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# Submission to the Standing Senate Committee on Legal and Constitutional Affairs

*Bill C-36 "An Act to amend the Criminal  
Code (elder abuse)"-Protecting Canada's  
Seniors Act*

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## **The Office of the Federal Ombudsman for Victims of Crime**

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The Office of the Federal Ombudsman for Victims of Crime (OFOVC) is an independent resource for victims in Canada. The Office was created in 2007 to ensure the federal government meets its responsibilities to victims of crime.

Our mandate relates exclusively to matters of federal jurisdiction and enables the Office to:

- promote and facilitate victims' access to existing federal programs and services for victims by providing them with information and referrals;
- address complaints of victims about compliance with the provisions of the *Corrections and Conditional Release Act* that apply to victims of crimes committed by offenders under federal jurisdiction;
- promote awareness of the needs and concerns of victims and the applicable laws that benefit victims of crime, including to promote the principles set out in the *Canadian Statement of Basic Principles of Justice for Victims of Crime* among criminal justice personnel and policy makers, with respect to matters of federal jurisdiction;
- identify and review emerging and systemic issues, including issues related to programs and services provided or administered by the Department of Justice or the Department of Public Safety and Emergency Preparedness, that impact negatively on victims of crime; and

## **Position**

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In relation to the Standing Senate Committee on Legal and Constitutional Affairs' review of Bill C-36, the OFOVC supports the proposed amendment to the *Criminal Code* that would add vulnerability due to age as an aggravating factor for the purposes of sentencing. Specifically, the Office supports the proposed amendment to section 718.2(a)(iii.1) of the *Criminal Code* which would precise that "evidence that the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation" is deemed to be an aggravating circumstance to be taken into consideration during sentencing.

This amendment is a welcome improvement to the *Criminal Code* as it recognizes the particular vulnerability of older adults, and sends a clear message that preying upon this vulnerable population will be addressed by the courts in an appropriate way.

## **Rationale**

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The OFOVC supports this bill as we have heard from older adult victims of crime, and their advocates, who have identified the impacts of crime and how their needs can be better addressed. We have heard from victims of elder abuse who have shared that they have suffered from serious health implications and psychological problems, including high levels of stress and depression, and increased feelings of vulnerability and helplessness. They have told us that they felt as though they were victimized due to their reduced physical strength and/or mental capacity, when compared against younger individuals. Often, older victims tell us of circumstances in which they were increasingly frail with multiple and concurrent health complications, ultimately leaving them even more vulnerable to criminal victimization. Moreover, elder abuse is often referred to as a hidden crime, as an older adult may experience shame or guilt when the perpetrator harming them is a member of their family, or someone they are dependent on in a care-giving capacity.<sup>1</sup> In these situations, older adults may be hesitant or unable to report the crime to the police.

What also adds to this issue is that Canada's senior population is the fastest growing age group to date. Demographic analysis of the aging population estimates that by 2036 there will be more than 10 million Canadians over the age of 65.<sup>2</sup> Therefore, as the population grows and ages, so to will the number of victims and their potential vulnerability to crime and abuse. From this perspective, it is important to ensure that Canada has the tools in place to appropriately respond to crimes against older adults. The passage of Bill C-36 would represent one such tool to ensure that the *Criminal Code* can effectively respond to the growing and aging population, as well as respond, with appropriate sentencing, to the subsequent increased likelihood of crimes committed against older adults.

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<sup>1</sup> Bain, P, and Spencer, C. (2009) Winnipeg Police. "Take Action against Elder Abuse Fact Sheet" Accessed December 2012, at: [http://www.winnipeg.ca/police/TakeAction/elderabusefacts/FactSheet\\_4.pdf](http://www.winnipeg.ca/police/TakeAction/elderabusefacts/FactSheet_4.pdf)

<sup>2</sup> Human Resources and Skills Development Canada (2012) "Indicators of Well-Being in Canada" Accessed December 2012, at: <http://www4.hrsdc.gc.ca/.3ndic.1t.4r@-eng.jsp?iid=33>

## **Conclusion**

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Taking into account this information and what we have been hearing from older victims, the OFOVC strongly supports the inclusion of vulnerability due to age as an aggravating factor for sentencing as it will contribute to increasing awareness and prevention to protect vulnerable older adults. However, with this being said, the proposed amendments to the Criminal Code provided for in Bill C-36 should not be considered as a universal solution for preventing and responding to elder abuse. As we know, elder abuse is widely understood to be a hidden crime as it is often not reported to police. Therefore it is important to note that the inclusion of vulnerability due to age as an aggravating factor for the purposes of sentencing will not address those circumstances where a crime is not reported. From this perspective, the OFOVC urges Parliamentarians to consider issues of elder abuse from a broader perspective and work towards ensuring Canada has the tools not only to effectively respond to elder abuse through sentencing, but to promote awareness and prevent it from occurring in the first place.