

**Commission of Inquiry into  
Money Laundering in British Columbia**

**Public Hearing**

**Commissioner**

The Honourable Justice  
Austin Cullen

**Held at:**

Vancouver, British Columbia  
via video link

Monday, June 8, 2020

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Michael Levi (for the Commission)  
Peter Reuter (for the Commission)  
Examination by Ms. Latimer, Counsel for the Commission

2 Vancouver, B.C.  
3 June 8, 2020

4 THE REGISTRAR: Good morning, everyone. The hearing  
5 is resumed.

6 THE COMMISSIONER: Yes, thank you, Madam Registrar.  
7 Yes, Ms. Latimer.

8  
9 MICHAEL LEVI, a witness,  
10 recalled.

11  
12 PETER REUTER, a witness,  
13 recalled.

14  
15 MS. LATIMER: Good morning. And good afternoon,  
16 professors, I should say.

17  
18 EXAMINATION BY MS. LATIMER, continuing:

19  
20 Q When we left off Friday, I had just introduced  
21 nine National Risk Assessments that underlie the  
22 recent research on National Risk Assessments.  
23 And you advised that the 2017 National Risk  
24 Assessment for the UK was also considered in this  
25 research; is that right? I believe you reviewed  
26 it.

27 PROF. REUTER: That is correct.

28 MS. LATIMER: Thank you. Mr. Commissioner, I've  
29 provided a copy of that National Risk Assessment  
30 to the participants and to Madam Registrar. And  
31 I don't ask that it be displayed on the screen  
32 but I do ask that it could be marked as the next  
33 exhibit, please.

34 THE COMMISSIONER: Very well. That will be Exhibit  
35 36.

36 THE REGISTRAR: Exhibit 36.

37  
38 EXHIBIT 36: UK national risk assessment of  
39 money laundering and terrorist financing  
40 (2017)

41  
42 MS. LATIMER:

43 Q Professor Reuter, can you tell us, where did the  
44 data come from in your work analyzing the  
45 National Risk Assessments.

46 PROF. REUTER: So the primary source of the data are  
47 the published risk assessments themselves. That

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1 is, we read through multiple times the different  
2 documents that you have listed as exhibits. In  
3 addition, we interviewed some participants in the  
4 NRA exercises in five of the countries, including  
5 Canada, I think Switzerland, U.S., UK, and Italy.  
6 I think those were the five. Didn't do it for  
7 Japan, Singapore or -- I'm missing one.

8 Q We had learned earlier in this hearing that some  
9 countries have unpublished versions of the risk  
10 assessments, and I'm wondering if you can explain  
11 to us whether that would mean that we cannot  
12 assess the government's competence based on what  
13 is published. Or what do we take from that?

14 PROF. REUTER: It's a good question. And it is -- I  
15 cannot dismiss the possibility that a very  
16 competent analysis was done and not published.  
17 It's sort of hard to think about why a government  
18 would not show its competence in what it did  
19 choose to publish. I'm sure that the unpublished  
20 risk assessments have details that are missing  
21 from the published ones, for example about  
22 specific methods that are used which could be  
23 seen as sort of giving away useful information to  
24 offenders.

25 Our effort here was to assess what do  
26 governments know about risk in the abstract, not  
27 about specific methods. And there it's just so  
28 hard to come up with an explanation about why the  
29 published analyses would show less understanding  
30 of the concepts, weaker data analysis, fewer  
31 useful recommendations, than the unpublished.  
32 But I can't dismiss the possibility that a  
33 government could choose to publish something that  
34 was misleadingly incompetent simply to throw the  
35 enemy off the scent. It's a risky strategy given  
36 the Financial Action Task Force will do a mutual  
37 evaluation report, which often -- and I believe  
38 in the case of Canada, relies only on the  
39 published report. And indeed, for the assessment  
40 teams doing the mutual evaluation reports, there  
41 is an issue in many countries about whether they  
42 can have access to what is a security classified  
43 document. And they're foreign nationals. They  
44 don't have security clearances. So I believe  
45 that in many cases, at least, they do not have  
46 access to these unpublished reports. But as I  
47 say, I can't dismiss the possibility that there

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1 is a different and more competent -- I guess, I  
2 would also say I'm fairly sure that the Canadian  
3 -- what we'll call the internal NRA, or internal  
4 risk assessment, I believe was not disseminated  
5 outside of government. So again, since one of  
6 the purposes of National Risk Assessments is to  
7 inform all the stakeholders in the AML effort, it  
8 would be odd to be less competent in what you  
9 distributed.

10 Q Thank you. And you've developed a four-part  
11 framework analysis to apply to these various  
12 National Risk Assessments, and can you explain  
13 for us what that four-part framework is?

14 PROF. REUTER: Sure. So I and my co-author, Joras  
15 Ferwerda, a Dutch economist at the University of  
16 Utrecht, decided that the useful way to think  
17 about these risk assessments was to ask, first of  
18 all, how did they conceptualize the risk  
19 assessment exercise? What was the notion of risk  
20 and how did they reach -- how would they go about  
21 measuring it?

22 Second was to look at what kinds of data  
23 they used in order to assess risk. The third was  
24 the specific analytic methods they used that they  
25 brought to those data to make an assessment. And  
26 fourth was the output, so to speak, of the  
27 assessment. And the assessment is not conducted  
28 as an academic exercise. It's supposed to inform  
29 decision-makers. So what were the informative  
30 outputs of these risk assessments?

31 So we applied that framework to looking at  
32 all eight of these NRAs.

33 Q And when you say eight of the NRAs, you mean the  
34 eight countries that --

35 PROF. REUTER: I'm sorry. Yes, eight countries.

36 Q Okay. In terms of the concepts used, can you  
37 explain for us, please, the concept of risk.

38 PROF. REUTER: Ah. Probably no, I can't. I mean, you  
39 are asking either a very big question or a very  
40 narrow question. The narrow question is, how did  
41 specific countries interpret risk? The big  
42 question is, how should one interpret risk? And  
43 I'm not going to go into that. Well, I probably  
44 have to go into that to some extent.

45 So let's start with FATF. And it's  
46 important to start with FATF because FATF is the  
47 sort of institution that generates -- that

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1 provides the incentive for doing NRAs. And FATF  
2 has this 60-page document, I think, from 2012,  
3 which lays out how risk assessments should be  
4 conducted, and I believe we talked on Friday  
5 about the fact it is sensibly quite light in its  
6 prescriptions. And that represents the fact that  
7 in almost -- in lots of fields, risk assessment  
8 is an exercise which has to -- sorry -- an  
9 exercise in which a sort of standard framework  
10 has to be adapted to the specific phenomenon and  
11 institutional setting in which it's being done.

12 So I will end up being very critical about  
13 the NRAs that have been done, but let me start by  
14 saying, like FATF, I recognize that this is in  
15 fact a new area for bringing risk assessment  
16 methodologies. And it wasn't clear what was the  
17 right way of doing it.

18 Having said that, I think that it's fair to  
19 say that FATF laid out a way of thinking about  
20 this, a conceptual framework that was not  
21 helpful.

22 So it had a very common sense ring to it.  
23 What they said is that risk is a function of  
24 level of threat, the vulnerability of whatever  
25 you were looking -- the institution or nation you  
26 were looking at, and the consequences of money  
27 being laundered.

28 As I say, I will confess, when I first  
29 started working on this, this seemed to me a  
30 perfectly sensible way of thinking about it.  
31 Over time I've come to see two problems. One is  
32 it doesn't reflect the sort of highly developed  
33 risk assessment framework that has been used in  
34 so many other fields. To give you a sense of  
35 this, in the International Standards Organization  
36 risk assessment manual, there's hardly any  
37 reference to threats or vulnerabilities. On the  
38 other hand, there's a great deal of reference to  
39 hazards which play -- a term never used in the  
40 FATF guidance document.

41 So the -- but since FATF was in a sense the  
42 client for the National Risk Assessments, that  
43 is, these were being done, at least in part, I  
44 think in large part, to meet the requirement --  
45 FATF requirement under the fourth-round  
46 evaluation procedures, that countries show an  
47 understanding of money laundering risk. They had

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1 a strong incentive for trying to use the FATF  
2 concepts. And so countries tried to assess  
3 threats and assess vulnerabilities.

4 Now, the formula had a third element, which  
5 was consequences, and FATF, I think quite  
6 appropriately, said, well, it's very unclear how  
7 you measure the consequences of money laundering,  
8 so let's agree you don't have to do that. They'd  
9 be delighted to see it, but they didn't expect  
10 that most countries would do it. And indeed, I  
11 think only, of the eight we looked at, only the  
12 Netherlands was there an effort to assess  
13 consequences.

14 So the focus it was on measuring threats and  
15 measuring vulnerabilities.

16 So risk can be thought of in lots of  
17 different ways, and we use it in common ordinary  
18 discourse as sometimes a synonym for a chance.  
19 So "this is risky" means there's a high chance of  
20 something bad happening. And sometimes it's a  
21 very specific -- "this is a risk" refers to a  
22 specific consequence. You might say, a risk of  
23 doing a bad AML -- a bad NRA is being censored by  
24 -- punished by FATF - take it as sort of example.  
25 So there's not a probability. There's -- so I'm  
26 getting across the ambiguity of the term "risk."  
27 And so risk is defined in a fairly precise way in  
28 risk assessments done in lots of different  
29 contexts.

30 It was never clear in FATF what risk did --  
31 what was the unit of risk? Was it a probability?  
32 Was it a dollar value? What was it? And FATF  
33 never made that clear, and it sort of bedevils  
34 all of the risk assessment NRAs. They're unclear  
35 as to what it is they're measuring as risk. The  
36 concept is not articulated in a clear way.

37 And that in a way reflects the problem of  
38 this vulnerability by threats approach. So one  
39 thing you could think of was that the threat is a  
40 dollar value, that there's a billion dollars of  
41 drug money to be laundered in Canada, and that's  
42 a measure of the threat. And vulnerability is  
43 the probability of successful laundering. So you  
44 could say that the threat -- let's say there's a  
45 10 percent of successful laundering, and then  
46 you'd say, well, so, \$100 million was laundered,  
47 and that would be a measure of risk.



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1           But the term "threat" was expressed in such  
2 a vague term -- vague way that it didn't lend  
3 itself to measurement. So in -- FATF allowed  
4 that it could be -- refer to groups, organized  
5 crime groups, fraudsters, et cetera. Or it could  
6 refer to activities like drug dealing or  
7 something like that.

8           Vulnerabilities were not talked about as  
9 probabilities. Vulnerabilities were discussed as  
10 sources of -- of things -- factors that made it  
11 easier to launder money in a particular setting.

12           But again -- so it wasn't clear how you put  
13 these together. You could say it was a sort  
14 of -- you could say it was a conceptual analysis,  
15 so it would be useful to identify all the sources  
16 of money laundering and call those threats and  
17 all the ways in which it could be done. And that  
18 might be a useful exercise, but then what you're  
19 left with as a measure of risk is very unclear.

20           And so a lot of the problems, I think, in  
21 the NRAs reflects the fact that they want to  
22 follow the FATF guidelines but the FATF  
23 guidelines weren't very helpful. They were  
24 too -- they were simply too vague. And so that  
25 was -- that's, I hope, responsive to your  
26 question.

27 Q       I think it is. Thank you. And I guess flowing  
28 from that, is it correct that the countries did  
29 not approach the concept of threat or  
30 vulnerabilities in a uniform way?

31 PROF. REUTER: They did not approach it in a uniform  
32 way. In some instances -- and I wrote this paper  
33 long enough ago that I've been told that the  
34 reading of all about the NRAs long enough ago  
35 that I can't always remember which was which.  
36 But there were -- either Japan or Singapore sort  
37 of never did do a threat assessment. It simply  
38 talked about how many cases that were that  
39 involved particular kinds of crimes, and by  
40 implication those crimes were the threats, but it  
41 was never explicit about that. The Japanese one  
42 -- and frankly it could be a translation problem.  
43 It is not -- the translation is not well done. I  
44 mean, the English reads poorly. And so I'm --  
45 those who read the English language version may  
46 not get a full appreciation of what they did.  
47 But it's very hard to see that they ever tackled

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1 threats -- did a threat assessment itself.

2 Remind me of the question I'm answering.

3 I've got myself --

4 Q I think you've answered it. It was just whether  
5 they approached the concept in a similar way. In  
6 other words, is it easy to do cross-national  
7 comparison with these reports?

8 PROF. REUTER: No. No. No, it is not. I mean,  
9 perhaps this is a point at which to talk about  
10 differences in approaches. The Dutch National  
11 Risk Assessment is a very singular one because  
12 it's extremely explicit about the methodology.  
13 And it's all expert opinion. There is nothing  
14 else. And they lay out the scenarios that they  
15 asked the experts to consider. They describe the  
16 process by which they analyze those data, et  
17 cetera. Whereas in the U.S., the U.S. begins by  
18 saying, we created a database of 5,000 money  
19 laundering cases, which is fascinating. I've  
20 never seen a database like that. They produced  
21 not a single table out of that. All it turned  
22 out to be was a source of vignettes. So there  
23 were lots of -- lots of interesting vignettes  
24 that came from this 5,000-case database, and not  
25 a single piece of quantitative analysis.

26 So you have the Dutch at one hand with this  
27 very explicit methodology using no actual cases,  
28 and then the U.S. with sort of nothing more than  
29 a set of stories that come out of what looked  
30 like a very interesting database, which they may  
31 have analyzed elsewhere but they certainly didn't  
32 choose to use it in the public version.

33 So I mean -- you've now heard me testify  
34 enough to know that I like occasional literary  
35 allusions. I've been trying to work out some  
36 version of Tolstoy's "Every unhappy family is  
37 unhappy in its own way." Every NRA -- every weak  
38 NRA is weak in its own way. But I haven't quite  
39 polished that up.

40 Q Okay. You've moved to data sources a little bit,  
41 but I wanted to just cover off a couple more  
42 details about the concepts. And I was wondering  
43 if you could explain for us whether the threat  
44 assessment of money laundering informed the risk  
45 level findings in these - national risk  
46 assessments?

47 PROF. REUTER: So in many countries it did not. And

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1 part of the problem is that the threat assessment  
2 is done at a national level. So you say - take  
3 some standard example -- drugs is an important  
4 source of money -- a major source of proceeds of  
5 crime and so a source of money laundering.  
6 That's at the national level. Vulnerabilities  
7 are mostly at a sector level or product level.  
8 And so the threat assessment, unless you -- I  
9 mean, you could -- in the Canadian -- well, I'm  
10 sure we'll get to talk about the Canadian more.  
11 The Canadian is one possible risk assessment  
12 where it may be that the threat assessment played  
13 a role, but it's -- the explication of what they  
14 did is too unclear for me to be sure about that.  
15 But by and large the threat assessment is some --  
16 you know, it's a national level assessment, but  
17 then the vulnerabilities are all specific to a  
18 product or to a sector, and the threat assessment  
19 sort of isn't playing a role there.

20 Q And so is it -- are you supposed to consider  
21 threats and vulnerabilities independently or  
22 together?

23 PROF. REUTER: Thank you. So FATF clearly saw them as  
24 independent. So you do a threat assessment, then  
25 you do a vulnerability assessment. And you could  
26 at any point in time say, this is the threat that  
27 the sector faces and here are its  
28 vulnerabilities. But if you're thinking about  
29 making policy decisions, you have to take into  
30 account that threat and vulnerability are in fact  
31 highly related.

32 I'll start with an analogy. So Louisiana --  
33 New Orleans gets flooded all the time. New  
34 Orleans builds large -- invests heavily in flood  
35 control. Washington D.C., where I live, has very  
36 low risk of -- very low probability of a flood,  
37 invests very little in flood control. And New  
38 Orleans' decision to invest more in flood control  
39 doesn't shift floods to Washington D.C. And so  
40 it's fine for each one to make its decision  
41 separately.

42 Now let's talk about money laundering. So  
43 let's say we have two classes of banks, a retail  
44 bank and a private bank, and the private banks  
45 decide to increase the rigour of their AML  
46 procedures. It is predictable that those who  
47 launder money will find private banking less

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1 attractive and shift more of their money  
2 laundering activities to retail banking. So the  
3 threat to private banking, as measured by the  
4 extent to which efforts are made to launder money  
5 through private banking, will go down, and the  
6 threat to retail banking will go up. And so you  
7 -- the two, threat and risk -- threat and  
8 vulnerability simultaneously determine and  
9 reflect the fact that there are multiple sectors  
10 in each country. And also, equally clearly, each  
11 country is not making decisions about risk  
12 independently. That is, if Luxemburg decides to,  
13 let's say, reduce the rigour of its AML, then  
14 Switzerland may find it's facing less of a threat  
15 because more of the money that would otherwise  
16 have gone to Switzerland now goes to Luxemburg.

17 So risk and vulnerability -- not risk --  
18 threat and vulnerability are determined  
19 simultaneously within countries and across  
20 countries as well.

21 Now, I don't think that what Luxemburg does  
22 is likely to affect Canada because I doubt  
23 there's a lot substitution, but my Luxemburg-  
24 Switzerland example is probably quite -- quite  
25 real.

26 So to my knowledge, FATF never discussed the  
27 relationship between these. And it's fairly  
28 important because you might say, if I increase  
29 the AML rigour here, what is the predictable  
30 consequence in terms of the shift in threat to  
31 other sectors?

32 Q And some countries, like Canada, approached the  
33 issue through the concept of inherent risk.  
34 Could you talk a little bit about that, and how  
35 we can understand that in light of  
36 vulnerabilities.

37 PROF. REUTER: So I -- over the weekend I reread the  
38 Canadian NRA. And will confess again, I just  
39 find myself baffled. I do not understand what  
40 they did. I do not believe you can read the  
41 report and know what it is they did, which isn't  
42 to say that they didn't do a sensible job. It's  
43 just that document doesn't provide you enough.  
44 So I'm sort of guessing at what they meant.

45 And they say about inherent risk that -- I  
46 believe, and you've probably read it more  
47 carefully in this respect than I -- I think they

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1 refer to it sort of imagine -- oh, no, no. I'm  
2 confusing it with the Dutch.

3 I mean, I'm not sure that they did explain  
4 what inherent risk was, but they clearly were  
5 distinguishing between sort of characteristics  
6 that are fundamental to the sector, like the fact  
7 that retail banking allows for rapid movement of  
8 money -- rapid movement of money to many  
9 different places. You don't have to have face-  
10 to-face transactions. They said all those are  
11 sort of vulnerabilities, whereas vulnerabilities  
12 -- they're sort of inherent to retail banking.  
13 You can then have regulations that attempt to  
14 reduce that vulnerability, and that is indeed  
15 what AML is, so that you can't send more than  
16 \$10,000 through in a single transaction or a  
17 particular type of transaction, or if you send it  
18 to a particular country, you have to document who  
19 it's going to. So you distinguish between these  
20 sort of basic characteristics of the sector and  
21 the way -- the vulnerability the sector has after  
22 the AML procedures have been put in place.

23 And that's not -- that actually, I'm pretty  
24 sure, is not part of the FATF guidance, and it's  
25 a -- sort of an interesting exercise. Not clear  
26 to me how valuable it is. If you wanted to  
27 assess how well AML was working -- and the  
28 British did this more explicitly -- you might  
29 say, well, let's look at inherent risk of these  
30 things, how vulnerable the system would be if we  
31 had no AML, and then let's look at how vulnerable  
32 it is now with the current AML. And so the  
33 reduction in the probability of a successful  
34 laundering effort would be some measure of how  
35 effective the AML system was.

36 So if that was the purpose of the exercise,  
37 that would be -- you know, then you'd want to do  
38 the inherent risk. And my understanding is the  
39 internal unpublished NRA does deal with what risk  
40 is left over. Publishing the inherent risk  
41 analysis on its own leaves me just confused. I  
42 don't know what value that has. So...

43 Q Do some of these National Risk Assessments as  
44 you've just described it -- are they intended to  
45 -- do they make policy recommendations, and is  
46 the threat assessment used in that context?

47 PROF. REUTER: So a few of them do have

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1 recommendations. It's odd -- I mean, as I say,  
2 they're all quite different. So Italy, for some  
3 reason, has far and away the most explicit set of  
4 recommendations. So on a very detailed sector by  
5 sector basis, they look at four different actions  
6 you could take to reduce money laundering:  
7 monitoring, education -- I can't remember the  
8 other two. And they make recommendations about  
9 which it would be most appropriate -- which would  
10 be most effective in each of these, let's say, 30  
11 different sectors.

12 At other levels -- in other NRAs you have no  
13 -- you have no policy recommendations. And the  
14 risk assessment -- I mean, this comes to sort of  
15 a -- a bit of a paradox of the risk assessments.  
16 I mean, these are demanded by FATF, but one of  
17 the injunctions of the risk assessment literature  
18 in other fields is that you only do a risk  
19 assessment to inform decisions. And there's  
20 no -- you know, if you're just trying to meet  
21 FATF requirements, you're not informing a  
22 decision. So -- and I think some of them inform  
23 decisions because that's the sensible thing to  
24 do, and some of them don't because they don't  
25 need to do it. They're just meeting a FATF  
26 requirement.

27 Q Okay. I'm turning to the issue now of data  
28 sources, and you talked a little bit about that  
29 already. But I'm wondering if you can tell us a  
30 bit more about the methods of analysis and  
31 whether and how these are described in the  
32 reports.

33 PROF. REUTER: So let -- can I talk explicitly about  
34 data to begin with. So again, FATF sensibly  
35 says, look, you can't do this on a totally  
36 quantitative basis. We don't have the right data  
37 for that. So qualitative data is going to be  
38 important. And that was a very sensible piece of  
39 advice.

40 Some countries used only expert opinion.  
41 The Netherlands stands out in that respect. I  
42 mean, they're perfectly explicit about it. And  
43 I'll get to sort of what I think are the problems  
44 with that approach. But expert opinion played a  
45 role probably in six -- maybe the principal role  
46 in five or six of the eight NRAs.

47 Some NRAs used suspicious activity reports.

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Peter Reuter (for the Commission)

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1           And the Swiss in particular depended heavily on  
2           SARs as a source of data to describe the threat  
3           in their country. So SARs is sort of another  
4           source of data. Then there are criminal justice  
5           actions. The Japanese report, all the  
6           prosecutions for different kinds of money  
7           laundering activities. And finally, I suppose,  
8           there are vignettes. So as I said, the U.S. has  
9           great wealth of vignettes describing specific  
10          modes of money laundering that they think  
11          illustrate what they're dealing with.

12                 And these are all legitimate sources of  
13          data. Expert opinion is probably central here.  
14          I mean, everything -- there's all sorts of  
15          ambiguity about the other sources of data.  
16          Experts have -- you know, experts by definition  
17          have lots of information. That's what makes them  
18          experts. And expert opinion is used in lots of  
19          other areas of risk assessment and is a well  
20          developed methodology for how you elicit -- that  
21          is the term that's used -- elicitation of expert  
22          testimony, expert witness evidence.

23                 And one of the things you have to do is  
24          qualify the witness. So what is that -- what is  
25          the expert expert on? And that seems to be  
26          missing in the NRAs. Certainly the publications  
27          say nothing to suggest that experts were sort of  
28          classified into particular boxes and only asked  
29          about what they were expert on. The sense -- and  
30          I probably know this best for the Dutch NRA -- is  
31          that every expert was asked every question. And  
32          then you say, well, but you know, somebody who  
33          has worked for an international bank and had to  
34          deal with -- you know, might be very  
35          knowledgeable about kleptocrats' banking habits,  
36          but much less knowledgeable about money smuggling  
37          across borders, cash smuggling across borders.  
38          And a customs officer might be very knowledgeable  
39          about money smuggling, cash smuggling across  
40          borders but not very knowledgeable about  
41          kleptocratic banking habits.

42                 As far as we can tell, you know, someone was  
43          classified as an expert and then asked all these  
44          questions. And that's sort just a fundamental  
45          violation of the expertise, about how to use  
46          experts.

47                 Second problem with the use of expert

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1 opinion is that none of them said what kind of --  
2 how many experts, what kind of expertise they  
3 had, where they came from, anything like that.  
4 Just -- the Canadian one had no information about  
5 what kinds of experts, how many, et cetera.

6 Third problem is that there isn't a right  
7 answer to any of these questions that experts are  
8 asked. And they will differ in their opinions,  
9 reflecting different experiences, you know,  
10 different -- you might have a bank that deals --  
11 that's more aggressive in going after foreign  
12 deposits from rich people like kleptocrats and  
13 one that's a more conservative one. And so they  
14 may -- they have different perceptions reflecting  
15 the experiences of what their bank does.

16 In the case of -- certainly of Italy and of  
17 Canada, the effort was made to force consensus,  
18 which means you'd lose all the information that's  
19 contained in the variability of the judgments.  
20 And you know, expert opinion is an important  
21 source of data, but it's used -- it's developed  
22 so poorly for these NRAs that there's a real  
23 question about the value of that.

24 With respect to suspicious activity reports,  
25 those are the -- the money laundering --  
26 suspected money laundering transactions that the  
27 banks detected, and you always worry about, well,  
28 what's the relationship of that to the ones they  
29 didn't detect? And there's really no sensitivity  
30 to that in the analyses that are done.

31 The Swiss who again are, after the Dutch,  
32 the most explicit about their methodology. The  
33 Swiss developed a formula which sort of used the  
34 SARs to decide what were risk factors. So if  
35 particular countries were frequently in SARs,  
36 then those countries are high risk countries.  
37 And then they looked at other banks -- I'll just  
38 stick to banks for a moment -- other banks and  
39 how -- what their transactions looked like in  
40 terms of these risk factors -- how many came from  
41 high risk countries, how many involved complex  
42 transactions -- and there were four, I think,  
43 four factors they looked at. Well, that wasn't  
44 the right way of going about it because you  
45 started with the detected. What you wanted to do  
46 was compare the detected to the undetected. It  
47 may be that -- you know in the Canadian context it



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1           could be that you know 50 percent of all the  
2           suspicious activity reports involve U.S.  
3           transactions. But if U.S. transactions are 60  
4           percent of all transactions, then the U.S. is low  
5           risk, not high risk. But you can't see that if  
6           all you do is look at SARs. So the SARs had the  
7           information in them but you've got to use them in  
8           a different way than they were used in these  
9           NRAs.

10           I mean, those are the two major sources. I  
11           don't think there's any point in going through  
12           the vignettes and the criminal justice  
13           statistics.

14           Q     In terms of those statistics and vignettes, I  
15           take it those don't feature in the Canadian  
16           National Risk Assessment.

17           PROF. REUTER: I think that there are a couple of  
18           vignettes but only -- that's a very small number.  
19           And my memory is that the criminal justice didn't  
20           -- I don't really remember criminal justice  
21           statistics. What I remember are a very beautiful  
22           set of heat maps. I mean, the nicest looking  
23           heat maps I've ever seen. But they come, I  
24           believe, from expert opinion.

25           Q     And so in terms of Canada's approach on these  
26           first two factors of the analysis, how does it  
27           stack up to the other countries?

28           PROF. REUTER: I'm going to go back to my clever line.  
29           Every weak NRA is weak in its own way.

30           So Canada -- I mean, there are some  
31           mysteries about the Canadian analysis. I just  
32           lose it. I reread it over the weekend and I'm  
33           still left baffled. So there's an analysis of  
34           the threat assessment which ends up with sort of  
35           a 10-classification -- a ranking of 10 crimes  
36           from wildlife trafficking through to a bunch  
37           related to drug trafficking, and I can't remember  
38           what else is in there. And the heat map shows  
39           the risk associated with each of eight sectors,  
40           and I think, across these 10 different crimes,  
41           which are always in the same order. And yet  
42           you'd think wildlife trafficking probably has a  
43           different pattern of money laundering than drug  
44           trafficking, or that embezzlement has a different  
45           pattern from drug trafficking. Drug trafficking  
46           is unusual because it starts with cash, whereas  
47           much fraud does not. Yet it's always the same

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1 across all these sectors. I never could work out  
2 why that was the case. Nor could I work out how  
3 -- I believe that there were four factors that  
4 were supposed to determine the vulnerability of a  
5 sector and they were weighted evenly, so you sort  
6 of added each one -- but I have no idea how the  
7 scoring was done. I mean, there was really no  
8 effort to explain the scoring or where these  
9 weights came from.

10 So I mean, I'm willing to be highly critical  
11 of the published report. I think it's  
12 uninformative. I'm not being critical of the  
13 exercise -- I mean I'm being much less critical  
14 of the exercise because I just don't know what  
15 they did.

16 Q I'm turning next to the outputs that were  
17 reported, and I guess the first question is, what  
18 is the goal of the National Risk Assessments?

19 PROF. REUTER: Well, I've already suggested, you know,  
20 a -- you know, a major goal is clearly meeting  
21 the FATF requirement that you show a knowledge of  
22 distribution risks. And it's useful at this  
23 stage to again say, most countries do not publish  
24 a risk assessment. So we were looking at eight  
25 countries that did choose to do it, and there's  
26 dozens of countries which are using a World Bank  
27 tool to do the risk assessment, most of whom will  
28 not publish the results of that. And it would be  
29 helpful if they did, but the fact is that they  
30 don't.

31 So FATF requires that you show a knowledge  
32 of that but you do not have to publish a risk  
33 assessment -- a National Risk Assessment. But if  
34 you're asked why are the risk assessments being  
35 done, it is clearly being driven by the FATF  
36 requirement. The publication decision is  
37 separate, but you know, it's -- if you're Canada,  
38 a leading country in the AML movement, you should  
39 be seen to publish an NRA -- some NRA. And I  
40 mean, if I had to pick one motivation, that's the  
41 motivation.

42 Secondary -- oddly enough, for all my  
43 criticism of NRA public -- published NRAs -- and,  
44 I think, how poorly they're conducted -- it's a  
45 very useful exercise, not for the publication but  
46 for the exercise of bringing together all the  
47 sectors that are involved in AML. And I've only

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1 participated in one NRA myself, in a developing  
2 country, but I was really struck. Sixty people  
3 were in a room together who had clearly mostly  
4 not met each other before, and they were trying  
5 to talk with a consistent vocabulary about a  
6 relatively well defined set of concepts, and they  
7 were learning from that exercise.

8 So if you ask what is the NRA doing, I think  
9 the NRA is in part building an expertise --  
10 building a community and an expertise in that  
11 community that improves communication amongst  
12 many stakeholders. I mean, it is fascinating how  
13 many different agencies and how many different  
14 sectors are involved in these NRA exercises. I  
15 mean I can't remember, is it 11 Canadian agencies  
16 were involved in the NRA in 2015? Some number  
17 like that. And they had to work together pretty  
18 intensely. So, you know, after the - what is the  
19 use of the NRA? One is meeting FATF requirement.  
20 The second one, I think, is developing expertise  
21 and a sense of community. Third is, you know,  
22 what the FATF says, which is this should enable  
23 you to do a better job of allocating efforts to  
24 detect and suppress money laundering.

25 And I don't think any of them have gotten  
26 far enough that you could really claim that they  
27 were able to do that. Now, some - as I said,  
28 Italy stands out for having a very well  
29 articulated set of recommendations. The Swiss  
30 had some, and the Swiss were surprisingly broad  
31 in their view of this, whereas many countries  
32 just looked at sectors and products which were  
33 already subject to AML. The Swiss actually were  
34 interested in identifying ways of laundering  
35 money that were not at the moment subject to AML  
36 control, and this involved the real estate  
37 sector. And so they had a good analysis of  
38 vulnerabilities in the real estate sector. In  
39 the end they think it was sort of a moderate  
40 level of risk, and I think they make a reasonable  
41 argument for that.

42 But I think that they have so far not done  
43 much to provide guidance as to where efforts need  
44 to be made more intense and where they could be  
45 made - where AML could be reduced in intensity.

46 Q Could you comment on Canada's National Risk  
47 Assessment in terms of this issue, about helping

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1 to identify where resources should be allocated?  
2 PROF. REUTER: So I've got to make another smartass  
3 comment here, which is, if you compare - if I  
4 said to you, I'm going to compare the U.S. NRA  
5 and the Canadian NRA, which would you think was  
6 more likely boastful and which one was likely to  
7 be more candid, you'd get it right, which is the  
8 U.S. National Risk Assessment starts and ends  
9 with, we're doing a great job. The Canadian  
10 assessment is full of oh, there're all these high  
11 risk sectors. You know, no American  
12 administration - I'm not just talking about this  
13 one. No American administration would allow a  
14 report to go out with that kind of candour in it.

15 But I have no idea - there's nothing in the  
16 report that enables you to tell what is meant by  
17 a high risk sector. So if I remember correctly,  
18 16 out of 27 things that were given an assessment  
19 were rated as high risk or very high risk. I  
20 don't remember exactly. Very few were related -  
21 identified as low risk. So in one sense this was  
22 a report that provided a lot of guidance except I  
23 have no idea what high risk means or whether  
24 there's anything to be done about it. And as I  
25 said, maybe there's another report which explains  
26 what these things mean and goes through the  
27 consequences, but the published report, I think,  
28 doesn't provide much guidance about this.

29 Q Did you reach a conclusion on the overall level  
30 of competence or strength of these National Risk  
31 Assessments across countries?

32 PROF. REUTER: I think I've already signalled my view.  
33 And so I think they're all weak, but mostly weak  
34 in their own ways.

35 Just to suggest that I'm not just being your  
36 typical academic critic, let me remind you that  
37 the executive director of FATF, David Lewis, just  
38 recently said, talking about AML control and AML  
39 regimes generally, he said, they're all bad but  
40 some are not as bad as others. So this is sort  
41 of quite consistent with the FATF executive  
42 director, if he's still executive director today,  
43 his view about that.

44 So I do not - you know, this is a one-sided  
45 test that is - if they had done - if National  
46 Risk Assessments were being done competently -  
47 there's some evidence that maybe AML is being

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1 done competently, but it's not strong evidence.  
2 I think if they're so incapable of doing a risk  
3 assessment, it's very hard to believe that they  
4 are in fact applying at least the risk-based  
5 approach effectively.

6 Q Do you have some suggestions for how existing  
7 practices on National Risk Assessment could be  
8 improved?

9 PROF. REUTER: Indeed. Clearly some of it - stop me  
10 when I've taken too much time on it. To begin  
11 with, the NRAs are so inarticulate about what  
12 they did. Yet everybody - you know, every  
13 country sort of says, we're going to be doing  
14 this again. And from what I can tell, there are  
15 no records around. You know, they did these.  
16 They didn't explain how they're done. The next  
17 group is going to start more or less afresh.  
18 They certainly don't get to learn from other  
19 countries. If - I'm quite - unjudgmental about  
20 not doing it well the first time. This is - I  
21 don't know how to do a risk assessment. I mean,  
22 there are really lots of problems here. But the  
23 first thing you would say under these  
24 circumstances is, tell us how you did it. And  
25 none of them except the Dutch come anywhere close  
26 to explaining how it was done.

27 The Canadian one. How many experts? No  
28 idea. Where did the experts come from? No idea.  
29 How did they deal with differences in opinions  
30 amongst experts? It just - it's all - what is  
31 the scale? Just - you know, maybe somewhere in  
32 Ottawa there is a document which lays all this  
33 out. But why the methodology should be treated  
34 as secret is hard to work out.

35 And that's - most of these NRAs are either  
36 saying - say very little - say almost nothing  
37 about how they were done. So the first thing is,  
38 if you're going to do another NRA, explain what  
39 you did, because that's the only way the field is  
40 going to develop. And talking to people who've  
41 done NRAs, there's an extraordinary lack of  
42 curiosity in other countries about what - you  
43 know, what Germany did or what the Netherlands  
44 did, et cetera.

45 Second, take the exercise seriously. It's  
46 not just dotting the FATF "i." And if you're  
47 going to use expert opinion, use it properly.

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1           There's no mystery to this. It's a well  
2           developed methodology. Probably valid to rely on  
3           expert opinion, but do the things you have to do  
4           to make expert opinion a sound source of data.

5           Thirdly, triangulate. I mean, there's so  
6           much use of data that on its face - that needs  
7           interpretation. You want to sort of compare SARs  
8           distribution across sectors with maybe money  
9           laundering convictions and see, you know - so all  
10          the - you know, in Britain almost no lawyer files  
11          a SAR. If you look at cases, maybe there are  
12          lots of cases in which lawyers are caught  
13          laundering money. And there's information in  
14          that. Nothing like that is done in any of these.

15          Thirdly, you probably do want to do new -  
16          collect new kinds of data. I talked last week on  
17          Friday about mystery shopping. There's certainly  
18          a way of improving your understanding of the  
19          vulnerability in particular -- I mean, identify a  
20          few high risk sectors from whatever source you  
21          do, and test whether they are high risk. Test a  
22          high risk versus a low risk sector, see if that  
23          shows up when you do the mystery shopping  
24          efforts.

25          Mystery shopping is not -- it's not perfect  
26          and it's, again, going to give you sort of crude  
27          measures, but it's certainly going to give you  
28          something you don't have right now, some sort of  
29          grasp of reality. And in dealing with -- I've  
30          already talked about the SARs. The problem -- I  
31          mean, how do you use transaction data to assess  
32          what are risky transactions? I haven't thought  
33          that through well enough. I mean, there's  
34          something to be -- what's being done right now  
35          doesn't work, but I don't know exactly how to use  
36          that. But it certainly involves comparing SARs  
37          to transactions that look like that but weren't  
38          identified as SARs.

39          So I think that's enough -- a beginning  
40          anyway.

41          Q     Are there lessons to be taken from other fields  
42          on the issue of risk assessment?

43          PROF. REUTER: Yes. So there's a division of labour  
44          between me and Joras Ferwerda. Joras is supposed  
45          to be the expert on risk assessment as a field  
46          and I'm not. It's -- when we wrote our first --  
47          we published a paper last year just looking at

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1 Italy and Switzerland, comparing their NRAs. And  
2 we were full of strictures about how methods from  
3 other risk assessment -- other fields of risk  
4 assessment could be used. We're less convinced  
5 that that actually is -- there's more adaptation  
6 that needs to be done than we had recognized. So  
7 I'm less -- I'm less sure about how to make the  
8 adaptation. I am sure that it would benefit the  
9 AML field if they brought in risk assessment  
10 experts to talk about approaches that could be  
11 used. A comment that we make in the paper and  
12 make in presentations is the AML field is very  
13 narrowly circumscribed. It's a set of people who  
14 do AML activities. Great reluctance to involve  
15 outside professions, outside disciplines.

16 So when they were -- when FATF was  
17 developing, for the fourth round, an evaluation  
18 methodology, I talked to some people who were  
19 involved very much in this and said, bring in  
20 some evaluation experts. This is a field -- well  
21 developed field. And there was no willingness to  
22 bring in any outsider, and what they've come up  
23 with is not a sound evaluation methodology. The  
24 same here. This risk assessment, it's -- it  
25 claims to make -- to build on something the  
26 National Standards Organization puts out. I fail  
27 to see that they did in fact do that.

28 Q One point you've made a couple of times in your  
29 evidence is that there's a sense that these  
30 National Risk Assessments are sort of a dotting  
31 the "i" exercise. Would it improve things to  
32 identify the audience for the risk assessment in  
33 terms of the decisions?

34 PROF. REUTER: Thank you. I mean, I -- I'd really --  
35 this is actually an example where you do learn  
36 from other fields. So in other fields, risk  
37 assessments are built around informing decisions.  
38 So then you ask, what are the decisions? And  
39 inconsistent actually with the FATF methodology,  
40 there are two distinct audiences here. One are  
41 regulators, like bank regulators or insurance  
42 regulators, and the second are law enforcement.  
43 And they have very different needs. So you can  
44 think about it that in a way the regulators are  
45 trying to reduce vulnerabilities. That's what  
46 they can do. Law enforcement is about reducing  
47 threats. One of the methods they use is AML.





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1 THE COMMISSIONER: Thank you, Madam Registrar. Yes,  
2 Ms. Latimer. Do you have any further examination  
3 or have you concluded?

4 MS. LATIMER: Just a couple of further questions, if I  
5 may, Mr. Commissioner.  
6

7 EXAMINATION BY MS. LATIMER, continuing:  
8

9 Q First, Professor Levi, I wanted to just provide  
10 you with an opportunity if you had anything to  
11 add on the issue of National Risk Assessments as  
12 we've been discussing them this morning.

13 PROF. LEVI: Yes. Just a couple of issues.

14 [break in recording]

15 PROF. REUTER: We can hear you.

16 PROF. LEVI: Oh, you can?

17 PROF. REUTER: Yes.

18 PROF. LEVI: Okay. I just wanted to argue that one  
19 way of thinking about the -- can you hear me now?

20 PROF. REUTER: I can.

21 PROF. LEVI: One way of thinking about the difference  
22 between risks and threats is that whereas  
23 vulnerabilities are a function of what people  
24 could do to your system, threat actors are  
25 included very often in a risk assessment. So  
26 that would expand it.

27 And different countries, of course, have  
28 different levels of awareness about their threat  
29 actors. The Italians, about whom Professor  
30 Reuter spoke, do quite a lot of analysis and a  
31 lot of wiretaps. They tap almost everybody,  
32 particularly of their organized crime groups.  
33 And therefore that makes quite a difference to  
34 their knowledge of threat actors, whereas there  
35 might be civil liberties issues in Canada that  
36 mean that the Canadian authorities know less.

37 The second point that I want to make is that  
38 the phrase "suspicious activity reports" is often  
39 something of a misnomer. I did try, in the  
40 1990s, to get people to change it to "suspected  
41 activity reports" because they're really measures  
42 of what bankers, lawyers, casinos, et cetera  
43 suspect rather than any inherent suspiciousness.  
44 So a better way of thinking about them would be  
45 to call them suspected transaction reports or  
46 suspected activities reports, depending on what  
47 system. Of course, the difference is that in --

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1 where you have reporting of cash purchases,  
2 movements in and out of jurisdiction, et cetera,  
3 that really makes quite a difference to add to  
4 the suspicious activity reports. So that too  
5 would add to it.

6 Third point I wanted to make. Professor  
7 Reuter, I think mistakenly, said that there are  
8 few lawyers' reports in Britain. That's not the  
9 case. The latest data -- and it varies from year  
10 to year -- shows that independent legal  
11 professionals reported 2,774 SARs in 2018 to '19;  
12 compared with accountants, over 5,000; gaming,  
13 over 4,000; estate agents, 635; high value  
14 dealers, 481; trust or company service providers,  
15 23. So there may be arguments about whether  
16 people are reporting enough or too much. But  
17 certainly, 2,774 is quite a few reports.

18 Thank you very much.

19 Q Thank you. I had a question occur to me as I was  
20 listening to your evidence now and this morning,  
21 each of you. And that was, given the limitations  
22 on the data available and the limitations on the  
23 competence of countries to perform these risk  
24 assessments, do you have a view on whether the  
25 risk-based approach or the rules-based approach  
26 is a better policy approach on money laundering?

27 PROF. LEVI: Excellent question. My answer won't be  
28 as good. I think it -- one of the advantages, as  
29 Professor Reuter pointed out, of the National  
30 Risk Assessment and the risk-based approach is in  
31 a sense to move people towards thinking harder  
32 about the risks that they face. And that's a  
33 good thing. It's almost independent of whether  
34 they're doing a really good job of assessing  
35 those risks. It's better than not thinking about  
36 the problem at all.

37 In policing generally we have a concept  
38 called problem-oriented policing, where you try  
39 and look at the scale of the problems that you're  
40 confronting and you try and develop strategies  
41 for dealing with those problems.

42 Applied in a money laundering context, we  
43 can see how a risk-based approach may move us  
44 towards that. It just hasn't been done terribly  
45 well so far, and we both agree, I think, that  
46 it's an extremely difficult thing to do.

47 People complained a lot about the rules-

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1 based approach when it was[indiscernible - audio  
2 noise].

3 MS. LATIMER: We have difficulty occurring, at least  
4 on my end, with your sound, Professor Levi. I  
5 see some other heads nodding. I'm not sure what  
6 to suggest, except that it's only just arisen so  
7 I'm not sure if there's been a change in  
8 settings.

9 PROF. LEVI: I haven't changed -- is that better?  
10 Yeah. Okay, I'll refresh. Can you hear me?  
11 Shake your head if it's going strange again.  
12 It's because one of my computers says "unstable  
13 connection." I'm not sure whether that's a  
14 reference to me personally, but I think it's to  
15 the bandwidth.

16 But a risk-based approach offers the  
17 promise, which was probably why they shifted  
18 towards it, of being able to graduate the amount  
19 of effort and due diligence that people had to do  
20 in different sectors. And that sounds like a  
21 sensible thing to do in all areas of risk rather  
22 than just have a rule of everybody treating  
23 everything in the same way.

24 It's proven much harder than anybody ever  
25 thought it would to put into practice. And so I  
26 still think a risk-based way of thinking is a  
27 good way of thinking. But we need to perhaps be  
28 more honest about how hard it is and to treat it  
29 much more seriously as a learning exercise if  
30 we're going to move towards a problem-oriented  
31 policing approach to anti-money laundering. And  
32 part of it is just how hard it is to work out  
33 [indiscernible - audio noise] --

34 Q Did you complete your evidence? We had that  
35 sound issue arise again.

36 PROF. LEVI: [indiscernible - audio noise]

37 Q Professor Reuter, did you have anything arising  
38 from that that you wanted to add?

39 PROF. REUTER: The question is obviously an important  
40 one. I don't feel that I have enough expertise  
41 about the practicalities of money laundering  
42 control to answer it. As Professor Levi said, it  
43 surely is very difficult, and if it's going to be  
44 done seriously, then risk-based -- then risk  
45 analysis has to be developed in the sector and it  
46 hasn't been.

47 Could I correct something I said in my

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1 initial response to you this morning?

2 Q Yes, certainly.

3 PROF. REUTER: So you asked a question about whether  
4 the Canadian NRA had any policy implications, and  
5 I talked about the high risk that a large number  
6 of sectors that were categorized as high risk or  
7 very high risk. Of course, what I should have  
8 said is, it's entirely theoretical because those  
9 are inherent risks, and for policy purposes, the  
10 interesting question is, what's the residual  
11 risk? And since this NRA doesn't address that,  
12 the answer is no, it has no policy implications.

13 Q Thank you for that clarification. The last point  
14 I wanted to pick up on comes from evidence that  
15 was given on Friday, and that was some allusion  
16 was made to whether there were harms from money  
17 laundering and what the data said about that.  
18 And I wanted to just invite you both to offer  
19 further evidence about whether there are harms  
20 from money laundering.

21 PROF. REUTER: My co-author, Joras Ferwerda, probably  
22 has the most cited reference on that point, and  
23 he has identified, I think, 25 distinct possible  
24 harms from money laundering, such as loss of  
25 faith in the banking system, misallocation of  
26 investment funds, et cetera. There's no evidence  
27 of any of them in the sense that nobody has done  
28 a study which has shown that money laundering has  
29 generated these specific harms to any large  
30 extent.

31 At the macro level, there's been a question  
32 about whether it creates sort of fiscal --  
33 monetary and fiscal instability, and a couple of  
34 countries are identified as cases of that: one  
35 of the Baltic countries around in the 1990s and  
36 the Dominican Republic maybe in 2003, something  
37 like that. But in both cases, what happened was  
38 that AML sanctions resulting from evidence of  
39 large-scale corruption, which led to them  
40 laundering money through the banking system,  
41 generated major problems for the country. So it  
42 was very hard to say it was money laundering as  
43 opposed to AML that generated the problem.

44 So there may indeed be serious consequences  
45 of money laundering, but we have no empirical  
46 evidence to say that they're substantial enough  
47 to be worth mentioning.

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

Examination by Ms. Latimer, Counsel for the Commission

1 Q In light of that lack of data or evidence about  
2 the harms, why is it that you have each devoted  
3 so much of your career to studying the issue of  
4 money laundering?

5 PROF. REUTER: First of all, if I might correct you.  
6 This is my third line of research. It is not an  
7 -- not a major one for me. And the answer is,  
8 I've in fact not been studying money laundering.  
9 I've been studying anti-money laundering. And  
10 it's exactly for that reason. I started out with  
11 an interest in money laundering because it was  
12 another illegal market. But in fact, I don't  
13 think it's -- I mean, it was hard to study. And  
14 what I came to realize is that the real question  
15 is, how effective are the control efforts? They  
16 clearly have real consequences. I mean, the  
17 estimate of how much is spent in Europe on AML by  
18 the banks -- I can't remember. It's in tens of  
19 billions of dollars. So AML is important. Money  
20 laundering may not be important. I mean, I'm not  
21 truly arguing that it's not important. It is a  
22 part of the illegal markets that I study so  
23 devotedly. But AML is clearly very important,  
24 and figuring out how to do it better matters.

25 PROF. LEVI: [indiscernible - audio noise] Sorry, can  
26 you hear me now? Okay? Yes?

27 Q Yes.

28 PROF. LEVI: Okay. Yeah, I think the -- it's  
29 important for the Commission and for everybody  
30 else to distinguish between the harms that arise  
31 from control and the harms that arise from money  
32 laundering itself. If the mafia chooses to  
33 launder its money through my bank, do I feel  
34 harmed by that? As a citizen perhaps, yes. But  
35 I don't necessarily feel that the bank is going  
36 to go bust as a consequence unless the government  
37 intervenes and stops it. That's more of a  
38 consequence in countries that don't have  
39 compensation for savers in banks than it is for  
40 other people. So the harms of money laundering  
41 have to be seen in that way.

42 And we also have to separate out the harms  
43 that result from the predicate crimes from the  
44 harms involved in money laundering itself.

45 So if lawyers become corrupted or gambling  
46 company owners become corrupted as a part of the  
47 process of money laundering, then that itself is

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Peter Reuter (for the Commission)  
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1 an additional harm. But we need to think much  
2 more clearly about the harms of money laundering  
3 than we often do.

4 And the reason -- I mean, I'm interested in  
5 how criminals go about their business and  
6 criminal markets, as Professor Reuter is, and I  
7 have been studying that quite a bit. But I've  
8 also been studying the efforts that we make to  
9 try to control money laundering. And frankly,  
10 it's hard to see the connection between the  
11 efforts that we make in controlling money  
12 laundering in many areas, and how criminals go  
13 about their business. And that's a general  
14 analytical problem that we face in assessing  
15 whether risk-based approaches are working and to  
16 what degree. Okay? Thank you very much.

17 MS. LATIMER: Thank you. Mr. Commissioner, those are  
18 all my questions.

19 THE COMMISSIONER: Thank you, Ms. Latimer. I  
20 understand that Ms. Friesen will be asking some  
21 questions on behalf of the Province of British  
22 Columbia.

23 MS. FRIESEN: Hi, yes. Thank you, Mr. Commissioner.  
24

25 EXAMINATION BY MS. FRIESEN:  
26

27 Q Professor Levi and Professor Reuter, can you hear  
28 me?

29 PROF. LEVI: Yes.

30 Q I just have a few questions for you. I'm  
31 referring firstly to your article, "Can the AML  
32 system be evaluated without better data?" That's  
33 Exhibit 26. We don't need to pull it up. But in  
34 this piece you conclude that, in the context of  
35 the production of the mutual evaluation reports  
36 and the NRAs, there's minimal effort to evaluate  
37 how well an AML intervention does in achieving  
38 its goals. And you conclude that a good deal of  
39 the problem lies in the nature of the data that  
40 are available. Is that fair?

41 PROF. LEVI: (No audible response)

42 PROF. REUTER: (No audible response)

43 Q And as I understand your article, and in your  
44 evidence here that you've given to the  
45 Commission, that when it comes to the AML,  
46 sometimes relevant quantitative data is simply  
47 not available; is that right?

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Peter Reuter (for the Commission)  
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1 PROF. REUTER: Correct.

2 Q And I also understand your evidence to say that  
3 the NRAs, they have weaknesses and particularly  
4 weaknesses in the data used, but it's not your  
5 conclusion that all AML efforts are ineffective  
6 or that the evaluation process of AML efforts is  
7 ineffective; is that right? Is that fair?

8 PROF. REUTER: Mike, why don't you handle that.

9 PROF. LEVI: Could you -- I'm having difficulty in  
10 grasping -- it's not -- could you just repeat the  
11 last couple of points, please.

12 Q So despite the fact that the NRAs may have some  
13 weaknesses, and particularly the data used --  
14 there's weakness in the data used, you've  
15 asserted. It's not your conclusion, then, that  
16 all AML efforts, despite the weakness in the data  
17 and the ability to evaluate the AML efforts --  
18 it's not your conclusion that the AML efforts are  
19 ineffective or that the evaluation process is  
20 entirely ineffective; is that right?

21 PROF. LEVI: Well, the word "entirely" is probably the  
22 -- I mean, we don't have enough -- I mean, the  
23 absence of evidence is not the same thing as  
24 evidence of absence. So we can't conclude that  
25 nothing has an effect. What we're probably  
26 saying is that it's not clear what those effects  
27 are. I mean, you have -- for example, one of the  
28 tasks that we've been trying to deal with in the  
29 UK, and I have over the last couple of decades,  
30 is trying to increase the proportion -- not the  
31 proportion -- to increase the amount of proceeds  
32 of crime that are recovered.

33 Now, we have no clear idea what the  
34 proportion of proceeds of crime that is recovered  
35 are. But we perhaps can at least identify what  
36 -- you know, how much we're recovering. And we  
37 can possibly tell from listening to criminals'  
38 discussions how bothered they are by this.

39 But I think it's inherently a good thing to  
40 recover more proceeds of crime, but we can't tell  
41 how effective proceeds of crime controls are on  
42 the amount of criminality because we don't have  
43 good enough measures of how much -- of different  
44 kinds of criminality there are. And something  
45 might have an effect, for example, on the drug  
46 trade but not have much effect on fraud and vice-  
47 versa.

Michael Levi (for the Commission)  
Peter Reuter (for the Commission)  
Examination by Ms. Friesen, Counsel for British  
Columbia

1                   So that's where being more honest with  
2                   ourselves and being clearer about what it is  
3                   we're trying to achieve is a good thing, but it's  
4                   very hard.

5       PROF. REUTER: So let me supplement that. AML has  
6                   surely helped law enforcement in the sense that  
7                   it's provided data that is important for  
8                   investigations of otherwise elusive targets. So  
9                   major drug traffickers may be able to keep  
10                  themselves away from drugs. It's harder for them  
11                  to keep away from the assets that they acquire.  
12                  And so AML may enable enforcement agencies in  
13                  lots of countries to reach some high level  
14                  offenders that they otherwise wouldn't be able to  
15                  reach.

16                  And that's just sort of one of the kinds of  
17                  outcomes or outputs that you'd want to assess in  
18                  asking how effective is AML. And as I say, I  
19                  have no doubt that there is some gain. How much  
20                  that's worth and how much of it, by any measure  
21                  there is, is another question.

22                  I had thought -- when I first started in  
23                  this area, I thought that looking at the price of  
24                  money laundering services was a good way of  
25                  assessing how effective it was. That is, if we  
26                  had effective control, then it would be very  
27                  expensive to launder money.

28                  The bulk of laundering seems to be self-  
29                  laundering. Now, I may be -- you know, that may  
30                  reflect my reading of a largely drug-oriented  
31                  literature. But it's -- and it's very variable.  
32                  I mean, I think I mentioned on Friday these  
33                  absurdly large amounts that Colombian cocaine  
34                  smugglers in the Netherlands spend to get their  
35                  money back to Colombia. And you'd have to say,  
36                  well, that's a very effective AML system, or you  
37                  could say, these are not very smart drug dealers.

38                  But I -- the price criterion, I'm now  
39                  thoroughly disabused of as a plausible way of  
40                  assessing it. But we -- there's no claim that it  
41                  has no effect. It has some desirable outcomes.  
42                  But that's about, I think, as much as one can  
43                  say.

44       Q           They're just difficult to measure?

45       PROF. REUTER: Right.

46       Q           Okay. And with respect to data, you've spoken a  
47                  lot about data, and you state in Exhibit 26, in



Michael Levi (for the Commission)

Peter Reuter (for the Commission)

Examination by Ms. Friesen, Counsel for British  
Columbia

1           your article, that you conclude that "data are  
2           relatively unimportant in policy creation and  
3           sustenance." However, the reliance on data and  
4           other credible sources of information such as  
5           expert judgments part of the data, that varies  
6           from country to country, correct?

7    PROF. REUTER: (No audible response)

8    Q       And would you agree with me that if better data  
9           were available and used, it would create a more  
10           reliable NRA?

11   PROF. REUTER: I mean, that's sort of like asking do I  
12           believe in the gospel. Of course. I mean, I'm  
13           an empirical social scientist. Better data must  
14           be -- produce better reports. So the answer is  
15           yes, without having the slightest idea of how --  
16           what data would make a big difference.

17   Q       And you've given the example of STRs and  
18           analyzing all transactions and not STRs as one  
19           example of creating better data?

20   PROF. REUTER: Yeah.

21   Q       And another example might be in creating better  
22           and more accurate data might be achieved through  
23           something like requiring, with respect to private  
24           companies, for example, requiring them to list  
25           their beneficial owners in a transparency  
26           register; is that right?

27   PROF. REUTER: That's not so much helpful for NRAs.  
28           They are a way of improving the money laundering  
29           control system. Now, you sit in a country which  
30           has dismally failed to do that, and it's clear  
31           that -- it's very easy to launder money in this  
32           country, and it would be less easy if beneficial  
33           ownership requirements were really imposed. But  
34           that's not an NRA issue.

35   Q       Okay. But --

36   PROF. LEVI: I agree with --

37   Q       Sorry.

38   PROF. LEVI: Sorry. I agree with that. But the --  
39           one of the problems that beneficial ownership  
40           registration has is how much effort everybody is  
41           going to put into the process of identifying the  
42           chain of people. At what point do you stop?  
43           It's not as easy as many people think to identify  
44           the real beneficial owner. And so people can  
45           still create pseudo beneficial owners. It's  
46           quite a -- it's a tricky business. But -- it may  
47           be a good idea on all kinds of grounds, but

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Peter Reuter (for the Commission)

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Columbia

1           whether -- in the sense you need to understand  
2           the relationships between the beneficial  
3           ownership. So that's part of a network analysis  
4           that we may or may not be able to conduct. I  
5           mean, we can often do it after the fact or in a  
6           major criminal investigation, or whether it's of  
7           kleptocrats or drug dealers. But it's not an  
8           easy thing to do.

9           Q     Correct. So it may not be the whole picture but  
10           it would be part of the picture?

11          PROF. LEVI: Yeah. As a former cabinet secretary once  
12           said, half a picture can be the truth.

13          Q     Likewise. And I identified a transparency  
14           registry with respect to private companies. But  
15           likewise, better data could be derived from  
16           having a similar transparency registry with  
17           respect to land ownership?

18          PROF. REUTER: Yes.

19          PROF. LEVI: Absolutely.

20          Q     And Professor Reuter, I just have a few questions  
21           for you regarding your research and expertise, if  
22           I could. Is it fair to say that none of your  
23           research or publications focuses on money  
24           laundering in the province of British Columbia?

25          PROF. REUTER: That is correct.

26          Q     Okay, and a significant portion of your  
27           substantive work relates to drug policy; is that  
28           right?

29          PROF. REUTER: That's correct.

30          Q     Okay. And you don't have a specialized expertise  
31           in the area of money laundering in the economic  
32           sector of gaming; is that right?

33          PROF. REUTER: [Inaudible response] I actually once  
34           was an expert about illegal gambling, but then  
35           gambling became legal and I lost interest.

36          Q     Okay. And you don't have a particular  
37           specialized expertise in money laundering in the  
38           economic sector of real estate?

39          PROF. REUTER: No, I do not.

40          Q     And Professor Levi, I have a few questions for  
41           you as well just regarding your areas of  
42           research. Is it fair to say that none of your  
43           research or publications focuses on money  
44           laundering in the province of British Columbia?

45          PROF. LEVI: That is correct.

46          Q     Okay. And you as well have no specialized  
47           expertise in money laundering in the economic

Michael Levi (for the Commission)  
Peter Reuter (for the Commission)  
Examination by Ms. Friesen, Counsel for British  
Columbia

1 sector of gaming?

2 PROF. LEVI: That would be incorrect.

3 Q That is incorrect?

4 PROF. LEVI: I conducted a study on the relationship  
5 between money laundering and e-gambling, which is  
6 published and reasonably cited.

7 Q That's right.

8 PROF. LEVI: And so I have not done any published work  
9 on casinos and money laundering, but I'm familiar  
10 with what has been done. But I haven't -- I  
11 haven't been asked ever to do a study of casinos  
12 and money laundering.

13 Q All right. And I should be clear. I'm referring  
14 to the bricks and mortar casinos, not the  
15 e-gaming.

16 PROF. LEVI: Yeah.

17 Q Okay. And because those two raise different  
18 issues, those two sectors?

19 PROF. LEVI: Yes. Although some companies, of course,  
20 operate in both sectors. Many of the larger  
21 companies have both online and offline presence,  
22 and the offline presence has been probably  
23 increased proportionately certainly during the  
24 COVID epidemic -- pandemic. But yes, they do  
25 present different issues. One is cash rich; the  
26 other is not.

27 Q Thank you. And I just wanted to also confirm  
28 with you that you have no specialized expertise  
29 in money laundering in the economic sector of  
30 real estate; is that right? Is that fair to say?

31 PROF. LEVI: In real estate, you mean?

32 Q Correct, yes.

33 PROF. LEVI: Yeah I have a reasonable amount of  
34 knowledge of that, and of the variations between  
35 countries in their systems. For example, it  
36 puzzled me why realtors were regulated in the  
37 first place, because in the UK they don't  
38 typically handle money, whereas in the U.S. they  
39 do. So there are differences in jurisdictions  
40 which might relate on a risk-based basis to how  
41 appropriate it was to regulate real estate  
42 agents. And there's a lot of misunderstanding of  
43 that issue. In some countries, everybody just  
44 assumes that real estate agents are in a good  
45 position to understand the origins and the  
46 economics of their clients, whereas that might  
47 not be the case.

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

Examination by Mr. Usher, Counsel for the Society of  
Notaries Public of B.C.

1 Q Okay. Thank you. And just to be more specific,  
2 you don't have specialized expertise with respect  
3 to real estate in British Columbia, the province  
4 of British Columbia in particular, correct?

5 PROF. LEVI: That is correct.

6 MS. FRIESEN: Okay. Thank you. Those are my  
7 questions.

8 THE COMMISSIONER: Thank you, Ms. Friesen. Now Ms.  
9 Herbst for the Law Society of British Columbia.

10 MS. HERBST: Thank you very much, Mr. Commissioner.  
11 So I have no questions based on the evidence  
12 given in this round of hearing, Professors Levi  
13 and Reuter. I just note, I understand that  
14 Professor Levi may be back in the fall in  
15 relation to the subject of the regulation of the  
16 professions and the United Kingdom's efforts in  
17 particular in that regard. And so of course, if  
18 that's so, and based on the evidence given at  
19 that time, I may have questions, but none today.  
20 It's been very helpful. Thank you.

21 THE COMMISSIONER: Thank you, Ms. Herbst. Now Mr.  
22 Smart for the British Columbia Lottery  
23 Corporation.

24 MS. LATIMER: Apologies, Mr. Commissioner. I think we  
25 had Ron Usher next for the notaries.

26 THE COMMISSIONER: I'm sorry. That didn't accord with  
27 my list. So you jump right in if I've got it  
28 wrong. Thank you. Mr. Usher.

29 MR. USHER: Thank you, Commissioner.  
30

31 EXAMINATION BY MR. USHER:  
32

33 Q Gentlemen, thank you for your evidence this  
34 morning. I'm just wondering - you've both talked  
35 about suspicious transaction reports, and of  
36 course, these depend on individual judgment being  
37 way out in the transaction chain.

38 Can you, from your research and what you've  
39 looked at, is there any country that just takes  
40 the approach of having all transactions reported?  
41 I'm thinking particularly for real estate, which  
42 is high value, relatively low volume. Another  
43 approach a country could take and just say, well,  
44 we'll just report them all to taxation  
45 authorities and to money laundering agencies.  
46 Are you aware of any place that takes that  
47 approach?

Michael Levi (for the Commission)  
Peter Reuter (for the Commission)  
Examination by Mr. Smart, Counsel for the B.C. Lottery  
Corporation

1 PROF. REUTER: I'm not aware of the - the Australian  
2 AUSTRAC records all international transactions,  
3 but I don't know of anything that meets either  
4 the descriptions - scenarios you offer.

5 Q Thank you. That's all.

6 PROF. LEVI: I mean, in the UK, the value of real  
7 estate transactions is recorded as it is in many  
8 other countries. But - so I'm not sure what the  
9 question is asking about that is different from  
10 that.

11 Q Yes. Well, again, like many countries - and  
12 British Columbia has a particularly sophisticated  
13 land title - land registry system where all  
14 transactions are recorded. But it's generally  
15 not reported directly to taxation authorities or  
16 to money laundering authorities. That's what I  
17 was asking him.

18 PROF. LEVI: Yeah. So that's partly an issue of, if  
19 you like, how quickly those reports are made, but  
20 also what the level of coordination is between  
21 land registry bodies and both the taxation and  
22 the money laundering bodies. That's an important  
23 question, but I don't think that any of the - not  
24 even the Netherlands, for example, where tax  
25 records are available to the police and vice  
26 versa, you know, I don't think that the  
27 coordination is perfect on those things.

28 What difference it would make to anyone, if  
29 it happened more easily, is an important question  
30 that you might want to go into at some stage. It  
31 depends - sometimes the system is so flooded with  
32 activity that it doesn't do much about any  
33 individual behaviours, and that's the risk of  
34 high volume systems like the UK, the U.S.,  
35 Australia, et cetera.

36 MR. USHER: Thank you. That's all.

37 THE COMMISSIONER: All right. Thank you, Mr. Usher.  
38 Next is Ms. Peddle for Mr. Kroeker.

39 MS. PEDDLE: Thank you.

40 MR. SMART: Sorry. Mr. Commissioner, I think I'm -  
41 it's Mr. Smart. I'm here for the B.C. Lottery  
42 Corporation. I think I've been inadvertently  
43 deleted and I do have questions to ask, if I may.

44 THE COMMISSIONER: All right, Mr. Smart. I apologize  
45 for that. I'm getting a series of modified  
46 messages as to who's next, and you're right, you  
47 were left off the most recent one. So by all

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

Examination by Mr. Smart, Counsel for the B.C. Lottery Corporation

1 means, proceed. Thank you.

2 MR. MARTLAND: Mr. Commissioner, I should interject to  
3 apologize. I managed, in my bid of achieving  
4 clarity, I achieved uncertainty. So it should be  
5 Mr. Smart. That's my doing.

6 MR. SMART: Thank you.

7

8 EXAMINATION BY MR. SMART:

9

10 Q Professors, it appears there's many definitions  
11 of money laundering. But do you agree the  
12 classic definition is simply converting dirty  
13 money into what appears to be clean money? That  
14 is, taking the proceeds of crime and creating a  
15 misleading appearance that it's clean or  
16 legitimate money?

17 PROF. REUTER: I would say that captures the idea of  
18 money laundering very succinctly.

19 Q All right.

20 PROF. LEVI: And I agree with that, though, as I  
21 pointed out on Friday, a lot of the ways in which  
22 legislation has been framed, almost omits the  
23 appearance of clean - cleanliness stage, in order  
24 not to miss out on any efforts to hide money.

25 Q I'm going to come back to that. But so if I can  
26 use an example -- and I act for the -- assisting  
27 the British Columbia Lottery Corporation dealing  
28 with casinos and gambling. If someone walks into  
29 a casino with dirty money and turns it into  
30 casino chips to use for gambling, creates an  
31 appearance that they're gambling but ensuring  
32 they don't lose most of their chips, turns their  
33 chips in to the casino and walks out with clean  
34 money or a cheque from the casino, that would be  
35 a classic example of money laundering?

36 PROF. LEVI: Yeah.

37 Q But if you lose your money, you're not really  
38 money laundering, are you?

39 PROF. LEVI: No. I pointed out on Friday that it's  
40 easy to mistake this, because a lot of criminals  
41 like gambling, and a lot of non-criminals like  
42 gambling as well. And that may indeed be one of  
43 the motivations for people committing crimes --  
44 or for some people committing crimes. But I  
45 agree that that is not laundering if they've lost  
46 their money. I mean, it can be if your  
47 legislation makes it that way. But the -- but

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

Examination by Mr. Smart, Counsel for the B.C. Lottery Corporation

1 part of the aim of walking out with the cashed-in  
2 chips is to create the appearance of having got  
3 those legitimately. However, it doesn't  
4 necessarily solve your problem as a criminal  
5 because it might still be possible, and indeed  
6 perfectly reasonable to say, well, how did you  
7 get the money to buy the chips in the first  
8 place?

9 Q Mm-hmm.

10 PROF. LEVI: You know, because your income is stated  
11 to be this very low figure, and you've just  
12 bought, say, a million Canadian dollars' worth of  
13 chips. Yeah. So how did you afford that million  
14 dollars' worth of chips?

15 And so your -- as a criminal, your problem  
16 is not entirely solved by cashing in your chips.  
17 Q Let me ask you about -- you mentioned on Friday,  
18 dealing with the paper or article on money  
19 laundering typologies, that anti-money laundering  
20 was part of a process to reduce particular forms  
21 of crime, and it became an end in itself, and  
22 this is a -- these are my notes, I should say,  
23 Professors. I may have this inaccurate:

24  
25 This is a challenge that faces your  
26 Commission. People began to treat AML as an  
27 end in itself and they lost sight of the  
28 fact that AML was originally about  
29 controlling other crime. Controlling money  
30 laundering itself became the goal.

31  
32 And just before I ask you about that, later in  
33 your evidence, Professor Reuter said:

34  
35 Money laundering itself doesn't cause harm.  
36 It's part of the set of criminal activities  
37 that we do care about. But talking about  
38 effectiveness of money laundering, you  
39 should be talking about a reduction in  
40 predicate crimes.

41  
42 So I just want to ask you a bit more about that.  
43 Do I sense from that that you're saying that  
44 perhaps law enforcement and government policy  
45 makers, by focusing on the money laundering, are  
46 sort of putting the cart before the horse? The  
47 focus should be on the criminal activities that

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1 generate the money, not just on the proceeds of  
2 the crime?

3 PROF. REUTER: So if I can go first. I'm sure that  
4 Mike has his additional views.

5 So AML -- not ML -- AML's goals are  
6 essentially to reduce the harms that come from  
7 the predicate crimes. I think that has been the  
8 justification that was offered initially. I  
9 mean, why was it that the original FATF mandate  
10 was just drug monies? FATF it has expanded now.  
11 There's, you know, essentially every -- every  
12 potentially lucrative crime is on the predicate  
13 crime list, but it started out as a technique for  
14 reducing drug trafficking. 1989, when the G7 met  
15 and created FATF, was the year that -- so drug  
16 trafficking, and certainly for the U.S., was seen  
17 as the leading social problem. But the fact that  
18 it wasn't dealing with money laundering, it was  
19 just dealing with how can we improve our control  
20 of drug trafficking? Money -- AML is a way of  
21 doing it, is a signal, I think, that AML is seen  
22 not as concerned with money laundering itself but  
23 concerned with reducing the activities that  
24 generate the money laundering. And the example I  
25 gave on Friday was it's like conspiracy.  
26 Conspiracy is a useful legal construct for  
27 dealing with a whole class of crimes, not because  
28 we care about conspiracy but because conspiracy  
29 is a requirement for commission of certain kinds  
30 of crime. And so would it with money laundering.  
31 AML is a useful way of getting at a whole class  
32 of crimes and offenders.

33 And if that's the case, then what one wants  
34 to ask is how well is AML doing in controlling  
35 the predicate crimes, rather than how is it doing  
36 in terms of reducing the volume of money that is  
37 laundered. And this reflects, I think, a belief,  
38 which I certainly share, that not all laundered  
39 dollars have the same -- represent the sort of  
40 same social cost, that is -- and terrorist  
41 finance, which I'm much less expert about --  
42 terrorism -- you know, dollars related to  
43 terrorism finance are more troubling than dollars  
44 related to embezzlement. And so you wouldn't  
45 want to weight a dollar captured from terrorist  
46 finance equally with a dollar captured from a  
47 embezzlement offence.



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1                   So that's the reason that I, like Professor  
2                   Levi, think that there's kind of been a goal  
3                   displacement that we've gotten away from,  
4                   thinking of AML as a way of controlling the  
5                   predicate crimes and terrorist finance and  
6                   sanctions regime, et cetera, and moved to a  
7                   concern about the volume of money laundered,  
8                   which we actually can't measure.

9                   PROF. LEVI: Yeah. And perhaps I'll just add to that  
10                   in the following way. The -- I mean, I started  
11                   out my research interest in money laundering in  
12                   1988 in the aftermath of the Brinks-Mat gold  
13                   bullion robbery in the UK, what would now be  
14                   probably a couple of hundred million dollars in  
15                   Canadian dollars in gold bullion that was stolen  
16                   and then melted down and laundered. A small bank  
17                   branch of a very large bank in -- near Bristol,  
18                   the small jewellery business that had an account  
19                   there increased its turnover very, very fast, and  
20                   to the extent that the Bank of England branch in  
21                   Bristol ran out of 50-pound notes. The Bank of  
22                   England main branch had to send it truckfuls and  
23                   more 50-pound notes. And nobody asked themselves  
24                   the question why there should be this sudden  
25                   demand for extra notes. And there was no -- at  
26                   that time, which was '84 or the year after,  
27                   nobody asked themselves, well, why is this  
28                   happening and what obligation have we got in  
29                   relation to these money movements?

30                   And you could see the common sense in  
31                   adopting AML approaches to deal with stuff like  
32                   that because if it had been the responsibility of  
33                   the bank to assess, not just the original bona  
34                   fides of its customer, but also continuing  
35                   customer due diligence, let alone enhance due  
36                   diligence. Then the bank might well have picked  
37                   up these transactions and done something about it  
38                   and the Bank of England might well have said,  
39                   there's something wrong here. We should have --  
40                   now I may be being over-optimistic, but  
41                   something, you expect, would have happened if  
42                   that happened today.

43                   So in that sense there's been a difference.  
44                   Whether people would have still robbed the gold  
45                   bullion is a separate question. But certainly  
46                   that kind of process and every other big case  
47                   that we know about, people are often asking

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1           themselves, including kleptocracies, well, surely  
2           it should have been somebody's job to think about  
3           is this person who we think they are, is this  
4           transaction legitimate, et cetera. And that's  
5           been part of the common sense impetus behind the  
6           growth of anti-money laundering. But it has --  
7           as Professor Reuter has pointed out, there has  
8           been an element of goal displacement, and we've  
9           stopped asking ourselves how costly the control  
10          is and whether the costs are worth the benefits,  
11          and how do we specify the benefits of this  
12          process. And that's a public -- an important  
13          public policy question.

14         Q     Does experience teach us that as law enforcement  
15               finds -- identifies methods that criminals  
16               launder money and tries to deter those methods,  
17               that the criminals will just find other methods  
18               to launder?

19         PROF. REUTER: Well, the number of ways one can  
20               launder money has always been very large and it's  
21               probably -- I'm sure it's getting larger all the  
22               time. I don't know of any study that has shown  
23               that tougher enforcement against method A has led  
24               to increased use of methods C, E and G. I think  
25               we just assume that is the case, but I don't know  
26               of any study that has shown that to be the case.  
27               But I mean, there's such a variety of ways of  
28               doing it that it's hard to believe that there  
29               isn't some sensitivity to the riskiness of a  
30               particular method of money laundering.

31         PROF. LEVI: You know, one of our social objectives in  
32               controlling money laundering might be to stop  
33               organizations getting more powerful. In other  
34               words, you could have the same kind of crime but  
35               just much more dispersed, and that might be less  
36               of a social threat. So that might be an argument  
37               for making more effort against particularly  
38               dangerous groups or individuals, even if you  
39               didn't necessarily reduce the total amount of  
40               crime. We assume that reducing organized crime  
41               may -- will reduce crime, but that may not be the  
42               case. But it still may be a social benefit by  
43               doing that.

44               But no, we don't know enough about what  
45               criminals do with their money to be able to say  
46               it's all displaced. It seems likely that some  
47               people will just get out of the game or they'll

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1 spend money faster rather than save it. Or  
2 they'll reinvest it in criminal activities if  
3 they can't reinvest it in the licit economy. But  
4 the amount of organized intelligence that we have  
5 about that is low.

6 Q We've heard some evidence so far that read about  
7 that money laundering has become -- that some  
8 criminals organizations specialize in money  
9 laundering. In other words, for some  
10 organization it's subcontracted out to  
11 specialized crime groups. If that's accurate --  
12 I'll ask you whether you agree with that, that  
13 what we need to focus on is trying to identify,  
14 investigate and prosecute those that are  
15 specialists and particularly sophisticated in  
16 money laundering?

17 PROF. REUTER: So let me tell drug stories since -- I  
18 mentioned on Friday a study I did of the  
19 businesses in the Netherlands that specialized in  
20 moving money back to Colombia from cocaine  
21 smugglers in the Netherlands. And as far as I  
22 can tell, the record suggests this was their sole  
23 line of business. They certainly had a well  
24 developed methodology and a certain amount of  
25 skill at doing it. And it asked, well, so let's  
26 say we put them out of business. Would that have  
27 meant that drug smugglers would have been unable  
28 to get money back to Colombia? And frankly I  
29 would have thought they'd find a better way of  
30 getting it back and maybe wiping out this very  
31 inefficient technique would be a good one. But I  
32 mean, I have no idea what would have happened.  
33 These were businesses that were shut down from  
34 time to time and others sprang up. Not a hard  
35 business to get into, didn't require a lot of  
36 specialized expertise. But it is not -- the drug  
37 business, it does not seem to be that easy to  
38 find sophisticated money laundering operations.

39 And I'll give you -- so the best story is  
40 nothing to do with my work. But when the  
41 Medellin Cartel was at its height, it turned out  
42 they were using just one money laundering  
43 operation in the U.S. And the Medellin leaders  
44 were very conscious that this was a weakness,  
45 that if that got shut down, they'd really have  
46 problems getting their money back from the U.S.  
47 And DEA found -- you know, flipped somebody, a

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1 lawyer I think that worked for Medellin Cartel,  
2 who agreed to set up a fake money laundering  
3 operation and they would use that to catch the  
4 Medellin people and get their money. And the  
5 Medellin people were so desperate that they  
6 really bit into this.

7 It's an interesting story because it turned  
8 out that the government's money laundering  
9 operation was pretty inefficient, and the  
10 Medellin traffickers got really irritated at this  
11 and at one stage gave it up. But eventually they  
12 had no option so they went back to it. And I  
13 think the notion that professional money -- you  
14 know, it's an old example but the drug trade had  
15 been around for a long time already by then.  
16 This is around late 1980s.

17 I think that it's striking how much -- how  
18 many money laundering cases involve self-  
19 laundering. In this country, I think, relatively  
20 few involve specialized operations, but it may  
21 well be that for specific businesses -- these are  
22 illegal businesses, specific illegal sectors  
23 which have to handle very large sums, it may be  
24 that sophisticated specialized operations are  
25 important and are hard to replace. So I wouldn't  
26 be critical of going after them. I simply have  
27 no idea how hard it is to find an alternative.  
28 But it's -- you know, it's plausible that you  
29 could make a difference.

30 PROF. LEVI: Yes. I mean, in a sense, the proof of  
31 the pudding is in the post-intervention effects  
32 on the trade if we know how much of a trade that  
33 is. I mean, people can store money up to a point  
34 for a while while they search for alternatives.  
35 But we don't know very much about that, or at  
36 least very little has been published or -- or has  
37 led to convictions -- about that kind of level of  
38 sophistication. But it would certainly make more  
39 sense to go after that highly professional end.  
40 Relevant question is, well, why hasn't that been  
41 done more around the world?

42 MR. SMART: Mr. Martland, I've used up my 10 minutes.  
43 I wonder if I have a little leeway to ask a few  
44 further additional questions.

45 MR. MARTLAND: I think that, at the risk of also  
46 having Ms. Latimer frustrated at my mismanagement  
47 of time allocations, I think we do have the time,

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

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1 Mr. Commissioner, with the remaining participants  
2 so we don't need to be strict in policing time at  
3 this juncture. So I don't think that's a  
4 problem.

5 THE COMMISSIONER: No, that's fine. Thank you.

6 MR. SMART:

7 Q So I want to -- and I'm just going to ask you for  
8 a comment on this, professors -- the document we  
9 marked as an Exhibit 36 today, the National Risk  
10 Assessment 2017 for the UK, I note -- and I'll  
11 just read this to you. Under the Chapter 13  
12 Gambling at page 76, it states that:

13  
14 The 2015 NRA assessed overall that the  
15 gambling sector was less attractive to  
16 criminals than other sectors and less  
17 exploited to launder significant volumes of  
18 criminal funds. Due to the continued lack of  
19 evidence of the use of the sector --

20  
21 That is gambling.

22  
23 -- for money laundering on a significant  
24 scale, the sector continues to be assessed  
25 as low risk for money laundering.

26  
27 Do either of you disagree with that assessment  
28 from the NRA?

29 PROF. REUTER: [indiscernible]I wasn't making an  
30 independent judgment of it. I can't answer that.  
31 I can't answer that.

32 Q Thank you.

33 PROF. LEVI: I don't have any basis for disagreeing  
34 with it. But I think -- I think that many of  
35 these assessments of low or high risk are based  
36 on modest levels of information. But you've got  
37 to make a broad judgment. In e-gambling, which  
38 is a very different business, as has been pointed  
39 out, I've demonstrated a variety of ways in which  
40 one could launder money through e-gambling. But  
41 noted, that was a lot of effort compared with  
42 other areas. And therefore, I personally would  
43 regard that as low risk unless a criminal or  
44 someone connected with criminals was running an  
45 e-gambling firm.

46 Yeah. So I think in a sense that's what  
47 regulation is for. It's difficult to assess

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1 sometimes whether it's doing as good a job as it  
2 can. But certainly the -- subsequent to that  
3 report, the number of interventions and sanctions  
4 by the UK Gambling Commission would suggest that  
5 certainly levels of compliance in the casino and  
6 online sector are not as good as they should be.

7 Q The other article I want to ask you about a  
8 comment from it was the -- and I'm sorry. I  
9 don't have the exhibit number. It was entered on  
10 Friday. It's the 2018 American or United States  
11 NRA.

12 PROF. LEVI: Mm-hmm?

13 Q And this sort of is a follow-up to comments that  
14 you both made about fraud and corruption. And at  
15 page 8 of this 2018 NRA for the United States, it  
16 says:

17  
18 Fraud is estimated to generate more illicit  
19 proceeds laundered in the United States than  
20 any other category of crime. It encompasses  
21 a wide range of criminal activity including  
22 healthcare, bank, consumer, securities,  
23 mortgage and tax refund fraud, and other  
24 crimes that are based on deception.

25  
26 I'll just ask, I guess both of you whether you  
27 again -- if that's consistent with your own  
28 experience and research, and whether it would be  
29 applicable to other jurisdictions beyond the  
30 United States.

31 PROF. REUTER: I mean, I -- all of these numbers have  
32 extraordinarily frail origins. Estimating the  
33 extent of fraud in -- what was my -- corporate --  
34 corporate embezzlement, which is one of the forms  
35 of fraud, I think I mentioned that the study I  
36 looked at some time ago was based on reports by  
37 certified fraud specialists at major corporations  
38 which had a 10-percent response rate. Using a  
39 survey with a 10-percent response rate without  
40 doing all sorts of due diligence to see if you  
41 can figure out what's different about respondents  
42 and non-respondents is just irresponsible. And  
43 nothing is ever said in these studies about that  
44 kind of issue.

45 That's not fussing at the margins. That's  
46 fundamental. And whether fraud -- I can't  
47 remember the exact description of the respondents

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1           for this but... You know, these -- the question  
2           of whether they were in a position to make an  
3           expert judgment about this was an obvious one,  
4           and the survey took everything at face value. I  
5           find it entirely -- the statement entirely  
6           plausible but I don't think there's any empirical  
7           base for making the statement that they do.

8           I wouldn't -- you know, if you define the  
9           set of offences broadly enough, I'm sure it is  
10          general. The drug trade is frequently  
11          overestimated in terms of how much money's  
12          laundered, much overestimated. And so if it's  
13          sort of comparing drugs and other street crime or  
14          illegal markets with this very broad category of  
15          offences, white collar offences, I would assume  
16          white collar offences do generate more money  
17          laundering than the illegal markets, but I  
18          wouldn't say that anybody could test that  
19          proposition empirically.

20        PROF. LEVI: Yeah. I mean, in 2006 I was given the  
21          task by my government and the Association of  
22          Chief Police Officers to review the evidence on  
23          the extent of fraud, which I did, using more  
24          rigorous methods and I threw out most of the  
25          studies that existed. I actually invented the  
26          corporate fraud survey in the mid-'80s.

27          But a lot of the work is done very sloppily  
28          and just to generate a headline. However, I too  
29          find the argument plausible and even of what is  
30          known in the UK, which is more than is known in  
31          the U.S. or Canada. The level of white collar  
32          crime would be very high. Whether that's more or  
33          less than the amount of drugs money is another  
34          question.

35          To come back to your previous question as  
36          well and to add it to this, I would say that our  
37          revenue authorities have -- they kind of parcel  
38          out the different types of tax fraud, and they  
39          like to have an impact or try to have an impact  
40          on each of those areas separately so that none of  
41          them are seen to be kind of risk-free. The  
42          higher levels of tax fraud are harder, a lot more  
43          work to deter. But you know, applied to the area  
44          of crime and anti-money laundering, yeah, that's  
45          one possible strategy. You try and affect lots  
46          of different areas of predicate criminality with  
47          some effort so as to try to make the criminals

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Peter Reuter (for the Commission)

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1           feel more uncomfortable. We don't know how well  
2           that works, but I think that's the analogy.  
3        Q     One last area, and that is cash. You mentioned  
4           -- Professor Reuter mentioned cash on Friday. My  
5           note is:

6  
7                    Cash is no longer central. Certainly if you  
8                    look at cash coming out of China, it's  
9                    probably electronic right from the start.

10  
11                   And Mr. Levi, you -- Professor Levi, you noted  
12                   restrictions on the use of cash is likely not  
13                   effective anti-money laundering. So I just want  
14                   you to -- if I've got the note right, just ask  
15                   you to elaborate a bit further on that.

16        PROF. LEVI: Well, if I said it, I don't think I meant  
17                   it. The -- well, sorry. I didn't mean it in  
18                   precisely the way that you've described it there.  
19                   And the -- I wouldn't say that cash was  
20                   unimportant at all to money laundering. But what  
21                   certainly I would argue is that it's a known  
22                   proportion of the total. Whether, if we  
23                   restricted the use of cash generally, there would  
24                   be less crime in general is hard to say, and we  
25                   don't have -- we don't have any basis for being  
26                   confident that reducing the use of cash generally  
27                   would have a major effect on crime. It would  
28                   make it more difficult for people to buy  
29                   prostitution or drugs or some other things. But  
30                   they might find ways of doing that without use of  
31                   cash in a more or less anonymous way.

32                   But I think there are more general  
33                   considerations that one has to put into reducing  
34                   cash was, I'm pretty sure, what I said, such as  
35                   the effect on vulnerable adults, the effects on  
36                   people who weren't very good with technology, the  
37                   blind, the people with visual difficulties,  
38                   visual impairments.

39                   There are lots of general social cost  
40                   benefit arguments about reducing cash. And along  
41                   with people's just sense of, well, they want to  
42                   spend what they want to do. But I haven't  
43                   noticed very many societies in which there's been  
44                   a very concerted move away from cash, but it does  
45                   seem to be happening on its own, because if you  
46                   look at the data, even pre-COVID, in the UK, for  
47                   example, a larger and larger proportion of



Michael Levi (for the Commission)

Peter Reuter (for the Commission)

Examination by Mr. Smart, Counsel for the B.C. Lottery Corporation

1 transactions are on debit cards, credit cards,  
2 and just waving your card at a machine. So to  
3 some extent, the drift away from cash is  
4 happening as a natural process.

5 Q Thank you. Let me just ask this, then. This  
6 Commission is focused on money laundering.  
7 Should we be identifying, if we can, the proceeds  
8 of crime for the purpose really of following the  
9 trail back to the criminals so that we can more  
10 effectively prosecute them?

11 PROF. REUTER: I mean, are you suggesting that that's  
12 a strategy that should be adopted by law  
13 enforcement agencies?

14 Q Yes.

15 PROF. REUTER: AML is just one of the techniques they  
16 have, and I don't know that they should do more  
17 or less of it than they're doing now, and I don't  
18 think any of us are in a position to make a  
19 general statement or if, indeed, a general  
20 statement can be made.

21 If I were police commissioner, I guess I'd  
22 like to know how many and what kind of  
23 convictions came out of cases that had a money  
24 laundering component to them and how many of them  
25 came out of the AML effort, because -- I mean,  
26 the suspicious activity reports generates this  
27 huge database that, once you've begun an  
28 investigation, you may want to interrogate and  
29 may turn out to be critical for that purpose. It  
30 doesn't make it an AML investigation. It's just  
31 you use some AML-generated data for investigative  
32 purposes.

33 So I don't think that that is the sort of  
34 right question to be asking. I don't know what  
35 decisions you'd be informing with that question.  
36 MR. SMART: All right. Those are my questions. Thank  
37 you.

38 THE COMMISSIONER: Thank you, Mr. Smart. And unless  
39 Mr. Martland corrects me, I think we're now at  
40 Ms. Peddle in behalf of Mr. Kroeker.

41 MS. PEDDLE: Thank you.

42  
43 EXAMINATION BY MS. PEDDLE:

44  
45 Q Thank you. So Professor Levi, I just have a few  
46 questions for you. And Professor Reuter, I of  
47 course welcome your thoughts as well.

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

Examination by Ms. Peddle, Counsel for Robert Kroeker

1           On Friday, and in responding to Mr. Smart's  
2 question just now, I understand your evidence as  
3 assessing the effect of eliminating or reducing  
4 cash in a country overall. That was the focus of  
5 your discussion. But putting that hypothetical  
6 aside, I'd just like to clarify your evidence on  
7 disincentivizing cash more generally.

8           So Professor Levi, if I could just take you  
9 to page 155 of your article "Cash, Crime and  
10 Anti-Money Laundering." I may not actually need  
11 you to go there. I can just read it out.

12           At that page, you and Mr. Riccardi state  
13 that a set of reasonable and very specific  
14 measures for a country's AML policy could include  
15 -- and now I'm turning to page 156, and I'm  
16 quoting:

17  
18           The introduction of incentives, for both  
19 consumers and merchants, to abandon cash in  
20 favour of alternative (and more traceable)  
21 payment instruments.

22  
23           Do you agree with that statement?

24       PROF. LEVI: Well, yes. I mean, I was -- what we were  
25 offering were some thoughts to stimulate a more  
26 systematic way of thinking about the issues. But  
27 yeah. So policy -- if your aim was to move  
28 people away from cash, then that would be one way  
29 of doing it, yeah.

30       Q       So I suppose my question is, from the perspective  
31 of a business rather than as policymakers within  
32 a country as a whole, would you agree that  
33 incentivizing cash alternatives and thereby  
34 disincentivizing cash would be a reasonable AML  
35 policy for a business that's cash intensive?

36       PROF. LEVI: Well, it depends if the alternatives were  
37 more traceable.

38       Q       And in the circumstance where they are more  
39 traceable, that would be a reasonable and  
40 effective measure?

41       PROF. LEVI: Yes. I mean, moving them towards  
42 cryptocurrencies, unless those -- I mean, there  
43 are arguments that blockchain actually does make  
44 things quite traceable. But moving people to a  
45 less traceable form or equally untraceable form  
46 would not be a good thing. But yeah, if it was  
47 more traceable, then that would be quite a good

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1           measure, though the extent to which the  
2           authorities would follow up cases remains an  
3           issue about their resourcing and their attitudes  
4           to that kind of data, as Professor Reuter pointed  
5           out in his answer to the previous question.

6       PROF. REUTER:  Actually let me suggest -- I mean,  
7           there is something about cash that's very  
8           commanding.  And that is if -- if you can pay for  
9           real estate transaction in cash -- literally, not  
10          sort of this artificial notion of cash  
11          transaction -- that's a sort of great signal that  
12          somebody has cash that needs to be accounted for.  
13          If they do it in other forms, it's not as clear a  
14          signal.  I haven't thought that through, but I  
15          could see circumstances under which cash actually  
16          was a good signalling device for AML.

17       PROF. LEVI:  Yeah.  In other words, that cash was a  
18          reasonable indicator of suspiciousness in a large  
19          sum.  Was that what you were getting at, Peter?

20       PROF. REUTER:  That's what I'm getting at, yes.

21       Q           And of course that would be context specific,  
22                   depending on the business?

23       PROF. REUTER:  Absolutely.

24       MS. PEDDLE:  Thank you.  Those are all my questions.

25       PROF. LEVI:  You can say that there's a -- I mean,  
26                   know from work that I've done that wealthy Arabs,  
27                   females as well as males, like to -- some people  
28                   like the experience of counting out large amounts  
29                   of cash, whether that comes from crime or not.  
30                   But paying for an expensive house in cash --  
31                   yeah, or any -- or an expensive painting in cash  
32                   might be a prima facie indicator that you have  
33                   something to explain away.

34       MS. PEDDLE:  Thank you, yes.  Those are all my  
35                   questions.

36       THE COMMISSIONER:  Thank you, Ms. Peddle.  Mr. McFee  
37                   for Mr. Lightbody.

38       MR. MCFEE:  Yes, thank you.

39  
40       EXAMINATION BY MR. MCFEE:

41  
42       Q           Dr. Levi and Dr. Reuter, can you hear me fine?

43       PROF. LEVI:  Yes.

44       PROF. REUTER:  Yeah.

45       Q           Dr. Levi, I have question for you to start with.  
46                   You testified on Friday with respect to the  
47                   labelling and certain acts or conduct that red

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1 flags -- and I think you described it as they  
2 could more properly be described as amber flags,  
3 and the example you gave us was, if an individual  
4 comes into a retail bank with a bag of cash, is  
5 it always a red flag or has the individual been  
6 collecting for charity. Do you remember that  
7 evidence?

8 PROF. LEVI: Right. Yeah.

9 Q So I drew from that -- and tell me if this is  
10 accurate -- that one cannot and should not draw  
11 conclusions that money laundering is taking place  
12 simply because an individual brings a large  
13 amount of cash into a facility, whether it's a  
14 financial institution or one of these designated  
15 non-financial businesses or professions?

16 PROF. LEVI: Yeah. Well, it depends on the context.  
17 I mean, if they brought in, you know, \$500,000 in  
18 cash, you wouldn't necessarily jump to the  
19 conclusion that it was criminal in origin. But  
20 that's a different order of deposit from -- I  
21 mean, some of the money laundering suspicious  
22 activity reports that I have seen, in the '90s  
23 for example, referred to people who were known  
24 not to have employment coming in with 100 pounds  
25 in coins. Yeah. It would seem to me the system  
26 might not -- the AML system probably should not  
27 be focussing heavily on that unless it's -- yeah,  
28 as a target for dealing with social security  
29 fraud. But if they came in with a few hundred  
30 thousand in cash, then that wouldn't be a red  
31 flag to me but it would be a deep amber one to  
32 ask questions. So there are different levels of  
33 amberness. Look back on amber.

34 Q But those different levels of amberness, as you  
35 say, would be context specific. And so in a  
36 properly functioning AML regime, that bringing in  
37 a bag of cash may raise antennas. But other  
38 mechanisms should then be triggered, such as know  
39 your client, client due diligence, source of  
40 funds declarations as opposed to simply drawing  
41 conclusions that bringing in a bag of cash, in  
42 and of itself, is evidence of money laundering.  
43 Would you agree with that?

44 PROF. LEVI: Yes, I would. Of course, the thing about  
45 some clients is that they lie. And so that then  
46 is a burden to see how tough a series of  
47 questions -- I mean, it might be -- you know, you

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1           may not know how many other banks that they have  
2           accounts in are likewise receiving deposits of  
3           that size unless you are exchanging information.  
4           But by itself, no, it's not. It would certainly  
5           be wrong to assume -- sorry. It would be wrong  
6           to be certain that these must be proceeds of  
7           crime. [indiscernible]

8           Q     Right. You would -- I'm sorry. Go ahead.

9           PROF. REUTER: I mean, banks deal with this issue all  
10          the time. So you have businesses that are cash-  
11          intense and the bank knows that this customer  
12          typically has \$20,000 in cash on a Sunday night  
13          because they do a lot of cash business over the  
14          weekend, and that's built into the onboarding  
15          process. If it turns up with \$50,000, then it's  
16          the discrepancy between the normal and this  
17          transaction that draws attention.

18          The amount of cash on its own is clearly not  
19          sufficient. But this is so much part of the  
20          routine for banks that there is, I think, in  
21          place routines that ensure that what you should  
22          be paying attention to is the difference between  
23          this and the normal pattern of that client.

24          Q     Hence the need for know your client, client due  
25          diligence, source of funds declarations, all of  
26          which should -- if an amber or deep amber flag is  
27          raised, should be followed up and in place in a  
28          proper AML functioning regime.

29          PROF. LEVI: Right. Yeah. But as I say, the problem  
30          sometimes arises, particularly in the more  
31          sophisticated frauds, is that people operating  
32          complex corporations may have accounts -- or  
33          ordinary criminals may have accounts with several  
34          institutions. And if you don't know how they're  
35          behaving in those other institutions, then you  
36          may be -- you may have a mistaken view of the  
37          legitimacy of their behaviour. And if you look  
38          at large corporate frauds, that is sometimes what  
39          has -- what has happened because of their skill  
40          at separating out bankers' knowledge of the total  
41          operations.

42          Q     Another question I'll address to both of you and  
43          ask your comments on. I take it from the  
44          articles that you've produced and from your  
45          evidence that in a properly functioning AML  
46          regime, you have to engage a totality of a number  
47          of sectors. The private sector is in terms of

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1 financial institutions and designated non-  
2 financial businesses and professions, the  
3 Financial Intelligence Unit, and law enforcement.  
4 So they all must be engaged and active in  
5 detecting, number one, and then acting upon the  
6 suspected money laundering for the regime to be  
7 effective. Would you agree with that?

8 PROF. REUTER: I mean that's kind of boilerplate  
9 rhetoric. You always say the system is only as  
10 strong as its weakest link and things like that.  
11 None of them work all that well. I'll quote  
12 again the executive director of FATF: All of  
13 them are bad. Some are less bad than others.

14 So it's desirable to have everyone working  
15 together. You're unlikely to get it. And that  
16 doesn't mean that the system doesn't work at all.  
17 It just means it works less well than it might.  
18 So you have countries in which the FIU is  
19 terrific, handles information very well,  
20 disseminates it properly, follows up in  
21 monitoring and so on. But prosecutors hate  
22 bringing AML cases, and then it doesn't work very  
23 well.

24 So you probably need to take a systems  
25 approach to this and figure out where the weak  
26 points are.

27 PROF. LEVI: I agree with that. And I think the  
28 assumption is often that kind of more rules,  
29 wider regulation automatically improves the  
30 system. And I think that's -- that's not self-  
31 evident to me that that is true. As Professor  
32 Reuter said, the Swiss system has relatively few  
33 such reports beyond the banking system itself and  
34 banks do quite a lot of internal investigation.  
35 And the prosecutors and people in the criminal  
36 justice system are in a way quite content with  
37 that except when there's a public scandal,  
38 because it generates enough cases for them to be  
39 able to deal with. When you flood the system  
40 with suspicions, it then becomes hard,  
41 particularly if it's got to be done by the public  
42 sector and there is austerity, it becomes hard to  
43 know what it is that you should do with it. But  
44 it's a moot point how much resource you should  
45 put into anti-money laundering compared with  
46 other forms of control activity.

47 Q I think both of you have testified that gathering

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1 all of this data with respect to what we refer to  
2 as suspicious transaction reports or otherwise  
3 referred to as suspicious activity reports, is a  
4 time-consuming process that also has a  
5 significant expense to it.

6 And I think on Friday, Dr. Reuter gave us  
7 the example of a situation that he'd experienced  
8 in the Australian AML regime where, as I  
9 understood it, Dr. Reuter, and correct me if I'm  
10 wrong, Australia has a robust Financial  
11 Intelligence Unit but it's not an investigative  
12 agency, and there was a great deal of frustration  
13 because there was significant reporting of SARs  
14 but they couldn't get the interest of police  
15 agencies. Did I understand your evidence  
16 correctly?

17 PROF. REUTER: That's correct. I mean, I have no idea  
18 if that's still the situation. This was some  
19 years ago that I had it. And it just  
20 illustrates, I think, a general point, which is  
21 that police rarely lack for business, and AML  
22 investigations are complicated typically.  
23 Prosecutors are very reluctant to bring AML cases  
24 because they -- they always claim that the jury  
25 doesn't understand AML. My expert friend says,  
26 no, the problem is the prosecutors don't  
27 understand AML but they blame the juries.

28 And so in that context, it sort of can be  
29 hard for an FIU to get attention to the  
30 intelligence that it has. I'm not claiming that  
31 I know that to be the case everywhere, but I  
32 suspect it's a continuing problem in many  
33 jurisdictions.

34 PROF. LEVI: And it's not just in AML either. The  
35 work that I and my colleagues have done in  
36 general shows that there's always an excess of  
37 intelligence packages in relation to other forms  
38 of intelligence as well that are not followed up  
39 because there aren't the resources. And so that  
40 is a systems problem.

41 I mean, in the mid-'90s, I argued that you  
42 might -- and I don't actually hold that view  
43 now -- that you might as well have the number of  
44 reports that you're prepared to deal with. Of  
45 course, there are other advantages in having a  
46 lot of reports, such as more information about  
47 assets if you can attribute them to criminals.

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1           So I don't hold that view as strongly as I did.

2           But certainly, if you're not prepared to put  
3           the effort into following up these cases, it's  
4           not clear what the benefit of the intelligence  
5           is.

6           MR. MCFEE: Thank you. Those are my questions for  
7           both of you. Appreciated.

8           THE COMMISSIONER: Thank you, Mr. McFee. Mr. Comeau  
9           for the Transparency International Coalition.

10          THE REGISTRAR: I believe you're on mute, Mr. Comeau.

11          MR. COMEAU: Thank you, Mr. Commissioner. I'm here on  
12          behalf of Transparency International Canada,  
13          Publish What You Pay, and Canadians for Tax  
14          Fairness. And I want to begin by asking a few  
15          general questions followed by more specific  
16          questions for the witnesses.

17

18          EXAMINATION BY MR. COMEAU:

19

20          Q       Gentlemen, is it fair to say that in conducting  
21          your research in general and to inform the  
22          articles you have authored and submitted to the  
23          Commission, you've incorporated a first-  
24          principles method of analysis, generally speaking?

25          PROF. REUTER: I don't recognize that term, first  
26          principles analysis.

27          Q       Well, what I meant by it, often when I was  
28          reading through your articles and the way I was  
29          looking at the way you were doing analysis, you  
30          started from first principles as opposed to  
31          simply doing an analysis -- just accepting what  
32          was being done in the different jurisdictions,  
33          you worked all the way down to the basic facts,  
34          and from there, worked up through first  
35          principles and built forward. Does that help at  
36          all?

37          PROF. REUTER: I'm inclined to say yes on the basis  
38          that it sounds like a good way of doing things.  
39          But I don't know that I actually recognize it.  
40          Mike, you?

41          PROF. LEVI: I don't recognize it either. But the --  
42          I mean, in general -- and this applies to all  
43          crime statistics but particularly crime  
44          statistics that are in low reporting areas. It's  
45          important not to take the official statistics or  
46          official statements about them as self-evidently  
47          correct. They may be truthful as stated by the



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1 people, but there may be more -- there is likely  
2 to be more to it than that. And so you try and  
3 peel away the layers of the onion to get further  
4 down towards -- closer to the activity, either by  
5 surveys of the general public, surveys of  
6 professional bodies, observing people's  
7 behaviour, et cetera. So if that's what you mean  
8 by first principles, then yes.

9 Q Okay. Thank you for that. And what I really was  
10 getting at with the first principles was an  
11 approach where, if you're constructing an AML  
12 system, rather than simply adopting a precedent  
13 system -- i.e. other jurisdictions are doing it  
14 this way so we should too -- that in fact you  
15 should step back and say, well, okay. Let's work  
16 from first principles. What are we really trying  
17 to achieve and what are the best ways to achieve  
18 that?

19 PROF. REUTER: Okay. Now I recognize[indiscernible]  
20 first principles. I mean, it's a good question  
21 because, in fact, the system is driven by FATF.  
22 So FATF has said, this is -- you must pass these  
23 laws, you must have these institutions, we have  
24 to have this system of assessment, et cetera.  
25 And that takes away a lot of discretion on the  
26 part of individual countries. And there has been  
27 a dialogue, heated dialogue at times in FATF  
28 about whether you have to follow their rules or  
29 whether you can just be judged by results, and so  
30 if you can achieve good results some other way,  
31 that's fine. And basically FATF said no, here  
32 are the rules and you've got to do it this way.  
33 I mean, it's not that there's no discretion but a  
34 lot of it is dictated by FATF.

35 And that has meant that there's a great deal  
36 of similarity across countries in the laws and  
37 the institutions and the assessment methods that  
38 they use. And I mean -- you know, I'm not a  
39 practitioner. To me this does not seem like the  
40 -- in particular, in an area where nobody knows  
41 what works, which is true of AML -- no one knows  
42 whether they have a good AML system or a bad one  
43 -- you'd want to encourage experiments rather  
44 than lay down a set of arbitrary rules. I think  
45 the response to that is, it's too dangerous to  
46 allow experiments. There are countries, and  
47 certainly are governments which, if given any

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1           discretion would misabuse it. I mean, there are  
2           kleptocratic regimes that would love nothing  
3           better than to run awful AML regimes. There are  
4           some that actually, under the guise of conforming  
5           with the set FATF rules, do run awful AML  
6           regimes, and regimes that go after their enemies  
7           and not after their friends, et cetera.

8           So I understand why they emphasize rules,  
9           but I think that they could allow governments to  
10          respond -- you know, responsible governments,  
11          governments that have demonstrated  
12          responsibility, to experiment with different ways  
13          of approaching a problem. And I think it's fair  
14          to say that FATF has been quite discouraging for  
15          that.

16         Q       Right. Thank you.

17         PROF. LEVI: For example, the OECD in the anti-bribery  
18          area talks about functional alternatives. And  
19          this was particularly in -- some countries don't  
20          allow for corporate criminal liability, or  
21          didn't. Actually very few now don't allow it.  
22          But it was against the principles of their legal  
23          system in the sort of Germanic countries.

24          And so the OECD, as a way of kind of dealing  
25          with this, thought, well, we should look at  
26          functional alternatives. It doesn't matter how  
27          you get there so long as you can show that you're  
28          having a similar or better effect. And that has  
29          not been in spite of the drift towards risk-based  
30          approaches. It's been difficult to do that in  
31          AML. I mean, certainly -- whether you can say we  
32          know about bad systems is a bold statement, but I  
33          mean, if a country doesn't seem to have any --  
34          many reports or there's no evidence of action  
35          against money laundering or against particular  
36          forms of money laundering, then you might say,  
37          well, that suggests they're not doing much. And  
38          one of the more recent trends in FATF is for  
39          people to need to show and tell how many cases  
40          they've dealt with. But these are activity  
41          indicators. They aren't necessarily outcome  
42          indicators.

43         Q       Thank you for that. On Friday you both had  
44          stated and your articles also indicated that  
45          there are many factors that influence a  
46          criminal's decision to launder money -- and in  
47          this context we're talking about laundering money

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1 in B.C. -- such as geographic location, the  
2 existence of a large metropolitan city, if it's a  
3 big city or a rural area, familiarity with  
4 languages spoken, the risk of detection,  
5 prosecution, et cetera.

6 So within the long list of factors that may  
7 fundamentally influence a criminal's decision to  
8 launder money in B.C., is it fair to say that we  
9 can categorize them into three groups? There's a  
10 number of factors that we can't change, such as  
11 geographic location. There's a number of factors  
12 that B.C. government, people of B.C., are likely  
13 unwilling to change for the purposes of  
14 combatting money laundering, such as the  
15 cosmopolitan nature of Vancouver, the  
16 multicultural mix of its population, the  
17 languages that are commonly spoken. And then  
18 third, there's a number of factors that the B.C.  
19 government and its citizens may be capable of  
20 changing and willing to change, such as their  
21 anti-money laundering laws. Is that a fair  
22 categorization?

23 PROF. REUTER: I've never thought about that, but it  
24 sounds like some interesting way of doing it,  
25 yes. I think that's quite helpful.

26 Q So given that categorization, is it therefore  
27 fair to say that if we're to meet the given  
28 British Columbia government objective of  
29 deterring and reducing money laundering in the  
30 province, it's helpful to understand, among  
31 other things, the multiple factors that may  
32 fundamentally influence a criminal's decision of  
33 where and how he launders his money, but in  
34 particular, it's helpful to focus on those  
35 fundamental factors that the B.C. government is  
36 willing and capable of changing, the methods  
37 that are more likely to bring about those  
38 changes in the attempt to determine whether or  
39 not those changes would collectively,  
40 individually, materially reduce money laundering.

41 In other words, you can talk about, you  
42 know, the multicultural base of Vancouver being  
43 very attractive to money launderers, but there's  
44 nothing we can do about it.

45 There is something we can do about those  
46 things such as anti-money laundering laws. And  
47 so when we are talking about anti-money

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1           laundering laws and all of the factors that go  
2           into it, we really have to look at the factors  
3           that we can change. That's what we should  
4           particularly focus on. Our goal is to reduce or  
5           identify and deter money laundering. Fair  
6           enough? Does that make sense?

7           PROF. REUTER: I'm inclined to turn to the Commission  
8           staff and say, have you certified this witness?  
9           A perfectly sensible way of thinking about it,  
10          yes. I realize -- I would say it's -- yeah.  
11          There's some utility to understanding the limits  
12          of what you can do by looking at these other  
13          factors, but clearly you should focus your  
14          attention on the few levers that you have that  
15          can affect money laundering decisions. Correct.

16          Q        Thanks. Thank you very much for this.

17          PROF. LEVI: I don't think things are quite as  
18          unalterable as that. You could say that one of  
19          the effects for good or for bad of the hostility  
20          towards or suspiciousness of China that's been  
21          evinced by the U.S. government, for example, may  
22          have an impact on the attractiveness of that area  
23          to Chinese people. Of course, you could say  
24          that's a bad effect. It could be racism. That's  
25          a more difficult thing. So I wouldn't say that  
26          everything that you've described is unchangeable,  
27          but I think the logic of your argument is sound  
28          enough.

29          Q        Yeah, I think we could make more sense -- I think  
30          I had expressed it as willing or capable of  
31          changing. So they may be able to change it, but  
32          are they willing to do so?

33                    So let's shift focus for a moment if we  
34                    could to look at more specific aspects of the  
35                    problem of money laundering in British Columbia.  
36                    Were you aware the B.C. government is in the  
37                    process of developing and implementing a public  
38                    registry of beneficial ownership of land, and  
39                    it's also in public discussions about a potential  
40                    public registry of beneficial ownership of  
41                    companies? Those two registries. Were you aware  
42                    of that?

43          PROF. REUTER: Yes.

44          PROF. LEVI: Yes.

45          Q        Thank you. And when developing and constructing  
46          a public registry of beneficial ownership, do you  
47          think it is helpful to adopt what we had

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1           discussed earlier, a first principles approach as  
2           opposed to simply relying on the basis of other  
3           jurisdictions aren't doing it this way so we  
4           can't do it that way?

5           PROF. REUTER: I mean there's some value to  
6           uniformity. It is going to be important to  
7           exchange information across jurisdictions. And  
8           so that's a constraint. You probably need in  
9           some way to make it consistent. But no, it could  
10          have its own individual features. And you have  
11          to fit it into your specific law and  
12          institutional arrangements. Yeah, I mean, you  
13          should be able to at least moderately --  
14          experiment in moderate ways with differences.  
15          But I think that some level of consistency is  
16          probably important.

17          Q        That's helpful so --

18          PROF. LEVI: There are essential costs attached to  
19          controls that we shouldn't forget about. And one  
20          of the arguments that is often made, though it  
21          may be hard to test empirically, is that if you  
22          control things more in one area and they're not  
23          controlled in another, then criminal business may  
24          flow to the other. For example, if some of the  
25          Caribbean territories have public beneficial  
26          ownership registers but the U.S. doesn't and  
27          money flows to some of the U.S. states in the  
28          aftermath of that, you know what you've achieved  
29          an increase in morality in the Caribbean but not  
30          necessarily overall or in relation to crimes. So  
31          I mean - so you have to make a decision about  
32          what your morals are as well as what the  
33          effectiveness of what you do is.

34          Q        Thank you. Have you had a chance at all to see  
35          the B.C. Consultation on the Public Beneficial  
36          Ownership Registry?

37          PROF. REUTER: I was sent a copy. I didn't think I  
38          had specific expertise that was valuable.

39          Q        Okay. I just wanted to know if you're generally  
40          familiar with the document but -

41          PROF. REUTER: I couldn't say.

42          PROF. LEVI: I think lightly familiar would be the  
43          most we would say.

44          Q        Okay, fair enough. Do you believe it would  
45          improve the integrity of information filed on a  
46          beneficial ownership registry - I think you  
47          answered this earlier today actually - if the

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1 government were to vet the information filed on  
2 the registry, in particular vet the  
3 identification information filed on the registry?  
4 And I take it, yes, it's difficult at times to do  
5 and expensive. But really the question is, would  
6 it improve the integrity of the information on  
7 the registry if the information were vetted?

8 PROF. REUTER: Yes. Mike can probably tell the story  
9 of the filing in the UK of a corporate beneficial  
10 ownership in the name of a member of the cabinet,  
11 wasn't it?

12 PROF. LEVI: Oh, yeah. Yeah. The - well, yes.  
13 People used the - people obtained the driving  
14 licence of Lord Blunkett, who he was formerly  
15 home secretary, is one kind of story. But  
16 somebody did an experiment where -- to show how  
17 bad the system was, in which they deliberately  
18 made up a ludicrous name and then opened it, and  
19 that person is the only prosecution for failing  
20 to -- for incorrect filing. So in a sense he  
21 made his point but at a cost.

22 But the -- our company register is currently  
23 -- although COVID has delayed action on it, is  
24 currently being reviewed and we are anticipating  
25 tougher controls.

26 Q To be clear, the part about people laughing at  
27 the registry in the UK was because it had no  
28 vetting; is that correct?

29 PROF. LEVI: Yes, that is right. In fact, you know,  
30 it never has had any vetting. And the question  
31 -- this comes back to my how much are you willing  
32 to spend on the resource question. People have  
33 been - yeah there might some liability for the  
34 public body unless otherwise arranged in law,  
35 yeah, if their vetting was poor, and Companies  
36 House not only didn't have enough money to do the  
37 vetting and would need access to police data in  
38 order to do that vetting properly, but also might  
39 be afraid of being sued if a fraud happened or  
40 some other crime happened and they had done their  
41 vetting badly.

42 Q So putting aside the financing for a while --  
43 because I actually will get into that later on --  
44 I think it is extremely important. I agree with  
45 you. I'm just going to put it aside and we'll  
46 discuss it after a few more questions as to ways  
47 you can finance it and in a way that actually

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1 improves the integrity of the information as  
2 well.

3 So one of the things that FINTRAC requires  
4 the reporting entities to do, those reporting  
5 entities that collect beneficial ownership  
6 information, there's three methods to collecting  
7 information. I just want to focus on one, and  
8 it's really that the filers -- the beneficial  
9 ownership persons, but in the case of a registry  
10 it would be the filers -- would need to provide  
11 certified copies of government-issued photo ID  
12 for beneficial owners. And would you think that  
13 that would likely lead to improved integrity,  
14 quality of information filed on the registry,  
15 i.e. it could reduce the number of people who  
16 could just make up some name and put it on the  
17 registry?

18 PROF. REUTER: Mike, I think you know more about this  
19 than I.

20 PROF. LEVI: Well, it probably would. But it would  
21 also lead to a lot more inconvenience. As I say,  
22 there are trade-offs with all of these things.  
23 But I think it should lead to more improvement in  
24 the integrity. Whether the person was the  
25 beneficial owner would not be solved by such  
26 certified ID.

27 Q Fair enough. If one of the principal objectives  
28 of the public registry was to enable persons from  
29 around the world, investigative journalists,  
30 NGOs, ordinary citizens, to use their local  
31 knowledge to connect falsely declared registrants  
32 to the true beneficial owners, would it be  
33 counterproductive to require those persons to pay  
34 a user fee each time they conducted a search?

35 PROF. LEVI: Yes.

36 Q Thank you.

37 PROF. LEVI: I mean, the -- it would -- it would  
38 reduce the amount of trivial nuisance inquiries  
39 by people who were not very rich to demand a fee.  
40 But obviously, particularly given the parlous  
41 state of funding for investigative journalism  
42 around the world, the more you charge for those  
43 inquiries, the less the investigative journalism  
44 there's going to be.

45 PROF. REUTER: The purpose of this registry is to be  
46 used, and if you're charging people for it, it's  
47 sort of counterproductive. Sure, you'll

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1           discourage frivolous use of it, but is frivolous  
2           use such a risk as compared to encouraging  
3           utilization of the information? So I mean,  
4           without having specific expertise about this, I  
5           would have thought that it was better not to  
6           charge.

7           PROF. LEVI: Yeah, I mean, unless the -- yeah. It  
8           depends how much -- I agree with that, but of  
9           course it depends partly on how much expense is  
10          involved in answering the questions. But a  
11          public registry that is online and available to  
12          the public shouldn't have any -- automatically  
13          any extra cost attached to it, in which case the  
14          argument for charging is weak. But there is not  
15          much point in having a public register if it's so  
16          expensive that people can't use it.

17          Q       Thank you. And would it be particularly  
18          unhelpful in combatting money laundering to  
19          require law enforcement agencies and other  
20          government officials in Canada to pay a user fee  
21          each time and every time they conducted a search  
22          on the B.C. registry?

23          PROF. REUTER: Yes.

24          Q       Would it likely be helpful to enable law  
25          enforcement agencies to conduct metadata searches  
26          of the registry, particularly if the beneficial  
27          ownership information was vetted?

28          PROF. REUTER: I've never thought about this. I mean,  
29          it sounds like a good idea -- I mean, it sounds  
30          like you would want to encourage agencies to use  
31          these data in ways that -- consistent with your  
32          privacy requirements without impediment -- I  
33          mean, without making cost an issue. But I mean,  
34          I -- that may not be first principles but it was  
35          a first impression answer.

36          PROF. LEVI: Yeah. And for example, if you had IP  
37          addresses of those missing data, then that might  
38          give you enough information to work out via  
39          social network analysis whether the same people  
40          were pretending to be different beneficial  
41          owners.

42          Q       Thank you for that. Would it be helpful to have  
43          a confidential tip line, much like Crime  
44          Stoppers, built into the registry, so that  
45          searchers could provide Canadian legal  
46          authorities with facts and evidence of  
47          connections between a beneficial ownership



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1 declarant and a known criminal or PEP. In other  
2 words, you don't have just a one-way flow of  
3 information in the registry out to the world.  
4 You actually have a two-way flow through the  
5 registry. Anyone can go on and provide  
6 information in the exact same way that they do to  
7 Crime Stoppers with built-in confidentiality.

8 MS. LATIMER: Mr. Commissioner, I hate to interrupt my  
9 friend. I just note that he's at his 25-minute  
10 mark in terms of the estimate of the length of  
11 time of the questions, and that the questions are  
12 now going quite far afield in terms of the  
13 evidence that these witnesses have given and  
14 researched.

15 MR. COMEAU: Is it okay if I take five more minutes?

16 THE COMMISSIONER: Yes, it is, Mr. Comeau. Certainly.

17 MR. COMEAU:

18 Q So just on the confidential tip line, is that  
19 something -- that two-way flow of information,  
20 does that sound like something that could be  
21 helpful in combatting money laundering in British  
22 Columbia -- and perhaps around the world?

23 PROF. REUTER: I mean, I don't have an opinion. I  
24 mean, it's an interesting idea. I've never  
25 thought about it. It's obviously complicated. I  
26 have no idea whether there's anything to suggest  
27 that there would much of a flow of information.  
28 I just haven't thought enough about it to be able  
29 to answer that.

30 PROF. LEVI: Well, I've thought about it a bit. But  
31 the -- of course, there would have to be people  
32 in the agency capable of assessing that -- I  
33 mean, one argument might be, well, that  
34 confidential line should be to the criminal  
35 investigators rather than -- rather than to the  
36 public registry because -- yeah, how would they  
37 be expected to be able -- depending on who was  
38 recruited and how many of them there were, and  
39 who would pay for that. How would they be  
40 expected to assess the validity of the  
41 information that they received.

42 So whether it should -- whether it should be  
43 the public registry or whether that should be an  
44 issue for law enforcement, and in a sense, why  
45 can't they -- why can't that be done anyway, is a  
46 moot point that I don't think we have time to go  
47 into today --

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1 Q Fair enough.

2 PROF. LEVI: -- in the light of my earlier comment in  
3 response that I do not claim to be an expert in  
4 money laundering in B.C.

5 Q Let's shift away from the registry itself and  
6 talk about the risk-based system that we have  
7 here in Canada. Right now -- I'd like your views  
8 on our system, which puts the burden of sanction  
9 on the financial institution, but the person that  
10 has the better source of information about  
11 beneficial ownership, i.e. the beneficial owner  
12 himself or the corporation, does not suffer risk  
13 of sanction when they report false information to  
14 the financial institution, to the bank. In other  
15 words, the client just lies. And the bank could  
16 suffer sanction, whereas the liar, right now  
17 under Canadian law -- let's just assume for  
18 purposes rather than I prove that that's the  
19 case, assume it is -- is that not only somewhat  
20 unequitable but in fact would cause, in your  
21 view, a decrease in the integrity or the quality  
22 of the beneficial ownership information coming  
23 through our risk-based system?

24 PROF. LEVI: I personally would find it surprising if  
25 it were not an offence to give false information  
26 to a bank in the context of assessing due  
27 diligence. But the -- and I can't see any good  
28 reasons why it would not be an offence. But  
29 that's a matter for Canadian public policy, not  
30 for me.

31 Q Right. Fair enough. But would it increase -- in  
32 your view increase the integrity of the  
33 information received by the banks, though?

34 PROF. LEVI: Well, whether people would no longer lie,  
35 yeah. The history of fraud would suggest  
36 otherwise. There's been a law against fraud for  
37 centuries, but some people do. Whether fewer  
38 people would lie. But I'm not myself convinced  
39 that somebody who is persuaded, whether by  
40 bribery or by force or threat, to act as a front  
41 man, as a pseudo beneficial owner, would be  
42 stopped from that by the possible criminal  
43 sanction, at least not unless they were a  
44 professional who had something to lose.

45 Q Okay. And just to sort of finish up here, do you  
46 believe globalization of our financial and  
47 commercial markets over, say, the last 15 years

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1           has likely increased the opportunity for  
2           criminals, particularly in corrupt regimes, to  
3           launder their money, their dirty money, in  
4           Western liberal democracies?  
5       PROF. REUTER: It's hard to see how it could have been  
6           easier than it was in the time of Sani Abacha of  
7           Nigeria, where he did it very openly to banks in  
8           the Channel Islands. Maybe it's gotten easier,  
9           but that's from, if I say so, a low bar. It was  
10          always very easy to -- for kleptocrats to launder  
11          money. I mean, the great cases we know about are  
12          all quite old. The great cases involve Marcos --  
13          there's a Zaire dictator, Sani Abacha, the --  
14       PROF. LEVI: Indonesia.  
15       PROF. REUTER: Yeah. It's always been easy for  
16          kleptocrats to launder money. If it's easier  
17          now, so what?  
18       Q       And same thing with restricted currencies for  
19          countries as well, say China, Russia, Iran, they  
20          have restricted currencies. And globalization  
21          has it -- do you think it may have made it easier  
22          to be moving money out of those countries,  
23          whether they're corrupt or not, but with  
24          restricted currencies, particularly through  
25          trade-based money laundering if nothing else?  
26       PROF. REUTER: Right. And hawala is -- I mean --  
27       Q       Yeah.  
28       PROF. REUTER: I mean, I think one has to sort of  
29          strip away the illusion that there's anything  
30          difficult about laundering money in almost any  
31          place. Certainly if you're a powerful figure, a  
32          rich and powerful figure, there are -- you know,  
33          let me count the ways in which you can launder.  
34          And there are things that probably make it  
35          easier, but it's never -- I would argue that the  
36          evidence suggests it's never difficult.  
37       Q       Right.  
38       PROF. LEVI: I mean, if we go back to your original  
39          point of the things we can't change, I would  
40          suggest that globalization is one of those. So  
41          yeah, rolling back the world is not something  
42          that's very easy, though the U.S. government  
43          certainly seems to be --  
44       Q       But would you --  
45       PROF. LEVI: -- trying to do that --  
46       Q       -- be of the view that the flip point of that is  
47          in fact --

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

1 PROF. LEVI: [indiscernible - overlapping speakers]

2 Q -- would you be aware --

3 THE COMMISSIONER: I'm sorry to interrupt you, Mr.  
4 Comeau, but I think you've come to the end of  
5 your additional --

6 MR. COMEAU: Sure.

7 THE COMMISSIONER: All right. Thank you.

8 MR. COMEAU: And thank you.

9 THE COMMISSIONER: Ms. Latimer, do you have anything  
10 in re-examination?

11 MS. LATIMER: No, thank you.

12 THE COMMISSIONER: All right. And perhaps we could  
13 just canvass whether anyone else has any  
14 questions who have not signalled so far that they  
15 wish to ask any questions?

16 It appears not. So all that remains now is  
17 for me to thank both of you, Dr. Reuter and Dr.  
18 Levi, for the nature and the extent of your  
19 engagement with the Commission. You've provided  
20 us with an in-depth analysis of the institutions  
21 and processes which have evolved to attempt to  
22 identify, measure and combat money laundering and  
23 the extent to which they are either demonstrably  
24 effective or ineffective. I think you've also  
25 served us by reminding us of the importance of  
26 rigorous scrutiny and an analysis of the process  
27 that we're involved in as well as of the  
28 processes inspired by the FATF.

29 So thank you both very much for your  
30 participation and contribution. You're both now  
31 excused and liberated from further electronic  
32 surveillance from us. Thank you.

33 PROF. REUTER: Thank you.

34 PROF. LEVI: Thank you. And thank you for the  
35 civility and the rigour of the process, and I  
36 hope it's been of great use. I'm personally  
37 happy to have helped in any way.

38 THE COMMISSIONER: Thank you. Thank you both.

39

40

(WITNESSES EXCUSED)

41

42 THE COMMISSIONER: I think, Ms. Latimer, we are now in  
43 a position to adjourn to tomorrow morning at  
44 9:30. Is that correct?

45 MS. LATIMER: Correct.

46 THE COMMISSIONER: All right. Thank you. 9:30  
47 tomorrow morning.

66

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

1 THE REGISTRAR: The hearing is adjourned for the day  
2 and will recommence at 9:30 on June 9th, 2020.  
3 Thank you.  
4

5 (PROCEEDINGS ADJOURNED TO JUNE 9, 2020, AT  
6 9:30 A.M.)  
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