

• (1535)

**The Chair:** Thank you very much.

Either Ms. Perka or Mr. Power, go ahead.

**Mr. Patrick Power (Community Development Social Worker, Elder Abuse Intervention Team, City of Edmonton):** I defer to Ms. Perka.

**Ms. Melanie Perka (Program Supervisor of Social Work, Elder Abuse Intervention Team, Catholic Social Services):** Thank you.

It is with great honour and humbleness that I present today in front of the committee on such an important matter, not only for the teams I represent, but for many elders across our nation.

Catholic Social Services in Edmonton developed the elder abuse resource and supports to work with low- to medium-risk cases and to answer Edmonton's elder abuse intake line. We also partnered with the elder abuse intervention team, which deals with the high-risk files. Our teams are dedicated to ensuring that the issue of elder abuse does not remain in tabooed silence within Canadian society any longer.

The proposed amendment to Bill C-36 within the Criminal Code and its support to date show that our federal government also recognizes the need to bring the problem of elder abuse to the forefront for serious examination. From the current literature, any opposition to this amendment has focused on the need to do more, concurring with the position presented today.

The proposed amendment states:

evidence that the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation,

I'd like to focus on the words "significant impact", for those who have not been directly involved in elder abuse, for the purpose of gaining understanding of the full depth of this impact and all of its intricacies.

I personally have witnessed a senior pulling her hair out while crying as she disclosed the torment her drug-addicted son had put her through. Take a moment, if you will, to reflect on the word "torment". What comes to mind? You might be wondering if he begged her for money so that he could buy drugs or took family heirlooms to pawn for drug money. Yes, but this senior also disclosed the horror of how one night, in a drug-induced rage, he also took her by the hair and dragged her downstairs with a knife held to her throat and held her hostage. The words "significant impact" or even "torment" don't seem to suffice. I could quite literally provide pages of case scenarios that highlight how detrimental and heartbreaking these significant impacts can be on a senior's health and well-being.

The impact of financial abuse on a senior is also devastating. Last year our team was involved in investigating a financial abuse case where the alleged amount the couple was defrauded of was upwards of several million dollars. Surprisingly, this large amount of money was taken from a very typical middle-class elderly couple by their grandchild. The subsequent wreckage resulted in the couple having to claim bankruptcy, sell their family home, and shamefully face those whom they could not repay. The disruption to a senior's life, anyone's life, in a situation like this does not have a dollar figure; it goes so much more beyond that.

It is also important to note that our team's focus on health encompasses not only physical health but psychological, social, and spiritual well-being. Health Canada defined healthy aging as "a lifelong process" of optimizing opportunities for improving and preserving health, physical, social, and mental wellness, independence, quality of life, and enhancing successful life-course transitions. When even one of these areas is compromised, let alone all of them, there is greater risk of decline in a senior's overall health due to some of the damage being irrevocable.

Abuse is trauma. In a seminar by Dr. Covington, an expert in trauma, it was stated that:

Exposure to trauma can create a PTSD response in the limbic system. ... Trauma disrupts the chemistry of the brain and can predispose a [person] to alcohol and drug use, eating disorders, self-injuring behaviour, and mental health problems.

An article in the *National Institute of Justice Journal* reported that dementia in seniors can compound the trauma of sexual assault. One study showed that 11 out of 20 elderly sexual assault victims died within one year of their assault.

Through our involvement with abused seniors, we have seen that compromised social and spiritual health can result in depression, anxiety, suicidal ideation, and other mental health issues. It should also be mentioned that the guilt a senior carries with them when they find themselves in an abusive situation can be extremely burdensome, due to the fact that many abusers are their own sons and daughters who they raised to the best of their abilities, or a grandchild they once wholeheartedly welcomed into this world, not faceless strangers to whom they have fallen prey.

For these reasons, and many more, having a criminal system that supports weighing these impacts upon sentencing could end up lacking in measurable change within elder abuse when many of the seniors do not want a criminal investigation brought against their loved one. There is, without a doubt, a time and a place for the sentencing for those who perpetrate elder abuse, but in many cases, what is of more importance is that there are resources, funding, and supports needed for people to do the work required to see a senior through to the other side of an abusive situation.

• (1540)

The legislative summary released in April of this year brought to light very clearly that

a review of the literature on elder abuse noted that “[c]riminal law is used less frequently to address abuse and neglect of older persons than abuse of other persons”.

According to our team statistics, from December to May of this year emotional abuse comprised almost 30% of our caseload. Emotional abuse is rarely if ever covered in a criminal investigation as a chargeable offence. For this reason, many callers to our intake line in Edmonton share their high level of frustration or sense of injustice after having reported elder abuse as the commercials and posters told them to do. They do not realize the limitations upon interventions—legislation and so forth. Therefore, it is hoped that our federal government's dedication to this issue not end here.

Respectfully recommended for consideration is continued dedication of or an increase in funds to support social services programs that staff such teams. More equitable pay is a serious factor, as many of these workers come from non-profit organizations within the community and there is high turnover from losing them to government-funded positions at higher wages. Further, there should be focus on supporting interventions, public education, and pressure for the review of provincial laws and legislation within which an abuser can actually be protected.

I thank the committee once again for its initial steps in honouring the elderly and more vulnerable population of Canada. I welcome any questions you may have, on behalf of our team's experience within this challenging field.

**The Chair:** Thank you very much.

We've been joined by Ms. Maxine Lithwick, director of the department of social services, Jewish General Hospital. She is appearing here today.

I think you got the letter from the clerk saying that if you had an opening address, we'll give you up to 10 minutes to give it.

**Ms. Maxine Lithwick (Director, Department of Social Services, Jewish General Hospital, As an Individual):** I was told basically six minutes.

**The Chair:** Okay. I'll let you know if you get to nine.

**Ms. Maxine Lithwick:** Okay, but I plan just to talk within the six minutes.

First of all, I want to thank you very much for inviting me. I also want to congratulate the committee who worked on this amendment.

I have been working in the field of elder abuse for close to 30 years. Throughout my career, I as well as my colleagues have been trying to influence our having a law that would have some teeth.

Older people who are abused are more vulnerable than the younger population. The impact can be much more significant in terms of their health, in terms of their finances, in terms of their quality of life. We want to give the message that elder abuse is not acceptable.

On the other hand, elder abuse is an extremely complex issue. Very often the person who abuses the older person is someone who has a trusting relationship with the victim. Very often it could be an adult child. Sometimes that person is the only emotional link that the older person may have. So it is very complex—it's not a black and white issue—yet the consequences can be very grave, very serious. That is why I like your amendment's talking about aggravating circumstances. I think this is essential.

I also think it is important to differentiate between the abusive person who is a family member and the person who takes advantage of an older person because of that person's age and vulnerability. The dynamics are very different. The private caregiver, the accountant, or the friend next door who takes advantage financially, takes advantage and gives poor quality of care. These people are not necessarily dealing with any positive in emotional value; it is really out of pure greed or desire to control. I think the consequences for these people.... It has to be very clear that abuse is not accepted.

Very often, if it is a family member who is abusing the older person, it is very difficult to get the abused elder to denounce the situation. Very often they will not go to court and will not say anything against their family member, for fear of being abandoned, for fear of reprisal, for many reasons.

I question how this type of law is going to be applied. I really believe that to have such a law work you have to have prosecutors who are well trained in seniors' issues, in elder abuse, and you have to have judges who know how to ask questions about this issue. Even the way it goes to court has to be thought about, because even having an older person as a witness is different from having a younger person. All of the elements can be quite different.

Another thing that is important to differentiate is whether an older person is mentally competent or not, because that also impacts upon the degree of vulnerability. This links with your aggravating circumstances and the consequences on the older person. Again, the person can be defrauded or be physically abused and not be mentally competent, so the witnessing has to be done by others who are around, and this could be quite challenging.

I agree with what my colleague at the table said, that we also need to ensure that there are appropriate resources: resources for health care, resources to help an older person who wants to *porter plainte* and wants to testify or lay charges against an abuser have someone to accompany them. This is a very frightening, a very scary, thing to do, and for them it is a difficult process.

The other thing I want to talk about in terms of aggravating circumstances is this. To me, aggravating circumstances arise when a person's needs are not being met—such as their health care, such as having adequate supervision, such as having their medication properly monitored. But when a person is left without financial resources to live in the lifestyle they were accustomed to, that too has a significant impact emotionally, psychologically, and it can impact upon their quality of life.

• (1545)

There is another area I have a little bit of concern about. I mentioned the older person not wanting to necessarily press charges against the person who abuses them. It's the whole process of what I will term “signalling” these types of cases. I've heard of bank managers who have witnessed fraud going on in accounts, but they're still not quite sure whether they can call the police. Their manager may tell them, “Well, no, the client is not saying they're having a problem.” If you ask the client if they want the police to be called, they will say no. But banks do witness a lot of fraud, so I think that more work has to be done in terms of how to signal criminal cases of abuse against the elderly. This is a link in terms of giving the message that there is zero tolerance, or that you will do as much as possible to look at the impact the abuse has had on the older person.

In general, that's all I want to say. When I thought about it, I think I had as much to say as I had questions. I'm more than happy to hear your questions, and maybe that way I'll get a better understanding of how this amendment will work.

Thank you.

• (1550)

**The Chair:** Thank you.

We'll begin the questions. The questions and answers are for a total of five minutes, so if I cut you off when you're answering, it's just to be fair back and forth.

We'll begin with Madame Boivin.

[*Translation*]

**Ms. Françoise Boivin (Gatineau, NDP):** Thank you very much, Mr. Chair.

I want to thank the four of you for joining us in this important study of the proposed amendment to the Criminal Code. On behalf of our seniors, I want to thank you for the work you are doing.

I think that everyone around this table, regardless of party affiliation, knows that this will not solve all the problems our seniors experience on a daily basis. There are many other avenues to explore, but we will deal with this issue for the time being.

You have understood that Bill C-36 basically has to do with the sentencing part. Under the bill, abuse is not an offence. It applies only to the post-trial stage. We are aware that, in certain cases, there may have been no trial even though there should have been one. However, in cases where a trial was held, abuse was presented as an aggravating factor brought before the court for consideration prior to the handing down of the sentence.

At times, in committee or in the House, we wonder what the scope or importance of our work is. Last week, while we were in our respective ridings and the House was not sitting, there was an absolutely horrific high-profile case in my region. In a hospital centre, a 99-year-old lady—and I am not making anything up—was sexually assaulted by an orderly. If that is not horrific, I don't know what is. Of course, when Canadians hear about something like that, they want the accused to hang. He will have the right to his trial; I agree with that. That will not be sidestepped. However, I would be very pleased if Bill C-36 were to become a reality and the court were to apply this amendment proposed to the Criminal Code, whereby it would consider the victim's age and the impact of the offence on that person as aggravating factors.

Most of you have brought up one of my concerns, the fact that it is mentioned that this had a significant impact. I am wondering—and I am asking the question—if we should not remove the notion of “significant impact” from the proposed subparagraph. Here is what we could simply say.

[*English*]

I'll read it in English for you.

Paragraph 718.2(a) of the Criminal Code is amended by adding the following:

evidence that the offence had a significant impact on the victim.

Would you be at ease if we removed the word “significant”? My scare is that we're trying to help, but at the same time, as a lawyer, I'm wondering if we're not just creating more debate in front of the court. How do you define “significant”? Just the fact that it was done to a senior, it had an impact on the victim, considering their age and other personal circumstances, including their health and financial situation—it couldn't hurt. It would be better, in my opinion. What do you think?

**Ms. Maxine Lithwick:** I think it makes it simpler if you take out that word. I think the fact that you do keep the part about aggravating circumstances can be the thing that makes it....

**Ms. Françoise Boivin:** Let's understand each other. The aggravating part is already in the Criminal Code. It's not something we're working on, so we're not removing it. It's not even a question, because that's the general way of... It's just a listing of factors in section 718 that is given to the judge at trial to decide on sentencing. It's not part of the amendment of C-36, so it will stay. Don't ever worry about that. Aggravating will always be there. It's in the wording of what we're trying to introduce, which is the evidence that the offence had a significant impact.

My question precisely is, would it be better to not have the word “significant” in the amendment?

• (1555)

**Ms. Melanie Perka:** You raise a very valid point, because when I read that, I did think of that myself. Does it open up the gates to a defence lawyer’s asking what “significant” is?

**Ms. Françoise Boivin:** She's 99 years old. She doesn't know what's happening, so who cares, or whatever.

**Ms. Melanie Perka:** Right. I thank you for bringing that up because that did cross my mind as well. That's the last thing I would want to see as an amendment—that brings up more a sense of define this, define that, that doesn't quite meet our threshold. How do you create and define a threshold for the word “significant”? People aren't textbooks. Every situation where one person experiences one bout of trauma can have resiliency kick in and the person can go on and lead a very fulfilling life; another person can't, and can't recover from it.

**The Chair:** Thank you, Madame Boivin.

Mr. Jean, go ahead.

**Mr. Brian Jean (Fort McMurray—Athabasca, CPC):** Thank you, Mr. Chair.

I'm interested in some of the things you've mentioned specifically regarding the definition of elderly because there has been some discussion relating to what “elderly” actually means. I think there are probably about 11 pieces of legislation that specifically deal with elderly being 65 and other pieces of legislation that deal with it being between 55 and 70. My understanding is that everybody has a different interpretation of what elderly would be, as far as this legislation goes.

Could we go down the table and could tell you me what your definition and thoughts are on this particular issue?

We'll start with Ms. Lithwick, please.

**Ms. Maxine Lithwick:** That's a tough question. When you talk about an elderly person from a financial perspective, a lot of people from the age of 65 on who are in retirement are in a different situation financially than they were when they were in the workforce. From a financial perspective, they are an elderly person at 65.

From a physical and psychosocial perspective, or from a health care perspective, we talk about elderly people more as people who have what we call a geriatric profile. These are people who have shown some loss of autonomy due to various health factors.

It's not a very black or white question. I know more and more in health care we look at the elderly as 75 and older because they have more of the signs and symptoms of aging having a physical, psychological, and psychosocial impact on them.

**Mr. Brian Jean:** I have only a few minutes, so I just want to make sure. You're suggesting that it's 75 plus, or if there are circumstances, mental or physical, that would put that person into a vulnerable position, it might include them as well.

Ms. Perka, go ahead.

**Ms. Melanie Perka:** Speaking from what our team does, we look at 65 and over, but we also look at the surrounding circumstances. We've accepted cases as young as—I think our youngest was 58—because of mental capacity, and well-being and what not, and the huge level of vulnerability.

**Mr. Brian Jean:** Dementia or...

Mr. Power, you would agree, of course, with Ms. Perka?

**Mr. Patrick Power:** Yes, I think so, looking at it from our program perspective. We look at under 65, depending on other factors—their health, other kinds of situations. Perhaps we'll consider someone who's 57 or 58 because they may actually present or be somewhat like an 85-year-old in other circumstances as we look at that.

**Mr. Brian Jean:** Do you have any directions to have consistency across the provinces and different health providers for this? Obviously that would be helpful for everybody to understand.

**Mr. Patrick Power:** Yes. My tendency is to start at 65 because we have a lot of federal programs and provincial programs that look at 65 as the age when one turns senior, so that would be a starting point. Then, as a few of us have already said, you may want to look at other factors and other ages after that.

I think 65 is still applied as a standard. If we look historically, the age of 65 was set out because at that time it wasn't felt that people would live much longer than 65.

• (1600)

**Mr. Brian Jean:** The average age was about 67 then.

**Mr. Patrick Power:** Well, yes. So it's changed that way, but we've sort of stayed the course with that. A lot of people, when you talk about senior age, if you're talking to seniors or to professionals, will still start with the age of 65.

**Mr. Brian Jean:** Ms. Santos, I only have one minute left, so...

**Ms. Josephine Santos:** In terms of our best practice guidelines, we've looked at, in terms of defining seniors, 65 years old.

**Mr. Brian Jean:** Do you work back and forth, depending on the mental and physical capacity?

**Ms. Josephine Santos:** Yes.

**Mr. Brian Jean:** Okay.

Now, do you see that there would be any opportunity to circulate these practice notes and to...?

This is not going to be a question, because I won't have time. The chair is very strict on time.

As a lawyer, my understanding was that the information needed to get out to people, and lawyers needed to take steps to have joint powers of attorney and so on—I see you nodding in agreement—in order to take steps for people who got into that position before they got into that position.

In terms of a senior, for instance, two or three children might have power of attorney over their money; or in fact an elderly care home might have specific rules that they give to people who put people into care to suggest that they take care of assets in their home and lock them away, that they take care of the money and make sure there are two or three people involved in that. Do you see that as being of real value to them?

I will just ask for a yes or no on that.

**Ms. Maxine Lithwick:** It's hard to give a yes or no. It really is. It's a—

**Mr. Brian Jean:** But do you see direction and practice guidelines and education being helpful to people?

**Ms. Maxine Lithwick:** Practice guidelines; education is important; and a good asset is to have two powers of attorney. It's not always necessary, but it's a wise suggestion.

**Mr. Brian Jean:** Yes.

Thank you.

**The Chair:** Thank you.

Mr. Cotler.

**Hon. Irwin Cotler (Mount Royal, Lib.):** Much of the witness testimony that we've had has been supportive of the legislation with regard to this being an enhanced factor at the point of sentencing. But a number of the witnesses, while supporting the legislation, have said that what is needed is a comprehensive strategy with regard to elder abuse.

Elder abuse itself, as you all know more than most of us, may manifest itself in psychological terms, in emotional terms, in financial terms, in physical abuse, and so on.

One of the witnesses who appeared on behalf of CARP, the Canadian Association of Retired Persons, in calling for a comprehensive approach, made a number of recommendations. I'm just going to identify them for you and ask for your response to those recommendations, or to any others that could compose part of a comprehensive approach.

The recommendations included the following: an elder abuse hotline; a duty to report; added caregiver support; specialized investigative support for existing criminal offences, some of which you mentioned, Maxine, in terms of maybe training law enforcement officers and the like; victim support services; elder shelters; and so on.

I'll just leave it at that and ask for your comments on any of these specific recommendations as part of a comprehensive strategy or on any others that you might suggest, and on whether we need to work together in terms of all levels of government—federal, provincial, and the like—for these purposes.

**Mr. Patrick Power:** I think we should start with a hotline, for example. We have in Edmonton a seniors abuse helpline, a place where seniors can call, where professionals can call, to get direction, to get support, to get information referral. I think it's very helpful. It does put the issue more out in public, because it becomes promoted and people know about it and know that this issue needs to be dealt

with. It's not a bad idea to have something like that for anyone, really, to turn to for some guidance and so forth.

There are other things as well. In terms of support services, we have the multidisciplinary team. I'm going to harp on that a little bit, because in Edmonton we started that in 1998. It has allowed the health professionals and the social workers, and mental health now have joined us, and the police, and me as a social worker on the community development side, to all be part of a team. That way, when a case comes in, it's not just a police officer looking at it, or a social worker; it's all of us together trying to figure out, in any complex type of situation, the best way to deal with it, and who may take the lead in terms of dealing with the situation and then getting support from the others on that team. That has been very effective for us to look at the situation, understand it better, and in turn deal with it.

I'm just going to throw that out there. If there are more opportunities to develop those kinds of teams.... There is one now in Calgary, there is one now in Waterloo, and I know that other community responses are happening in Alberta as well. That's just one thing I'll throw out there in terms of support.

I'll leave it at that, because I'm sure there are others who want to speak—or not.

• (1605)

**Ms. Maxine Lithwick:** I think we do need to have a multifaceted approach to elder abuse. Just having an amendment to the Criminal Code is not sufficient. It is a complex issue and it needs a multifaceted response. But that doesn't take away the fact that this amendment is important and it states something. There should be a strategy for elder abuse across the whole country, and there should be a link between what's going on in the Criminal Code as well as with what's going on in the different civil jurisdictions. In Quebec, they have a law in the civil code for the exploitation of elderly people, and I think it's an excellent law. I think it's something that maybe other provinces would want to look at. There could be the link between a civil law that looks at elderly people who are exploited, to the point that on the continuum it becomes a crime, and then it goes to the Criminal Code.

I think there's work to be done.

**Ms. Melanie Perka:** I would agree with all the points you outlined. Our hotline is quite busy. We even get many professionals calling and saying, "I'm not sure if this meets the criteria" and "What do we do?" So it's supporting all of these things.

Duty to report is an interesting one because there's always debate around whether that would push things underground or not, but duty to report for professionals I think would be quite important. We come up against FOIP and I can't disclose that information. Confidentiality is always an issue. Ms. Lithwick also pointed that out with the banks.

**Ms. Maxine Lithwick:** Yes, there's a huge issue with confidentiality.

**Ms. Melanie Perka:** Duty to report, especially for professionals, is something that should probably be highlighted and looked at. Then we should be looking at not just the federal level, but the provincial level as well, so there is pressure from above to make all of these changes.

**The Chair:** Thank you.

Mr. Rathgeber.

**Mr. Brent Rathgeber (Edmonton—St. Albert, CPC):** Thank you, Mr. Chair. Thank you to all of the witnesses, and a special welcome to Mr. Power and Ms. Perka, fellow Edmontonians. Thank you for being here.

Ms. Perka, in your opening comments you anecdotally talked about a situation of an elderly person who had their hair pulled and money was demanded. I think we all agree that this is a significant event. As you may or may not be aware, courts in other jurisdictions, notably B.C. and Ontario, have, under the current wording of section 718, considered an individual's age and frailty as an aggravating factor. Are either of you aware of the Alberta courts ever recognizing age frailty as an aggravating factor for the purposes of sentencing? I am not.

**Mr. Patrick Power:** I can't say I am familiar with a case in point, no.

**Mr. Brent Rathgeber:** You're not. Okay, thank you.

Obviously, you support this legislation and think it would be a positive development if courts would consistently apply the age of an individual when considering sentence when that individual has been a victim.

**Mr. Patrick Power:** To a degree. I'm going to say, and I think it's been pointed out, both in the executive summary and in other comments that have been made, that it's good intent. I think it's going to create some more awareness around the issue. It's going to allow us to see it for what it is in terms of it being something that needs to be dealt with, and I think some other kinds of things will come out of it. We're still going to run up against this situation where the seniors themselves are going to have to be very active participants, if you will, in this.

It has not been our experience to date that they want go through that kind of process of seeing an adult child—and I'm talking about those situations in particular where it's family—or a nephew or an uncle, an aunt, what have you.... In those situations, they do not want to proceed to see those charges go forward. Even if we look at it in terms of the police having some ability to lay charges certainly, they also have to know that the person is going to work with them through the court process. So it does have difficulties there.

•(1610)

**Mr. Brent Rathgeber:** Sure. Also, as Ms. Boivin has indicated, section 718 is triggered once charges have been laid and a finding of guilt has been.... I realize that's an issue with respect to hesitancy to get involved in laying charges in the first place. Presumably, organizations like yours, Catholic Social Services, advise individuals of their rights and what some of the options are when they've been victimized. I'm assuming that's part of your mandate.

**Ms. Melanie Perka:** Of course, especially because we work so closely with the police officer on the multi-disciplinary team.

**Mr. Brent Rathgeber:** Sure.

I want to follow up with some questions Ms. Boivin raised with respect to the qualifier word "significant". I'm having trouble envisaging a situation of elder abuse that had no impact on a victim. I think every crime impacts somebody somewhere along the line. You might agree, or at least be open to the suggestion, that the word "significant" is important to reserve this special provision of aggravation and sentencing for those cases that are more serious as opposed to less serious. I want to hear your comments on that.

I'd like to start with Ms. Perka, if you don't mind.

**Ms. Melanie Perka:** I only have a hesitation because I'm scared that it would turn into a debate.

**Mr. Brent Rathgeber:** I'll tell you why I think that word is important, and I didn't draft this legislation. If you give special protection to everybody all the time, you give protection to nobody. I think when you use words like "significant impact", you're reserving that for the more serious cases, as opposed to all cases in which the damage might be less serious than those we want to exemplify and make as an aggravating factor in sentencing.

Do you have any comment?

**Ms. Melanie Perka:** Well, it's people's perception.

I've worked on a case where the son would come and borrow \$100 to \$200 a month and then she couldn't pay rent. That was extremely significant to her. In a court of law, is that going to be looked at when you have a comparison of the example I gave where there were multi-millions taken? When you look at that, this \$100 or \$200 looks less significant, but it definitely wasn't, in her life.

**Mr. Brent Rathgeber:** I agree that "significant" is not a precise term—

**The Chair:** Thank you, Mr. Rathgeber. You're out of time.

Ms. Blanchette-Lamothe.

[*Translation*]

**Ms. Lysane Blanchette-Lamothe (Pierrefonds—Dollard, NDP):** Thank you, Mr. Chair.

I am happy to take the floor after my colleague, as I also want to add my two cents to the discussion on this very relevant issue stemming from the bill before us.

Earlier, zero tolerance was discussed. We want to protect seniors. We want to stop age-based crimes against seniors. With that in mind, I think that, if the victim is affected owing to their age, that should be an aggravating factor. There is no need to prove whether that is important or not for the victim or the accused. If the victim is affected owing to their age, that should be taken into account as an aggravating factor.

What do you think about my idea?

**Ms. Maxine Lithwick:** I would like to clarify something when it comes to zero tolerance. I think zero tolerance is necessary in long-term care facilities, hospitals and institutions. Zero tolerance is necessary in those places.

However, in the case of people abused by their close relatives, I think we should have a harm-reduction approach. At times, that family member represents the only relationship they have in their lives.

[English]

We want to let people know that abuse is not going to be tolerated, but it's also within a continuum.

[Translation]

**Ms. Lysane Blanchette-Lamothe:** I will let Ms. Perka answer, as I think she had something to say about that.

[English]

**Ms. Melanie Perka:** I tend to agree. I would like to see the focus beyond the age, because someone was left vulnerable due to those factors and exposure to abuse, and maybe not so much on the significant....

**Mr. Patrick Power:** I agree with Ms. Lithwick in terms of a continuum and really examining what that person is doing, because we do see a lot of situations where there is a mutual kind of thing happening in terms of mutual support, if you will, between the abuser—as much as we hate to think about that—and the older person. They provide transportation. They get them to this place or that place, whether it be a doctor and so on. The senior looks to them for those kinds of things. Even a social contact is happening at times between those two individuals. I think those things have to be taken into account as well, as we're looking at that situation.

Maybe that fits within the context of this amendment, because you're looking at everything. You're not only saying it was a bad thing this person did and we need to put him or her away for three years; there are other considerations. That person can be taking care of that older person in some way or in some regard.

• (1615)

[Translation]

**Ms. Lysane Blanchette-Lamothe:** I will clarify my question again.

I am not talking about the result, as far as sentencing goes. I agree with you that the sentence should take into account the victim's age or their relationship with the abuser. All that should be taken into consideration. I mainly want to know, in cases where there is an impact owing to the person's age, whether that should not be taken into account. It is not only about the level of the impact, but the fact that, for a person, if there is already an impact owing to their age, that impact should be taken into consideration.

That's the clarification I want to make. Thank you.

[English]

**Ms. Maxine Lithwick:** Yes.

**Mr. Patrick Power:** I'm sorry, but I just have to comment. We're on a slippery slope if we're just talking about age. I think we're also

talking about the well-being of that person, the cognitive abilities, and so on. We're not going to say an 85-year-old cannot manage cognitively because he is 85. We're going to look at what's going on in the household, the kinds of decisions he's making, the person who's taking advantage of him. If that person were 55, it would be the same sort of thing. It's not just an age factor, I don't think. I think that's where a number of people in the professional community have said let's be careful when we're looking at this and when we're talking about age, because it becomes ageist perhaps.

[Translation]

**Ms. Lysane Blanchette-Lamothe:** I wholeheartedly agree with you. I was talking about the choice between “significant impact” and simply “impact”, but age and, as the bill mentions, the degree of vulnerability should be considered.

Thank you.

[English]

**The Chair:** Thank you.

Go ahead, Mr. Goguen.

[Translation]

**Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC):** I want to begin by thanking the witnesses.

Obviously, your testimony clarifies certain aspects. We are very appreciative of your comments.

I have worked in an area related to seniors. Ms. Lithwick, you said earlier that you have been working in that area for a long time and that you have always striven to amend the Criminal Code to protect the elderly

[English]

with a law that has some teeth. Does this law have some teeth? Does it help?

**Ms. Maxine Lithwick:** I think it's going to give a message to those people who do abuse the elderly criminally that this is not going to be taken lightly by our society. I was just at a meeting in Quebec with some police officers and other health professionals who are looking at... In Quebec, we do have an action plan for elder abuse, and when I showed them this, they were all excited. There are a lot of things that go along to get to this point of sentencing. I think that's the biggest question. But they do want the message to get across. For those people who do abuse the elderly, who do crimes against the elderly, if it gets to this point, it's something that is not going to be tolerated. It is serious.

Right now there's no message out there. In terms of fraud against the elderly, we know how high it is. In terms of situations of neglect against the elderly, we have plenty of situations where we've seen that. We know it's a complex issue, but right now the legal way of addressing it, or a criminal way, is a last resort. When it gets to that point, we want the message to be clear.

**Mr. Robert Goguen:** Certainly, one amendment to the Criminal Code existing in a vacuum is not going to cover the scenario. I know there's the new horizons program. There's been some advertising on television, some promotion to combat senior abuse. I'm told that's had some fairly good results. Certainly that's something that puts meat on the bone, so to speak. I trust you'd agree with that, and there certainly should be some more of that, should there not?

You seem to have quite a background in the international scene. Does this amendment compare favourably to what you've seen done in other countries? Are there other solutions that you could cast some light on that would be helpful?

• (1620)

**Ms. Maxine Lithwick:** I would say the laws are very different. In some areas, their civil laws are much more involved in elder abuse. There's mandatory signalling. In the States, you have to signal any situation of elder abuse, but yet they don't identify more situations of elder abuse than we do here in the provinces where there's not mandatory signalling. For the reasons that were said before, you have to have the proof.

Does this fall in line? Yes, it does. I do know that in some countries and in some states they're developing similar laws, but they're also developing a whole area of elder law so that everything is looked at and taken into consideration. The people who prosecute are experts in seniors' situations. They understand dementia, they understand loss of autonomy, they understand caregiving stress, so they know how to do it and they work with the police officers. The judges, too, are educated.

**Mr. Robert Goguen:** It's holistic.

Do I have more time?

**The Chair:** Yes, you have a minute and a half.

**Mr. Robert Goguen:** There seems to have been quite a lot of debate about age versus vulnerability and which is the most important. My thought on it, and I'd like to canvass your thoughts as well, is that the vulnerability seems to be the key element. Obviously, age affects different people at different stages for different reasons.

Would you agree that this act sends a message to the Canadian public that we're not going to tolerate abuse of the aged, but that it's more focused on vulnerability than on age? Look, you could be very vulnerable at 50 versus 75. You could be a lumberjack at 75 and have all your faculties. Is vulnerability not the more important factor to take into consideration?

**Mr. Patrick Power:** I think so, definitely. I think that was in the last conversation we had. Health has to be taken into account, for sure. We can't get lost in the age part. People around the room here know people who are 80, 85, 90, or 95. I've worked for 30 years in the field of gerontology. The things that people can be doing at 90 and 95 are just amazing. We're not going to say that people are vulnerable because of their abilities.

**Ms. Maxine Lithwick:** I think we also have to keep in mind psychological vulnerability.

**The Chair:** Thank you.

Mr. Jacob.

[Translation]

**Mr. Pierre Jacob (Brome—Missisquoi, NDP):** Thank you, Mr. Chair.

Ms. Lithwick, you talked about zero tolerance in hospital centres. I also liked the fact that you discussed harm reduction if close relatives are involved. In your statement, you talked about the difficulties involved in reporting elder abuse cases, as well.

Other witnesses pointed out that sentencing is one of the last steps of judicial proceedings, and a very small percentage of elder abuse cases are reported to the police or reach the stage where charges are laid before courts.

In your opinion, what, if any, will be the impact of Bill C-36 on cases other than those where elder abuse has reached the sentencing stage? Do you think it will contribute to preventing elder abuse and will also encourage reporting, which is often difficult to do?

[English]

**Ms. Maxine Lithwick:** I think once you're at the point of sentencing, you're probably dealing with pretty extreme cases. It is hard to get someone to *porter plainte*. If you do get to this point, especially with those people who have a formal caregiver, not a family caregiver who has neglected an elderly person, and they have horrible bedsores or they're malnourished, or a person has been defrauded, we want that message to be clear. I agree with it; I think it is going to have an impact.

Most of the provinces, if they don't have an action plan yet on elder abuse, at least they're talking about it. We're all doing different things to address elder abuse in a multisectoral and multi-faceted way. There are teams like you have in Edmonton. We have teams in Quebec. We're looking at it in a very multi-faceted way. Criminality is just one part of the continuum in what we need to do to address this problem.

• (1625)

[Translation]

**Mr. Pierre Jacob:** I will give the other members an opportunity to speak, if they want to.

No one wants to talk, so my subquestion would be...

[English]

**Mr. Patrick Power:** This is more in agreement with Ms. Lithwick in terms of the other things that need to be done. There has to be a comprehensive program looking at anything from the awareness we see with the ads on TV to the things now happening in the community. In Alberta we're doing a lot more community responses, with a holistic approach in those communities, to intervene and deal with those situations, along with the amended act here, which will help.

[Translation]

**Mr. Pierre Jacob:** Thank you.

Do I have any time left?

[English]

**The Chair:** You have a minute and a bit.

[Translation]

**Mr. Pierre Jacob:** Okay.

Should any other measures be used to denounce, prevent and punish elder abuse? Could you tell us more about that, please?

The question is for one of the four witnesses, or all four of them.

[English]

**Mr. Patrick Power:** Are there any other approaches?

[Translation]

**Mr. Pierre Jacob:** In addition to passing Bill C-36, should we take any other measures to denounce, prevent and punish elder abuse? Also, should anything be added to Bill C-36 to prevent, denounce and punish elder abuse?

[English]

**Mr. Patrick Power:** In terms of prevention, and it may not answer your question, there's a program out of B.C. called financial literacy. That is a very good preventive program that we need to look at in other provinces across Canada, as far as working with seniors, to help educate, if I can put it that way, in terms of how not to get into certain situations that they're getting into, and even if they're in it, to get out of those situations sooner. It's taking a different approach on that other end of the spectrum.

If we're really serious about this as we get older, and I'm 65 in eight years, we recognize that these situations are very common. They're very normal and they're very subtle—how we start lending. I'm lending more and more money to my kids. Then it can reach a point where it goes beyond, where it starts to move into the area of abuse. That happens so suddenly that sometimes you don't know it until you're there and it's almost too late to go back.

So we need those other kinds of supports, like the programs like financial literacy, that help empower you, to give you that self-esteem to deal with those situations. I'm talking like a social worker now, but that's what I am. Those are some of the things we need to look at in any society, within our communities, to help all of us, age-related or not, just in terms of how we deal with other people and how we get trapped into these situations.

**The Chair:** Thank you.

Mr. Seeback.

**Mr. Kyle Seeback (Brampton West, CPC):** Thank you, Mr. Chair.

Ms. Santos, thank you for coming today. I want to ask you a question because you have a specialized background in nursing.

We certainly heard some cases that are not anything we could support, some very shocking things. My colleague Madame Boivin just mentioned a case. Do you see how this legislation can be helpful in those circumstances, and are there other things that you think we should consider?

**Ms. Josephine Santos:** Yes. As I mentioned earlier in my opening remarks, we do support the changes in the legislation, but we did say, just as the other witnesses have mentioned, that it's a multi-faceted approach. What I've also seen in the work that we've done with the long-term care task force is that there's also resident abuse, and often

some of those residents are cognitively impaired. There has to be some kind of support for those residents, like having a dementia unit or maybe a behavioural support unit to support those residents and make everyone safe.

**Mr. Kyle Seeback:** One of the things that I've heard several times, including today—I think, Ms. Lithwick, you brought it up, and we heard it from CARP when they testified. They're talking about a duty to report. That's a very interesting concept, one that I only have five minutes to explore, probably less than that now.

How would you envision that duty to report working, and who do you think should have that duty? How do you think we should impose that duty, if we were to do that?

Ms. Santos, maybe you could start and others could chime in.

• (1630)

**Ms. Josephine Santos:** I think duty to report is an accountability for everyone. In terms of the long-term care perspective, there has to be support from the organization, so that the staff are supported and they have whistle-blower protection to make sure that when they are disclosing an abuse they are protected, rather than being punished for bringing up the issue.

**Mr. Patrick Power:** There is some duty to report in terms of the Alberta legislation for the Protection for Persons in Care Act. I'm not familiar with some of the other acts in the other provinces. That's related to staff who are abusing or assaulting a senior in that particular publicly funded accommodation. There is that, and certainly we see the benefits of that, the importance of that, how those cases get reported and dealt with in the way they need to be.

I don't want to be quoted on this, but I believe Nova Scotia has some legislation around duty to report. I do know they have the authority to deal with situations of elder abuse in the community. So there is that. Then there are variations in other provinces as far as duty to report when it comes to certain circumstances.

I would like to see some of that happen to some degree for sure. Even as a social worker, I'm sad to say that I really don't have to report elder abuse. It's not stated anywhere that I need to. Child abuse, definitely; I do have to report that, for sure.

**Mr. Kyle Seeback:** Do you think it should be mandatory for anybody working in elder care? Do you think there should be a proactive duty imposed on anybody working in those fields?

**Mr. Patrick Power:** Yes, in those situations, sure, there should be.

**Ms. Maxine Lithwick:** I think the duty to report and the whole issue of being bound by our professional orders of confidentiality are in conflict. If we are bound to report, that releases us from our duty of confidentiality. The importance of reporting is to ensure that we can do the right types of interventions. I don't think we have to necessarily think that if you report it, it's all going to go the criminal way.

**Mr. Kyle Seeback:** You see that there might be a conflict between someone's duty of confidentiality and the duty to report, were it imposed.

**Ms. Maxine Lithwick:** No, I think it might release the person from their confidentiality, and they would be able to do something to help. As I mentioned before, where there is a duty to report—in the United States, most of the states have mandatory reporting laws—they do not see more situations of elder abuse. They also have a different health and social service system. Very often, the only way these victims of abuse can get home help is if they have been signalled as being abused.

**Mr. Kyle Seeback:** How do you impose the duty? Is this legislation that is going to govern certain people in certain occupations? Is that how it's done in other jurisdictions? Is that something you would like to see here?

**Mr. Patrick Power:** I think that's a way to go. Look at physicians, for example, and social workers. Yes, for sure, identify who has that duty to report.

**Ms. Melanie Perka:** The other thing I would love to add about duty to report is that there has to be education so that they can see it in the first place. That's lacking. Once you talk about it with someone who calls or does intake, they think, "Right, I probably should have called a couple of months ago." That education is so they know what to report and what not to report.

**The Chair:** Thank you.

Mr. Côté.

[Translation]

**Mr. Raymond Côté (Beauport—Limoilou, NDP):** Thank you, Mr. Chair.

I want to thank the witnesses for being here. They have had an opportunity to see that our work environment is pretty pleasant, especially when we are considering a bill on which we agree fairly well. It also feels like we can implement measures to improve things.

Last week, I spoke to someone I have known for years: the first swimmer to cross Lake Saint-Jean, Jacques Amyot. He also swam across the English Channel—between the United Kingdom and France—twice. This man, who is almost 88 years old, goes to Lake Saint-Jean every year to watch the crossing. He was telling me with a spark in his eyes that he no longer goes there alone. He is always accompanied when he drives through the park, which takes him about three hours. Only a few years ago, he went off the road and has not wanted to risk repeating that experience. It is always impressive to see someone who is 88 years old, stands up straight and is in great shape. We cannot imagine that he could be a victim of abuse.

Of course, during our hearings, the Université de Sherbrooke's Marie Beaulieu, the Research Chair on Mistreatment of Older Adults, did tell us that a person's vulnerability or state is not the only factor that should be considered; their environment must also be considered.

Let's come back to the issue of significant impact and the wording of the proposed subparagraph. An objective we have had for a very long time is to resolve this serious issue where a huge number of abuse cases fall through the cracks of the justice system. One of the reasons we are wondering whether using the wording "significant impact" in the amendment could be an issue is that we are afraid that too many cases could continue to fall through the cracks.

I would like to hear what you think about that. Will considering that victims are affected owing to their age enable us to cast a wider net, even if it means using means other than the justice system? After all, when police officers become involved, they can easily refer a case to social services, for instance, instead of...

• (1635)

[English]

**Ms. Maxine Lithwick:** Do you mean without consent from the person?

[Translation]

**Mr. Raymond Côté:** No, clearly. You are right, of course.

[English]

**Ms. Maxine Lithwick:** That's why we're working hard to try to look at how they can report to us if the person doesn't want it to be reported. Can we knock on the door? It's not so simple.

**Ms. Melanie Perka:** In our multidisciplinary team, we do get referrals passed on from the police asking us to go and knock on the door and check into a situation. If they say they don't wish to engage with us, then we step out. We are trying to get to an understanding if there is any concern, and just planting the seed that if and when you're ready to talk about it, then we're here for you.

I actually had a case before I flew out where three police officers, due to the high level of violence, had to meet me at a home. We talked to the seniors, and after, the police officers said it was so nice to see that there was something on the other side, because they had been there the night before for the breach of the emergency protection order and made an arrest, but the processing time took longer than when he was in remand and then released. They said that to see this working in partnership and that there was something on the other side was so invaluable.

My colleague, Pat, has also pointed out that we need more teams across the country that are all working together to address this. You can't do it with just the police, just a social worker, just a nurse.

[Translation]

**Mr. Raymond Côté:** I would like to come back to my concern about the current wording, which I discussed earlier. Is my concern justified? I am afraid that we will continue missing so many cases and that we will be unable to deal with them in one way or another.

[English]

**Ms. Maxine Lithwick:** I think you were talking about this older gentleman who was quite competent and able, etc. If that person was a victim of a criminal act, he would go through the normal channels, he would *porter plainte*. I don't know how to say it in English. If it was his family member who had done it, it would be a whole different dynamic for him. That's when he would need a different type of support.

When you said here “concerning their age and other personal circumstances, including their health and financial situation”, if it does get to the stage of sentencing, you will be looking at what impact it had on that person, which is different from your well person, who is just like you and I. It is that person who was taken advantage of. A crime was committed against them because they were frail, because it had an impact on their health and it had an impact on their financial situation.

• (1640)

**The Chair:** Thank you.

Go ahead, Mr. Albas.

**Mr. Dan Albas (Okanagan—Coquihalla, CPC):** Thank you, Mr. Chair.

I appreciate all the presentations of our witnesses today. This is something all of us can give an example of, whether it be personally or someone that we know. I'm very happy to be here today.

One of the themes that I've questioned many of the witnesses on is our aging demographics. For example, in 2012, there are 4.8 million people aged 65 years and older, and that represents about 14% of the Canadian population. The number of people in this age bracket is expected to exceed 10 million by 2036, which is almost 25% of the Canadian population.

As the Minister of Justice and some witnesses who have testified before this committee have stated, this phenomenon is resulting in increased cases of elder abuse, whether it be physical or psychological abuse, financial exploitation or negligence. Specific examples of elder abuse receive regular media attention condemning these kinds of acts. Recurring themes that I've seen are the grandparent scam, in which seniors are asked by someone claiming to be their grandchildren to wire money to pay for a bill or for car repairs.

Many of the examples that you've given today are in-home or institutional neglect. There was a case of an elderly Scarborough woman with dementia allegedly forced to sleep in her son's garage. Ms. Perka brought up a particularly compelling example, and, sadly, I'm sure each one of you could probably give an equally compelling example.

Given that we see this demographic shift as our population ages, and particularly that there is an increased amount of media attention towards this general issue of elder abuse and how we are grappling with it, first of all—I'll address this to Ms. Santos, and if I have time I'll ask for other input—do you feel at this particular time that the legislation is worth pursuing moving forward?

**Ms. Josephine Santos:** As I said, it's worthwhile pursuing it going forward, but at the same time there have to be other resources and other approaches as well to make sure that... As you mentioned, we have an aging population, and in most of those who are aging there's also an increase in the numbers of old people with dementia. Therefore, we need to address that population as well to make sure their needs are also being met.

**Mr. Dan Albas:** You—and I think some of the other witnesses—mentioned the importance of this legislation and also of education and what not. Currently in your profession is there work under way to help with the awareness of elder abuse and to help professionals

identify it, which would also help the average citizen benefit from this legislation?

**Ms. Josephine Santos:** We're doing that with the work we've done with the Canadian Nurses Association prevention of elder abuse centres of excellence, or PEACE, which started out with 10 long-term care homes. In Ontario we're trying to roll out that education to all long-term care homes.

**Mr. Dan Albas:** This is something that not just your provincial association but also other associations of a more national scope are working towards. Again, that really works in parallel with this legislation moving forward, so you have not only deterrence from and denunciation of elder abuse, but also people who are trained, who are oftentimes in first contact as signs of it come up. Is that correct?

**Ms. Josephine Santos:** Yes, and we're also developing best practice guidelines that will be applicable not only to Ontario but, we're hoping, to all the provinces as well, so there's consistency in approach to that particular situation.

**Mr. Dan Albas:** Okay.

I'm just opening it up to some of the other witnesses here. It seems that Ms. Santos' organization is certainly working towards this. Is the timing of this legislation also going to coincide with some changes in your profession as well?

**Mr. Patrick Power:** In Alberta about two years ago an elder abuse strategy for the province was developed, and in the last year and a half a coordinator for the prevention of elder abuse has been hired to work on some of the different strategies coming out of the strategy. I feel that in the province itself there's a movement towards really trying to identify the issue of elder abuse more clearly across the province, to create more awareness, and to develop these community responses I was talking about earlier. In all the smaller communities across Alberta, I'm hearing more and more that whole communities are getting behind these different strategies and trying to develop some kind of response. I know through the elder abuse team the education part happens.

We do presentations to students at the U of A and the U of C, and we're involved with presentations, with professional networks, and with other organizations. So that does happen, and I think it's probably the case in a lot of provinces that this kind of education is happening.

• (1645)

**The Chair:** Thank you.

Ms. Findlay.

**Ms. Kerry-Lynne D. Findlay (Delta—Richmond East, CPC):** Thank you, Mr. Chair.

Thank you all for being here.

I can tell every time a question is asked and an example is given and I see all four of you nodding your head that you've been there, seen that, done that, and tried to cope with that. Obviously we have a group of witnesses before us who are very much on the front lines, and we really appreciate you taking the time, particularly those who've had to travel quite a way to be here with us.

I think we all know—and I include all my colleagues here—that this is just one aspect of what we're trying to do to improve awareness, to improve sanctions, to find ways to develop programs that can help the elderly. I certainly was involved with elder care with both my parents before they passed away, and as everyone does in that situation, I saw their ability to cope, or their ability to deal with stress and different situations change over the course of their lifetime. I think that's something that a lot of Canadians experience and know of.

As part of those overall things in addition to this kind of legislation, our government has brought in many awareness campaigns and funding initiatives. I think awareness is a big issue. We do know, through our studies and through looking at the outcomes, that people have a greater awareness today of just what elder abuse is than they did at one time. I know, for instance, our new horizons for seniors program is something that was developed and now has an annual budget of \$45 million. We've gone up \$10 million from the last budget to try to create programs.

Ms. Santos, I think at least your organization did apply under that program. What are you planning to do with that funding?

**Ms. Josephine Santos:** We are developing the best practice guideline, as I've mentioned, which is not just going to benefit Ontario but all the other provinces as well.

Also, we're going to be developing indicators to measure outcomes and e-learning as an educational component to help disseminate the recommendations from the best practice guideline.

**Ms. Kerry-Lynne D. Findlay:** Have either of your other two groups benefited from those kinds of initiatives?

**Mr. Patrick Power:** Yes. I'm part of the Canadian Network for the Protection of Elder Abuse. We applied for funds. We're looking to build, over two and a half years, communication and connections among all the organizations across Canada, so there will be more going back and forth between Nova Scotia and B.C. and so on, as to what the best practices are, and to share those best practices. We really want to have more of a web right across Canada in terms of talking with each other, working with each other, in terms of the whole nation, if we can. I'm really talking big here, but we're hopeful that we can pull off an even bigger Canadian network. We do have the network itself now, but we want to build on what we have.

**Ms. Maxine Lithwick:** New Horizons has, I think, funded projects in every province of Canada, and it is very important to the work on elder abuse. There is a lot of similarity among projects across the province. I think the Canadian network does a lot of work to see how we could share information, so that we're not always reinventing the wheel, but every province also has its own initiatives.

Quebec has a four-year elder abuse action plan. It is a multi-faceted plan; it's interesting. I think if people get a chance to read it they should. Ontario had its action plan. I think the Canadian network has also applied for funding from New Horizons, which it didn't get, but people are volunteering their time to link what's going on throughout the provinces and the territories on their own time. The amount of work that people are doing on their own time is amazing.

• (1650)

**Ms. Kerry-Lynne D. Findlay:** I applaud those who do, because obviously this is the kind of issue that isn't just about governments; it's about communities coming together and awareness of all people, and particularly those on the front lines, so we really do appreciate all your efforts.

Now that we are proposing this legislation, this will bring this together, as you said. When and if it gets to that stage, then at least we have this.

It's also a matter of showing a deterrent, showing a concern, putting it at a level where all Canadians can see that we consider it a serious issue. I have seen in my law practice, before becoming an MP, that sometimes just the fact that law enforcement officials get involved and are investigating and looking at it will lead to an end of the abuse. Even if it doesn't get to a further stage because the elder person doesn't want to testify, for instance, the abuse stops. So at least that result is gained.

Would you agree with that? Any comments on that?

**Ms. Maxine Lithwick:** The research I have done has demonstrated that the moment you detect the abuse and you talk about it, the frequency and the severity decrease by almost 50%, so it does have an impact.

**Ms. Kerry-Lynne D. Findlay:** Excellent. Thank you for that.

**The Chair:** Thank you.

Madame Boivin.

[Translation]

**Ms. Françoise Boivin:** Thank you, Mr. Chair.

I am once again coming back to the issue of zero tolerance, as that is what strikes me the most. I think that's what the government is trying to do, and we all agree with that approach.

Witnesses we received before you, at the beginning of our study, saw a connection between elder abuse and conjugal violence, for instance.

[English]

Not that long ago, it was not in the Criminal Code. It was added to the same section as evidence that the offender, in committing the offence, abused the offender's spouse or common-law partner. It was seen as an aggravating factor.

Again I'm playing lawyer a bit with you because I understand—I think we all do—the social impacts and all that needs to be done on social housing, on raising seniors out of poverty. There are so many aspects on which we all agree, but right now we are facing the sentencing issue. The sole purpose of this committee is to see if this is going to help work against elder abuse, in a criminal aspect, for the purposes of sentencing.

In the objective of getting to zero tolerance...

[Translation]

I will read the title of the bill:

[English]

An Act to amend the Criminal Code (elder abuse). “This Act may be cited as the *Protecting Canada's Seniors Act*.” We want to add as an aggravating factor

evidence that the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation,

You're our last group of witnesses before we start the study, article by article, which means one article—that one.

If we put in “significant impact”, we leave everything else, but “significant” still bothers me. It's not a trick question. It's not to avoid anything, because we're going to vote in favour whatever happens, but I do believe that if we want to help amend the Criminal Code to include the elder abuse disposition in subsection 718.2.... We have zero tolerance for kids, we have zero tolerance for a spouse, so shouldn't we have zero tolerance for our seniors, for our elders? That's my question.

**Mr. Patrick Power:** I think we should have zero tolerance, you're right. As we go back over time, it was maybe child abuse that we looked at initially, then spousal abuse, and we said “No, this is not acceptable in our society and we need to deal with it.” And laws were put in place. So I agree with you on that point.

Bullying is another issue that I think we have to take a strong stance on as well, and say that's not acceptable; it's not acceptable in the schoolyard or anywhere. For seniors, I'd point out that there's also bullying. That will be another whole area that we need to talk about at some point.

I think zero tolerance for sure. Whether this gets at it, so that we get .... It helps to some degree, but I'm not sure how far it takes us. It does help. The wording “significant impact”...I'm not a person in the courts a whole lot, but I think judges, lawyers.... The judges, for example, at the last point, in making a decision, are taking a lot into consideration. I think there has to be some discretion, if you will, and something put on them perhaps to sort through that and say from his or her perspective, “This is what I've decided based on some of these factors.”

• (1655)

**Ms. Françoise Boivin:** I'm afraid it will become a discussion in front of the court on the word “significant”. If I go back to the example Raymond gave of his 88-year-old...basically age is not a factor, but I want to say, “Buddy you went after that guy. That fact in itself, plus....” Of course, it has an impact. I don't want it to start deviating to the question of whether it had a significant impact. It had an impact. We all agree. Every time a gesture of violence is made—and we're on the Criminal Code. I'm not talking about anything else. I'm talking about somebody who has been charged with an infraction under the code who is now under the sentencing process. I don't personally—but that's me—want it to become a lawyers' debate about “significant impact”. The impact is sufficient for me, and it protects even more the senior. It shouldn't be a debate.

**The Chair:** Thank you.

Mr. Cotler.

**Hon. Irwin Cotler:** If we look at the prevalence of elder abuse, some of the witness testimony, such as CARP's, when they came

before us, said that the incidence was 10%, drawing on academic studies, Statistics Canada, and the like. Of course, it may be higher, first because of under-reporting, and second because the Statistics Canada data and the data they drew upon from the academic study were from some four years ago, and Dan Albas seems to have even more recent data. And of course we have to bear in mind that this is a growing demographic, so the incidence of elder abuse is only going to grow.

I want to deal with the specific issue of the vulnerable, the issue Mr. Goguen brought up. Here, the incidence is much higher. Defining the vulnerable as those who are dependent on others for care or who suffer from some form of particular disability, the incidence here seems to rise to something closer to 30%.

Now, my question, seeking to elicit comment from all of you because of your experience and expertise, has to do with the systemic causes or contributions to elder abuse amongst the vulnerable. I'm speaking about situations mainly in the health care system, where we may have poorly developed or poorly coordinated home care services, or hospital overcrowding, or low support for caregivers, or insufficient resources for caregivers, or inadequate options for long-term care and the like.

All of you are involved in one form or another in the delivery of social services, so my question to you is this. Much of what I've just talked about in terms of systemic contributions to elder abuse amongst the vulnerable really lies very much in the area of provincial jurisdiction—along with, of course, the federal role in subventing the kinds of services that the provinces can't provide. You're from different provinces here—we have Quebec, we have Ontario, we have Alberta. Do you find that these causes are becoming exacerbated, or are they being improved, and how can they be addressed and improved, etc.?

**Ms. Melanie Perka:** What is happening in health care—the statistic was given here about the growth of the aging population—is going to have a huge impact. The way services are rolled out and implemented, waiting times, having enough resources and enough people to do the work—these things constitute a severe issue, in my opinion, that needs to be looked at. That's why I respectfully suggested that, just as you pointed out, the provincial part needs a bit of push to get caught up to this issue, because it's going to catch up to us really quickly.

• (1700)

**Ms. Maxine Lithwick:** I think what you said is very important, in the sense that the way we treat our seniors is an indicator of the way we as a society respect one another. We talk about systemic abuse, about the growing elderly population, and the growing health care needs of the elderly population. If we do not as a society address these properly, we are also contributing to the abuse of the elderly.

Systemic abuse is going on. People have a hard time, maybe, seeing themselves as participants in systemic abuse, but it is there.

We have some laws in Quebec for placement of seniors that in my opinion are quite abusive. Seniors have to get out of a hospital, once they no longer need acute care, within 48 hours. Then they have to go into an evaluation bed, and then they have to go into a transit bed, and then they can get to their final bed. They're moved four times before they get to their final nursing home. To me, that's abuse.

So yes, we have to look at all those things. If we don't deal with this issue systemically, then we're almost being.... I don't know what the word is, but just looking at the individual who does the abuse is not sufficient.

**Ms. Josephine Santos:** Yes, it is a systemic issue that I think needs to be addressed systemically as well, in terms of the approaches that need to be made; you can't just say that it's acute care or it's long-term care or it's community care. You have to work together as a team, looking at it holistically so that the approach is also holistic.

**Mr. Patrick Power:** I'll just make one comment in terms of the home care services in Alberta. If I look back to 15 or 20 years ago, it was well researched and was stated that home care programs were the way to go in terms of health care with seniors: going out and treating in the home as opposed to seeing all of the seniors going into institutions.

We still went on and built the big institutions, recognizing that it really wasn't the most effective method to deal with any of the health care issues they had. That decision was made, for whatever reasons, and I think today we still struggle as far as having enough home care resources out in the community is concerned. I think that needs to be looked at to really deal with all kinds of issues—not just elder abuse—so that we build up the workforce in terms of the home care, and in terms of the education for that home care staff as well, as they go out and deal with those issues.

**The Chair:** I think that ends our round. We actually went an extra round.

I want to thank the panel for being here. You brought a great deal of evidence to us.

As an old policeman, I really thank you for being so kind to the police community that has worked with you. I think that's where much of this has to start. They're the people who are the first on the ground for many of these things, and I think you recognize that they are able to make that turn and bring those issues to you.

Thank you.

The meeting is adjourned.

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