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ELDER ABUSE: IDENTIFYING THE ISSUE AND COMBATTING ALL TYPES OF ABUSE

**Report of the Standing Committee on Justice and
Human Rights**

Iqra Khalid, Chair

**JUNE 2021
43rd PARLIAMENT, 2nd SESSION**

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Chair**

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NOTICE TO READER

Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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THE STANDING COMMITTEE ON JUSTICE AND HUMAN RIGHTS

has the honour to present its

TENTH REPORT

Pursuant to its mandate under Standing Order 108(2), the committee has studied elder abuse and has agreed to report the following:

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LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That the federal government, in consultation with the provinces, territories, and other relevant stakeholders, develop options to standardize the definition(s) of elder abuse in Canada and do a comparative analysis of the advantages and disadvantages of those options, with particular attention to the following considerations:

- **what kinds of harms should be included and who should be held responsible for those harms;**
- **whether the definition should be limited to abuse within relationships of trust, thereby excluding financial scams by strangers who victimize seniors;**
- **whether the definition should specify a particular age group and, if so, what age;**
- **whether a universal definition is preferable, or whether different definitions are required for:**
 - **criminal versus other law and policy contexts; and**
 - **abuse in institutional versus community settings; and**
- **the need to use inclusive terminology that respects the preferences of those directly affected by elder abuse. 30**

Recommendation 2

That the federal government build on the Budget 2021 commitment to implement a disaggregated data action plan by:

- supporting research and data collection on elder abuse, including by Indigenous organizations;
- supporting the collection and analysis of disaggregated data regarding senior care and the abuse of seniors, with particular attention to the significance of factors such as gender, sexual orientation, gender identity, disability, income, race, ethnicity, newcomer status, and Indigenous identity; and
- supporting collaboration and enhanced communication between Statistics Canada and law enforcement agencies. 31

Recommendation 3

That the federal government table amendments to the *Criminal Code* that would explicitly penalize elder abuse and in doing so, consider the offence of criminal endangerment, specifically with elements covering failure to provide care where a contract for care exists and that failure endangers the health and/or safety of those in care..... 31

Recommendation 4

That the federal government identify and implement mechanisms to protect whistleblowers in long-term care in consultation with relevant stakeholders, including considering possible *Criminal Code* amendments to make retaliation in response to complaints an administration of justice offence similar to existing provisions regarding obstruction of justice and intimidation. 31

Recommendation 5

That the federal government, in consultation with relevant stakeholders, examine the aggravating factors in sentencing in the *Criminal Code* and identify whether amendments to those sections could be made to strengthen punishments for elder abuse, including considering the benefits of specifically referencing seniors in those sections. Consideration should also be given to whether potential maximum terms of imprisonment and fines for long-term care administrators, officers, and directors convicted of offences related to incidents of elder abuse are adequate or require *Criminal Code* amendments..... 32

Recommendation 6

That the federal government provide funding to improve training and enhance resources to facilitate investigations of elder abuse, including deaths in institutional and other settings..... 32

Recommendation 7

That the federal government, in consultation with the provinces, territories, and other relevant stakeholders, identify and support the best methods to raise public awareness of elder abuse and to encourage reporting and prevention, including through the education system. 32

Recommendation 8

That the federal government increase support for programs and policies to prevent and address elder abuse, in collaboration with the provinces, territories and other relevant stakeholders, to ensure that adequate services are available for seniors nationwide. 32

Recommendation 9

That the federal government, in consultation with other relevant stakeholders, consider amending privacy and banking legislation, as well as non-legislative alternatives, to better protect seniors against financial crimes such as fraud and theft and to protect bank employees from liability for reporting potential financial abuse of a senior, taking lessons learned from the experience of the United States with the *Senior Safe Act*..... 32

Recommendation 10

That the federal government conduct an intersectional analysis of all measures it takes to address elder abuse to ensure that the needs and circumstances of all seniors are integrated into the federal response, with particular attention given to factors such as gender, sexual orientation, gender identity, disability, income, race, ethnicity, newcomer status, and Indigenous identity..... 32



ELDER ABUSE: IDENTIFYING THE ISSUE AND COMBATTING ALL TYPES OF ABUSE

CHAPTER 1: INTRODUCTION

The COVID-19 pandemic has brought the issue of elder¹ abuse out into the open, though this is a problem that has existed for a long time. As the Canadian population ages, the need to address this problem only becomes more urgent.

On 2 February 2021, the House of Commons Standing Committee on Justice and Human Rights (the Committee) agreed to conduct a study based on the following motion:

That pursuant to its mandate under Standing Order 108(2), the committee study the issue of elder abuse including the insufficiency of current laws in fighting elder abuse...explicitly penalizing those who neglect seniors under their care and how to more effectively combat elder abuse.²

For this study, the Committee held four meetings to hear from witnesses and received twelve briefs from various organizations and individuals across the country. This report summarizes the evidence submitted during the study and presents the Committee's recommendations for action. The Committee appreciates the expertise and time provided by all who participated.

Committee members were troubled by the testimony, particularly the stories about some long-term care facilities during the pandemic, and the situation of many seniors isolated at home. We want to express our deep compassion for those seniors who have or continue to experience elder abuse. The status quo cannot continue.

1 As noted by Marilee Nowgesic, Chief Executive Officer, Canadian Indigenous Nurses Association (House of Commons, Standing Committee on Justice and Human Rights (JUST), [Evidence](#), 13 May 2021), the term "Elder" as used by Indigenous peoples has a specific meaning, referring to those responsible for passing "on the collective wisdom of generations that have come before us." However, "elder" is used in a broader sense in this report to refer to seniors.

2 Motion presented 15 October 2020 and adopted by the Committee on 2 February 2021. JUST, [Evidence](#), 15 October 2020; JUST, [Minutes of Proceedings](#), 2 February 2021.



CHAPTER 2: CURRENT SITUATION AND RESPONSES TO ELDER ABUSE

2.1 Understanding Elder Abuse

Elder abuse is a complex issue that touches on multiple areas of law and policy, including health, human rights, criminal law, the administration of justice, and the regulation of long-term care facilities. Jurisdiction over elder abuse is thus shared between the federal government, the provinces and territories, and Indigenous communities.

Defining Elder Abuse

There is no universally agreed upon definition of elder abuse in Canada. In recognition of this, the federal government in 2019 gave the Minister of Justice and the Minister of Seniors a joint mandate to create a national definition of elder abuse.³

The World Health Organization uses the following definition from the 2002 *Toronto Declaration on the Global Prevention of Elder Abuse*: “Elder Abuse is 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.”⁴ According to one professor, this definition “has garnered general support internationally.”⁵ Indeed, the Canadian Association of Social Workers used the same definition in their brief.⁶ The Government of Canada provides a similar definition on its website, but refers to a “relationship of trust” rather than an “expectation of trust,” and defines a lack of action separately as “neglect.”⁷ The Quebec government’s definition also closely mirrors the Toronto Declaration, but adds that abuse can occur “whether the person deliberately wants to cause harm or not.”⁸

3 [Minister of Seniors Mandate Letter](#), 13 December 2019; [Minister of Justice and Attorney General of Canada Mandate Letter](#), 13 December 2019.

4 World Health Organization, [The Toronto Declaration on the Global Prevention of Elder Abuse](#), 2002.

5 Marie Beaulieu et al., [Mistreatment of Older Adults](#), in *Quebec Report on Violence and Health*, Institut National de Santé Publique du Québec, 2018, p. 5, submitted to JUST by Marie Beaulieu [Beaulieu report].

6 JUST, [Brief](#), May 2021 (Canadian Association of Social Workers [CASW]).

7 Government of Canada, Employment and Social Development Canada, [“Elder abuse: It’s Time to Face the Reality.”](#)

8 [Beaulieu report](#), p. 5; Quebec, [“Mistreatment of older adults.”](#)

The Office of the Federal Ombudsman for Victims of Crime proposed the following definition:

Elder abuse is a single incident or repeated pattern of behaviour or neglect causing harm or distress, that is willfully inflicted upon an older adult, within any relationship where there is an expectation of trust or care of custody [...].⁹

Unlike Quebec’s definition, this one requires that the abuse be intentional. According to one witness, different American states also take different approaches to this issue.¹⁰

A key element to consider in the definition of elder abuse is the need for there to be a relationship or expectation of trust between the perpetrator and the victim.¹¹ All of the above definitions of elder abuse include this element. While these definitions capture abuse by family members and known caregivers, they exclude abuse by strangers such as scammers.¹²

Another challenge is that different legal and policy contexts may call for different definitions of elder abuse. For instance, the Committee heard from a longstanding legal advocate for the elderly who agreed that if a new criminal offence related specifically to elder abuse is created, then it would be “very important” to also include a definition in the *Criminal Code* (the Code).¹³ However, a definition that applies in the context of health or social policy, or even civil law, may need to be narrowed in the criminal context, where only the most serious forms of conduct are subject to sanction.¹⁴ Also, the nature of elder abuse differs depending on the type of abuse and the setting—for example, whether living alone, with family, or in a long-term care facility. The different forms that elder abuse can take are discussed later in this report.

9 The Ombudsman then lists the various types of elder abuse in detail. For a similar list, see the section on Forms of Elder Abuse below. JUST, [Brief](#), May 2021, p. 3–4 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime [Ombudsman]).

10 JUST, [Brief](#), May 2021 (Canadian Centre for Elder Law).

11 JUST, [Evidence](#), 6 May 2021 (Marie Beaulieu, Professor and Chairholder, Research Chair on Mistreatment of Older Adults, Université de Sherbrooke, As an Individual).

12 JUST, [Evidence](#), 6 May 2021 (Marie Beaulieu).

13 JUST, [Evidence](#), 6 May 2021 (Graham Webb, Lawyer and Executive Director, Advocacy Centre for the Elderly).

14 JUST, [Evidence](#), 13 May 2021 (Hai Luo, Content Expert and Associate Professor, Faculty of Social Work, University of Manitoba, representing the CASW).



Statistics

Seniors make up 18% of the Canadian population,¹⁵ and are the “fastest-growing demographic in Canada.”¹⁶ Witness estimates of how many Canadian seniors are affected by elder abuse varied between 4 to 20%,¹⁷ though one organization noted that only 20% of such incidents are reported to the police.¹⁸ According to a 2015 study cited by several witnesses, the rate of elder abuse in community settings, where most seniors live,¹⁹ is approximately 8%.²⁰

Statistics Canada provided the following data on police-reported violent crime against seniors in 2019:²¹

- The rate of police-reported violence against seniors aged 65 to 89 was 227 per 100,000 people, and 55% of victims were men.
- A family member was the perpetrator in approximately one third of cases.
- Victimization took place in nursing or retirement homes in 11% of cases. Most such violence involved physical assaults, and most was perpetrated by other seniors. Two thirds of the victims were women.
- Between 2014 and 2019, the rate of violence increased by 29%, which was significantly larger than the rate of increase for other age groups.

15 Shana Conroy, *Family Violence in Canada: A Statistical Profile, 2019*, Statistics Canada, 2 March 2021, submitted to JUST as a background document [Statistics Canada report].

16 JUST, *Evidence*, 6 May 2021 (Kristen Underwood, Director General, Seniors and Pensions Policy Secretariat, Department of Employment and Social Development).

17 JUST, *Brief*, May 2021 (AGE-WELL); JUST, *Brief*, May 2021 (CanAge).

18 JUST, *Brief*, May 2021 (AGE-WELL).

19 JUST, *Evidence*, 25 May 2021 (Kathy AuCoin, Chief of Analysis Program, Canadian Centre for Justice and Community Safety Statistics, Statistics Canada).

20 JUST, *Evidence*, 6 May 2021 (Marie Beaulieu); JUST, *Evidence*, 11 May 2021 (Kathy Majowski, Board Chair and Registered Nurse, Canadian Network for the Prevention of Elder Abuse). Referring to: National Initiative for the Care of the Elderly, *Into the Light: National Survey on the Mistreatment of Older Canadians, 2015*. Note: this study focused on adults over 55.

21 JUST, *Evidence*, 25 May 2021 (Kathy AuCoin); JUST, *Brief*, May 2021 (Statistics Canada); [Statistics Canada report](#).

Additionally, in 2019, one in ten seniors self-reported being a victim of household or violent crime in the previous 12 months (regardless of whether the incident was reported to the police).²² It should be noted that the above data does not capture psychological, emotional, or financial abuse.²³ According to recent research, approximately 2% of seniors reported experiencing financial or emotional abuse by a family member or caregiver over the past five years, while 14% experienced fraud.²⁴

As already indicated, elder abuse is often perpetrated by family members or other people close to the victim.²⁵ In addition, it was noted that in 2018 “approximately 9 in 10 seniors who were victimized by a family member were victimized inside the home.”²⁶ According to one 2019 study, women are much more likely than men to report that their abuser was a family member.²⁷

While we do not yet have comprehensive data about elder abuse during the pandemic, one organization noted that calls to their 24-hour seniors safety line have risen 250%.²⁸ According to two other organizations, elder abuse response agencies have reported a ten-fold increase in calls since the outset of the pandemic.²⁹

As several witnesses underscored, there are many gaps in the existing data and research on elder abuse—a problem highlighted by the pandemic.³⁰ For example, there is no reliable data on the extent of elder abuse within residential and long-term care

22 JUST, [Evidence](#), 25 May 2021 (Kathy AuCoin).

23 JUST, [Evidence](#), 25 May 2021 (Kathy AuCoin).

24 JUST, [Evidence](#), 25 May 2021 (Kathy AuCoin).

25 JUST, [Evidence](#), 11 May 2021 (Stéphanie Bérard, President, Vigil'Ange; Krista James, National Director, Canadian Centre for Elder Law; Bénédicte Schoepflin, Executive Director, Canadian Network for the Prevention of Elder Abuse); JUST, [Evidence](#), 25 May 2021 (Danis Prud'homme, Chief Executive Officer, Provincial Secretariat, Réseau FADOQ); JUST, [Brief](#), May 2021 (Ombudsman); JUST, [Brief](#), May 2021 (Diane Rodgers).

26 JUST, [Brief](#), May 2021, p. 2 (Ombudsman).

27 JUST, [Brief](#), May 2021 (Ombudsman).

28 JUST, [Evidence](#), 11 May 2021 (Marta Hajek, Executive Director, Elder Abuse Prevention Ontario).

29 JUST, [Brief](#), May 2021 (AGE-WELL); JUST, [Brief](#), May 2021 (CanAge).

30 JUST, [Evidence](#), 6 May 2021 (Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector); JUST, [Evidence](#), 13 May 2021 (Marilee Nowgesic); JUST, [Brief](#), May 2021 (AGE-WELL); JUST, [Brief](#), May 2021 (CASW).



facilities.³¹ Research is also lacking on the perpetrators of elder abuse,³² the intersection of elder abuse with cultural and other identity factors,³³ and the effectiveness of various criminal justice measures and other interventions in addressing elder abuse.³⁴

The Committee heard about a number of factors that make data collection on elder abuse difficult, including:

- the lack of a clear definition of elder abuse;³⁵
- the lack of clear benchmarks for different forms of abuse;³⁶
- disparities in reporting requirements and data collection practices at the provincial, territorial, and local level, including among police services;³⁷
- the difficulty of capturing information about elder abuse in institutional contexts,³⁸ and among seniors suffering from cognitive impairments;³⁹ and
- the tendency for elder abuse to be under-reported.⁴⁰

The Department of Justice is working with Statistics Canada to obtain better data on elder abuse, including in long-term care.⁴¹ Statistics Canada also noted that they are

31 [Beaulieu report](#).

32 JUST, [Brief](#), May 2021 (Sherry Baker, Executive Director of the BC Association of Community Response Networks and Chair of the Council to Reduce Elder Abuse [Sherry Baker]); JUST, [Brief](#), May 2021 (Diane Rodgers).

33 JUST, [Evidence](#), 25 May 2021 (Haley Mason, Policy Officer, CanAge); JUST, [Brief](#), May 2021 (BridgeGen Canada Centre).

34 JUST, [Evidence](#), 11 May 2021 (Bénédicte Schoepflin).

35 JUST, [Evidence](#), 13 May 2021 (Patrick Fleming, Content Expert and Social Worker, CASW); JUST, [Evidence](#), 25 May 2021 (Kathy AuCoin); [Beaulieu report](#).

36 JUST, [Evidence](#), 25 May 2021 (Kathy AuCoin); [Beaulieu report](#).

37 JUST, [Evidence](#), 11 May 2021 (Marta Hajek); JUST, [Evidence](#), 13 May 2021 (Patrick Fleming); JUST, [Brief](#), May 2021 (Statistics Canada).

38 JUST, [Evidence](#), 25 May 2021 (Kathy AuCoin).

39 JUST, [Brief](#), May 2021 (Statistics Canada).

40 JUST, [Evidence](#), 6 May 2021 (Carole Morency); JUST, [Brief](#), May 2021 (AGE-WELL); JUST, [Brief](#), May 2021 (Statistics Canada).

41 JUST, [Evidence](#), 6 May 2021 (Carole Morency).

working towards collecting data on elder abuse that is disaggregated by ethnicity, life stages, and gender, for which they have received funding in the 2021 federal budget.⁴²

The Nature of Elder Abuse

Forms of Elder Abuse

The nature of elder abuse and appropriate responses to it vary depending on the setting, the form of abuse, and the cultural context.⁴³ The Committee heard about many different forms of elder abuse, including: physical and sexual abuse; psychological and emotional abuse; material and financial abuse; neglect and abandonment; intimidation, harassment, and threats; spiritual abuse; systemic and organizational abuse; discrimination, including against LGBTQ+ seniors; undue influence; and the violation of rights and freedoms.

One of the most common forms of abuse is psychological, though it can be difficult to prove.⁴⁴ According to one organization, psychological and emotional abuse involves “the intentional infliction of mental harm and/or psychological distress upon the older adult,” and may include acts such as isolation, verbal assault, humiliation, and intimidation.⁴⁵ Financial abuse is also very common,⁴⁶ and may be perpetrated by family members—for example, misusing a Power of Attorney, or depleting the funds of an aging parent—or by strangers perpetrating fraud.⁴⁷

42 JUST, [Evidence](#), 25 May 2021 (Kathy AuCoin).

43 JUST, [Evidence](#), 11 May 2021 (Krista James); JUST, [Evidence](#), 13 May 2021 (Tehmina Naveed, Executive Director, Pak Pioneers Community Organization of Canada).

44 JUST, [Evidence](#), 6 May 2021 (Marie Beaulieu); JUST, [Evidence](#), 25 May 2021 (Marie-Noël Campbell, Executive Director and Lawyer, Seniors First BC).

45 JUST, [Brief](#), May 2021, p. 1 (Seniors First BC).

46 JUST, [Evidence](#), 6 May 2021 (Kristen Underwood); JUST, [Evidence](#), 25 May 2021 (Marie-Noël Campbell); JUST, [Brief](#), May 2021 (CanAge).

47 JUST, [Evidence](#), 11 May 2021 (Krista James); JUST, [Evidence](#), 13 May 2021 (Tehmina Naveed); JUST, [Evidence](#), 25 May 2021 (Marie-Noël Campbell); JUST, [Brief](#), May 2021 (Sherry Baker); JUST, [Brief](#), May 2021 (Diane Rodgers).



Root Causes and Risk Factors

Several witnesses pointed to ageism as a root cause of elder abuse.⁴⁸ Significant risk factors for elder abuse highlighted by witnesses included social isolation,⁴⁹ relationships of dependency (both when the senior is dependent, and when they are depended upon), dementia, and poverty.⁵⁰ The Committee also heard that “[l]ayers of identity such as gender, race, sexual orientation, economic standing and disability” can elevate a person’s risk of victimization.⁵¹ According to one organization, older women are particularly vulnerable to violence and abuse.⁵² Others noted the importance of recognizing the distinct issues facing seniors from Indigenous and immigrant communities.⁵³

According to Marie Beaulieu, Professor and Chairholder, Research Chair on Mistreatment of Older Adults, Université de Sherbrooke, external factors related to a person’s environment, including potential perpetrators, are more important than the personal characteristics of the senior.⁵⁴ Risk factors related to perpetrators include: caregiver stress and burnout, mental health and/or substance abuse issues, cognitive decline, and economic pressure.⁵⁵

As several witnesses noted, the pandemic has brought elder abuse to the forefront, particularly in the context of long-term care.⁵⁶ The pandemic has also exacerbated the risk factors associated with elder abuse in family and community settings, most notably

-
- 48 JUST, [Evidence](#), 11 May 2021 (Marta Hajek; Kathy Majowski); [Beaulieu Report](#).
- 49 JUST, [Evidence](#), 11 May 2021 (Stéphanie Bérard); JUST, [Brief](#), May 2021 (CASW); JUST, [Brief](#), May 2021 (Canadian Center for Elder Law); [Beaulieu report](#).
- 50 JUST, [Evidence](#), 11 May 2021 (Krista James; Kathy Majowski); JUST, [Evidence](#), 13 May 2021 (Tehmina Naveed); JUST, [Brief](#), May 2021 (Sherry Baker); JUST, [Brief](#), May 2021 (Canadian Centre for Elder Law); [Beaulieu report](#).
- 51 JUST, [Evidence](#), 11 May 2021 (Kathy Majowski).
- 52 JUST, [Brief](#), May 2021 (Ombudsman).
- 53 JUST, [Evidence](#), 13 May 2021 (Tehmina Naveed; Marilee Nowgesic); JUST, [Evidence](#), 25 May 2021 (Sherry Baker, Executive Director, BC Association of Community Response Networks, representing The Council to Reduce Elder Abuse).
- 54 JUST, [Evidence](#), 6 May 2021 (Marie Beaulieu).
- 55 JUST, [Evidence](#), 25 May 2021 (Sherry Baker); [Beaulieu report](#); JUST, [Brief](#), May 2021 (CASW).
- 56 JUST, [Evidence](#), 6 May 2021 (Kristen Underwood); JUST, [Evidence](#), 11 May 2021 (Kathy Majowski; Melissa Miller, Partner and Lawyer, Howie, Sacks and Henry LLP); JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier, Chief Executive Officer, Canadian Support Workers Association, representing the Canadian Nurses Association); JUST, [Brief](#), May 2021 (CanAge); JUST, [Brief](#), May 2021 (CASW).

by increasing the isolation of seniors,⁵⁷ increasing caregiver stresses,⁵⁸ and reducing access to social contacts and services.⁵⁹ As one witness observed, many seniors have been deprived of essential home care during this time.⁶⁰ Many seniors also face challenges in accessing and using the internet, and are thus negatively affected by the shift from in-person to online services.⁶¹ One witness told the Committee that in the South-Asian community, where multi-generational households are common, seniors have become more dependent on their children, who are themselves facing increased financial pressures.⁶² Other organizations pointed out that many adult children are now moving back in with their parents, which can also increase the risks of abuse.⁶³

Barriers to Disclosure

Like other victims of abuse, seniors face multiple barriers to disclosing abusive experiences. As emphasized by several witnesses, seniors who are abused by family members often do not wish to involve the police or pursue criminal sanctions because they do not want to see their loved ones punished.⁶⁴ Many witnesses underscored the fear of repercussions as a significant barrier to disclosing elder abuse.⁶⁵ Barriers to accessing support and information,⁶⁶ and inadequate or inappropriate responses from authorities can also discourage reporting. The latter point is discussed further in section 2.2.

57 JUST, [Brief](#), May 2021 (AGE-WELL); JUST, [Brief](#), May 2021 (CanAge); JUST, [Brief](#), May 2021 (Canadian Bar Association [CBA]); JUST, [Brief](#), May 2021 (Ombudsman).

58 JUST, [Brief](#), May 2021 (Ombudsman).

59 JUST, [Evidence](#), 11 May 2021 (Kathy Majowski); JUST, [Evidence](#), 13 May 2021 (Patrick Fleming); JUST, [Brief](#), May 2021 (CBA).

60 JUST, [Evidence](#), 25 May 2021 (Danis Prud'homme).

61 JUST, [Evidence](#), 13 May 2021 (Patrick Fleming; Mathieu Robitaille, Community Intervenor, Centre d'action bénévole Saint-Jérôme, As an Individual).

62 JUST, [Evidence](#), 13 May 2021 (Tehmina Naveed).

63 JUST, [Brief](#), May 2021 (Sherry Baker); JUST, [Brief](#), May 2021 (CanAge).

64 JUST, [Evidence](#), 6 May 2021 (Marie Beaulieu); JUST, [Evidence](#), 11 May 2021 (Krista James; Bénédicte Schoepflin); JUST, [Evidence](#), 25 May 2021 (Marie-Noël Campbell).

65 JUST, [Evidence](#), 6 May 2021 (Graham Webb); JUST, [Evidence](#), 11 May 2021 (Stéphanie Bérard; Melissa Miller); JUST, [Evidence](#), 25 May 2021 (Marie-Noël Campbell); JUST, [Brief](#), May 2021 (Seniors First BC).

66 JUST, [Evidence](#), 11 May 2021 (Krista James); JUST, [Brief](#), May 2021 (CASW); JUST, [Brief](#), May 2021 (Ombudsman); JUST, [Brief](#), May 2021 (Diane Rodgers).



Abuse in Long-Term Care Facilities

While only 7% of seniors live in long-term care facilities,⁶⁷ the Committee heard compelling evidence about the distinct concerns regarding elder abuse that arise in this setting. Long-term care residents are especially vulnerable to abuse due to their physical and cognitive limitations.⁶⁸ Most residents have “multiple chronic, complex conditions that require 24-hour care and monitoring,” and the majority have some degree of dementia.⁶⁹

As observed by several witnesses, underfunding and understaffing have made it difficult if not impossible to meet the high needs of long-term care residents.⁷⁰ Witnesses described the level of care provided in long-term care facilities as “woefully inadequate,”⁷¹ an “impossible situation,”⁷² and well below the minimum standard agreed upon by experts.⁷³ This has resulted in “situations of profound neglect, leading to dehydration, malnutrition, bedsores and death.”⁷⁴

The bulk of daily care activities in long-term care are performed by health care aides, otherwise known as personal support workers (PSWs).⁷⁵ The Committee heard evidence that these workers—mostly racialized women⁷⁶—are overworked, underpaid, stressed, and ultimately unable to do their jobs despite their best efforts.⁷⁷ As one witness noted,

67 JUST, [Evidence](#), 25 May 2021 (Kathy AuCoin); JUST, [Brief](#), May 2021 (CASW); JUST, [Brief](#), May 2021 (Elder Abuse Prevention Ontario).

68 JUST, [Evidence](#), 6 May 2021 (Marie Beaulieu).

69 JUST, [Evidence](#), 11 May 2021 (Terry Lake, Chief Executive Officer, BC Care Providers Association); JUST, [Brief](#), May 2021 (CanAge).

70 JUST, [Evidence](#), 11 May 2021 (Terry Lake; Kathy Majowski; Melissa Miller; Raeann Rideout, Director of Provincial Partnerships and Outreach, Elder Abuse Prevention Ontario); JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier; Michael Villeneuve, Chief Executive Officer, Canadian Nurses Association); JUST, [Brief](#), May 2021 (CanAge).

71 JUST, [Evidence](#), 11 May 2021 (Kathy Majowski).

72 JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier).

73 JUST, [Evidence](#), 11 May 2021 (Melissa Miller). For example, Ontario averages 2.45 care hours per day—far below the minimum standard of 4 hours agreed upon by experts. See also: JUST, [Evidence](#), 25 May 2021 (Marie-Noël Campbell).

74 JUST, [Brief](#), May 2021 (CanAge).

75 JUST, [Evidence](#), 11 May 2021 (Terry Lake); JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier).

76 JUST, [Evidence](#), 11 May 2021 (Melissa Miller).

77 JUST, [Evidence](#), 11 May 2021 (Terry Lake; Kathy Majowski; Melissa Miller).

they are often afraid to report systemic problems that lead to deficiencies in care for fear of losing their jobs, underscoring the need for whistle-blower protections.⁷⁸

Some witnesses pointed to chronic understaffing—an issue that goes back several decades and is getting worse—as the root of the problem.⁷⁹ A witness representing care providers in British Columbia emphasized the challenges facilities face in recruiting and retaining staff, leading to what he called a “health human resource crisis.”⁸⁰ Regardless of the cause, inadequate staffing and high turnover make it difficult to develop the intimate knowledge of residents necessary to provide proper care.⁸¹ As one witness explained: “These very small deficiencies in care are what snowball into horrible conditions.”⁸²

The pandemic has amplified existing shortcomings in long-term care, shining a devastating light on the problem.⁸³ For example, the Committee heard about one long-term care facility in Ontario where 26 residents died from dehydration before the military intervened.⁸⁴ Another facility ended up with only three staff members available to care for 115 residents.⁸⁵ For one witness, the pandemic also highlighted the lower quality of care in for-profit facilities.⁸⁶ However, another witness warned that “it’s not that simple a story,” as some for-profit facilities provide very good care, and some not-for-profit facilities do not.⁸⁷

While health care is an area of shared jurisdiction in Canada, long-term care facilities are regulated by the provinces and territories, which can determine non-criminal sanctions, such as losing a licence to operate or incurring fines when they do not perform up to

78 JUST, [Evidence](#), 11 May 2021 (Melissa Miller).

79 JUST, [Evidence](#), 11 May 2021 (Kathy Majowski); JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier).

80 JUST, [Evidence](#), 11 May 2021 (Terry Lake). A lack of trained caregivers is also a problem in other settings, according to JUST, [Brief](#), May 2021 (BridgeGen Canada Centre).

81 JUST, [Evidence](#), 11 May 2021 (Melissa Miller).

82 JUST, [Evidence](#), 11 May 2021 (Melissa Miller).

83 JUST, [Evidence](#), 6 May 2021 (Kristen Underwood); JUST, [Evidence](#), 11 May 2021 (Terry Lake); JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier); JUST, [Brief](#), May 2021 (Sherry Baker); JUST, [Brief](#), May 2021 (CanAge); JUST, [Brief](#), May 2021 (CBA). See also: Ontario Health Coalition, [Ontario Health Coalition Summary & Analysis of Ontario’s Long-Term Care COVID-19 Commission Final Report](#), 5 May 2021.

84 JUST, [Evidence](#), 11 May 2021 (Melissa Miller).

85 JUST, [Evidence](#), 11 May 2021 (Terry Lake).

86 JUST, [Evidence](#), 11 May 2021 (Melissa Miller).

87 JUST, [Evidence](#), 13 May 2021 (Michael Villeneuve).



legislated provincial/territorial standards. The standards of care, enforcement measures, and public disclosure of violations vary significantly across the country.⁸⁸

Despite the atrocities that occurred during the pandemic, one civil litigator described the ongoing challenges faced by families seeking answers and accountability for the abuse and neglect experienced by their loved ones in care. Speaking primarily about Ontario, she told the Committee that facility administrators are wilfully blind and unhelpful, the police and the coroner are reluctant to get involved, and the provincial authorities are restrained in their enforcement efforts.⁸⁹ Some residents and their families and estates are choosing to take their complaints to the civil courts,⁹⁰ though “the damages in these cases often do not outweigh the costs of litigation.”⁹¹ Furthermore, in provinces such as Ontario, legislation is being enacted to provide immunity to long-term care facilities and retirement homes for pandemic-related civil liability.⁹² The lack of criminal accountability for elder abuse in long-term care is addressed more fully below.

2.2 Current Criminal Law that Can Be Used to Address Elder Abuse

Existing Offences

Canadian criminal law does not include specific offences perpetrated against seniors or use the term “elder abuse.” Such abuse can be dealt with through offences of general application, for example:

- offences related to psychological or emotional abuse, such as uttering threats (section 264.1) and intimidation (section 423);
- offences related to financial abuse, such as theft (sections 322, 328-332, and 334), theft of a credit card (section 342), extortion (section 346), and fraud (section 380);
- negligence-based offences, such as failing to provide the necessities of life to someone in your care (section 215), failing to take reasonable

88 JUST, [Evidence](#), 11 May 2021 (Terry Lake; Kathy Majowski; Melissa Miller).

89 JUST, [Evidence](#), 11 May 2021 (Melissa Miller).

90 JUST, [Evidence](#), 6 May 2021 (Joanne Klineberg, Acting General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice).

91 JUST, [Evidence](#), 11 May 2021 (Melissa Miller).

92 JUST, [Evidence](#), 11 May 2021 (Melissa Miller).

steps to prevent bodily harm when directing another's work (section 217.1), and criminal negligence (sections 219-221); or

- offences related to physical or sexual violence, such as assault (sections 265-268), sexual assault (sections 271-273), and forceable confinement (section 279(2)).⁹³

Sections 22.1 and 22.2 of the Code outline when an organization, such as a long-term care provider, can be considered a party to an offence.

The 13 December 2019 mandate letter from the Prime Minister to the Minister of Justice called for him to work with the Minister for Seniors “to establish new offences and penalties in the Code related to elder abuse.”⁹⁴ The 2020 Speech from the Throne stated, more specifically: “The Government will work with Parliament on *Criminal Code* amendments to explicitly penalize those who neglect seniors under their care, putting them in danger.”⁹⁵ How these commitments could be actualized is discussed further in section 3.2.

Sentencing

While criminal offences are not age-specific, the Code includes age-based sentencing provisions that may be applicable if a senior is criminally victimized. The age and vulnerability of seniors can be aggravating factors leading to a harsher punishment when sentencing under section 718.2 of the Code.⁹⁶ A similar provision can be found in section 380.1 of the Code, which outlines aggravating circumstances in sentencing for certain financial crimes.

Finally, section 718.04 requires the court to give primary consideration to the objectives of denunciation and deterrence when sentencing a person for an offence involving abuse of a person “who is vulnerable because of personal circumstances,” which includes vulnerability due to age. The decision was made to focus on vulnerability in this

93 JUST, *Evidence*, 6 May 2021 (Joanne Klineberg; Carole Morency); JUST, Reference Document, May 2021 (Terry Lake, Chief Executive Officer, BC Care Providers Association, *Addendum to submission provided May 11, 2021* [Lake Addendum]); JUST, *Brief*, May 2021 (CBA).

94 [Minister of Justice and Attorney General of Canada Mandate Letter](#), 13 December 2019. See also: [Minister of Seniors Mandate Letter](#), 13 December 2019. This priority was affirmed in 15 January 2021 [supplementary mandate letters](#).

95 [A Stronger and More Resilient Canada: Speech from the Throne to Open the Second Session of the Forty-third Parliament of Canada](#), 23 September 2020, p. 17.

96 JUST, *Evidence*, 6 May 2021 (Carole Morency).



section, rather than age, because vulnerability can depend on a variety of factors including age, health, financial situation, and personal circumstances.⁹⁷

The Committee was reassured to hear that the victimization of seniors is consistently treated as an aggravating factor by the courts in criminal negligence, assault, and fraud cases in practice.⁹⁸ Nonetheless, a number of witnesses felt that the Code provisions do not go far enough to address elder abuse, as will be discussed below in section 3.2.⁹⁹

Investigating, Charging, and Prosecuting

A number of witnesses felt that the enforcement of existing criminal laws is lacking, with elder abuse rarely brought to police, charged, or addressed through the courts.¹⁰⁰ While victims may not want to report, as noted above, that is not the only reason. One organization told the Committee that “Canada lacks a robust infrastructure to support charging and conviction,” and that there is a lack of policy direction and professional development for police, Crown counsel, and the judiciary about elder abuse.¹⁰¹

A witness pointed to the problem of police complacency in addressing Indigenous elder abuse off-reserve, in part due to questions of jurisdiction.¹⁰² The Committee was told that seniors are not always taken as seriously as younger people when they report abuse and that their cases may be seen as unprosecutable because of their age, frailty, or mental capacity.¹⁰³ Another witness, speaking about the Quebec context, said that police were poorly trained to identify elder abuse until a few years ago, and sometimes have had ageist views of seniors.¹⁰⁴

The good news is that this is changing, with police now having mandatory training in Quebec, for example.¹⁰⁵ Specialized elder abuse units now exist in several Canadian

97 JUST, [Evidence](#), 6 May 2021 (Carole Morency).

98 JUST, [Evidence](#), 6 May 2021 (Carole Morency).

99 See, for example: JUST, [Evidence](#), 6 May 2021 (Marie Beaulieu; Graham Webb); JUST, [Brief](#), May 2021 (CanAge); JUST, [Brief](#), May 2021 (Ombudsman).

100 See, for example: JUST, [Evidence](#), 6 May 2021 (Marie Beaulieu; Graham Webb); JUST, [Evidence](#), 11 May 2021 (Krista James; Melissa Miller).

101 JUST, [Brief](#), May 2020 (Canadian Centre for Elder Law).

102 JUST, [Evidence](#), 13 May 2021 (Marilee Nowgesic).

103 JUST, [Evidence](#), 11 May 2021 (Kathy Majowski); JUST, [Brief](#), May 2021 (Canadian Centre for Elder Law); JUST, [Brief](#), May 2021 (Seniors First BC).

104 JUST, [Evidence](#), 6 May 2021 (Marie Beaulieu).

105 JUST, [Evidence](#), 6 May 2021 (Marie Beaulieu).

jurisdictions. There have also been successes, particularly in smaller communities, when police listen to the senior’s story, speak with the abuser, which can involve a warning of the potential for criminal charges, and then follow up with the victim.¹⁰⁶

Nonetheless, in the long-term care context, witnesses could not identify any cases where charges were laid during the pandemic, despite the many stories of residents being left without necessities such as hydration.¹⁰⁷ Some witnesses suggested that charges could potentially be laid not only against staff but also administrators, directors, and officers for systemic failures in care.¹⁰⁸

The Committee was told that reported case law concerning elder abuse generally doesn’t involve neglect in long-term care settings, focusing more on situations of assault or financial crimes, for example.¹⁰⁹ When raising concerns about inadequate care in long-term care and other facilities, advocates said they are often told by police that these are civil matters.¹¹⁰ Criminal cases that have been pursued have tended to be against staff members and family members, rather than administrators, directors, and officers.¹¹¹

The nature of the legal system can discourage seniors from pursuing criminal charges. The Committee was told that most jurisdictions do not have Crown counsel policies to guide prosecutors working with victims and witnesses who may have mental capacity issues such as dementia, for example.¹¹² A lack of such policies and knowledge can affect the quality of evidence in elder abuse cases and, thus, the likelihood of conviction:

Evidence comes from witnesses. Witnesses who are safe and secure and receive proper supports in telling their story tell the most effective story—compelling stories. Those stories are what inform judges, what causes them to adjudicate matters, what causes them to find guilt in appropriate cases where elder abuse has happened.¹¹³

106 JUST, [Brief](#), May 2021 (Canadian Centre for Elder Law).

107 JUST, [Evidence](#), 6 May 2021 (Joanne Klineberg; Graham Webb).

108 JUST, [Evidence](#), 11 May 2021 (Melissa Miller); JUST, [Evidence](#), 25 May 2021 (Jody Berkes, Chair, Criminal Justice Section, CBA; Jessica L. Lyle, Chair, Elder Law Section, CBA).

109 JUST, [Evidence](#), 6 May 2021 (Carole Morency).

110 JUST, [Evidence](#), 6 May 2021 (Carole Morency; Graham Webb); JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier).

111 JUST, [Evidence](#), 11 May 2021 (Melissa Miller); JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier).

112 JUST, [Evidence](#), 11 May 2021 (Krista James).

113 JUST, [Evidence](#), 25 May 2021 (Jody Berkes).



The Committee was encouraged by one witness to consider amendments to criminal procedures such as allowing recorded testimony or testifying by videoconference for seniors, as is done with other vulnerable witnesses.¹¹⁴ Another witness told the Committee that such measures exist and could be used by seniors who are vulnerable, including sections 486.2 and 715.2 of the Code.¹¹⁵

2.3 Existing Programs and Policy Initiatives

Federal

The federal government provides funding to address elder abuse through a variety of programs. The New Horizons for Seniors Program provides \$70 million per year to senior-serving organizations in Canada, part of which is designated to raise awareness of elder abuse and to increase the social inclusion of seniors, which can decrease the risk of abuse. In the 2021 budget, the Public Health Agency of Canada received \$50 million to promote safe relationships and prevent family violence, including elder abuse.¹¹⁶ In addition, Justice Canada's Victims Fund provides funding to provinces, territories, and non-governmental organizations for senior victims and other victims of crime. Recently, \$1 million was also made available to develop and update public legal information to support victims of elder abuse and neglect, and to inform them about where they can seek assistance.¹¹⁷

The federal government stated that it has been working with the provinces and territories to develop standards for long-term care facilities. Because that work is ongoing, government witnesses could not provide details to the Committee.¹¹⁸

Provincial/Local

Various approaches to addressing elder abuse have been taken at the provincial and local level, partly supported by federal funding. There are projects connecting police, community, social, and health services locally in integrated teams and fostering coordinated community responses.¹¹⁹ Another project establishes community lookouts

114 JUST, [Evidence](#), 6 May 2021 (Marie Beaulieu).

115 JUST, [Evidence](#), 25 May 2021 (Jody Berkes).

116 JUST, [Evidence](#), 6 May 2021 (Kristen Underwood).

117 JUST, [Evidence](#), 6 May 2021 (Carole Morency).

118 JUST, [Evidence](#), 6 May 2021 (Kristen Underwood).

119 JUST, [Evidence](#), 11 May 2021 (Kathy Majowski).

to identify seniors experiencing difficult situations, such as abuse, and find them assistance.¹²⁰ Other organizations provide group information sessions with seniors, though the pandemic has affected their ability to do so.¹²¹ Still others provide resources to protect seniors against fraud.¹²² British Columbia has community response networks to promote awareness of elder abuse, including networks for individuals from the Punjabi, Chinese, Indigenous, and LGBTQ+ communities.¹²³

The Committee was told that one barrier to supporting vulnerable seniors is that in provinces such as Ontario there is no adult protection legislation that addresses issues of elder abuse. This means that social and health care agencies, which may be well placed to identify and address abuse experienced by seniors, are more limited in what they can do.¹²⁴

What really came out from the testimony was that more must be done at all levels to develop and coordinate programming and policies that address the needs of seniors, prevent elder abuse, and better respond when abuse happens.

CHAPTER 3: TAKING ACTION

3.1 Improving Data Gathering and Research

Many witnesses urged the federal government to invest in research and data collection on elder abuse in order to better understand the problem and make evidence-based policy.¹²⁵ Particular emphasis was placed on the need for more standardized data tracking across the country,¹²⁶ and for disaggregated data to better understand how age and other identity factors play into elder abuse.¹²⁷

120 JUST, [Evidence](#), 11 May 2021 (Colombe Marcoux, Coordinator, Vigil'Ange).

121 JUST, [Evidence](#), 11 May 2021 (Kathy Majowski).

122 JUST, [Evidence](#), 11 May 2021 (Krista James).

123 JUST, [Evidence](#), 25 May 2021 (Sherry Baker).

124 JUST, [Evidence](#), 13 May 2021 (Patrick Fleming).

125 JUST, [Evidence](#), 6 May 2021 (Carole Morency); JUST, [Evidence](#), 11 May 2021 (Marta Hajek); JUST, [Evidence](#), 25 May 2021 (Haley Mason); JUST, [Brief](#), May 2021 (Ombudsman).

126 JUST, [Evidence](#), 11 May 2021 (Marta Hajek); JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier); JUST, [Brief](#), May 2021 (CASW).

127 JUST, [Evidence](#), 11 May 2021 (Marta Hajek); JUST, [Evidence](#), 25 May 2021 (Haley Mason); JUST, [Brief](#), May 2021 (Ombudsman).



Two organizations specifically recommended that the federal government require federally funded and regulated agencies to collect and report disaggregated data on elder abuse.¹²⁸ One of these also recommended the integration of data collection requirements into national standards for long-term care.¹²⁹ As noted by one witness, data collection in First Nations communities is independently governed with the support of organizations such as the First Nation Information Governance Centre.¹³⁰

The Committee heard about the importance of federally funded research into various issues related to elder abuse, including:

- the causes of elder abuse;¹³¹
- “technology-based intervention and prevention strategies” and “best practices for creating local elder abuse response systems”;¹³²
- comparative research on the experience of the United States, where there are criminal laws specifically targeting elder abuse;¹³³
- the potential use of testimonial aids to assist vulnerable senior witnesses in criminal processes,¹³⁴ and
- how to work with victims and witnesses who have mental capacity issues, including dementia.¹³⁵

3.2 The Need for Criminal Law Reform

Criminal Code Amendments

Almost all witnesses who took a clear position on the topic argued that amendments to the Code are needed, with a number of frontline service organizations stressing the

128 JUST, [Evidence](#), 11 May 2021 (Marta Hajek); JUST, [Brief](#), May 2021 (CanAge).

129 JUST, [Evidence](#), 11 May 2021 (Marta Hajek).

130 JUST, [Evidence](#), 13 May 2021 (Marilee Nowgesic).

131 JUST, [Brief](#), May 2021 (Sherry Baker).

132 JUST, [Brief](#), May 2021 (AGE-WELL).

133 JUST, [Evidence](#), 11 May 2021 (Krista James); JUST, [Brief](#), May 2021 (Canadian Centre for Elder Law).

134 JUST, [Brief](#), May 2021 (Canadian Centre for Elder Law).

135 JUST, [Evidence](#), 11 May 2021 (Krista James).

importance of amendments,¹³⁶ while the Canadian Bar Association (CBA) felt that the Code has adequate provisions and the focus should be on better enforcement and more police and prosecutor training.¹³⁷

One witness felt that it was unclear whether certain types of elder abuse are covered by the criminal law, such as failing to provide medication or healthcare and hygiene-related services, or pushing a senior to eat too fast.¹³⁸ The Committee was told that section 215 of the Code (failure to provide the necessaries of life), for example, is only used “in the most profound circumstances—such as leaving an older person in unheated garage [sic] to die of starvation and sepsis due to untreated wounds.”¹³⁹

One brief stated that a specific elder abuse and neglect offence is important for deterrence and to send a clear message that abusing vulnerable seniors is not “just a ‘civil matter’.”¹⁴⁰ Another brief said that a focus on collecting restitution for seniors in financial fraud cases would be important.¹⁴¹

Witnesses noted that coercion and control, the topic of a recent report by this Committee, also play out in elder abuse situations.¹⁴² According to a witness who trains police nationwide, police consistently say they do not have the tools to address patterns of problematic behaviour towards seniors.¹⁴³ One organization recommended that the offence proposed in Bill C-247 on coercion and control in intimate relationships be expanded to include elder abuse between family members beyond intimate partners and those living together.¹⁴⁴

136 See, for example: JUST, [Evidence](#), 11 May 2021 (Stéphanie Bérard; Marta Hajek); JUST, [Evidence](#), 25 May 2021 (Laura Tamblyn Watts, President and Chief Executive Officer, CanAge); JUST, [Brief](#), May 2021 (Elder Abuse Prevention Ontario).

137 JUST, [Brief](#), May 2021 (CBA).

138 JUST, [Evidence](#), 25 May 2021 (Danis Prud'homme).

139 JUST, [Brief](#), May 2021, p. 5 (CanAge).

140 JUST, [Brief](#), May 2021, p. 5 (CanAge).

141 JUST, [Brief](#), May 2021, p. 5 (Ombudsman).

142 JUST, [Brief](#), May 2021 (Seniors First BC); [Statistics Canada report](#); Report of the Standing Committee on Justice and Human Rights, [The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships](#), April 2021.

143 JUST, [Evidence](#), 25 May 2021 (Laura Tamblyn Watts).

144 JUST, [Evidence](#), 25 May 2021 (Laura Tamblyn Watts); JUST, [Brief](#), May 2021 (CanAge); LEGISinfo, [C-247, An Act to amend the Criminal Code \(controlling or coercive conduct\)](#).



Graham Webb from the Advocacy Centre for the Elderly suggested that to address abuse and neglect in long-term care homes, a new offence is required, along with whistleblower protection, and personal criminal liability for directors and officers of such facilities. According to him, charges are often not laid in elder abuse cases because there is no suitable offence.¹⁴⁵

Mr. Webb suggested one or more new offences of criminal endangerment if an individual or organization has entered into a contract to provide care and/or supervision to a person, has failed to do so, and the result has been to endanger the health and/or safety of the person. He suggested a maximum penalty of five years' imprisonment, with separate offences for criminal endangerment where bodily harm or death is caused, with higher maximum penalties. According to Mr. Webb, the provisions could be modelled after the criminal negligence provisions in sections 219-221 of the Code, and such offences would not be limited in application based on age, but would benefit seniors living in long-term care.¹⁴⁶ Several witnesses spoke in support of this suggestion,¹⁴⁷ while a couple of others felt that the existing offences suffice.¹⁴⁸

Mr. Webb also proposed an administration of justice offence for retaliation against a long-term care resident for making a complaint relating to criminal endangerment, modelled on sections 139(2) and (3) of the Code. Without such protection, he felt that complainants would not come forward.¹⁴⁹ Prohibition orders on working with the elderly for individuals who have abused seniors in the past were also discussed. Again, the response was mixed, with one witness saying this can already be done as part of a probation order,¹⁵⁰ and another saying something more is needed in the criminal law.¹⁵¹

Finally, Mr. Webb also recommended examining how to strengthen sentencing provisions with cases of elder abuse in mind.¹⁵²

145 JUST, [Evidence](#), 6 May 2021 (Graham Webb); JUST, [Evidence](#), 25 May 2021 (Laura Tamblyn Watts).

146 JUST, [Evidence](#), 6 May 2021 (Graham Webb).

147 See, for example: JUST, [Evidence](#), 11 May 2021 (Melissa Miller; Marta Hajek); JUST, [Evidence](#), 25 May 2021 (Marie-Noël Campbell); JUST, [Brief](#), May 2021 (CanAge). Krista James (JUST, [Evidence](#), 11 May 2021) stated that while the Code is "largely adequate" as is, the proposal merited study.

148 JUST, [Evidence](#), 25 May 2021 (Jody Berkes); JUST, Reference Document, May 2021 (Lake Addendum).

149 JUST, [Evidence](#), 6 May 2021 (Graham Webb). In agreement: JUST, [Evidence](#), 11 May 2021 (Melissa Miller; Raeann Rideout).

150 JUST, [Evidence](#), 25 May 2021 (Jody Berkes).

151 JUST, [Evidence](#), 25 May 2021 (Laura Tamblyn Watts).

152 JUST, [Evidence](#), 6 May 2021 (Graham Webb).

Witnesses also stressed the importance of ensuring criminal liability extends to those who own, govern, and operate long-term care homes and similar congregate living facilities.¹⁵³ Such actors can put frontline employees in “highly compromised situations” that make it impossible to provide adequate levels of care.¹⁵⁴ As one witness noted, problems such as dehydration often stem from organizational issues, and “it should not be the lowest-paid worker who is held accountable [...] especially when we have chain, for-profit companies turning a profit on the suffering of these residents.”¹⁵⁵ While some witnesses acknowledged that charges such as failing to provide the necessities of life and criminal negligence could be laid against long-term care home administrators,¹⁵⁶ at least one thought their responsibility could be clarified through amendments to the Code.¹⁵⁷

The CBA expressed concern that adding new offences to the Code “may be counterproductive because it can increase the complexity of the legislation without changing society’s response to the acts in question.”¹⁵⁸ With respect to Mr. Webb’s suggestion, the CBA felt that the proposed offence of criminal endangerment is covered by existing criminal negligence offences, that intimidation or attempting to dissuade a complainant from testifying is already an offence, and that the conditions of release can prohibit contact and address the vulnerability of senior complainants.¹⁵⁹ Another witness cautioned against age-specific provisions in the Code because “specifications can further marginalize vulnerable groups.”¹⁶⁰ Regardless of the differences of opinion regarding amendments to the Code, there was general agreement that better enforcement is necessary.

Training of Police, Prosecutors, and Judges

Training of justice system actors, supported by the appropriate tools and policies, is essential to better address elder abuse.¹⁶¹ Police must be trained to recognize the

153 JUST, [Evidence](#), 6 May 2021 (Graham Webb); JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier).

154 JUST, [Evidence](#), 6 May 2021 (Graham Webb).

155 JUST, [Evidence](#), 11 May 2021 (Melissa Miller).

156 JUST, [Evidence](#), 11 May 2021 (Melissa Miller); JUST, [Brief](#), May 2021 (Canadian Centre for Elder Law).

157 JUST, [Evidence](#), 6 May 2021 (Graham Webb).

158 JUST, [Brief](#), May 2021 (CBA).

159 JUST, [Evidence](#), 25 May 2021 (Jody Berkes).

160 JUST, [Brief](#), May 2021 (Canadian Centre for Elder Law).

161 JUST, [Evidence](#), 25 May 2021 (Marie-Noël Campbell; Jessica L. Lyle); JUST, [Brief](#), May 2021 (CanAge).



dynamics of elder abuse and to work effectively with senior victims, particularly where cognitive issues are at play, integrating intersectional and trauma-informed approaches.¹⁶² As noted by one witness:

[O]n the elder-abuse front, often what creates the shades of grey is the introduction of the issue of dementia [...] There needs to be much more implementation of that national dementia strategy, and having those conversations with all of the members of the justice community so they understand that just because somebody is apparently incapable at the time doesn't mean that the suspected abuser gets a pass [...] The issue to me is supporting those people on the front lines who are making these decisions, who are in place, so the police who want to lay charges have the support of the prosecutors and judges who understand what's going on.¹⁶³

Building on the existing efforts of organizations to educate the police, one witness suggested the creation of “centres of excellence” for police and prosecutor training.¹⁶⁴

3.3 Other Suggested Federal Government Actions

Coordination, Standard Setting, and Funding

The Committee heard from several witnesses about the key role the federal government can play in coordination, standard setting, and the sharing of best practices given the patchwork of different services and programs across the country. Witnesses encouraged the Committee to learn from the evolution in thinking about domestic violence and apply those lessons in the context of elder abuse.¹⁶⁵ Several witnesses called for the federal government to take a leadership role in preventing and addressing elder abuse nationwide, possibly through the development of a national elder abuse strategy,¹⁶⁶ as well as by supporting research, services, and public education.¹⁶⁷ Public awareness was identified as an important prevention measure, so that both victims and those around

162 JUST, [Evidence](#), 25 May 2021 (Jody Berkes); JUST, [Brief](#), May 2021 (CanAge).

163 JUST, [Evidence](#), 25 May 2021 (Jessica L. Lyle).

164 JUST, [Evidence](#), 25 May 2021 (Jody Berkes).

165 JUST, [Evidence](#), 11 May 2021 (Kathy Majowski); JUST, [Brief](#), May 2021 (CBA).

166 JUST, [Evidence](#), 11 May 2021 (Marta Hajek); JUST, [Evidence](#), 25 May 2021 (Sherry Baker; Jessica L. Lyle; Haley Mason); JUST, [Brief](#), May 2021 (CASW).

167 JUST, [Evidence](#), 11 May 2021 (Kathy Majowski).

them are able to recognize the signs of elder abuse and know what to do when it arises.¹⁶⁸

Some witnesses also called for national standards for long-term care facilities, with a few calling for those to be legislated federally.¹⁶⁹ Such standards could outline, for example, the ratio of residents to PSWs and the time to be spent with each resident per day.¹⁷⁰ Also, according to one witness, “where a facility failed to meet the standards, they would serve as clear evidence for prosecutions.”¹⁷¹

Other suggestions for federal action included a national housing strategy, which was seen as important for the wellbeing of seniors, and the creation of an ombudsperson or advocate for seniors.¹⁷²

Some witnesses commended the funding for seniors in the 2021 budget,¹⁷³ though one expressed disappointment that elder abuse was not more specifically targeted.¹⁷⁴ In addition to funding to support the steps mentioned above,¹⁷⁵ funding was recommended for:

- non-governmental organizations and social, nursing, and financial services for seniors, including a flagging or auditing system to signal

168 JUST, [Evidence](#), 11 May 2021 (Marta Hajek); JUST, [Evidence](#), 25 May 2021 (Haley Mason); JUST, [Brief](#), May 2021 (AGE-WELL); [Beaulieu report](#).

169 The following called for national standards: JUST, [Evidence](#), 11 May 2021 (Raeann Rideout); JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier; Michael Villeneuve); JUST, [Evidence](#), 25 May 2021 (Laura Tamblyn Watts); JUST, [Brief](#), May 2021, (Ombudsman). The following called for the standards to be legislated federally: JUST, [Evidence](#), 11 May 2021 (Melissa Miller); JUST, [Evidence](#), 25 May 2021 (Jessica L. Lyle).

170 JUST, [Evidence](#), 13 May 2021 (Miranda Ferrier). Terry Lake and Melissa Miller (JUST, [Evidence](#), 11 May 2021) both flagged the need to increase the time spent with patients.

171 JUST, [Evidence](#), 25 May 2021 (Jessica L. Lyle).

172 Regarding housing, see: JUST, [Evidence](#), 11 May 2021 (Krista James); JUST, [Brief](#), May 2021 (Sherry Baker). Regarding an ombudsperson or advocate, see: JUST, [Brief](#), May 2021 (CanAge); JUST, [Brief](#), May 2021 (Ombudsman).

173 JUST, [Evidence](#), 25 May 2021 (Jessica L. Lyle); JUST, [Brief](#), May 2021 (CanAge).

174 JUST, [Evidence](#), 11 May 2021 (Bénédicte Schoepflin).

175 For discussion of funding for other elements, see: JUST, [Evidence](#), 11 May 2021 (Marta Hajek; Krista James); JUST, [Evidence](#), 25 May 2021 (Jessica L. Lyle); JUST, [Brief](#), May 2021 (AGE-WELL); JUST, [Brief](#), May 2021 (Sherry Baker); JUST, [Brief](#), May 2020 (Canadian Centre for Elder Law); JUST, [Brief](#), May 2020 (CanAge); JUST, [Brief](#), May 2021 (Elder Abuse Prevention Ontario); JUST, [Brief](#), May 2021 (Ombudsman).



misuse of federal payments to seniors by family members and other caretakers;¹⁷⁶

- addressing the shortage of personnel caring for seniors through supporting training and staffing costs;¹⁷⁷
- short and long-term accessible, safe housing for seniors, considering the needs of specific communities, such as ethnic communities and the LGBTQ+ community;¹⁷⁸
- informal caregivers through taxation and unemployment support programs and homecare services;¹⁷⁹
- increasing transfer payments to the provinces for long-term care;¹⁸⁰
- increasing the income of seniors such as through a Universal Basic Income Guarantee and/or increases to Old Age Security and the Guaranteed Income Supplement.¹⁸¹

It was recommended that funding be specifically for elder abuse as, often, it is included in broader funding and elder abuse is inadequately addressed.¹⁸²

176 JUST, [Evidence](#), 11 May 2021 (Marta Hajek; Kathy Majowski); JUST, [Brief](#), May 2021 (CanAge); JUST, [Brief](#), May 2021 (CASW); JUST, [Brief](#), May 2021 (Ombudsman).

177 JUST, [Evidence](#), 11 May 2021 (Terry Lake); JUST, [Brief](#), May 2021 (BridgeGen Canada Centre).

178 JUST, [Evidence](#), 11 May 2021 (Stéphanie Bérard); JUST, [Evidence](#), 13 May 2021 (Tehmina Naveed); JUST, [Evidence](#), 25 May 2021 (Jessica L. Lyle); JUST, [Brief](#), May 2021 (Sherry Baker); JUST, [Brief](#), May 2021 (Canadian Centre for Elder Law).

179 JUST, [Brief](#), May 2021 (CASW).

180 JUST, [Evidence](#), 11 May 2021 (Marta Hajek; Melissa Miller); JUST, [Evidence](#), 25 May 2021 (Gisèle Tassé-Goodman, President, Provincial Secretariat, Réseau FADOQ).

181 JUST, [Brief](#), May 2021 (CASW).

182 JUST, [Evidence](#), 11 May 2021 (Bénédicte Schoepflin).

Vulnerable Populations

One witness stated that immigrant, refugee, and Indigenous seniors are particularly vulnerable to elder abuse and noted the specific responsibilities of the federal government with respect to these populations.¹⁸³

Support for language training for immigrant seniors was seen as an important federal function.¹⁸⁴ According to one witness, facilitating immigration for those without a university degree could also provide a solution to staffing shortages, given that the domestic supply of PSWs and nurses is not meeting demand.¹⁸⁵

With respect to the needs of Indigenous seniors, one organization explained that factors such as the erosion of family and tradition due to colonization, residential schools, and child welfare apprehension have to be considered in responding to elder abuse in Indigenous communities.¹⁸⁶ Housing is an important consideration in protecting Indigenous seniors as well.¹⁸⁷ The Canadian Indigenous Nurses Association explained that nurses play key roles in identifying elder abuse in First Nation communities, but they have to be careful not to lose their patients' trust when disclosing information. They proposed creating elder lodges in all First Nations communities. The importance of meeting the needs of off-reserve First Nations seniors was also stressed, along with the need to ensure services are available and that jurisdictional issues are not a barrier.¹⁸⁸

Collaboration between government programs and existing volunteer organizations can assist seniors to access the federal benefits they are entitled to, according to one witness.¹⁸⁹ Using official interpreters to ensure that a senior is being told an accurate translation was also suggested, as well as ensuring appropriate means of communication are used where a senior has a disability affecting communication.¹⁹⁰

183 JUST, [Evidence](#), 11 May 2021 (Krista James).
184 JUST, [Brief](#), May 2021 (Sherry Baker).
185 JUST, [Evidence](#), 11 May 2021 (Terry Lake).
186 JUST, [Brief](#), May 2021 (Canadian Centre for Elder Law).
187 JUST, [Brief](#), May 2021 (Sherry Baker).
188 JUST, [Evidence](#), 13 May 2021 (Marilee Nowgesic).
189 JUST, [Evidence](#), 13 May 2021 (Mathieu Robitaille).
190 JUST, [Evidence](#), 25 May 2021 (Marie-Noël Campbell).



Banking

The Committee heard from several organizations who stressed the need for greater action in the banking sector, an area under federal jurisdiction, to avoid fraud and theft of seniors' assets by family, caregivers, and unknown scammers.¹⁹¹ One brief welcomed the adoption of the 2019 *Code of Conduct for the Delivery of Banking Services to Seniors*, but called for greater regulatory oversight and mandatory requirements to better address financial elder abuse. New policies, and the use of technology could improve interventions to address this type of elder abuse.¹⁹² Witnesses provided a variety of suggestions, including amending banking and privacy legislation.¹⁹³ For example, it was suggested that the government could introduce legislation protecting employees in financial institutions if they divulge information about an account where elder abuse is feared, similar to the American *Senior Safe Act*.¹⁹⁴

CHAPTER 4: RECOMMENDATIONS

Recommendation 1

That the federal government, in consultation with the provinces, territories, and other relevant stakeholders, develop options to standardize the definition(s) of elder abuse in Canada and do a comparative analysis of the advantages and disadvantages of those options, with particular attention to the following considerations:

- **what kinds of harms should be included and who should be held responsible for those harms;**
- **whether the definition should be limited to abuse within relationships of trust, thereby excluding financial scams by strangers who victimize seniors;**
- **whether the definition should specify a particular age group and, if so, what age;**

191 JUST, [Brief](#), May 2021 (Canadian Centre for Elder Law).

192 JUST, [Brief](#), May 2021 (AGE-WELL).

193 For more suggestions, see: JUST, [Evidence](#), 25 May 2021 (Marie-Noël Campbell); JUST, [Brief](#), May 2021 (AGE-WELL); JUST, [Brief](#), May 2021 (CanAge); JUST, [Brief](#), May 2021 (Ombudsman); JUST, [Brief](#), May 2021 (Seniors First BC).

194 JUST, [Evidence](#), 25 May 2021 (Marie-Noël Campbell); [Senior Safe Act of 2017](#), 12 U.S. Code § 3423.

- **whether a universal definition is preferable, or whether different definitions are required for:**
 - **criminal versus other law and policy contexts; and**
 - **abuse in institutional versus community settings; and**
- **the need to use inclusive terminology that respects the preferences of those directly affected by elder abuse.**

Recommendation 2

That the federal government build on the Budget 2021 commitment to implement a disaggregated data action plan by:

- **supporting research and data collection on elder abuse, including by Indigenous organizations;**
- **supporting the collection and analysis of disaggregated data regarding senior care and the abuse of seniors, with particular attention to the significance of factors such as gender, sexual orientation, gender identity, disability, income, race, ethnicity, newcomer status, and Indigenous identity; and**
- **supporting collaboration and enhanced communication between Statistics Canada and law enforcement agencies.**

Recommendation 3

That the federal government table amendments to the *Criminal Code* that would explicitly penalize elder abuse and in doing so, consider the offence of criminal endangerment, specifically with elements covering failure to provide care where a contract for care exists and that failure endangers the health and/or safety of those in care.

Recommendation 4

That the federal government identify and implement mechanisms to protect whistleblowers in long-term care in consultation with relevant stakeholders, including considering possible *Criminal Code* amendments to make retaliation in response to complaints an administration of justice offence similar to existing provisions regarding obstruction of justice and intimidation.



Recommendation 5

That the federal government, in consultation with relevant stakeholders, examine the aggravating factors in sentencing in the *Criminal Code* and identify whether amendments to those sections could be made to strengthen punishments for elder abuse, including considering the benefits of specifically referencing seniors in those sections. Consideration should also be given to whether potential maximum terms of imprisonment and fines for long-term care administrators, officers, and directors convicted of offences related to incidents of elder abuse are adequate or require *Criminal Code* amendments.

Recommendation 6

That the federal government provide funding to improve training and enhance resources to facilitate investigations of elder abuse, including deaths in institutional and other settings.

Recommendation 7

That the federal government, in consultation with the provinces, territories, and other relevant stakeholders, identify and support the best methods to raise public awareness of elder abuse and to encourage reporting and prevention, including through the education system.

Recommendation 8

That the federal government increase support for programs and policies to prevent and address elder abuse, in collaboration with the provinces, territories and other relevant stakeholders, to ensure that adequate services are available for seniors nationwide.

Recommendation 9

That the federal government, in consultation with other relevant stakeholders, consider amending privacy and banking legislation, as well as non-legislative alternatives, to better protect seniors against financial crimes such as fraud and theft and to protect bank employees from liability for reporting potential financial abuse of a senior, taking lessons learned from the experience of the United States with the *Senior Safe Act*.

Recommendation 10

That the federal government conduct an intersectional analysis of all measures it takes to address elder abuse to ensure that the needs and circumstances of all seniors are

integrated into the federal response, with particular attention given to factors such as gender, sexual orientation, gender identity, disability, income, race, ethnicity, newcomer status, and Indigenous identity.

APPENDIX A LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

Organizations and Individuals	Date	Meeting
<p>As an individual</p> <p>Marie Beaulieu, Professor and Chairholder Research Chair on Mistreatment of Older Adults, Université de Sherbrooke</p>	2021/05/06	32
<p>Advocacy Centre for the Elderly</p> <p>Graham Webb, Lawyer and Executive Director</p>	2021/05/06	32
<p>Department of Employment and Social Development</p> <p>Susan MacPhee, Acting Director General Social Innovation and Community Development, Income Security and Social Development Branch</p> <p>Kristen Underwood, Director General Seniors and Pensions Policy Secretariat</p>	2021/05/06	32
<p>Department of Justice</p> <p>Joanne Klineberg, Acting General Counsel Criminal Law Policy Section, Policy Sector</p> <p>Carole Morency, Director General and Senior General Counsel Criminal Law Policy Section, Policy Sector</p>	2021/05/06	32
<p>BC Care Providers Association</p> <p>Terry Lake, Chief Executive Officer</p>	2021/05/11	33
<p>Canadian Centre for Elder Law</p> <p>Krista James, National Director</p> <p>Stephanie Tam, Staff Lawyer</p>	2021/05/11	33
<p>Canadian Network for the Prevention of Elder Abuse</p> <p>Kathy Majowski, Board Chair and Registered Nurse</p> <p>Bénédicte Schoepflin, Executive Director</p>	2021/05/11	33

Organizations and Individuals	Date	Meeting
Elder Abuse Prevention Ontario Marta Hajek, Executive Director Raeann Rideout, Director of Provincial Partnerships and Outreach	2021/05/11	33
Howie, Sacks and Henry LLP Melissa Miller, Partner and Lawyer	2021/05/11	33
Vigil'Ange Stéphanie Bérard, President Colombe Marcoux, Coordinator	2021/05/11	33
As an individual Mathieu Robitaille, Community Intervenor Centre d'action bénévole Saint-Jérôme	2021/05/13	34
Canadian Association of Social Workers Patrick Fleming, Content Expert and Social Worker Hai Luo, Content Expert and Associate Professor Faculty of Social Work, University of Manitoba	2021/05/13	34
Canadian Indigenous Nurses Association Marilee Nowgesic, Chief Executive Officer	2021/05/13	34
Canadian Nurses Association Miranda Ferrier, Chief Executive Officer Canadian Support Workers Association Michael Villeneuve, Chief Executive Officer	2021/05/13	34
Pak Pioneers Community Organization of Canada Tehmina Naveed, Executive Director	2021/05/13	34
CanAge Haley Mason, Policy Officer Laura Tamblyn Watts, President and Chief Executive Officer	2021/05/25	35
Réseau FADOQ Danis Prud'homme, Chief Executive Officer Provincial Secretariat Gisèle Tassé-Goodman, President Provincial Secretariat	2021/05/25	35

Organizations and Individuals	Date	Meeting
Seniors First BC Marie-Noël Campbell, Executive Director and Lawyer Eric B. Clavier, Lawyer and President Board of Directors	2021/05/25	35
Statistics Canada Kathy AuCoin, Chief of Analysis Program Canadian Centre for Justice and Community Safety Statistics Jeff Latimer, Director General Health, Justice, Diversity and Populations	2021/05/25	35
The Canadian Bar Association Jody Berkes, Chair Criminal Justice Section Jessica L. Lyle, Chair Elder Law Section	2021/05/25	35
The Council to Reduce Elder Abuse Sherry Baker, Executive Director BC Association of Community Response Networks	2021/05/25	35

APPENDIX B LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

AGE-WELL

BC Association of Community Response Networks

BridgeGen Canada Centre

Canadian Association of Social Workers

Canadian Centre for Elder Law

CanAge

Elder Abuse Prevention Ontario

Office of the Federal Ombudsman for Victims of Crime

Rodgers, Diane

Seniors First BC

Statistics Canada

The Canadian Bar Association

The Council to Reduce Elder Abuse

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 32 to 36 and 39 to 41](#)) is tabled.

Respectfully submitted,

Iqra Khalid
Chair

COMPLEMENTARY REPORT OF THE BLOC QUÉBÉCOIS ON ELDER ABUSE

The Bloc Québécois considers that the issue of elder abuse and their living conditions in general is very important and that, especially in the context of COVID, isolation may have exacerbated this problem.

The Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) recently studied the impact of the COVID-19 pandemic on seniors. In light of the testimony before this committee, coupled with what we have heard, the picture is grim as to how we treat our seniors.

Issues relating to the well-being of seniors are very important and have long been brought forward by the Bloc Québécois. We were therefore enthusiastic about studying them in committee in order not only to educate all parliamentarians but also to try, in light of the various testimonies, to find solutions to present to the government.

However, as the Bloc Québécois has repeatedly said, social services offered to the population must be integrated into a coherent policy making it possible to study the problems in a global social context. Many issues are interrelated, and the search for solutions must be done considering the characteristics and social reality of the target population.

This is the main reason why we do not support parts of this report, prepared by the committee, mainly because they do not take into account the exclusive jurisdiction of Quebec and the provinces in the management of health establishments or the specificity of the Quebec nation, in particular its collective choices and its policies, for example in matters of health care and social services.

Jurisdiction in matters of health

Paragraph 31 of the report should read as follows:

*31. **While health care is an area of shared jurisdiction in Canada**, long-term care facilities are regulated by the provinces and territories, which can determine non-criminal sanctions, such as losing a licence to operate or incurring fines when they do not perform up to legislated provincial/territorial standards. The standards of care, enforcement measures, and public disclosure of violations vary significantly across the country.*

However, the premise is false: health is under the jurisdiction of the provinces; it is not a shared jurisdiction. The federal government's only responsibility is to approve patents, oversee Indigenous care and transfer funds to the provinces, which, incidentally, it does not do adequately.

In Canada, Quebec and the provinces administer health establishments and provide care and services to the population. Canada must not dictate to Quebec how it should conduct its affairs within its own legislative jurisdiction.

The education system

Some recommendations also encroach on the jurisdiction of Quebec and the provinces by speaking of the "education system." Recommendation 7 of the final report recommends the use of the "education system" by the federal government, yet this system is managed by the provinces.

*That the federal government, in consultation with the provinces, territories, and other relevant stakeholders, identify and support the best methods to raise public awareness of elder abuse and to encourage reporting and prevention, **including through the education system.***

Although we understand the objective, the federal government does not have to use the "education system" of Quebec and the provinces to raise awareness. The Quebec government already has initiatives in place from its Ministry of Health and Social Services.

Conclusion

The government must stop seeking to impose national strategies or pan-Canadian standards on the programs it puts in place. The Bloc Québécois is opposed to the federal government assuming the right to dictate to Quebec and the provinces what is good for their populations. This hierarchical vision of the Canadian federation is paternalistic and contrary to the principle of asymmetric federalism.

The Bloc Québécois intends to support the report of the Justice and Human Rights Committee on elder abuse tabled today, subject to the two dissenting opinions and corrections in this supplementary report.

NDP Supplemental Report on Elder Abuse in Canada

New Democrat MPs are proud to support the report of the Standing Committee on Justice and Human Rights on elder abuse in Canada but wish to add some important supplementary observations to this report.

New Democrats believe that this report identifies important actions that could be taken to bring elder abuse out of the shadows and reduce its frequency and severity. The actions recommended by the Justice Committee include working with the provinces and community groups to increase awareness of elder abuse in all its forms, facilitate reporting and investigating elder abuse in all settings, provide whistleblower protection, and strengthen prevention and protection efforts. Taken together and given sufficient and stable funding, these measures will make a real difference in the lives of seniors across the country. The Committee notes the need for culturally appropriate supports and services to be provided to help reduce senior abuse among more marginalized populations in Canada, including Indigenous people, new Canadians, and the SOGIE community, in order to meet this challenge.

While acknowledging that most seniors do not live in institutional settings, the COVID pandemic has drawn our attention to serious failings in terms of quality of care in many long-term care facilities. While local staff have sometimes been held responsible for failures to provide adequate care that result in injury or even death, no owners or corporate executives of long term care companies who set the policies and working conditions that lead to these failures have ever been held criminally responsible for the resulting injuries or deaths, not even in the case of the hundreds of deaths during the pandemic. Many witnesses who appeared before the committee called for amendments to the criminal code to create a new offence of criminal endangerment. Such a new offence would allow for the corporations, operators, administrators and directors who own and manage long-term care facilities to be held accountable in cases of elder abuse and neglect. New Democrats fought hard to make sure this recommendation appeared in the report and thank the other parties who agreed to support this recommendation.

While New Democrats believe that long-term care should be public, as there is no room for profit in the care of our most vulnerable citizens, we believe that the ability to hold owners and corporate executives responsible when their failures and profit-driven policies lead to death and misery is an important step forward.

Two further recommendations resulting from the lessons learned in the COVID pandemic were unfortunately not included in the report despite powerful evidence presented to the committee. We believe that creation of national standards for long-term care could help improve quality of care in long term care facilities and also prove a standard by which failure to provide necessary care can be judged. These standards should include enhanced minimum direct personal care hours per resident and measures to improve working conditions in long-term care given that the conditions of work are the conditions of care. We would also have liked to see included a recommendation that called on the federal government to implement

programs to help prevent elder abuse in institutional settings by phasing out profit in long-term care. Again the committee heard testimony demonstrating that for-profit long-term care facilities had much poorer records when it came to deaths of residents during COVID. The fact that seniors were significantly safer in non-profit or publicly operated facilities makes the need to phase out for-profit care self-evident.

New Democrats support taking action toward protecting seniors from abuse in all its forms and the recommendations in the Justice Committee report combined with the additional recommendations suggested in this supplemental report set out a clear path to ensuring better care for seniors and better protection from elder abuse in all its forms.