

26. That the federal government, through the Minister of Justice, review and clarify the effectiveness of the *Criminal Code* in addressing elder abuse.

27. That any section of the *Criminal Code* found during the review to be inadequate either in its provision or in its enforcement for addressing elder abuse be redrafted to enable lawyers, judges and police to respond to suspected abuse.

B. Adult Protection Legislation

In some Canadian jurisdictions, the enactment of adult protection legislation applicable to all vulnerable adults has been used to respond to elder abuse. Newfoundland passed the first such legislation in 1973 (Neglected Adults Welfare Act), followed by New Brunswick in 1980 (Child and Family Services and Family Relations Act), Nova Scotia in 1985 (Adult Protection Act) and Prince Edward Island in 1988 (Adult Protection Act). The laws provide a legal framework for emergency intervention by health and social service personnel in domestic and other settings where abuse might be occurring. In Newfoundland and Nova Scotia reporting of suspected cases is mandatory; Prince Edward Island has adopted voluntary reporting while New Brunswick has no statutory reporting requirement.

Witnesses told the Committee that many seniors are opposed to mandatory reporting. Elaine Scott suggested that: "Seniors fear reporting, because they fear that they are going to be put into a nursing home...Some seniors feel that they should have the right to choose, even if they choose to live in risk."⁹⁵ Judith Wahl confirmed this and added that: "...mandatory reporting is a very ageist response to a very difficult problem. It often takes away the power from the senior...Mandatory reporting lets a lot of professionals off the hook, because they pass it on to someone else..."⁹⁶

Many witnesses argued that self-determination by seniors was a primary principle to be respected. Judith Leon cited examples of seniors who had to pull in psychologists from outside the system "to overrule the decisions of some of the

⁹⁵ Scott, 1:12.

⁹⁶ Wahl, 5:24.