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# Standing Committee on Justice and Human Rights

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Chair: Mr. Randeep Sarai





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• (1545)

[English]

**The Chair (Mr. Randeep Sarai (Surrey Centre, Lib.)):** I call this meeting to order.

Welcome to meeting number 64 of the House of Commons Standing Committee on Justice and Human Rights.

Pursuant to the order adopted in the House on March 8, 2023, the committee is meeting in public to begin its study of Bill C-295, an act to amend the Criminal Code (neglect of vulnerable adults).

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022. Members are attending in person in the room and remotely using the Zoom application.

As you're all members, including the panellist, I won't go into how to use Zoom or your interpretation functions.

In the interest of time, I would now like to welcome Dr. Fry to our committee.

Dr. Fry, the floor is yours. You have five minutes. Then we'll have questions and answers right after.

**Hon. Hedy Fry (Vancouver Centre, Lib.):** Thank you, Chair, and thank you very much, colleagues, for inviting me here to speak on my bill, Bill C-295.

I think it is an important bill, even though it sounds like a simple bill. It's an important bill, because the issue of long-term care is a provincial jurisdiction. It is not in the Canada Health Act. It's purely provincial jurisdiction. The only way the federal government can have a role is to do something within its jurisdiction, which is the Criminal Code.

What this bill is meant to do is amend sections 214 and 215 of the Criminal Code to protect vulnerable adults. It extends the definition to vulnerable adults. Currently, sections 214 and 215 deal with child abuse and negligence. We are now using it to extend the definition to vulnerable adults.

The bill puts in some specific definitions. It tells us what a vulnerable adult is. A vulnerable adult is a person who, by virtue of age, mental or physical illness, or disability, is frail. That's meant to be a vulnerable adult. The ability to take care of that vulnerable adult follows completely through with sections 214 and 215 of the Criminal Code with regard to children.

Why are we doing this? We're doing this because currently the only national standards that we have for long-term care, which is a provincial jurisdiction—and I want to keep stressing that—is a na-

tional voluntary set of standards. Everyone should and could try to...etc. There is no mandate for this. This continued on for a very long time, until COVID-19 exposed the vulnerability of that system.

As we well know, about 54% of all long-term care facilities are run by the private sector. Many of them are not-for-profit. Some are run by the church-based sector, but most of them are just private.

I think, again, it's what we saw after COVID-19. We found that while only 3% of people who got COVID-19 were in long-term care facilities, they made up 43% of those who died. That was really out of whack. It was an overbalance of that.

At the same time, while other countries had 41% of people in long-term care facilities dying from COVID-19, in Canada we actually were the worst. We had about 69% of our seniors getting COVID-19, and dying from it, as we well saw.

I think the reason is that we don't have mandated standards. The federal government cannot stand up and mandate standards. It is something the provincial government's going to have to do.

Currently, what this bill does is it defines who a vulnerable adult is. It expands the duty of care from a child to a vulnerable adult. It actually puts in some other definitions. For instance, it defines what a "long-term care facility" is. A long-term care facility is where three or more people are vulnerable by virtue of—as I said before—age, mental illness, physical illness, disability, etc. They are not related to the caregiver by blood or marriage. That rules out somebody who's looking after grandma or grandpa at home. This is about a facility. There must be three or more people in the facility.

Now, it defines “manager”. What is a manager of a long-term care facility? It defines what a manager is and the duty of that manager. It defines what that duty is. There is “failure to perform”. If that manager fails to perform a duty to provide the necessities of life and the appropriate care to vulnerable adults, then they would be liable, as obviously this bill tells you, to certain penalties—a fine or jail time.

It also talks a little about what was wrong. Why did COVID-19 expose this problem that we didn't know about before? As a physician, I knew. I knew about the problem with long-term care units. I looked after patients in some of these units. We knew what the problems were.

• (1550)

After what happened with COVID-19.... As you know, the armed forces went in to help in some of these facilities. Their report is scathing. It talks about how, in fact, many of the people in these areas.... The cleanliness was lacking; protocols were lacking; most of the aides who were performing the work to take care of seniors had no formal medical education or health care education or training—they were just doing this. They were moving from patient to patient during COVID, using the same gloves and the same protective equipment; they did not often wash their hands, and I think those are the things that we saw.

What this bill is striving to do is.... The Canadian Standards Association has set standards that are very clear for what is required to care for vulnerable adults in these facilities. What this is doing is saying to managers and owners of these facilities, if you don't do it, you're going to be penalized. It brings in teeth and accountability to something. This is the only way that the federal government can intervene.

I'll leave it there, and I'll be happy to answer any of your questions.

Thank you.

**The Chair:** Thank you, Dr. Fry.

Before we start this round of questions, we're just going to do a quick sound check with Mr. Caputo. I'll let the clerk do that.

**Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC):** Good afternoon, everybody.

I hope that everything's working well now. Thank you for your patience.

**The Clerk of the Committee (Geneviève Desjardins):** Thank you.

I have a thumbs-up for you.

**The Chair:** Sounds good.

For our first round, we'll begin with Mr. Van Popta and we'll go with five minutes because of votes.

**Mr. Tako Van Popta (Langley—Aldergrove, CPC):** Thank you, Chair.

Thank you, Ms. Fry, for being here. Thank you for your private member's bill. We're generally supportive, but it's here at committee so that we can work together to make it stronger.

Before I get into that, I have a question more generally.

In the 2020 Speech from the Throne, the federal government made commitments to work with Parliament on Criminal Code amendments, explicitly to penalize those who neglect seniors, and now here it is in a private member's bill that is being presented. It's also in Mr. Lametti's mandate letter that he should continue to work with the Minister of Seniors to strengthen Canada's approach to elder abuse by finalizing some legislation.

Why has it been left up to a private member's bill to bring this important legislation forward?

**Hon. Hedy Fry:** Somebody had to do it. As a physician, I saw what happened. Many of us know that so many very...and I use the word “vulnerable” as meaning they cannot speak out. They have no one to go to bat for them; they weren't allowed to have their family visiting them, etc. It was needless.

What we see in terms of these long-term care facilities is a great deal of negligence and abuse, actual abuse.

Somebody had to bring something forward that would get some teeth in why things are being done, negotiating various things with provinces, etc.

**Mr. Tako Van Popta:** I think we agree that this is important legislation, an important initiative, but why isn't the government taking the lead on this? Why isn't the Attorney General—Minister of Justice doing this?

**Hon. Hedy Fry:** When I brought this bill forward, I went to him and I said, I'm bringing this bill forward; do you have a problem with it? He said, no, in fact, we think it's a good idea. Would you do this? Go ahead and do it.

**Mr. Tako Van Popta:** Why isn't he leading the charge?

I'll note that we all voted in favour at second reading to bring it to committee, but Mr. Lametti did not vote. Presumably he wasn't in the House that day, but he chose not to vote remotely either.

• (1555)

**Hon. Hedy Fry:** I can't answer for Mr. Lametti. I'm sorry.

**Mr. Tako Van Popta:** That's fair enough.

You highlighted that there's a new definition for “long-term care facility” and a definition for “manager”, but there's no definition in Bill C-295 for owner, yet owners—whatever or whoever that might be—could be criminally charged.

Wouldn't your legislation be improved by having a clear and concise definition of who an owner of a care facility is?

**Hon. Hedy Fry:** If you look at the definition in the bill, it says that a

manager, in respect of a long-term care facility, means any person who is responsible for

(a) hiring or scheduling staff who provide care to residents,

(b) purchasing or directing the purchase of medical and other supplies that are used in providing necessities of life to residents,

(c) directing the daily operations of the facility, including planning and coordinating the provision of care....

It gives an extensive list of supervising all the care, monitoring the implementation of policies and protocols—

**Mr. Tako Van Popta:** I'm sorry, I have only five minutes and—

**Hon. Hedy Fry:** The owner usually hires a manager to do this day-to-day work.

**Mr. Tako Van Popta:** You're reciting the definition of “manager” but what is the definition of an owner, particularly in a privately owned setting—whether it's for profit or not for profit? Sometimes corporate structures are complex, where one company owns the building but contracts it out to another to operate it, who then might have subcontracts with other private companies that operate some part of it.

Who's the owner in that example?

**Hon. Hedy Fry:** In that instance it may be the company; it may be an individual person who owns it. The point is that if that person also happens to be doing these duties, managing the care, then that person is defined as a manager as well as an owner.

**Mr. Tako Van Popta:** Then that person—

**Hon. Hedy Fry:** They may be owners at arm's length; they may not know what the managers are doing.

**Mr. Tako Van Popta:** That person would then fall within the definition of a manager. My question is, why isn't there a definition of owner, when an owner, whoever that might be, could be charged criminally under this act? We're trying to improve the legislation. Where's the definition of owner?

**Hon. Hedy Fry:** I think that what we didn't want to do was to say an owner.... Let's say that the owner is a company, and they just hire people to do the work. They have clear guidelines, but they don't do the day-to-day care, and this person who is managing it is falling by the wayside. We didn't want to reach out and say, just because you own it, you're responsible; it would have to be the person doing the work and the day-to-day care and management who we're trying to get after.

**Mr. Tako Van Popta:** We'll just leave it at that. I would note only, for the record, that there is no definition of “owner”, so I don't know how somebody could be charged as an owner.

I want to now reflect on the definition of manager. It, on the other hand, is very, very broad, and it includes even the person who is doing the scheduling of the workers. I've spoken to a scheduler at a care facility, and this is a big, stressful job, particularly when there's a shortage of skilled workers.

Would that person, who's doing his or her best to make sure there's full staffing for every shift, be criminally negligent if something tragic were to happen on the floor that day?

**The Chair:** Be very quick, Dr. Fry.

**Hon. Hedy Fry:** I think the bottom line is that when something tragic happens, one would go back, and one would find out why. If the person were taken to court, they would have to say that they just couldn't find staff, or whatever the extenuating circumstances are. They would be able to use that as a reason. Hospitals lack staff all the time.

**The Chair:** Thank you, Mr. Van Popta.

Next we'll go to Ms. Brière for five minutes.

[*Translation*]

**Mrs. Élisabeth Brière (Sherbrooke, Lib.):** Thank you very much, Mr. Chair.

Ms. Fry, I will speak in French. I'd like to start by thanking you for joining us today and for introducing this bill. I was fortunate to work with you on the Special Joint Committee on Medical Assistance in Dying, and I think the bill you are introducing today is another high point in our ongoing commitment to the most vulnerable people in our society.

We know that COVID-19 highlighted the concerning living conditions of seniors and other vulnerable people living in long-term care facilities. These situations can occur anywhere in Canada. Last month, in my region, in Sherbrooke, tenants of a residence had to be evacuated due to suspected neglect. Over the past few years, I have heard all sorts of stories, including one about a patient who stayed in the patient lift for the duration of the staff member's break.

Do you believe your bill will be a first step in establishing a stronger legal framework regarding elder and vulnerable persons abuse?

• (1600)

[*English*]

**Hon. Hedy Fry:** Yes, it is a first step—thank you for pointing that out—but it was something that had to happen, because we have no idea if another pandemic will hit us tomorrow, and we don't want to be scrambling around once again. We want to be able to have some protocols and clear guidelines in place, and accountability. Right now, with the national guidelines we have for provinces, those guidelines are voluntary. As the executive director of the Ontario Health Coalition said, nothing was done; no one was charged; no one was held responsible for what went on during COVID-19 in long-term care centres.

This is something that will be a first step, in the meantime, helping people to be accountable. The Canadian Standards Association recently set new guidelines. If we have that kind of body naming guidelines and we know what those guidelines are, if people fail to meet those guidelines and if the provinces don't want to do anything about it, the federal government can hold them responsible in the interim. Hopefully the next step will be to work with provinces to find a way to build in ways of getting provinces to have clear guidelines and enforce those guidelines themselves locally.

[Translation]

**Mrs. Élisabeth Brière:** Do you believe the bill respects the division of federal and provincial jurisdictions?

[English]

**Hon. Hedy Fry:** I'm sorry. I couldn't hear that.

[Translation]

**Mrs. Élisabeth Brière:** Do you believe the bill respects the division of federal and provincial jurisdictions?

[English]

**Hon. Hedy Fry:** Yes, I think it does. Everyone talks about the Canada Health Act. Long-term care facilities are not included in the Canada Health Act. They are not part of it, so the federal government cannot use the Canada Health Act to discuss long-term care. They have to do it on a one-on-one negotiating basis with provinces and say, "Here are some of the things that...."

In the interim, what it can do is use the Criminal Code to make people accountable and responsible for lack of duty to care.

[Translation]

**Mrs. Élisabeth Brière:** In developing the bill, did you meet with various stakeholders and visit long-term care facilities?

[English]

**Hon. Hedy Fry:** Yes, I did. I spent a lot of time in long-term care facilities while I was practising medicine for 20 years. I saw it—the heartbreak of patients complaining about the care they got or didn't get, and the abuse they got from a lot of caregivers was something that.... All I could do was complain. I couldn't do anything about it. They also had to be quiet and say nothing, in case they got treated even worse. The people in a position of trust and authority could penalize you if you dared to say something happened there that made you unhappy, or if your family managed to complain about something.

I'm a member of Parliament now, and I could use that ability to deal with something. Dealing with it prior to COVID meant the public would want to know what I was talking about. COVID exposed all of this. As we saw, the armed forces' task force made some very clear reports, which read almost like horror stories, about what was lacking in these long-term care facilities.

**The Chair:** Thank you, Ms. Brière.

Next, we'll go to Ms. Larouche for five minutes.

[Translation]

**Ms. Andrée Larouche (Shefford, BQ):** Thank you very much, Mr. Chair.

Ms. Fry, thank you very much for joining us and testifying on a bill that I feel very strongly about. You talked about your experience as a physician. For my part, before I was a member of Parliament, I was a project manager on elder abuse and bullying awareness.

In Quebec, the Secrétariat aux aînés has a policy to counter elder abuse, and Quebec has a law to strengthen the fight against elder abuse.

The topic is particularly close to my heart and I have been following the situation closely. I worked in collaboration with various actors, including a collaborative intervention process where we brought together representatives from the health community, the police community and the community, such as the Alternative Justice and Mediation organization, for which I worked. We also developed tools for filing complaints.

Listening to you, I get the impression that the reality in Quebec is different from the rest of Canada, and I'll explain why. We have a fairly comprehensive law in Quebec aimed at addressing elder abuse. We also have a higher rate of public residences for seniors. In fact, in Quebec, 88% of long-term care facilities, or CHSLDs, are public, compared to 46% in the rest of Canada. That's a significant difference.

You talked about respect for jurisdictions in your speech. How could we ensure that this bill respects them? Putting the issue of abuse in the Criminal Code—we would be willing to do that—is a federal issue, but I would add a caveat to that. I would like your views on the issue of respecting jurisdictions because, in the case of Quebec, 88% of CHSLDs are public and under the jurisdiction of the Ministry of Health and Social Services.

• (1605)

[English]

**Hon. Hedy Fry:** I think that's an important question. Thank you for it.

One thing we saw was that during COVID, there were 13 different jurisdictions with regard to public health, protocols and everything. The federal government did not have the ability to say to everyone, "Let's play by one plan and do it one way, so that everyone is following the same rules." The federal government couldn't do that. What we saw was that, because of the spottiness in different provinces regarding the way things were run....

The Criminal Code applies to individuals, persons and facilities. If Quebec has great laws, protocols and legislation, it is purely for Quebec. We are talking about across the country. Pandemics don't respect provincial jurisdictions. Pandemics happen, and our duty is to protect people.

[Translation]

**Ms. Andrée Larouche:** Of course, we want to protect people. Since protecting people is the responsibility of the health and social services network, there are already standards in place. You said that.

In no way do I want to trivialize what happened, but I just want to remind you that it was the Canadian Armed Forces that, in their report, pointed out what people needed. You talk about the labour shortage, but we still need to implement these standards and to implement them we need the resources and the personnel to take care of the people. So we also need bigger health budgets. I am not the one who highlighted the importance of financial transfers; it is the Canadian Armed Forces themselves who mention it in their report.

I would like to end with two small caveats, which we can come back to later.

We are willing to discuss your bill and find ways to improve it. For example, the definition of “long-term care facility” proposed in the bill does not specify that these facilities, such as long-term care homes, are under provincial jurisdiction. This is something we will have to look at. In addition, this definition is very prescriptive and excludes, among others, older people who are able to decide, voluntarily, to reside in one of these facilities but who do not necessarily have disabilities. So those things should be added. Are you willing and open to talking about that in your bill?

[*English*]

**Hon. Hedy Fry:** I don't know—

**The Chair:** Thank you, Ms. Larouche.

Dr. Fry, very briefly, you have 10 seconds.

**Hon. Hedy Fry:** I don't think I understood your question very well, but perhaps we can get to it in another round.

Thank you.

**The Chair:** Thank you.

Next we'll go to Mr. Garrison for five minutes.

**Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP):** Thank you very much, Mr. Chair, and thank you very much, Dr. Fry, for being here with us today and for introducing this bill.

I think the members of the committee all understand that the Criminal Code is a blunt instrument and a limited instrument, but it is an instrument for getting at the crisis that we saw during COVID.

With respect to my colleague from the Bloc, though, I think we saw a problem different from a jurisdictional problem, and that was the ownership—

• (1610)

[*Translation*]

**Ms. Andr anne Larouche:** Mr. Chair, I'm sorry, there is a problem with the interpretation.

[*English*]

**The Chair:** There's a translation problem. We'll pause for a second.

Say a few words and see if...

**Mr. Randall Garrison:** The translation is malfunctioning. Is it okay?

I'll back up just slightly.

With respect to my Bloc colleague, who talked about jurisdiction as the difference, what I saw was something different. In the first 15 months of COVID, we had 56,000 residents in long-term care in Canada who got COVID, and 22,000 staff who got it. There were around 14,000 deaths among the residents. That's a rate of about 20% of those who were infected.

However, the record for private, non-profit facilities was much worse. There were three times as many infections and two times as many staff infections per bed, and the resident deaths were at a significantly higher rate. Sometimes it was between 30% and 40% of those who were infected, when the general rate was somewhere around 20%.

It seems to me that the distinction here, which the facts support, is not about whose jurisdiction it was, but who owned those facilities. I wonder whether you would agree with me that it's a significant problem.

**Hon. Hedy Fry:** Absolutely, I agree with you. Yes. I think it's a very important distinction that you are making.

If you look at Ontario, for example, people who were in a long-term care facility during COVID were 13 times more likely to get infected and die than people who were the same age and living in the community. I think we saw that the problem was with the long-term care facilities, and not necessarily with the age alone.

**Mr. Randall Garrison:** Also, the difference between the public, the not-for-profit and the for-profit facilities was quite significant.

**Hon. Hedy Fry:** We know that in some provinces, there's a huge number of not-for-profits. That's what we're trying to say. It's different in every province, and we're using this blunt instrument to make people accountable and responsible.

**Mr. Randall Garrison:** As a New Democrat, I'm one of those who thinks we should try to eliminate for-profit long-term care. That's why, in our agreement with the government, we got a commitment for the introduction of a safe long-term care act, which would correct that omission from the Canada Health Act.

What would you think of a separate, stand-alone, safe long-term care act?

**Hon. Hedy Fry:** It cannot be under the Canada Health Act, because it never was, so one would have to write it into the Canada Health Act. It would be very difficult, I would think, to open up the Canada Health Act and write in new things—

**Mr. Randall Garrison:** That's why I suggested a safe long-term care act.

**Hon. Hedy Fry:** One would have to do this as a separate long-term care act, yes.

**Mr. Randall Garrison:** Okay.

In your act, you have a very broad definition of “managers”. One of the concerns I've heard is that a lot of the frontline workers were working in constrained conditions in which the owners and the effective decision-makers restricted the financial resources available, so that they couldn't hire more staff and they couldn't access more cleaning materials.

The concern has been raised that your broad definition of “manager” might include some people who are trying very hard to deliver the care but are constrained by the owners and the financial decision-makers in those institutions.

**Hon. Hedy Fry:** I think if you read the definition, it talks about people who are hiring and scheduling staff. It talks about the daily operations. It talks about people who are supervising staff. It talks about controlling and evaluating the quality of care. It talks about monitoring the effective implementation. It really doesn't talk about staff who are obeying whatever orders they were given.

We've had word from the report from the 4th Battalion task force that money, saving money, was a big reason for not doing things, but there was also the hiring of staff who were not necessarily qualified, who were inexperienced. Then there was the fact that many of the staff were afraid. They were afraid to deal with people who had COVID. They were scared they would get it.

Again, we have a whole bunch of things that, as you say, a long-term care act would address in terms of certification, registration and who should be working in such facilities.

**Mr. Randall Garrison:** Surely there's a difference, though, between a manager whose job is to schedule staff and even hire staff—who knows there's a bigger need for staff but isn't given the resources to do that.... My concern is about those middle-level managers being captured, unfortunately, in your bill. Perhaps we need to move the definition so that it really only captures those who are making those financial decisions that are crucial to care.

**Hon. Hedy Fry:** I don't think it's only financial decisions, though. I think even if there are protocols there, we know from the report that there were some people who were managing the daily operations who didn't follow protocols. It isn't only about who pays for the facility and who wants to save money. It's also about people who don't necessarily follow all the COVID protocols they had, or who weren't able to get the staff to be trained, or have trained staff under them. Somebody has to be responsible for that daily care to provide the necessities of life to people under their care.

I mean, we're specifically talking about COVID, but I think if you look at hospitals, hospitals right now are constrained by the idea that they don't have.... They don't have caregivers. They don't have health care professionals. We're trying to hire people. Burnout is a big issue. You couldn't find qualified people to work in these places. Besides, we didn't pay them enough.

• (1615)

**The Chair:** Thank you, Dr. Fry.

We'll continue with the five-minute round. I don't see the bells ringing, so I think we're probably not having a vote. We'll continue to the next round.

Mr. Brock, you have five minutes.

**Mr. Larry Brock (Brantford—Brant, CPC):** Thank you.

Thank you, Ms. Fry, for your advocacy on this bill.

I was just thinking about another line of questioning that I wanted to pursue with you. It's in relation to law enforcement generally.

I don't know if you are aware of this, but my previous background was in Crown prosecutions. I can inform you that my jurisdiction has a number of homes that would cater to vulnerable adults. I've heard numerous tales of abuses, and on a piecemeal basis, various social workers or parental workers would be charged under the existing regime in the Criminal Code.

I know that your bill takes it one step further and takes a look at actual managers and potential owners, but the impression I've always had—I'm looking at the pandemic and all the examples of abuse from coast to coast to coast—is that there still appears to be a general reluctance with policing to lay Criminal Code charges in relation to any extreme cases of abuse when the evidence is there, witnesses have come forward and sometimes pictures are taken. The police will have ample tools before them, yet they will choose not to pursue any sort of relief under the Criminal Code.

My question to you is very, very simple. In terms of the stakeholders that you may have consulted with when you started working on drafting this bill, did you take a look at policing in general and ask them that specific question on why there has been and continues to be a reluctance to hold individuals accountable for this extreme abuse to the vulnerable members of our population?

**Hon. Hedy Fry:** I actually did not consult with police, but your point is extremely well taken. In the past, the police did not have the definitive definitions and legislation. They had it for child abuse. They could enter and deal with child abuse, because it was very clear under sections 214 and 215 of the Criminal Code. Now that we've expanded the same sections that dealt with child abuse to vulnerable adults, the police have been given some extra tools within the Criminal Code to be able to move where they possibly couldn't in the past.

**Mr. Larry Brock:** I kind of anticipated that response from you. I would like to know how you reconcile that explanation with existing terminology, existing charges and existing sentencing principles already within the Criminal Code.

Let me just give you an example. Under paragraph 215(1)(c) of the Criminal Code, there already exists a charge of failing to provide the necessities of life to someone in your care. In section 217.1 is failing to take reasonable steps to prevent bodily harm when directing another's work. Then there is the catch-all phrase, “criminal negligence”, which could certainly fall into numerous cases where I have read about and seen abuses during the pandemic.



The definition section early on in the Criminal Code, under section 22.1 says that an organization—such as a long-term care provider—could be considered a party to an offence. In your case owners or managers could be held criminally liable in the same fashion as the principal perpetrator of the actual abuse. We have that already in the code. We already have sentencing provisions under paragraph 718.2(a) that speak about how, wherever you have elder abuse, it could be viewed as an aggravating factor where there's "evidence that the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation".

Again, it goes back to my earlier question. The police already have the tools. With the exception of, perhaps, defining in your bill the manager component and the owner component, how do you feel your bill provides additional resources to the police that they do not already have?

• (1620)

**Hon. Hedy Fry:** Again, we have the whole aggravating factor in sentencing, as you well know, but the bottom line is that it is more specific. It is very specific about the facility. In other words, it's not if you're looking after grandma and you have been abusing her. This is about facilities per se, people who own and operate those facilities. It is very specific, so that the police can specifically look after those issues.

I think the other was more general and didn't give the police the tools they needed.

**The Chair:** We're 30 seconds over.

**Mr. Larry Brock:** We'll have to continue this discussion some other time.

**The Chair:** Thank you, Dr. Fry, and thank you, Mr. Brock.

We'll next go to Ms. Dhillon for five minutes.

**Ms. Anju Dhillon (Dorval—Lachine—LaSalle, Lib.):** Thank you, Dr. Fry, for bringing this bill forward.

I would like to start with something I noticed. There is no definition of "elder abuse" in the bill. Would you be open to adding that? If so, in your opinion, what would define "elder abuse"?

**Hon. Hedy Fry:** First and foremost, I think the bill does pertain to abuse, negligence, etc., in a facility. Remember that this is about a facility. A facility was defined in this bill that I'm doing here. I think what we wanted to do was to steer clear of elder abuse that may happen generally within a family by anyone else who is caring for a person, again, by virtue of marriage and/or blood. There are other parts of the Criminal Code that could deal with clear elder abuse. This is about in a facility that is specifically designed to care for and provide the necessities of life for a person who is a vulnerable adult.

**Ms. Anju Dhillon:** In your opinion, since this is a matter of urgency and we want to act as soon as possible, a private member's bill was the way to do this. Can you explain what the urgency is for bringing it forward in this manner?

**Hon. Hedy Fry:** The urgency is that pandemics are with us because of global travel, because we are very mobile as individuals. We go from place to place. Pandemics will happen. Right now, it's

a respiratory pandemic. It was COVID, and it was respiratory syncytial virus. It was a bunch of respiratory things. It could be others. It could be blood-borne diseases. It could be spread through fecal matter. It could be spread through blood.

Pandemics are now going to be a thing of reality, and the World Health Organization has flagged that this is a reality. We know that people who are in facilities among other people who may be sick.... The whole idea of transmission from one person to another within a facility is something that we have to think about, because contagious diseases spread in crowds or in places where there are many people gathered together, such as a long-term care facility.

**Ms. Anju Dhillon:** How would this legislation be better than the status quo?

**Hon. Hedy Fry:** The status quo didn't work, did it? All these people who died needlessly and who were abused and neglected.... COVID exposed it all.

Now we know that there are some things we must do while we are talking and negotiating with provinces about human resources and all the other things we have to do, and as we are looking at a long-term care act, as Mr. Garrison said. Until then, what if a pandemic blows up tomorrow? There has to be something we can do right now to take care of people who are vulnerable.

**Ms. Anju Dhillon:** We also know that elder abuse is not well documented here in Canada. There is limited data collection. There is under-reporting for many of the reasons you mentioned during your testimony, like the fear of reprisal, that they are just incapable of doing it, or that they are very vulnerable.

How do you think data collection could be improved?

• (1625)

**Hon. Hedy Fry:** Legislation and Criminal Code amendments are only one part of a solution to many problems. One of them, obviously, is going to be data collecting, research, education, allowing people to know what their rights are, and a whole bunch of other things, etc.

This is one piece. This is not a catch-all. This is not going to stop everything from happening, but it is one piece. Again, in the Criminal Code we cannot put down things such as research and development, because that's a totally different thing, but I think research data collection is very important. If you can't identify the problem, how can you prevent it?

**Ms. Anju Dhillon:** There is mention of these concerns that keep coming up that managers or owners are going to have regarding this bill, like there's a lack of people to work for them or it's going to discourage people from working for them, but we also know that long-term care homes are the least monitored. We saw this during the pandemic: It blew up.

It's not like nanny cams didn't catch abuse in the past, though, so how would you respond to these concerns that the owners and managers have?

**Hon. Hedy Fry:** I think that if the bottom line for owners and managers is profit, cutting back on medications and cutting back on staff, that's a problem. Why do you think that the report showed a lot of the staff were not registered or were not certified? It's because people want to pay them very low wages, so they bring in untrained and unqualified people to work.

A lot of registered nurses wouldn't work for that kind of money and wouldn't work in a place where they knew they were going to be abusing and denying access to protocols and health care to their patients, so these people are free to do whatever they want.

We are trying to stop them from doing that.

**The Chair:** Thank you, Ms. Dhillon.

Last, we'll go for two rounds of two and a half minutes, beginning with Ms. Larouche.

[Translation]

**Ms. Andr anne Larouche:** Thank you very much, Mr. Chair.

Ms. Fry, I'd like to quickly go back to what I was saying at the end of my first round.

What is problematic is that the very prescriptive definition proposed in the bill for a "long-term care facility" does not even mention that these are facilities under provincial jurisdiction. Moreover, this definition excludes seniors who voluntarily decide to reside in these facilities, but who do not necessarily have disabilities.

So where does this definition come from, and is it consistent with Quebec and provincial laws?

[English]

**Hon. Hedy Fry:** I think people who decide to go to live in a long-term care facility obviously need care. They are obviously unable to provide care for themselves. That may be because they are chronically ill or maybe frail. They don't necessarily have to be mentally ill or disabled, but they have reasons they can't take care of themselves.

They go there trusting that the people who are running the facility will give them the care they need. We need to protect them from the belief that because they are going to a facility they will get the care they need.

[Translation]

**Ms. Andr anne Larouche:** You have more or less answered the question about jurisdiction and the question about where this definition comes from and whether it is consistent with the laws of Quebec and the provinces.

The bill defines the role of manager or owner and sets out a long list of duties associated with it. Again, however, these health care facilities are administered by Quebec and the provinces. So this bill may not be the right place for such a specific list.

In addition, this bill is vague. We need to know what services rendered within the institution entail. We also need to ask how broad the scope of the bill is. Does it place all the responsibility on the back of the manager or owner, even when the act involves only the employee and the vulnerable older person?

What do you have to say about the concerns we have about the bill?

• (1630)

[English]

**The Chair:** Please answer very quickly, Dr. Fry.

**Hon. Hedy Fry:** It said very clearly who was going to be responsible in it when it defined who a "manager" is and what a "care facility" is. Who were the persons employed on a casual basis is obviously not involved in any of this definition.

**The Chair:** Thank you, Dr. Fry.

Last, we'll go to Mr. Garrison for two and a half minutes.

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

Once again, on this jurisdiction question, if we look at the first 15 months, there was a privately run and owned facility in Pickering, where 35% of those who got COVID died, and there was one in Dorval, privately run and administered, where 35% of those who were affected died, yet in the public institutions and the not-for-profits in both provinces, the death rates for those infected were less than half that rate.

Again, I'm going to come back to what the facts show us: that it's probably not a jurisdiction question. It's a general question of COVID and long-term care, but it's also a question of ownership. Once again, I think you'd probably agree with me on that.

**Hon. Hedy Fry:** I agree with you on that completely, yes.

**Mr. Randall Garrison:** The question is to identify who's responsible.

With respect, Dr. Fry, when you talk about the managers, it's as if suddenly we have a bunch of managers who are certified health care professionals, who are nurses, who are long-term care professionals and who are suddenly not doing their job. I find that a little hard to accept as the reason that this happened, because those people are extremely dedicated and work very hard every day, and they have no interest in not doing their job well. To me, the people who had an interest in saving money are the ones we need to look at, who are responsible for that higher rate of death.

**Hon. Hedy Fry:** Again, I think that what was discovered in the report was that saving money was one of the big reasons, but other reasons were that they had untrained staff who were scared.... They were scared to go into rooms of people with COVID. If they were untrained, they would go in with the same paraphernalia and the same protective equipment that they had in looking after patient A and, with the same equipment, walk into the room of patient B. They didn't have staff who were equipped, trained and able to provide the quality of care.

Again, we're back to that: People were being hired, but they couldn't pay RNs or they couldn't pay people with the kind of training that was needed to provide that care.

**Mr. Randall Garrison:** With respect, it leads right back to the question I was talking about: Who made the financial decisions that created that situation?

With that, Mr. Chair, I'll conclude my questions.

**The Chair:** Thank you.

Dr. Fry, thank you for presenting the bill and answering all the questions. I'm sure we'll have more witnesses in the coming days and be able to flesh it out and give back a thorough report. I want to thank you.

I will adjourn the meeting, because there's going to be a subcommittee meeting.

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