



Government of Canada  
Office of the Federal Ombudsman  
for Victims of Crime

Gouvernement du Canada  
Bureau de l'ombudsman fédéral  
des victimes d'actes criminels

## **Submission to the Standing Committee on Justice and Human Rights on the Study of Elder Abuse**

Submitted by: Ms. Heidi Illingworth, Ombudsman  
Office of the Federal Ombudsman for Victims of Crime

May 2021

### **ABOUT THE OFFICE OF THE FEDERAL OMBUDSMAN FOR VICTIMS OF CRIME**

The Office of the Federal Ombudsman for Victims of Crime helps victims to address their needs, promotes their interests and makes recommendations to the federal government on issues that affect victims. For more information visit: [www.victimsfirst.gc.ca](http://www.victimsfirst.gc.ca)

## CONTEXT

As Federal Ombudsman for Victims of Crime, my mandate is to help ensure that the rights of victims and survivors of crime are respected and upheld, and that the federal government meets its obligations to victims. In addition to assisting individual victims, I also have a responsibility to identify and bring forward emerging and systemic issues that negatively affect victims of crime at the federal level. Elder abuse is one such systemic issue that is on the rise in Canada, but also very difficult to detect and address.

We are supportive of strengthening 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 to establish new offences and penalties in the *Criminal Code* related to elder abuse. We also agree that it is important to help seniors age in place and stay in their homes longer; set new, national standards for long-term care so that seniors get the best support possible.

I recently provided recommendations to the Minister of Seniors, the Honourable Deb Schulte on the subject of elder abuse. I am pleased to provide this submission to the Justice Committee, which provides information and insight into the many ways seniors' issues intersect with those of victims and survivors of crime. I have also presented recommendations on how to address the scourge of abuse perpetrated against older Canadians in ways that are responsive to the needs and concerns of seniors, particularly with regard to security and crime prevention.

## POSITION

Seniors represent a vulnerable population. As some people age, they rely increasingly on others to care for them and provide them with their basic needs. This dependence exposes seniors to various forms of harm, neglect and exploitation. While Long-Term Care (LTC) homes are often the target of blame for elder abuse, we know that perpetrators are often family members, or someone known to the victim, as reported by Employment and Social Development Canada (ESDC).<sup>1</sup> And, approximately 9 in 10 seniors who were victimized by a family member were victimized inside the home.<sup>2</sup> Also of note, Conroy et al (2019) report that women are far more likely to report that their assailant was a family member (43%), when compared to men (25%).<sup>3</sup> This results in a complex dynamic, in which many seniors are too ashamed, afraid or simply unable to reach out for help, because the perpetrator may be their own child and only caretaker. Many more do not know how to access help, or suffer from various medical conditions (i.e., Dementia, Alzheimer's) in which they lack the cognitive capacity to recognize that they are victims of abuse.

Compounding these realities, the under-resourced nature of this sector means there is little support available, further dissuading seniors from reaching out. Like most abuse that occurs in the private sphere of the home at the hands of those that

victims trust, elder abuse is insidious in nature, largely hidden from view; and lacks a relevant criminal justice system response. The result is that seniors suffer in silence, while enduring physical, financial or emotional abuse.

I note that “establishing new offences and penalties in the *Criminal Code* related to elder abuse and neglect” is a priority in Minister Lametti’s and Minister Schulte’s mandate letters. At present, Canada does not have legislation that criminalizes the victimization of seniors specifically. As a result, offences against this population are prosecuted under existing provisions of the *Criminal Code*. While there are provisions related to theft, fraud, neglect, assault, and sexual assault that acknowledge crimes against an elder as aggravating factors, these may not be sufficient.

I believe there is a need for legislation to criminalize elder abuse as a distinct, pervasive form of violence, which recognizes the exploitative dynamics employed by abusers, and applies appropriate penalties for these offenses. Creating specific offences may lead to easier identification and reporting by family members, social work and health care officials and could also enable law enforcement to intervene more promptly and effectively in cases of elder abuse. However, enacting criminal law penalties in isolation will not eradicate this form of abuse and a broad public health approach is needed.

To support this, I propose that Canada develop and utilize a uniform definition of elder abuse so that current discrepancies and gaps in data, as well as the limitations in what is known about elder abuse, can be addressed.

## **CONSIDERATIONS**

### **Defining Elder Abuse**

#### *Proposed 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 recognizing that elder abuse takes the following forms:

- physical abuse (hitting, forced confinement),
- emotional abuse (verbal, name calling),
- financial abuse (theft of money or property, forgery, fraud, misuse of power of attorney),
- sexual abuse (sexual assault, unwanted sexual contact),
- discrimination (including racist, sexist remarks and slurs based on an elderly person’s disability, harassment or similar treatment),

- neglect and denial of civil and human rights (failure to provide care, assistance, or attention to an adult who is unable to take care of him or herself, failure to provide access to appropriate health, social care, or educational services, or the withholding of basic needs such as medication, nutrition, etc.), and
- undue influence (manipulation or blackmail of an elderly person such as to influence the person to do something not of their own free will or best interest).

## **COVID-19**

Unfortunately, service providers across Canada are reporting a worrisome increase in elder abuse during the COVID-19 pandemic, due to isolation and increased stresses – including for unpaid family caregivers. This has made seniors particularly vulnerable to abuse, while further shrouding the issue in silence. Some older adults have also endured abuse while in LTC facilities with no safe alternatives in sight. The issue is clear; we must put more tools in place to support the detection of elder abuse and protect the well-being of seniors across Canada.

Additionally, it is important to acknowledge the toll the pandemic has taken on senior citizens residents in LTC facilities and their families.

As the senior population grows and continues to age, this population will increasingly need to adjust their living arrangements. While some form of communal living arrangement is indicated for some seniors—mostly those who require a higher level of care—it may be time to re-evaluate the existing models of retirement residences and LTC facilities to determine effectiveness and how they may be improved to better serve the needs of the residents and protect them from exposure to harm.

## **Femicide of Older Women**

In April 2021, my office commissioned a paper by Dr. Myrna Dawson from the University of Guelph, entitled: “Not the ‘golden years’: Femicide of older women in Canada”. Dr. Dawson’s paper sheds light on the reality that for many older women in Canada, the latter stages of their lives may be marked by abuse, violence, and in some cases, death. As discussed in the paper, The Canadian Femicide Observatory for Justice and Accountability reported that older women represented about one-third of all women and girls killed by violence in Canada between 2018-2020 (Dawson et al. 2020) and were overrepresented as victims (Dawson et al. 2019; Dawson et al. 2020 as cited in Dawson, 2021). The paper highlights the fact that older women are often ‘invisible’ and silenced, not only in life, but also in death; emphasizing the fact that the deaths of many older people- particularly older women- remain undetected. The paper points to the intersection of sex and age (among other intersecting identity factors), which render older women particularly vulnerable.

## Recommendations

1. **Enact legislation making elder abuse a *Criminal Code* offence in order to recognize the vulnerability of seniors and impose appropriate penalties.**

Financial fraud committed against seniors is particularly egregious and as such, an emphasis on the need to order and collect restitution for seniors is an essential component of this offence.

2. **Commit funding to Statistics Canada to develop survey instruments that would facilitate the collection of disaggregated data about experiences of elder abuse in Canada and report annually on them.**

3. **In addition to enacting legislation making elder abuse a *Criminal Code* offence, a public health approach is needed to respond to elder abuse in Canada including education and prevention measures.**

ESDC, with support from PHAC, should fund a public health approach to prevent and respond to elder abuse that incorporates a public health nursing program to monitor and report on seniors' health and wellbeing when they are living alone, in LTC facilities or with family members in the community.

A national, multimedia public education campaign should also be undertaken to help Canadians recognize elder abuse and report it. A variety of citizens can be targeted including health care providers, social workers, workers/volunteers at seniors' centres and bank employees. It is of note that some demographics may be at increased vulnerability to elder abuse related to intersecting systems of oppression, such as Indigenous peoples, racialized individuals, women and members of the 2SLGBTQ+ community. Elder abuse may also extend from a pattern of intergenerational family violence highlighting the need for a preventive, public health approach.

4. **Create an Ombudsperson for seniors to ensure federal government accountability for its commitments to the well-being and quality of life of Canadian seniors. The Office could work to promote the interests of seniors, identify systemic issues and help seniors navigate services designed for them.**

Seniors currently represent 17% of the Canadian population, and that proportion is predicted to rise in the future. Appointing an official to monitor and provide oversight of federal seniors' services and issues, and make recommendations to government to address systemic issues is vital.<sup>1</sup> The Office could also provide information and referrals for individuals who are navigating services for seniors and track their concerns and complaints related to:

- home care, palliative care and long-term care;

---

<sup>1</sup>See the British Columbia model for more information- <https://www.seniorsadvocatebc.ca/>

- pharmacare;
- income supports such Old Age Security (OAS), Guaranteed Income Supplement (GIS), and Canada Pension Plan (CPP); and
- federal programs that provide funding to community-based agencies.

**5. Provide federal funding to support social, nursing and financial services for seniors.**

One of the key indicators for elder abuse is social isolation, which can exist even in communal living arrangements, such as long-term care homes, but especially if the older adult has physical or mental limitations. ESDC should provide funding for social workers and/or public health nurses to work with seniors in long-term care to reduce isolation and to monitor their well-being. These social workers and public health nurses would be independent of the administration of LTC homes to ensure that their focus is uniquely on the well-being of the residents. Similarly, public health nurses could monitor seniors living alone or with their family in residential settings to ensure their health, as is done with newborn babies.

As financial abuse of the elderly is a grave concern, ESDC'S New Horizons for Seniors program could also provide funding to establish a flagging/audit system for OAS/GIS/ CPP financial transactions to prevent abuses by family members or other caretakers and better protect seniors.

**6. Strengthen the ability of the Canadian Anti-fraud Centre to investigate, address and respond to financial crimes committed against seniors.**

In 2020, the Canadian Anti-Fraud Centre recorded 68,452 incidents of fraud, 40,612 victims and \$106.4 M lost to fraud<sup>5</sup>. Senior citizens are often directly targeted by fraudsters and scammers and when they do incur financial losses, there is little hope of recovering funds stolen or holding fraudsters accountable. Given the magnitude of the losses sustained by seniors (and others) to fraud, federal law enforcement should focus in this area. The CAFC should analyze the data collected from reporting and conduct nationwide elder fraud sweeps targeting scammers and bringing criminal charges. The CAFC mandate should also include the ability to seize fraudulently obtained funds and provide restitution to identified victims.

**7. Direct federal funding for specialized investigation and prosecution teams to address elder abuse.**

In addition to creating an elder abuse offence, establishing specialized investigation and prosecution teams could assist with the detection and underreporting of this serious crime. The province of Ontario has established a

suite of policy measures to aid with prosecutions, which could serve as a model for other jurisdictions.<sup>6</sup> Ontario has also established the Serious Fraud Office, to strengthen efforts to combat the growth in sophisticated fraud activity against businesses and individuals.

## **Conclusion**

Seniors deserve to be cherished and protected in their golden years, yet in many cases, they become vulnerable to abuse, neglect and violence. Their voices go unheard or they are unable to recognize what is happening to them as abuse and disclose it to trusted family or workers. Victims of elder abuse deserve protection and access to justice, but this is often not possible due to the limited ability to detect this crime and prosecute it. By making necessary *Criminal Code* amendments, and taking a public health approach, which monitors and protects seniors' safety, we can better prevent elder abuse and improve legal, social and health responses to affected seniors.