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# Standing Committee on Justice and Human Rights

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Chair: Ms. Iqra Khalid





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• (1105)

[English]

**The Chair (Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.)):** I call this meeting to order.

Welcome to meeting number 32 of the House of Commons Standing Committee on Justice and Human Rights. Today, we have MP Stéphane Lauzon replacing Randeep Sarai.

Welcome. *Bonjour. Bienvenue*, Stéphane. It's really great to have you here today.

To ensure an orderly meeting, I'll just outline a few of the rules.

Interpretation services are available to you. Just click on the globe icon at the bottom of your Zoom screen. You should select the language you would like to listen to. You can speak either of our two official languages and interpretation will pick it up.

Before speaking, please wait until I recognize you by name. Everybody is on the video conference. Just make sure that your microphone is unmuted before you speak, and once you're done speaking, make sure that you are back on mute.

As a reminder, all comments by members and witnesses should be addressed through the chair. With regard to the speaking list, Mr. Clerk and I will do our best to ensure an orderly list of speakers when you're participating and would like to speak.

Before we go to our study on elder abuse, we have to approve the report from the subcommittee meeting of Tuesday. The report was distributed to members electronically yesterday.

If there are no comments on it, do I have agreement of members to adopt this report?

**Some hon. members:** Agreed.

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

Now, just very quickly, members will recall that at the subcommittee meeting, Mr. Clerk had undertaken to inquire about the status of the translation delays of our committee documents.

I'll turn it over to Mr. Clerk to give us an update on that.

**The Clerk of the Committee (Mr. Marc-Olivier Girard):** Thank you, Madam Chair. Here's what I found out.

The Translation Bureau now is currently operating at full capacity and has tried to get as much help as possible internally and externally. Unfortunately, it has not been able to always overcome the normal translation delays lately. At this point, additional delays

may be expected, depending upon the context of our translation request—for instance, the complexity of the briefs the committee is receiving, the format, and so on.

The good news is that the House of Commons, the Senate and the Library of Parliament are meeting weekly with the bureau to talk about translation priorities arising from committee activities. As your clerk, I will make sure that if the need arises during the upcoming weeks prior to the summer recess, our priorities will be communicated at the weekly meeting.

Thank you very much, Madam Chair.

**The Chair:** Thank you, Mr. Clerk. I appreciate that update.

Does any member have any questions or comments? Please address them to me and Mr. Clerk via email, or I'll be in touch with you as well, if you need to speak on this further.

I would like to now welcome our witnesses.

From the Department of Employment and Social Development we have Kristen Underwood.

Mr. Garrison, do you have a question on the previous topic?

**Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP):** It's on the topic of our agenda for today. I just have a question.

When we're starting a new study, we normally hear from ministers, and I believe we issued an invitation to the Minister for Seniors. I'm just curious about the scheduling of ministers to appear before the committee, because when we embark on a study, it's important for us to know what initiatives the government is planning and has under way so that we can give a context to the study we're doing. I am thus disappointed that we do not have the Minister for Seniors here today at the beginning of this important study.

Do we have any indication as to whether the minister does in fact intend to appear before the committee?

**The Chair:** Thanks for that, Mr. Garrison. I will look into it with Mr. Clerk, and we'll get back to you with an update, if that's okay.

From the Department of Employment and Social Development, we have Kristen Underwood, director general, seniors and pensions policy secretariat. We also have Susan MacPhee, acting director general, social innovation and community development, Income Security and Social Development Branch.

From the Department of Justice we have Carole Morency, the director general and senior general counsel, criminal law policy section in the policy sector, and we have Joanne Klineberg, the acting general counsel, criminal law policy section.

I understand that Ms. Morency has made it to the meeting, which is wonderful.

We'll go to opening statements from the two departments. Take note that I have a "one-minute remaining" card and a "30-seconds remaining" card to help you keep track of your time. Both of you have five minutes to make your opening statements.

We'll start with the Department of Employment and Social Development.

Please go ahead. You have five minutes.

**Ms. Kristen Underwood (Director General, Seniors and Pensions Policy Secretariat, Department of Employment and Social Development):** Terrific.

Madam Chair, committee members, I want to thank you very much for the opportunity today to meet with you as you begin your study on elder abuse. It seems like we're up first, so that's great to start with us.

It's a pleasure to be here virtually on behalf of Employment and Social Development Canada. As noted, I'm joined today by my colleague Susan MacPhee from the new horizons for seniors program.

Seniors are an important part of our social fabric and contribute to the rich diversity of Canada. That's why the government is committed to seeking widespread stakeholder views on seniors' issues so that older Canadians can age with dignity while experiencing the best health possible and social and economic security.

Elder abuse is an important human rights issue, as well as a social and public health issue that can undermine a person's quality of life, autonomy, dignity and sense of security. Both men and women are living longer and healthier lives than before and are projected to live even longer into the future. Seniors are the fastest-growing demographic in Canada. In 2020, 18% of Canadians were 65 years of age or older, and it's projected by the end of the 2030s that close to one-quarter of Canadians will be 65 years of age or older.

We recognize that elder abuse is a serious issue affecting many older people in Canada and even more so in the context of the COVID-19 pandemic, which has contributed to further isolating seniors. Physical distancing around the COVID-19 pandemic has put seniors at increased risk of abuse since so many seniors are living in isolation and do not have access to their usual community supports and social connections.

The COVID-19 pandemic has also highlighted systematic, long-standing challenges in our long-term care system. We're deeply saddened and disappointed by the significant and disproportionate toll that COVID-19 is having on seniors living in long-term care homes

and other congregate living settings. The Government of Canada values the many contributions made by seniors to our nation, and that's why the government's working to implement measures to help improve the lives of seniors and their families.

Each year the government provides \$70 million in funding through the new horizons for seniors program, NHSP, to senior-serving organizations across Canada. While one of the five objectives of the NHSP is to raise awareness of elder abuse, the overarching goal of the program is to increase the social inclusion of seniors. By increasing the social inclusion of seniors in communities this can help us to reduce the prevalence of elder abuse, as seniors face a greater risk of abuse when isolated.

Funded organizations aim to address key issues facing seniors, such as elder abuse, through projects that raise awareness of elder abuse, connect seniors with others in their community, and provide navigational support to help seniors find community resources and services they need.

Elder abuse can take on several different forms, such as neglect or physical, psychological or financial abuse. These can have negative effects on older adults and their families. One of the most frequently identified types of elder abuse is financial abuse. That's why the National Seniors Council, as part of their three-year work plan from 2018 to 2021, examined and identified measures to reduce crimes and harms against seniors. To support this work, the council hosted an expert round table and a town hall to identify promising practices and discuss new measures to reduce financial crimes and harms against seniors.

In August 2019, the National Seniors Council published a "What We Heard" report based on their round tables. It found that while the Government of Canada has a leadership role to play in establishing and maintaining policies, programs and services that support seniors, other levels of government, community organizations and the private sector are all vital partners in addressing financial crimes and harms perpetrated against seniors.

The government is committed to raising awareness about fraud and scam-related activities. It does this through a number of mechanisms, including news releases, social media posts and the Minister of Seniors' newsletter. In the past year alone, the newsletter, which engages close to 10,000 seniors and stakeholders across Canada, has covered themes such as fraud and scams.

The government is committed to strengthening the approach to elder abuse. The recent mandate letters of the Minister of Seniors, the Minister of Justice and the Attorney General of Canada stated that they will work together to strengthen Canada's approach to elder abuse, including "to create a national definition of elder abuse, invest in better data collection and law enforcement related to elder abuse and establish new...penalties in the Criminal Code". This was also reiterated in the Speech from the Throne.

• (1110)

Through all these measures, the government is seeking to improve the safety and security of seniors so they can age with dignity in the best possible health. Of course, there's much more to be done. The government looks forward to continuing to work with stakeholders to support Canada's seniors of today and tomorrow.

Madam Chair, honoured committee members, I trust that your report will contribute to combatting elder abuse and will support the Government of Canada in future policy actions in this area.

Thanks very much.

**The Chair:** Thank you very much, Ms. Underwood.

We'll now go to the Department of Justice for five minutes.

Go ahead, Madame Morency.

[*Translation*]

**Ms. Carole Morency (Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice):** Good morning.

We are pleased to be here today to discuss the criminal law's responses to senior abuse and neglect and related efforts by the Department of Justice.

Senior abuse and neglect is an issue of concern not only for the criminal justice system but also for other sectors including the health sector. It is also an issue for the federal and provincial and territorial governments.

• (1115)

[*English*]

As the committee knows, responsibility for Canada's criminal justice system is shared. The federal government is responsible for the criminal law and procedure and the provinces and territories are principally responsible for the administration of justice, including policing, prosecution and the provision of services and assistance to victims of crime.

The delivery of health services and long-term care are also matters under provincial and territorial jurisdiction. Each of the provinces and territories has a unique approach to addressing senior abuse such as through laws that address the abuse of vulnerable adults. At the federal level, the Criminal Code protects seniors against abuse and neglect through numerous offences of general application. It contains a comprehensive set of offences prohibiting various forms of assault, including threats of harm and sexual assault, as well as negligence-based offences that prohibit failing to provide necessary care to seniors, or providing necessary care but in a significantly deficient manner.

The Criminal Code also contains a comprehensive set of financial crimes that capture financially motivated crimes specifically targeting seniors. These crimes include theft and fraud, which have very broad application and include specific forms of wrongdoing, like theft by a person holding a power of attorney. There are also crimes involving a combination of violence or threats and property taking, such as extortion and robbery.

The Criminal Code further contains sentencing measures that may be applicable where a senior is criminally victimized. For instance, under section 718.2, the following are deemed to be aggravating for sentencing purposes: where the offence was motivated by bias, prejudice, or hate based on age, among other factors; where the offender abused a position of trust or authority in relation to the victim; and where the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation.

With respect to certain fraud-related offences, the Criminal Code also lists additional offence-specific aggravating factors, including where the fraud involved a large number of victims and had a significant impact on the victim given their personal circumstances, which includes their age, health and financial situation. These aggravating factors would apply, for instance, in the context of a large-scale financial fraud that targets seniors.

Recently enacted section 718.04 of the Criminal Code also directs the courts to give primary consideration to the objectives of denunciation and deterrence for any offence involving the abuse of a person who is vulnerable because of personal circumstances. This includes vulnerability due to age.

Courts consistently treat senior abuse as an aggravating factor in cases involving criminal negligence, assault and fraud. Justice Canada is also addressing senior abuse through program and policy related initiatives. The victims fund, for example, is available to provincial and territorial governments and non-governmental organizations to support projects that address the needs of victims, including senior victims, and recently made the amount of \$1 million available for the development or updating of public legal education and information materials to support victims of senior abuse and neglect.

Our research and statistics division is also working with Statistics Canada and others, and is leading a study to explore the feasibility and the challenges of addressing national data gaps in senior abuse, including in reporting senior abuse in long-term care. We expect that report to be available in 2022.

[*Translation*]

I appreciate the opportunity to inform the committee about ongoing activities within the Department of Justice on the issue of senior abuse and neglect.

Thank you.

[*English*]

**The Chair:** Thank you very much, Madame Morency.

We'll now go into our first round of questions for six minutes each starting with Mr. Moore.

**Hon. Rob Moore (Fundy Royal, CPC):** Thank you, Madam Chair.

Thank you to all of our witnesses for being here today to start off our committee study on what is a very important subject, and what has become even more important and more visible over the last year.

In the Criminal Code there are general offences for assault, for fraud, and for emotional abuse such as threats. The Protecting Canada's Seniors Act that was introduced by the former Conservative government, of which I was a part, implemented further protections for seniors by establishing sentencing principles that take into account the age, health, and financial situation of the victim.

Maybe Ms. Morency, you could expand a bit more on how defining elder abuse in the Criminal Code could build upon that act and establish further protections for seniors. I think this is something that we all care deeply about, but we want to make sure any actions we take will have a positive outcome.

• (1120)

**Ms. Carole Morency:** Sure. Thank you for the question.

As was noted, the Criminal Code was amended in 2012 to add that aggravating factor. One of the challenges that were discussed by Parliament at the time was how to define "senior", and the interest at the time was to ensure that offences that targeted persons in that category would be treated more seriously by the criminal law. As Parliament considered that bill, the way it was actually enacted as it was introduced, it landed on basically that the person's vulnerability can be determined by a number of factors.

Chronological age is an important factor, to be sure, and that's one of the points that are listed in that factor. But it could also be a combination of other things such as their health and their personal, financial, or other circumstances. The aggravating factor as enacted in 2012 said to sentencing courts, "Look at all of those things together. A person who is 60 but who has poor health and is vulnerable for other circumstances could be just as vulnerable as a person who is, let's say, chronologically older, like 85, for other conditions."

That's how it was enacted, and I can say that when we look at reported case law, the courts absolutely are giving specific attention to these factors. They do look at it as a form of general and specific deterrence, and they do look at the combined personal circumstances of the victim to determine whether or not that person was vulnerable because of those factors, as well as whether there was a relationship of trust or dependency between the victim and the offender.

**Hon. Rob Moore:** Thank you.

You mentioned the financial offences, and I think those are becoming very prevalent. If other members are like me, they also often hear in their offices heartbreaking stories from seniors about being targeted by financial offences.

I had a call the other night from someone saying I needed to press "1" because there was some kind of major problem and I just had to enter my social insurance number. I mean, this is happening on a regular basis and the reason it happens is that somebody is pressing 1. A lot of us will just hang up now when we get those calls, but enough people are pressing 1 that seniors, as well as others, continue to be targeted.

I'm talking more about offences that take place by people who know the individual personally, people who are getting into a position of trust. Can you speak a bit to that, to some of the typical types of financial crimes that are committed against seniors?

**Ms. Joanne Klineberg (Acting General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice):** I can answer that question. Thank you.

I think the offences of theft and fraud, which Ms. Morency mentioned in her opening statement, are quite broadly drafted and apply to a wide range of circumstances because there are various ways in which people can obtain the financial and other sorts of economic resources of victims.

Theft, in principle, is the idea of obtaining through taking without having authority to take; and fraud, in principle, can really be thought of as persuading, through some form of trickery or deception, the victim to give you their property in circumstances that are marked by dishonesty in some way.

The particular modalities of the way these offences can be committed are not expressly set out through these general offences. They're more framed around the basic ideas of taking without permission or obtaining through some kind of deception.

There are in the Criminal Code a variety of other more specifically framed criminal offences. I think most charges that we see will fall under the rubric of either theft or fraud and there can be a substantial amount of overlap between those offences. Some forms of wrongdoing can be prosecuted as both theft and fraud, and in those particular cases, the Crown may choose to proceed under one or the other.

They would be the main types of offences that we would see charged in these kinds of cases, even though there is, for instance, a specific offence of obtaining funds through the misuse of a power of attorney. Even that form of conduct can be captured as fraud, because that's a dishonest and unauthorized use of the permission that a person has that would equate to dishonest behaviour.

The predominant charges we see in these types of cases are likely fraud, where there is some deception that takes place that leads—

• (1125)

**The Chair:** Thank you.

Sorry, Ms. Klineberg. We're over time here for Mr. Moore.

**Hon. Rob Moore:** Thank you.

**The Chair:** Hopefully we can continue on this with Mr. Kelloway.

Please go ahead. You have six minutes.

**Mr. Mike Kelloway (Cape Breton—Canso, Lib.):** Thank you, Madam Chair, and hello to my colleagues and the witnesses. This is an important study, to say the least.

My questions are going to be directed toward the officials from the Department of Justice.

First, I have a comment. The first wave of the COVID-19 pandemic highlighted the mistreatment of so many of our seniors living in long-term care. It was devastating to hear stories of the living conditions and treatment of patients. As Canadians, I think, and I know, we're better than that.

Therefore, these are my questions.

Do we have specific data regarding elder abuse in institutional settings; and how does this vary by province?

**Ms. Carole Morency:** As I mentioned at the tail end of my remarks, this is one of the areas that we are working on to get a better sense of the data in the broader context, including in the long-term care facility. We're working with Statistics Canada on that.

That said, the committee might wish to consider whether there are some officials from Statistics Canada who might have a bit more information directly germane to that. The committee might also be aware that a number of studies or commissions are under way or have recently concluded, at least in Ontario last week, and Quebec has another review under way, as well.

That is a matter that would be beyond our area of responsibility, but I think there are certainly two things. One, there is some data that is available from some of those other bodies. Two, I think we would all agree, nonetheless, that the continuing circumstances of the pandemic have certainly highlighted the need to get better data, and that was known even before the pandemic.

**Mr. Mike Kelloway:** That's a great point on that.

I want to continue with the Department of Justice.

As we work with provinces and territories to improve the conditions in long-term care, can you tell the committee whether there are any regulatory offences, in the jurisdictions we control, for long-term care volunteers that would be beneficial in eliminating elder abuse? If so, what would that look like?

**Ms. Joanne Klineberg:** I will take a stab at this, but I just want to make sure I understand your question. You say regulatory offences in the areas that we control, meaning the Parliament of Canada?

**Mr. Mike Kelloway:** That's correct.

**Ms. Joanne Klineberg:** I don't know that we, in the Department of Justice, would be responsible for any such regulatory offences, our responsibility really being limited to the Criminal Code. If that's what you're asking about I can address that.

**Mr. Mike Kelloway:** Yes, please do.

• (1130)

**Ms. Joanne Klineberg:** As far as the Criminal Code is concerned, again, Ms. Morency mentioned the key offences in her opening remarks. If the mistreatment is in the form of unwanted or harmful touching, we have a full range of assault offences that would cover that. But a lot of what we heard and was reported on that took place in long-term care was in the form of neglect, meaning the failure to protect residents from the transmission of disease, failure to provide necessary hydration and nutrition in some circumstances, and failure to deal with bedsores or other types of illnesses and injuries.

The Criminal Code does contain several offences. The most important offence would be section 215, which is the failure to provide the necessities of life. That is a duty-based omission-type offence, which means that it only applies to persons who have the legal obligation to provide the care. Where they fail to provide the care, thereby endangering life, that is criminally punishable. That is an offence that certainly applies in the long-term care context.

There's a more general version of a negligence-based offence called criminal negligence causing bodily harm or death. It has a slightly higher criminal law standard, so the behaviour must be a marked and substantial departure from the standard of care a reasonable person would use in the circumstances for the context of criminal negligence causing bodily harm or death. Those offences are also punishable by a higher maximum penalty than the offence of failing to provide the necessities of life, which has a slightly lower threshold. The departure from the standard of care need only be marked. But, they do cover a lot of the same conduct. You would see charges laid for both offences in some circumstances, and that would cover both the failure to provide necessary care and also, if care is provided, but in a very significantly negligent manner, that could be captured by the criminal negligence offences as well.

**Mr. Mike Kelloway:** Thank you very much.

Madam Chair, how much time do I have?

**The Chair:** You have 30 seconds.

**Mr. Mike Kelloway:** I'm going to try to get one quick question in.

A 2009 report prepared by the Department of Justice—its family, youth and children section—noted that legislation using the terms “elder abuse” or “elder neglect” are rare internationally outside the United States. Here are two quick questions. Is that still the case in 2021? What are the pros and cons of using such terminology in legislation or in criminal law?

**The Chair:** Answer very briefly.

**Ms. Carole Morency:** Quickly, I'll just say that 2009 report was used to inform the reforms that were enacted by Parliament in 2012—that sentencing aggravating factor—which looked at the range of circumstances. My colleague Ms. Underwood could also speak to it. That is one of the things the government has committed to look at, namely, how do we define that and what are the variations in the use of terms within Canada, and in policy outside of Canada, etc.? It continues to be a variant.

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

We will now go to Monsieur Fortin for six minutes.

[*Translation*]

**Mr. Rhéal Fortin (Rivière-du-Nord, BQ):** Thank you, Madam Chair.

My question is for Ms. Morency.

We've started discussing the current Criminal Code provisions respecting criminal negligence and failure to provide necessary care.

What do you think of the current Criminal Code provisions as a way to combat elder abuse and violence against seniors, whether physical, financial or of some other kind? How do you think current provisions address existing needs?

**Ms. Carole Morency:** Allow me to answer that in English.

[*English*]

There are two things. Conduct that involves the mistreatment or abuse of seniors or elderly persons can be addressed in a number of ways. It could be addressed through the Criminal Code if it rises to the standard of some of the offences we've described. Conduct that involves treatment of, for example, persons in long-term care facilities might also be addressed through provincial regulatory oversight, and how things proceed under one or the other may depend on the evidence in a particular case and whether the police could proceed more easily under one system than another—and maybe different standards are at play.

My colleague Joanne Klineberg has explained the failure to provide the necessities of life and the standards that are applicable under the Criminal Code. Provinces under their regulatory oversight of long-term care facilities and the rules that are in play there would have different standards. At the end of the day, conduct can be treated sometimes under one or the other. Sometimes in the criminal law context, as my colleague has said, the same conduct might result in charges for a number of offences, but ultimately it's going to depend on the facts and circumstances of each case.

• (1135)

[*Translation*]

**Mr. Rhéal Fortin:** The committee won't be addressing provincial jurisdictions; we agree on that.

Incidentally, Ms. Morency, I enjoyed your presentation. If possible, and you have no objection, I'd like to have a copy of the speaking notes you just read from. That would be helpful.

Getting back to my question, again regarding federal jurisdiction, do you think the provisions currently in force, those of the Criminal Code or other statutes, are adequate to address the situations we're considering here? If not, should the current provisions be amended, should a new act be introduced, or should we perhaps add a special division to the Criminal Code? How do you view the situation, again within the limits of federal jurisdiction?

[*English*]

**Ms. Carole Morency:** I'm happy to provide my remarks to the chair.

I would just remind the committee that the government has made a commitment to more specifically address the situation by explicitly penalizing the neglect of seniors in these situations. Clearly, the government has committed to do more. To the extent that something is in place now and there is conduct in question, certainly there are many offences that we've highlighted and factors that are available to proceed in the immediate term, but on a go-forward basis the government has clearly indicated that more will be coming.

[*Translation*]

**Mr. Rhéal Fortin:** Do you have any statistics on the number of elder abuse cases in each of the provinces?



And do you have statistics indicating an increase in physical or financial crimes against seniors? Are those figures available?

I'm asking you both because I don't know which of you is in a better position to answer.

[English]

**Ms. Carole Morency:** Unfortunately, we do not have those statistics, but again, as I mentioned, the committee may wish to reach out to the Canadian Centre for Justice Statistics with Statistics Canada. They may be able to provide you with more information but they certainly have released a Juristat on data of family violence in Canada from 2019 and in there, section 4 deals with some of the factors that you've asked about, but we've also acknowledged in my remarks that we need more and better data in this area, and that's why we're working with our partners to get that.

[Translation]

**Mr. Rhéal Fortin:** What partners do you mean? You say you need more information in this area. Is a study under way?

**Ms. Carole Morency:** Yes, the Department of Justice is working with Statistics Canada.

**Mr. Rhéal Fortin:** I see.

**Ms. Carole Morency:** We're waiting for the study findings. They'll be out next year, in 2022.

**Mr. Rhéal Fortin:** Will we get figures on types of abuse so we can tell whether there's more physical violence or financial abuse, for example? Will that be addressed?

[English]

**Ms. Carole Morency:** It's going to identify the framework to collect better data across the different categories, *oui*.

[Translation]

**Mr. Rhéal Fortin:** I believe my time is up.

Thank you, Ms. Morency.

[English]

**The Chair:** Thank you very much, Monsieur Fortin. I appreciate that.

We'll now go to Mr. Garrison for six minutes.

**Mr. Randall Garrison:** Thank you very much, Madam Chair.

Thank you to the witnesses for being with us this morning.

I'm going to ask the Justice witnesses a question, but I'm going to ask them to bear with me a moment while I lay out a story that I think raises some questions about how we actually respond to elder abuse.

The story I want to lay out is of a private, for-profit company providing services to seniors, a company that, in narrow business terms, is very successful. In 2020, this company exceeded its profit projections by 40%, and as a result, it paid out more than a million dollars in bonuses to its top five executives, including a performance bonus of nearly half a million dollars to its CEO. Now what if I tell you that this company is a long-term care company, with revenues of \$716 million from operating dozens of long-term care homes in four provinces? This company suffered a rate of death of

its residents of about 3.6 per hundred beds, so nearly 4% of the residents in its homes died from COVID. In two of those homes, more than 20% of the residents died from COVID. I would also point out that in one of those homes, in one month, the home was cited for 13 violations of standards of care, including failure to provide adequate hydration, failure to provide incontinence care and failure to provide adequate nutrition—13 times in one month while paying out a million dollars in bonuses to its chief executives.

The question I really have here is the following. Certainly the witnesses laid out that there is criminal negligence causing bodily harm and the failure to provide necessities of life. Those two aspects of the Criminal Code, I think, clearly apply in these cases where the company involved.... And I haven't named the company, because unfortunately you or I could name at least four companies with almost exactly the same story to tell during COVID. Despite this, I'm unaware of any criminal charges of any sort laid against any operator of a long-term care home when we have certainly had a vast proportion of the COVID deaths taking place in long-term care homes, and a large proportion of those taking place in a second wave, which indicates that there was a failure to put an adequate response plan in place. To me, that would also qualify under section 215 as a criminal offence for failing to provide the necessities of life, which would have required hygiene and infection protection measures, which were not taken in these homes.

My question for the Department of Justice officials is very specific. Have any charges been laid? If not, or if there have only been a few charges, who's responsible in our system at this point for charges being laid for criminal negligence or negligence in providing the necessities of life in long-term care homes during COVID?

• (1140)

**Ms. Joanne Klineberg:** I don't think we are aware of charges having been laid in respect of this or other long-term care circumstances. We are certainly aware of a number of lawsuits that have been laid on the civil side, both against long-term care facilities and I think against provincial governments.

Who is responsible? I think the members of this committee will probably know that law enforcement is a local responsibility, so it would be for the police departments in the jurisdiction where the alleged offences took place to gather the evidence. We don't know whether that is happening, it may be that investigations are taking place, but charges haven't been laid yet, or we haven't come to be aware of them yet. Enforcement actions may also be taking place on the provincial regulatory side that we are not aware of. I think that's the most we could say about that.

**Mr. Randall Garrison:** This seems to raise a certain problem for me, when the courts have specified that there needs to be action both to deter and to denounce elder abuse. If we're not seeing these prosecutions now, a year after it became clear that there were failures to provide necessities of life, failures to provide what was really needed and we have no prosecutions, then there's no denunciation and there are no deterrents. In fact, what we're seeing now is that it's being left to the relatives of those who lost loved ones to bring lawsuits as a kind of deterrent factor. It seems to me that this raises questions about how seriously we're taking elder abuse.

This is why I wished to have the ministers present today, because I'm not sure that I could ask a public servant to answer that question. That said, I am concerned and I do agree that our system says that local law enforcement is responsible to investigate, but there's something larger happening here that's probably beyond the capacity of local police to investigate the circumstances of when it comes to companies that operate in multiple jurisdictions.

• (1145)

**Ms. Carole Morency:** Madam Chair, might I just briefly note that I think the committee is aware that the government has committed to go further with a criminal law response to this.

In the meantime, as my colleague said, we're not in a position to say to the committee that some investigations are or are not happening, but if we were to take notice of the report that the Ontario commission released last Friday, for example, it does speak to many of the issues the member has raised, including the fact of further investigation and review about how all these things are playing out individually and collectively.

Is it a question of timing? I don't know. We're not in a position to say.

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

That concludes your time, Mr. Garrison.

We'll now go into our second round of questions for five minutes.

Mr. Lewis, you're up first.

**Mr. Chris Lewis (Essex, CPC):** Thank you very much, Madam Chair.

Thank you to all of the witnesses. It was very good testimony, once again.

This is a really important conversation, and it's a tough conversation that's been going on for quite some time, I believe.

I am listening very closely to the testimony and I have a few questions, because although this does fall under provincial jurisdiction to a greater extent, I believe that the federal government can help out with this.

To any of the panel, what conversations have been had with your provincial counterparts on what could better help seniors, and what resources are required?

**The Chair:** Who is that for, Mr. Lewis?

**Mr. Chris Lewis:** That is for anybody on the panel who could answer my question, Madam Chair.

**The Chair:** I'll leave it to the witnesses.

Ms. Underwood, please go ahead.

**Ms. Kristen Underwood:** Madam Chair, I think I could talk a little about the work the government has been doing or supporting for the Health Standards Organization and the CSA group that are working together on engaging a broad range of stakeholders across the health care system and the public to develop national health care standards.

Work is under way on developing better standards in long-term care that will address the safe delivery, reliable high-quality services and health infrastructure and environmental design in long-term care. That work is ongoing, so I can't speak to the specifics of what is happening.

Also I should mention that in Budget 2021, the government has committed to proposed funding for the Public Health Agency of Canada of \$50 million over five years to design and deliver interventions that promote safe relationships and prevent family violence, including elder abuse. This is less in the institutional setting and more in the individual space, but I think that's important to include as well.

**Mr. Chris Lewis:** Thank you, Madam Chair.

Back to Ms. Underwood, what role can the federal government play to support further research on how to best combat elder abuse?

**Ms. Kristen Underwood:** The federal government does need to stay in the space—including with the Criminal Code—as other members have mentioned today, Madam Chair. I'll turn back to Madam Morency for that discussion.

Also, I think our role is supporting provinces and territories in looking at the standards they have in place in their jurisdictions, so it's a leadership and support role in that space, and other funding to prevent elder abuse, as I mentioned.

**Mr. Chris Lewis:** Thank you very much.

Most Canadians believe that elder abuse goes unnoticed, but when it is reported, how often is the abuser prosecuted? What is the success rate in the courts for victims of elder abuse?

**Ms. Carole Morency:** Again, unfortunately, we in the Department of Justice aren't in a position to collect that type of data. I encourage the committee to consider reaching out to Statistics Canada for that.

When we look at reported case law, we definitely are seeing.... It depends, and not all cases that are charged and prosecuted end up being reported as case law. When we look at the reported case law, we see more cases that occur involving abuse, sexual assault, neglect, fraud, than we do, for example, in a long-term care setting. We have not been able to find very many cases.

That's an excellent question and there definitely is a strong interest to find that connection, but I do think that the family violence report by Statistics Canada, which I mentioned, or someone from Statistics Canada may be able to address your question more directly.

• (1150)

**Mr. Chris Lewis:** Thank you very much to all of the witnesses.

I will certainly side with Mr. Garrison on this front: It would have been fantastic to have the minister here to answer our questions, but I do appreciate all of the witnesses here.

Thank you, Madam Chair.

**The Chair:** Thank you, Mr. Lewis.

I will now go to Mr. Lauzon for five minutes.

**Mr. Stéphane Lauzon (Argenteuil—La Petite-Nation, Lib.):** Thanks, Madam Chair. I will share my time with my colleague Arif.

[*Translation*]

I want to thank everyone for inviting me to this meeting. I think your work is very important, especially your study on seniors. This is a delicate issue, particularly the physical and financial abuse of seniors. I often think of financial abuse, but we also know that property can disappear. We can also discuss psychological and physical abuse. Unfortunately, seniors may also experience sexual abuse. So it's a very delicate issue and one I consider important.

For many years now, Statistics Canada has been gathering information on violence against seniors. We know from gender-based analysis that women are more vulnerable. That's also an issue I consider important.

Do we know what categories of seniors are particularly affected? Are there any specific age groups?

What direction should our study take in order to address the issue of age groups and the fact that women are more affected than men?

I think Ms. Morency is best qualified to answer that question.

[*English*]

**Ms. Carole Morency:** Again, the “Family violence in Canada: A statistical profile, 2019” report does provide some of that information from Statistics Canada, as noted. It talks in particular about violence against seniors at the hands of someone known to the victim, but it also gives a little information about stranger violence against seniors by way of comparison. I commend that report. I'm happy to provide it to the committee in English and French. It does provide some of that background.

Yes, as noted, it can often be the case, and is often the case, that women are more vulnerable, but it's not only women who suffer elder abuse, senior abuse. It takes a variety of forms.

One of the challenges is getting better data and having it reported, and it's like domestic or intimate-partner violence. When it occurs in a private setting, it's often difficult for victims to know that they can report. Who do they report to, who can they get help from? That's why the Department of Justice is supporting additional

or enhanced materials, public legal education materials, for victims or potential victims of elder abuse to help them understand where they can go for help.

[*Translation*]

**Mr. Stéphane Lauzon:** Thank you for that answer.

Since I want to leave some time for my colleague Mr. Virani, I have a brief but very important final question to which I'd appreciate a short answer.

How can the \$50 million set aside in the 2021 budget help address senior abuse? What measures would it cover?

• (1155)

[*English*]

**Ms. Kristen Underwood:** Madam Chair, I think we'd need to talk to the Public Health Agency specifically on how the money will be distributed. It will support, or is intended to support, the prevention of abuse in relationships in terms of family violence, but also includes elders.

[*Translation*]

**Mr. Stéphane Lauzon:** Thank you.

I yield the floor to Mr. Virani.

[*English*]

**The Chair:** Go ahead, you have one minute.

**Mr. Arif Virani (Parkdale—High Park, Lib.):** Thank you, Monsieur Lauzon.

Very briefly, I agree with the problem that's been highlighted by Mr. Garrison that seniors in care have been failed during the course of the pandemic, but I also understand and know that we don't direct law enforcement officials about where and when to lay charges, and that's an important aspect of a democracy.

Given that's the context we're in, if we were of a mind to increase the tools in the tool box for laying charges—given that the Speech from the Throne refers explicitly to penalizing “those who neglect seniors under their care, putting them in danger”—Ms. Morency, do you have any suggestions as to how those improvements could be made to the Criminal Code?

Thanks.

**Ms. Carole Morency:** As and when the government moves forward with its proposals to amend the Criminal Code in support of that commitment, obviously we would normally—and we would definitely, in this particular case—look to work closely with our provincial and territorial counterparts to enhance their understanding of what's being proposed but also about the tools that exist already in the Criminal Code.

I do think all of us will be informed, as well, by new information and findings that are coming forth. For example, I mentioned already the report in Ontario last Friday, which took what I would call an “in the moment” type of snapshot of what has happened so quickly during the first wave of the pandemic.

As we, at the federal, provincial and territorial table, move forward to look at this—and for us it's in the Criminal Code context or the criminal law context—I think we definitely would be looking to work with our counterparts to enhance awareness about existing new tools and what we can do to share information more easily with each other.

I do think more will come to the forefront as we progress through and learn about other... As my colleague has said, there are civil lawsuits at play as well.

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

That concludes your time, Mr. Virani.

We'll now go to Monsieur Fortin for two and a half minutes.

Please go ahead.

[*Translation*]

**Mr. Rhéal Fortin:** Thank you, Madam Chair.

I'm going to continue along the same lines.

Ms. Morency, here's what I understand from your remarks. First, a report will be prepared between now and late 2022, including statistics on physical violence against and financial abuse of seniors. Certain current statutory provisions may be reviewed in light of those figures.

In the meantime, am I to understand from your testimony that you think elder abuse cases have increased over the past 5 or 10 years?

[*English*]

**Ms. Carole Morency:** That is my understanding from that report as well. The “Family violence in Canada: A statistical profile, 2019” did conclude that there has been an increase in the level of violence against seniors, including in the family violence context. Absolutely, we do need better, broader and disaggregated data, and that's part of what we're going to work towards to help us be in a position to better collect that data through Statistics Canada.

In the meantime, there is some data that shows what you've just noted.

[*Translation*]

**Mr. Rhéal Fortin:** I see.

The provinces are now in a somewhat difficult position. The federal government manages the criminal aspect of this matter through the Criminal Code, but the fact remains that the care seniors need falls within the provinces' jurisdiction.

Consequently, if case numbers are generally rising, shouldn't we recommend an increase in federal health transfers to the provinces to try to compensate for the additional problem seniors have experienced in recent years?

• (1200)

[*English*]

**Ms. Carole Morency:** I'm not sure if my colleague Ms. Underwood wants to speak to that.

I would just say that, as an official at the Department of Justice, I'm not well positioned to speak to transfers of funds dealing with health.

[*Translation*]

**Mr. Rhéal Fortin:** I see. Thank you very much, Ms. Morency.

I have a few seconds left. I yield them to Ms. Underwood if she would like to respond.

**Ms. Kristen Underwood:** I'm not well positioned to answer you either.

[*English*]

I would say the same. I'm not either.

[*Translation*]

**Mr. Rhéal Fortin:** You'd think no one here has any money.

**Voices:** Oh, oh!

**Mr. Rhéal Fortin:** In any case, I think my time's nearly up.

The fact remains that this is an important point. I understand that we have to address the criminal aspect, which is a federal jurisdiction, using the Criminal Code. However, I understand from your testimony that the situation's different from, or at least tougher than, what it used to be for the provinces. So we should probably provide more assistance to the provinces so they can address those growing needs.

[*English*]

**The Chair:** Thank you.

[*Translation*]

**Mr. Rhéal Fortin:** Thank you, Madam Chair.

Thank you, Ms. Morency and Ms. Underwood.

[*English*]

**The Chair:** Thank you very much, Monsieur Fortin.

We'll now go to our last questioner for this panel, Mr. Garrison, for two and a half minutes.

**Mr. Randall Garrison:** Thank you very much, Madam Chair.

I want to stay focused on the crisis in long-term care, which has cost so many thousands of lives. In doing so, I don't in any way take away from the large problem of the individual cases of elder abuse that take place in our country, but I think we have a responsibility to respond.

I'm going to go back to the question of who could be investigating, and who could be working on laying charges in cases that appear to indicate violations of section 215 of the Criminal Code.

When for-profit long-term care companies own homes in more than one province, would it not be possible for the RCMP to investigate conditions and responses under COVID of those companies because they cross provincial lines of jurisdiction? I'm thinking in particular of one company—again which I won't name—that paid \$10 million to its shareholders during COVID, but spent only \$300,000 on its COVID response plan in its long-term care homes.

Isn't there an aspect here that does become federal when these companies cross provincial jurisdiction lines? I will ask the Justice officials again.

**The Chair:** To the Justice officials, please respond.

**Ms. Joanne Klineberg:** I will try to answer, but with apologies and respect for the committee, this is not an area I have tremendous expertise in.

I think our understanding is that the crimes committed in the local jurisdictions are still the matters of the local police, and they would work co-operatively with local police in other jurisdictions where the same or similar offences had taken place by the same potential suspect.

It's not my understanding, but I would recommend that perhaps you invite the RCMP to ask them this question, that because a crime may cross provincial borders that would give the RCMP enforcement jurisdiction.

**Mr. Randall Garrison:** I would use the parallel of organized crime, where sometimes special task forces are set up by the RCMP to investigate things. When you look at the case of a long-term care company paying out such huge amounts in dividends to its shareholders, and failing to provide the necessities of life to the residents of their care homes, this seems to indicate a gap in our system. Can no one look at that larger question of whether this, in fact, constitutes a Criminal Code violation?

**The Chair:** Thank you, Mr. Garrison. Unfortunately, that concludes your time.

I will take a moment now to thank the officials for being here today and for their very compelling testimony and for answering our questions.

I will now suspend for a few minutes as we let in our next panel of witnesses.

I will see you in a few minutes.

● (1200) \_\_\_\_\_ (Pause) \_\_\_\_\_

● (1205)

**The Chair:** I will call this meeting back to order.

I welcome our next panel of witnesses as we continue our study on elder abuse. Thank you, witnesses, for being here today.

I have just a couple of housekeeping items for witnesses.

Before speaking, please wait until I recognize you by name. When you are ready to speak, you can click on the microphone icon to activate your mike. When you have finished speaking, please

make sure that you go back on mute. All comments should be addressed through the chair.

Interpretation is available to you. At the bottom of your screen, please select the globe icon and select the language that you would like to listen to. You can speak in any language—English or French, no problem. When you're speaking, do speak slowly and clearly so that we don't have any problems with interpretation.

I'll remind you again that when you're not speaking, please be on mute.

Welcome to our witnesses for our second panel.

As an individual, we have Marie Beaulieu, who is a professor at the Université de Sherbrooke and holder of the research chair on mistreatment of older adults. We also have with us the Advocacy Centre for the Elderly, represented by Mr. Graham Webb, lawyer and executive director.

Both of you will have five minutes each. To help you along the way, I will keep time with cards showing one minute remaining and 30 seconds remaining.

We'll start with Madame Beaulieu.

● (1210)

[*Translation*]

**Ms. Marie Beaulieu (Professor and Chairholder, Research Chair on Mistreatment of Older Adults, Université de Sherbrooke, As an Individual):** Good afternoon, members of the Standing Committee on Justice and Human Rights.

Thank you for inviting me to take part in your work on a topic that has been very important to me for nearly 35 years. I share your concerns and your wish to take a more effective approach to addressing the social and public health issue of mistreatment of older adults. I will try to focus my remarks on the federal government's areas of jurisdiction, while vigorously advocating stronger federal-provincial and territorial dialogue, particularly regarding intervention practices within the jurisdiction of the provinces and territories.

My presentation will address four brief points.

First, I'd like to discuss current knowledge of abuse.

We have extensive data on which to base a profile of elder abuse. For your information, I have submitted to you one of our papers, which was recently published in English and French.

Nearly 16% of seniors around the world are abused every year. According to the most recent of the three national prevalence studies, the figure here at home is slightly more than 8%. We should not conclude that the situation is much better here because the scope of the abuse in Canada is underestimated as a result of methodological issues. I do not have enough data to establish a percentage of the seniors who are abused in long-term care centres. That's a concern considering that residents with cognitive and physical deficits aren't always able to defend themselves.

A number of papers have focused on the determinants of abuse. Contrary to popular belief, abuse can be explained more in terms of risk factors, such as environment and characteristics of the abuser, than of vulnerability factors specific to the abused senior, even where we know that cognitive deficits and low incomes are major vulnerability factors.

Every type of abuse has physical, psychological, material, financial and social consequences. In a research project that we recently completed on the abuse of seniors with disabilities, we more clearly identified the short- and long-term scope of those consequences. The abuse of these persons is all the more concerning in cases where they are receiving the services they absolutely need in order to function. In these instances, I share your concern to come down hard on individuals who neglect seniors in their care.

Lastly, it is particularly important to continue developing public awareness, train current and future practitioners, promote early detection and provide solutions suited to seniors' needs.

Second, I'd like to describe the legal scope of the concept of abuse.

The committee is particularly examining the suitability of current statutes in combating senior abuse. We should not lose sight of the fact that many instances of abuse may not be treated as such because they are not provided for in the Criminal Code. Consider, for example, the deliberate ignoring of seniors, inappropriate clauses in leases, the burden of proof that must be met to prove criminal harassment, and so on. Section 718.2 of Canada's Criminal Code, which concerns sentencing principles, is the only provision under which victimization, age and consequences can be clearly linked. Is that enough?

Few situations are reported to the police, who are the gateway to the criminal justice system. Although seniors do not always want these situations to be handled under criminal law, particularly when the abuser is a family member, how are police officers prepared to address them?

During the period of questions, I can tell you, for example, about the practices the Montreal police department has introduced with a grant from the new horizons for seniors program, practices that the World Health Organization considers promising. We should also discuss the importance of teletestimony for seniors and the harmful effects of the delays inherent in our justice system.

Third, I'd like to discuss access to justice.

Access to justice includes a major social dimension that presupposes a certain degree of freedom, whereas many abused seniors are under the control of the person or organization that abuses

them, which compromises their ability to decide and take action. Some family members who want to protect them may, on the contrary, be restricting them. Professionals and organizations engage in abuse. Many studies show that social workers take a paternalistic attitude toward seniors and decide for them not to engage with the justice system or else deem them incapable of doing so. How can seniors then take action to gain access to justice?

It is important to consider free or low-cost structures that can guide and assist seniors in their search for justice. Without those structures, access to justice merely reinforces the inequalities associated with age, socioeconomic status and gender; in other words, the inequalities between men and women. I am also convinced that Canada can take further action and do a better job of establishing restorative justice.

● (1215)

I now come to my fourth and final point, which is Canada's role in promoting seniors' rights.

Since 2016, I have been involved in the work of the UN's open-ended working group on ageing for the purpose of strengthening the protection of the human rights of older persons. I contribute to the group not as a university professor, but as a person engaged with an NGO, the International Network for the Prevention of Elder Abuse.

Canada is often viewed as a beacon around the world. However, I question the hesitant stance that Canada has taken recently, and indeed at various times...

Have I exceeded my time, Madam Chair?

[English]

**The Chair:** You have substantially, but thank you, Madame Beaulieu. Maybe the rest of it will come out through questioning.

We'll now go to the Advocacy Centre for the Elderly.

Mr. Webb, you have five minutes. Please go ahead.

**Mr. Graham Webb (Lawyer and Executive Director, Advocacy Centre for the Elderly):** Thank you, Madam Chair.

Elder abuse is a very broad topic. We can't say everything we wish to. I will focus my remarks on elder abuse and neglect in long-term care homes, retirement homes and other congregate living facilities.

Our submissions are, first, that we need a new charging section in the Criminal Code to specifically address this situation. We need whistle-blower protection in the Criminal Code and we need personal responsibility of directors and officers for criminal sanctions.

The Advocacy Centre for the Elderly is a community legal aid clinic, established in 1984, that is committed to upholding the rights of low-income seniors. Its purpose is to improve the quality of life of seniors by providing legal services, which include direct client assistance, public legal education, law reform, community development and community organizing.

ACE receives thousands of calls per year, and it provides legal advice and representation to low-income seniors on age-related issues, including long-term care homes, retirement homes and other congregate living facilities, and elder abuse across a broad range of settings.

We are familiar with issues of elder abuse and neglect in care homes and with the criminal ramifications of elder abuse and neglect in those situations. We will focus today on care homes and the sufficiency of the Criminal Code to address that.

Madam Chair, in answer to a question posed by Monsieur Fortin to Ms. Morency, in our view the Criminal Code is not adequate and is not up to the task of a substantive criminal justice response to elder abuse and neglect in care homes.

Further to a comment made by Mr. Garrison, we, at the Advocacy Centre for the Elderly, have called for criminal investigations of neglect in care homes, and we are not aware of any charges laid either.

Further to a comment made by Mr. Virani, we think that charges are usually not laid for want of a suitable charging section.

Elder abuse and neglect in care homes is a systemic problem that requires a systemic response from the criminal justice system. The Criminal Code needs to be amended by adding a new charging section that is separate and distinct from failure to provide the necessities of life and from criminal negligence, both of which offences speak to duties tending to the preservation of life, but do not sufficiently respond to elder abuse and neglect in care homes.

A new offence could be “criminal endangerment”, which could include the following essential elements: first, that an individual or organization has entered into a contract to provide care and/or supervision to a person; second, the individual or organization has failed to provide adequate care and/or supervision to that person; and third, the failure to provide adequate care and/or supervision has endangered the health and/or safety of the person.

In keeping with a similar crime against a person of failure to provide the necessities of life under section 215 of the Criminal Code, the punishment of imprisonment of up to five years on conviction by indictment or of up to two years less a day on conviction by summary conviction procedure could be an appropriate range of sentence.

As is the case with criminal negligence, under sections 219 to 221 of the Criminal Code, discrete offences of criminal endangerment causing bodily harm and criminal endangerment causing death could be created with similar penalties of imprisonment of up to 10 years for criminal endangerment causing bodily harm and of life imprisonment for criminal endangerment causing death.

These proposals represent serious offences, with serious consequences, that reflect the severe vulnerability of the victims, the po-

sition of trust held by care providers, and the profound power imbalances that exist between those who provide care and those who receive it.

● (1220)

The Criminal Code should also protect whistle-blowers by creating a separate and distinct offence in the nature of a crime against the administration of justice when an individual or organization retaliates against a resident of a care home for making complaints concerning criminal endangerment or other aspects of failure to provide adequate care and supervision.

A similar offence is found in subsections 139(2) and 139(3) of the Criminal Code in respect of obstruction of justice and the intimidation or interference with witnesses in an existing or proposed judicial proceeding.

**The Chair:** Thank you, Mr. Webb. We are over time.

We'll go into our round of questions. The first round is six minutes each, starting with Mr. Cooper.

**Mr. Michael Cooper (St. Albert—Edmonton, CPC):** Thank you, Madam Chair, and thank you to the witnesses.

I'll begin with Mr. Webb and perhaps let him continue where he finished off. The Criminal Code obviously is within the exclusive domain of Parliament, so I'm very interested in recommendations on the current provisions in the Criminal Code, where there are gaps and how those gaps can be closed.

Mr. Webb, you were talking about whistle-blower protection. I'll allow you to elaborate further on that and also touch upon the third point that you raised, but didn't have an opportunity to address in your testimony, namely personal responsibility for officers and directors with the imposition of criminal sanctions under the Code.

**Mr. Graham Webb:** Thank you, Mr. Cooper. I very much appreciate that.

Without strong whistle-blower protection, there will be no existing or proposed judicial proceedings because complaints will not be made and charges will not be laid.

Many older adults are afraid to make complaints about inadequate care because they fear retaliation from their caregivers. Any criminal offences concerning failure to provide adequate care and supervision would be meaningless in the absence of strong whistleblower protections that would give care home residents, their families, their substitute decision-makers, their friends and other loved ones assurances that interference with their right to make complaints will be respected and upheld.

The criminal responsibility should extend not just to individuals and organizations in general, but specifically to those who own, govern and operate care homes.

One of the many difficulties in prosecuting offences such as failure to provide the necessities of life and criminal negligence causing death or bodily harm is identifying which, if any, of the individuals associated with the operation of a home should be held personally responsible for criminal sanctions, where the home has profoundly failed to provide adequate care and endangered a person's health and safety, even to the point of bodily harm or death.

Those who own, govern and operate care homes are fundamentally responsible for committing resources, setting budgets, establishing operating procedures, recruiting and maintaining adequate staff, and ensuring that enough well-qualified staff are on site at all times to provide essential care. If a home is not managed properly, it's foreseeable that registered staff such as nurses, social workers, occupational therapists, and unregistered staff such as personal support workers will be placed in highly compromised situations in which they are completely unable to provide the care that's needed for want of adequate resources.

Responsibility for the overall operation of the home rests at the highest levels of ownership, governance and management. Those occupying these positions should have personal criminal responsibility for ensuring compliance with the Criminal Code of Canada in respect of the caregiving functions of the home. Otherwise, a systemic criminal justice response would not be provided to a systemic issue of elder abuse and neglect.

Finally, in view of the fact that elder abuse and neglect in long-term care homes, retirement homes and other congregate living facilities is a systemic issue that largely derives from inadequate resources and poor management of a home, it would be fit and just to extend liability for custodial sentences to the owners, governors and operators who are in a position to provide the systemic responses that are necessary for the good and safe operation of the home.

I thank you for allowing me the extended time.

• (1225)

**Mr. Michael Cooper:** Thank you, Mr. Webb.

With regard to the first suggestion of a criminal endangerment section, are there any other sections you could point to in the Criminal Code that are analogous? Are there other jurisdictions that have adopted a law such as this that we could look to?

**Mr. Graham Webb:** If I can focus my remarks on Canada and Ontario—I've practised law in Ontario for 36 years, 26 years with the Advocacy Centre for the Elderly—there are analogous sections: section 215, failure to provide the necessities of life, and sections

221 and following, criminal negligence causing death and bodily harm. These are very difficult charges to prosecute in the long-term care situation, mainly because the legal liability standard for criminal negligence involves causation, which is difficult to prove.

In any event, when it's an act of omission, it's hard to identify which particular individuals are responsible for the omissions—the care that is not provided.

**Mr. Michael Cooper:** Thank you for that.

It looks like my time is about to expire. I will very quickly ask Madame Beaulieu a question.

You cited gaps in the code. Is there anything you would like to highlight?

[*Translation*]

**Ms. Marie Beaulieu:** I was still quite concerned even when the amendments that resulted in section 718.2 of the Criminal Code were made because that section constitutes a reminder to judges, rather than an obligation, to consider age, victimization and its consequences. I don't think it goes far enough.

As I said earlier, it's very important that we examine both the content of the Criminal Code and the way it's enforced. Very few senior abuse cases are reported to the police and then brought before the courts.

[*English*]

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

We'll now go to our second questioner, and that is Madame Brière, for six minutes.

Please go ahead.

**Mrs. Élisabeth Brière (Sherbrooke, Lib.):** Thank you, Madame Chair, and thank you to all our witnesses for being with us today.

[*Translation*]

My questions are for Ms. Beaulieu.

It's a genuine pleasure to have you with us today.

I sat on the research ethics committee of the Institut universitaire de gériatrie de Montréal for 10 years. I've also focused my notarial practice on the protection of seniors' rights. The subject of your study is therefore of considerable importance and concern to me.



You just responded to Mr. Cooper regarding the police. Your research has shown that few cases are reported to the police. That's a fact. With that in mind, could you tell us more about the programs that the Montreal police department has introduced and that you discussed in your opening remarks?

**Ms. Marie Beaulieu:** Thank you for your question, Ms. Brière.

In my view, the act of reporting incidents to the police is the key to the criminal justice system. What we've seen over the years, until five or six years ago, is that police officers were not well trained in recognizing elder abuse. I was awarded a grant from the new horizons for seniors program to develop a practice model for the Montreal police department called police intervention with abused elders. I won't deny that our first step was to check with police officers to see how they perceived seniors. Many had never heard of elder abuse.

I can tell you more about Quebec because I also sit on the training and research committee of the École nationale de police du Québec. We've now introduced a number of scenarios and simulations into police officers' compulsory training so they can work with seniors, something that previously did not exist.

It shouldn't be forgotten that many police officers in their early twenties have no idea of what elder abuse is. Their attitudes toward seniors may be considerably tainted by ageism, and they may also have trouble recognizing, for example, that seniors may still be involved in domestic abuse.

To my mind, good police practice first requires police officers who are aware, but also model officers, who could be called champions, or officers who are capable of conducting the necessary psychosocial follow-up.

We realize that not all seniors will want their cases to wind up in court. However, you'd be surprised to see that, when we propose to assist seniors properly, many completely agree and even ask that justice be done. For some, the solution isn't necessarily to enforce criminal law to the letter. We also see many alternative solutions that are designed by various organizations, including in alternative justice, where the focus is on restorative measures.

As you probably know, Ms. Brière, the main reasons why seniors are reluctant to go to court are the long delays involved and the whole testimony issue. We had a case that got a lot of media coverage in Montreal in which an older woman suffered a stroke and died a few days after testifying. We've always wondered to what extent the stress of having to testify in those conditions was a major cause of her death.

This encourages us to consider solutions such as teletestimony and the recording of testimony. So we have to consider different work methods in criminal law, somewhat as has been done for children and victims of other types of crime.

• (1230)

**Mrs. Élisabeth Brière:** Thank you very much for your answer. That was most interesting.

I'd now like to move on to the definition of abuse, for which, as we know, there is no definition in the Criminal Code.

In an article of yours that was published in the journal *NPG* you wrote that the word "abuse" was too broad. How would you define elder abuse? What would be the best way to express it?

**Ms. Marie Beaulieu:** It took time to come up with a definition of elder abuse, and it came in 2002 as part of the World Health Organization's work in Canada, in the Toronto Declaration on the Global Prevention of Elder Abuse.

The declaration defines elder abuse as "a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person".

This definition is highly theoretical. What we can draw from it is that it's a matter of violence and negligence. But the key factor in this widely debated definition is the whole issue of the trust relationship, because it excludes all kinds of victimization in instances where seniors and the people involved do not know one another, or are not in a place of trust.

I can assure you that when we speak about places of trust, we go beyond the family sphere. My view is that care providers are definitely included. For example, seniors should trust those providing them with home care.

**Mrs. Élisabeth Brière:** All right. Thank you very much.

To conclude, could you draw a parallel between bullying and abuse? Bullying is another problem that is unfortunately too widespread.

**Ms. Marie Beaulieu:** Certainly. Elder bullying was never recognized until a few years ago. It involves a power relationship, and we now acknowledge that it's a relationship that can exist between people who know one another, but seniors can also be bullied by others, including other seniors.

**Mrs. Élisabeth Brière:** Thank you very much, Ms. Beaulieu.

[*English*]

**The Chair:** Thank you very much, Madame Brière.

We'll now go to Mr. Fortin for six minutes.

[*Translation*]

**Mr. Rhéal Fortin:** Thank you, Madam Chair.

Thank you for being here, Ms. Beaulieu and Mr. Webb. When dealing with matters as important as this, expertise like yours is invaluable.

Ms. Beaulieu, I'll begin with you.

In your address, you described four different aspects, but you were unable to finish what you had to say about the last of these. I would therefore like to give you two of my six minutes so that you can briefly recapitulate the first three, and then explain what you wanted to say to us in the fourth.

• (1235)

**Ms. Marie Beaulieu:** Thank you very much, Mr. Fortin.

My first point reported on current knowledge about abuse, its prevalence and its dynamics.

My second point was about the legal scope of the abuse concept, including current limitations on Criminal Code enforcement. I specifically addressed practices.

My third point was about access to justice. Mr. Webb works for the Advocacy Centre for the Elderly. However, centres like these do not exist everywhere in Canada, even though I believe they perform a very important role in terms of access to justice.

My fourth point, which I did not have enough time to explain in detail, was about Canada's role in promoting human rights, and elder rights in particular. I mentioned the efforts of the UN, which is currently working on protection for the fundamental rights of older people.

In March 2021, only a few weeks ago, Canada sent a message that I found surprising. Our UN ambassador, the Honourable Robert Rae, gave an important speech in connection with an international convention on the rights of older people. However, only a few days later, a Canadian government representative gave a much more subdued speech that contradicted what Mr. Rae had said, which I found very odd.

Why shouldn't Canada take a stance as a leader in the recognition of elder rights? I also wonder whether the Canadian government is afraid of a new mechanism that could turn out to be as restrictive as some international conventions. It would nevertheless be an interesting perspective to adopt if we really want to improve our practices on an ongoing basis.

**Mr. Rhéal Fortin:** Thank you, Ms. Beaulieu.

You said that not all provinces have centres like Mr. Webb's. I take that to mean that there are none in Quebec at the moment. Is that what you're saying?

**Ms. Marie Beaulieu:** For legal aid specifically for seniors, there is a legal aid centre for elders at McGill University, headed by a lawyer, Ms. Ann Soden. Other than that, what Quebec mainly has are user fee services, which are not always specialized in aid for seniors<sup>x</sup>.

The Advocacy Centre for the Elderly in Ontario is a model I have admired for many years. I have also been familiar with its work for years.

**Mr. Rhéal Fortin:** Based on your knowledge of the field, where do we stand on the funding of services for seniors? Is the situation we're in now acceptable, ideal or terrible?

You spoke earlier about access to justice, which is essential for everyone, particularly elderly people short of resources. There's the whole issue of crimes, ranging from physical abuse to financial ex-

ploitation. Ms. Brière also mentioned harassment. There are many areas that require action.

In Canada, and particularly in Quebec, do you feel that funding for seniors to address all these aspects of the issue is adequate or problematic?

**Ms. Marie Beaulieu:** I believe that there are still several problems.

When we work with seniors who have been abused and talk to them about seeking assistance or reporting an incident, we find that most of them don't know where to go, either because such services don't exist or because they're not well known.

For example, there are community organizations that specialize in assisting the elderly. Here in the Eastern Townships, the DIRA-Estrie organization deals with elder abuse, but not all regions have such services. People sometimes have to turn to government services, and heavy demand generates its own challenges.

While there's much more discussion of elder abuse now than when I began to work in this area 35 years ago, there is still not enough. It's important to continue to improve practices, particularly cross-sectoral services. This could mean that the police, community organizations, the health network and social services would all work together towards improvement. It's really much too complex for a single stakeholder to be responsible for a case of abuse.

**Mr. Rhéal Fortin:** Do you think the current situation resembles the way it was 10 years ago, or has there been an increase in the number of abuse cases?

Could it rather be that the situation hasn't changed, but that we're much more aware of it because of social media and other factors?

How has the elder abuse situation evolved?

**Ms. Marie Beaulieu:** The fact that people are talking about it more would indicate that people are more aware of elder abuse.

However, I can't tell you whether there are more incidents at home or in residential facilities. What I can say is that over the past year, the pandemic has revealed all kinds of problems in care homes and residential facilities. I think they existed already, but had never been brought to light.

• (1240)

**Mr. Rhéal Fortin:** Do you feel that there are more instances of elder abuse that take the form of financial exploitation? You were speaking earlier about abusive clauses in lease agreements, for example. Is this instead mostly about physical violence against seniors, whether by a child, a grandchild or someone else?

**Ms. Marie Beaulieu:** Elder abuse includes psychological, material, financial, physical and sexual aspects, as well as infringement of rights. It can take many different forms.

What stands out most in the major prevalence studies is always psychological abuse, which is very often accompanied by financial abuse or negligence. This is the form of mistreatment that we see the most. However, it is not necessarily what is going to lead to the courts, because psychological abuse is difficult to prove in court.

**Mr. Rhéal Fortin:** Thank you very much, Ms. Beaulieu.

[*English*]

**The Chair:** Thank you.

[*Translation*]

**Mr. Rhéal Fortin:** If I could have a second, I'd like to ask something. Otherwise I'll come back to it later.

I didn't receive the document...

[*English*]

**The Chair:** Thank you very much, Monsieur Fortin. You are 45 seconds over time. You're at almost an extra minute there.

Mr. Garrison, you have six minutes. Please go ahead.

**Mr. Randall Garrison:** Thank you very much, Madam Chair.

I'd like to thank both of the witnesses for their very valuable testimony this morning.

I want to start with a quick question for Madame Beaulieu. She raised the importance of acknowledging that intimate-partner violence exists among seniors. I thank her for doing so. She's probably aware of the work our committee has done on that.

She raised another very important question about the ability of seniors, especially in private long-term care homes, to advocate for themselves due to their circumstances and fear of retaliation. I wonder if she sees a solution to that problem that she could suggest to us, in particular in the case of private long-term care homes.

[*Translation*]

**Ms. Marie Beaulieu:** Thank you for your question, Mr. Garrison.

I would say that the whole question of private versus public long-term care homes has been problematic for several years now.

I'll be very careful in my answer, having encountered serious abuse incidents in public care homes as well. I wouldn't want abuse to always be associated with private care homes, and to lead people to believe that everything is fine in public long-term care homes.

Nevertheless, it's true that people in long-term care homes are less able to defend their rights, because they don't have full physical or cognitive autonomy.

That's why laws on mandatory reporting are important. Most provinces have such laws, but they don't all work the same way. As it is more often associated with health and social services, it doesn't come under the Criminal Code.

Mandatory reporting may or may not be accompanied by measures to protect those who do the reporting. I'd like to link this to what my colleague Mr. Webb said a short while ago. Currently, families habitually report instances of abuse. They are often not very familiar with the structures. They might wonder about com-

mittees of residents, or the local complaints commissioner, or quality of services. Things can be moved forward through such mechanisms, but will not necessarily get to the courtroom.

So here again, problems are dealt with in spheres other than the one you are particularly interested in, namely the Criminal Code.

[*English*]

**Mr. Randall Garrison:** Thank you very much, Madame Beaulieu.

I will turn to Mr. Webb and thank him for his very specific suggestions of things we should be considering.

I'm particularly interested in the suggestion that we find ways to hold accountable those who are responsible for the decisions in private long-term care homes especially.

I know of two particularly egregious cases with homes in 2020 that had very high levels of death, with the CEO in one case receiving a bonus of \$467,000 for his performance and another CEO receiving a bonus of \$336,375. In both cases, the companies that were reporting these bonuses made the point that these, of course, could have been higher. I find this shameful.

I want to ask Mr. Webb, specifically, with the parallels he sees in the Criminal Code and elsewhere, does he really think these can be used to get at this question of responsibility for the failure to provide the necessities of life during COVID?

**Mr. Graham Webb:** I do, Mr. Garrison, and the criminal law responses must attach responsibility for custodial sentences, as well as fines, which might represent, in some cases, the cost of doing business.

On a matter of provincial jurisdiction, in Ontario, the Long-Term Care Homes Act affixes specific responsibility to directors and officers of licensees of long-term care homes to ensure compliance with the Long-Term Care Homes Act. It also allows a court to impose a fine of up to \$2,000 on an officer or a director of a non-profit licensee, or in all other cases, for not non-profits, a fine of up to \$100,000 for a first offence and of up to \$200,000 for each subsequent offence for breaches of the Ontario Long-Term Care Home Act.

Despite that, we continue to see egregious breaches of the Long-Term Care Homes Act without charges and really without acceptance of responsibility on the part of long-term care home operators.

If the Parliament of Canada were to adopt this specific criminal charging section that includes specific responsibilities for officers and directors, that includes potential liability for custodial sentences, we think this would change the picture completely.

Bernie Madoff has gone to jail for financial offences, but we don't see anybody being prosecuted, let alone facing the prospect of going to jail, for neglect that has caused the injury and death of thousands of long-term care home residents.

• (1245)

**Mr. Randall Garrison:** From your advocacy work on this—I know you have stated this before, but very quickly—I haven't found any evidence of charges, let alone systematic investigations of the homes that were responsible for very large numbers of deaths.

Again, have you seen any evidence even of investigations of the homes that were the most egregious violators of standards and had the highest level of deaths?

**Mr. Graham Webb:** No.

Mr. Garrison, this week I'm dealing with a caller whose family member was injured in a long-term care home who has asked the police for investigation under section 215 of the Criminal Code, and no investigation has been undertaken.

In my 26 years at the Advocacy Centre for the Elderly, 21 years as a staff litigation lawyer, I have routinely written to the chief of police or the detachment commander asking for investigations that have only been conducted mainly grudgingly. Sometimes we get investigations and charges on financial matters, but never on caregiving issues in long-term care homes and other care facilities.

**The Chair:** Thank you very much, Mr. Webb and Mr. Garrison.

We will now go to our second round of questions.

Madam Findlay, you're up for five minutes.

**Hon. Kerry-Lynne Findlay (South Surrey—White Rock, CPC):** Thank you, Madam Chair.

To Mr. Webb and Madame Beaulieu, thank you both for being here and for your advocacy for the elderly. It's very much appreciated, but it sounds to me like both of you often suffer from feeling like you're blowing into the wind. I applaud you for sticking at it for those who are very vulnerable for as long as you have.

The Minister of Justice's December 2019 mandate letter noted as a top priority:

Work with the Minister of Seniors to create a national definition of elder abuse, invest in better data collection and law enforcement related to elder abuse, and establish new offences and penalties in the Criminal Code related to elder abuse.

That was reaffirmed again in the January 2021 mandate letter.

I think the intention is there, and it is clear. The question is whether that is happening and what the Minister of Justice could do to deliver on that mandate.

I think you have been very specific, Mr. Webb, and I thank you for that.

It seems to me, though, that some of the problems here are also with the prosecution, not just that we may need.... I hear what you're saying on whistle-blower protection and new charging sections. That makes sense to me, but I have had my own experiences in this realm where a senior was returned to the care of those who would look after her after having been virtually kidnapped by a son, and then all her money taken away.

It was reported to police, their elder abuse section, the RCMP in this case, and they basically took the position, "Well, you've got her back. She's okay now. The family has her back. We're just not going to pursue this".

I think what often happens is this great reluctance, because not just the victims, but often the witnesses to the victimization are themselves elderly, and the police feel they can't prosecute on the basis of that evidence, which may be very vulnerable to a rigorous cross examination or whatever.

Madame Beaulieu mentioned that someone should go with an elder who has been a victim, with them if they are testifying or witnessing, which makes a lot of sense to me.

It seems to me that, if we had a better definition of elder abuse, we would have a more heightened awareness of what elder abuse is and what it looks like.

Perhaps, Mr. Webb, you could comment on defining it. I know Madame Beaulieu has already talked about that.

• (1250)

**Mr. Graham Webb:** Ms. Findlay, I think it's important to have a clear definition of elder abuse. I think that helps the process. I'm not sure where it would fit into the Criminal Code, because there is no charging section for elder abuse. It may be important for sentencing purposes.

The problem, as you have identified, is the investigation and the prosecution of crimes to begin with and obtaining a conviction before we get to the sentencing aspect. Mr. Garrison asked if the police are missing a tool. I think they are missing a tool; they need a specific tool to investigate these crimes.

The situation you described regarding police investigations is chronic. We expect to hear that this is a civil matter, because the police feel they are incapable of investigating on a criminal basis.

**Hon. Kerry-Lynne Findlay:** Would you agree with me that, if we could look to changes in the Criminal Code—and you have made suggestions on that—we also need to look at a definition within that grouping of changes?

**Mr. Graham Webb:** If there were a charging section dealing specifically with elder abuse, then, yes, it would be very important to have that definition.

I agree with you that we also need resources and policies on enforcement—in other words, investigations and so on. The charging section is simply the starting point from which everything else flows.

**Hon. Kerry-Lynne Findlay:** Mr. Webb, I'm interested in the types of claims your organization deals with most often and how, if at all, the types of claims have shifted since March 2020.

**Mr. Graham Webb:** We're seeing more and more instances of abuse. The question is, is it increasing? It is indeed, in all aspects. It's abhorrent.

Normally, we refer issues of physical violence to the police. We're not an investigative agency. We're lawyers. The types of claims we typically prosecute are civil claims of financial abuse. They can be accompanied by physical, sexual and emotional abuse, because all forms of abuse overlap. We have provided criminal representation to victims and witnesses, as well as to older adults who are charged with crimes.

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

We'll now go to Mr. Maloney for five minutes.

**Mr. James Maloney (Etobicoke—Lakeshore, Lib.):** Thanks, Madam Chair.

Thank you to both of our witnesses for your very informative discussion.

I'm trying to reconcile the two different points of view. Maybe they're not two different points of view, but differing things that both of you have said. On the one hand, we're trying to devise some ideas and perhaps amendments to the Criminal Code that would help to reduce, prevent and punish those who are guilty of elder abuse. I'm struggling a little with what specific addition to the Criminal Code could be made that is specific to seniors. I guess that's what I'm trying to say.

Mr. Webb, you keep referring to the charging section, for example. I think it might be helpful if you defined a charging section to those of us who may not be intimately familiar with that terminology. Then let me know if you have any language that you would like to see in the Criminal Code in that regard.

**Mr. Graham Webb:** Mr. Maloney, a charging section is a section of the code that identifies an offence, such as failure to provide the necessities of life. When I did criminal defence work, the first thing I would do would be to obtain a copy of the information that laid out the charge. I would open the Criminal Code on my desk and compare the charge laid to the charging section in the code to make sure it was a valid charge—often it was not.

With respect to criminal endangerment, I would suggest essential elements along the lines of an individual or organization has entered into a contract to provide care and/or supervision of a person; that the individual or organization has failed to provide adequate care and/or supervision of the person; and the failure to provide adequate care and/or supervision has endangered the health or safety

of the person. Those are the essential elements I would be looking at.

By the way, elder abuse is a very broad topic. I have much more to say, as does my agency, on other aspects of elder abuse. Today we've come to focus specifically on criminal responses to abuse and neglect in long-term care homes, retirement homes and other congregate living situations across the country.

• (1255)

**Mr. James Maloney:** With those suggestions you just made, I'm assuming you wouldn't be putting age restrictions in the law?

**Mr. Graham Webb:** No.

**Mr. James Maloney:** Okay. That's my concern. These issues you're talking about could equally apply to somebody who's 50 years old as to somebody who's 70 years old, depending on their circumstance.

**Mr. Graham Webb:** We don't think it's appropriate to ghettoize older adults. They have the same rights as all other adults. The problem is that they are often infantilized and treated as less than fully capable people.

**Mr. James Maloney:** Okay. So what you're really talking about is creating a set of laws that would benefit elders and make it easier to prosecute those who are committing acts of elder abuse, as opposed to specifically enunciating laws that deal exclusively with elders. Is that correct?

**Mr. Graham Webb:** That's correct. That's consistent with most of our positions.

**Mr. James Maloney:** Then it becomes a challenge of trying to enforce these laws, to get abuses reported and get police to deal with them. I think that's what Ms. Beaulieu was talking about. There's really an educational component to this thing.

I think it was you who said that a lot of the victims here are under the care of others, and those people are the spokespeople. That creates a challenge unto itself.

Do you have a specific list of recommendations you could provide us with? What can we recommend by way of education for police forces or other authorities to try to provide them with more information that would make it easier for them to understand and better enforce the rules that do exist, and through any new laws that come into place?

**Mr. Graham Webb:** Mr. Maloney, that's a very broad topic, which falls largely outside the area of federal jurisdiction. I can't provide you with specific recommendations today. I can tell you that in the course of our work, we have provided instruction to Toronto Police officers and the Ontario Police College—

**Mr. James Maloney:** Sorry, Mr. Webb. I don't mean to interrupt, but I'm running out of time.

My question was actually posed to Ms. Beaulieu, and I was not suggesting—

**Mr. Graham Webb:** Oh, I'm sorry.

**Mr. James Maloney:** —in any way that instructions be given to the police.

What I'm talking about is an educational component that would help the people who are making these decisions and who are dealing with this on a day-to-day basis to do their job and accomplish some of the goals we're talking about.

**The Chair:** You're out of time, Mr. Maloney.

Perhaps I can suggest, Ms. Beaulieu, that you might like to provide an answer in writing, but that is your prerogative.

We will now go to Monsieur Fortin for two and a half minutes.

Please go ahead, sir.

[*Translation*]

**Mr. Rhéal Fortin:** Thank you, Madam Chair.

I'd like to reiterate what you just said, Madam Chair. At the beginning of her testimony, Ms. Beaulieu referred to a document she had sent. I understood that the clerk was going to send it to us. I just want confirmation from Ms. Beaulieu, and from you, Madam Chair, that we'll be able to receive this document, because the extremely important subject we are discussing today involves some complex issues.

I'll now turn to Mr. Webb.

Mr. Webb, I must admit to you that my colleague Mr. Maloney asked nearly all of the questions I was getting ready to ask in my second round. I would just like confirmation on a few points.

I understand from your testimony that elder abuse is a sufficient-ly complex question deserving of a special section in the Criminal Code that could, for example, define abuse and the many different forms it can take, and establish a number of specific rules on elder abuse.

Is that what you told us, Mr. Webb, or have I misunderstood?

[*English*]

**Mr. Graham Webb:** No. I'm sorry, Monsieur Fortin, but that's not my testimony. I'm speaking specifically to an offence that should be created for neglect and abuse in care facilities. It would apply to persons of all ages. I'm not speaking of a specific elder abuse provision; I'm speaking about an abuse-and-neglect provision.

[*Translation*]

**Mr. Rhéal Fortin:** In that case, don't you think that the same logic should apply to all cases of seniors who are abused, and not just those who are in care facilities?

After hearing Ms. Beaulieu's testimony, I have the impression that there are cases of abuse everywhere. Seniors living with their family can also be abused. In care facilities, on the street, in financial institutions, in short, just about everywhere in society, seniors can be subjected to forms of abuse that are specific to them, and that differ from what other people are likely to encounter.

Wouldn't the same logic be applicable to all seniors, Mr. Webb?

• (1300)

[*English*]

**Mr. Graham Webb:** I agree, entirely, Mr. Fortin, with that comment. Yes, it does. There are many different types of situations of elder abuse, and each deserves a systemic response.

**The Chair:** Thank you.

[*Translation*]

**Mr. Rhéal Fortin:** Thank you, Madam Chair.

[*English*]

**The Chair:** Mr. Garrison, please go ahead for two and a half minutes.

**Mr. Randall Garrison:** Thank you very much, Madam Chair. As we draw to a close here, I too want to thank both our witnesses today for their long advocacy on behalf of seniors.

My final question for Madame Beaulieu will deal with another systemic issue, which is access to long-term care, which I've been focused on today. I know that's not necessarily her sole focus, but we seem to have a situation in this country such that those who need long-term care, both the individuals and their families, have differential access. Quite often racialized communities, indigenous communities and the lesbian, gay, bisexual and transgender communities have difficulty finding access to long-term care that is culturally appropriate and supportive.

In your work, Madame Beaulieu, have you found this to be the case, that there is really differential access to necessary long-term care depending on who you are in Canada?

[*Translation*]

**Ms. Marie Beaulieu:** Thank you, Mr. Garrison.

That leads me to two complementary subjects, access to long-term care, and recognition for elderly members of minority groups.

As you know, seniors are not a homogeneous group. There are huge differences based on gender, age and ethnocultural communities. Elderly people aged 65 to 100 can certainly be broken down into different age groups. And there are also First Nations seniors, LGBTQ seniors, and so on.

For example, research into LGBTQ seniors has shown that many who have lived their lives completely free of prejudice for a number of years, by which I mean they have openly affirmed that they are members of these communities, begin to hide their sexual or gender identity when they move into a long-term care facility because they are afraid of being discriminated against.

As for access to long-term care, we know that it's extremely limited. Eligibility is based on assessment by health and social services workers. We know that there are long waiting lists. This means that there is a lot of work to be done in terms of reviewing our eligibility criteria. Private facilities have grown as rapidly as they have for a reason. One of these reasons is that the public sector can't deal with current demand.

I'd like to continue, but I'll stop there. You have certainly raised two fascinating subjects.

[*English*]

**Mr. Randall Garrison:** Thank you very much.

I'd love to pursue those further today, but I see that we're out of time. Thanks once again.

**The Chair:** Thank you very much, Mr. Garrison.

I'll take the opportunity now, on behalf of all committee members, to thank our witnesses who have come here today with their very compelling testimony.

We really appreciate your contributions. We'll say goodbye to you. You're welcome to leave at this time, if you like.

Very quickly to committee members, I want to give a response to Mr. Garrison's earlier inquiry about invitations to ministers.

I looked into the precedent, and also into the witness lists and the notes from the subcommittee. In our subcommittee meetings, we only discussed the presence of and invitations to officials, and not to ministers specifically, for this study. When the witness list was circulated to members, the ministers were also not included, by any party, on the compiled witness list.

I checked precedents as to how we have operated in the past, and I realized that it's only with government legislation where we have the minister. We invite the minister to that first meeting when we have government legislation before us. I also looked to see what our procedure was with our last study, the coercive conduct study, and I noticed that we didn't invite ministers, we only had the department officials.

That's kind of the framework within which we are entering this study. To address the question as to why ministers were not invited, it's because they were not on any of the witness lists from any members. I just thought I would give you that update.

If there are any questions or concerns at this time, please raise your hand.

Not seeing any, in that case, we will now adjourn the meeting.

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