

**PROCEEDINGS AT HEARING
OF
MAY 14, 2021
(PROCEEDINGS FROM 7:00 A.M. TO 10:18 A.M.)**

COMMISSIONER AUSTIN F. CULLEN

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May 14, 2021

(Via Videoconference)

(PROCEEDINGS COMMENCED AT 7:00 A.M.)

THE REGISTRAR: Good morning. The hearing is now resumed. Mr. Commissioner.

THE COMMISSIONER: Thank you, Madam Registrar. Yes, Mr. McCleery.

MR. McCLEERY: Good morning, Mr. Commissioner.

Before we begin with today's evidence I thought I would just foreshadow the plan for the day as we have a bit of an unorthodox schedule. We are going to begin with Dr. van Wegberg's evidence, following which Mr. Martland will have a few matters to address at the conclusion of this morning's session. And we will be reconvening at noon for a second session for further evidence from Mr. Coleman.

THE COMMISSIONER: All right. Thank you, Mr. McCleery.

MR. McCLEERY: And with that I think we can move ahead to the evidence of Dr. Rolf van Wegberg who is joining us from the Netherlands where he is an assistant professor with the Delft University of Technology. I see Dr. van Wegberg on the screen, and I understand that he will be

1 Q And, Dr. van Wegberg, do you see a document on
2 the screen in front of you?

3 A Yes, I do.

4 Q And this is your CV that you provided to the
5 commission which describes your academic and
6 professional background and the nature of your
7 research?

8 A That's correct.

9 MR. McCLEERY: If that could be the next exhibit,
10 Mr. Commissioner. I believe it is 982.

11 THE COMMISSIONER: I think we're at 984, unless I'm
12 mistaken.

13 THE REGISTRAR: Exhibit 984.

14 **EXHIBIT 984: Curriculum Vitae of Rolf van**
15 **Wegberg**

16 MR. McCLEERY: My mistake. Thank you.

17 Q And I'll just walk you through some of the
18 contents of this document, Dr. van Wegberg. It
19 indicates you completed a Master of Science in
20 Criminology from the Leiden University in 2011;
21 is that correct?

22 A Yeah, that's correct.

23 Q And the focus of your master's thesis was on
24 money laundering and the funding of terrorism in
25 the Netherlands?

1 A Yeah.

2 Q And after completing that degree you worked as a
3 lecturer and researcher on criminology at the
4 Leiden University law school; is that right?

5 A I did, yes.

6 Q And then from 2013 to 2020 you worked as a
7 cybercrime researcher at an organization known
8 as TNO?

9 A Yeah, that's correct.

10 Q And perhaps for our Canadian audience you can
11 tell us a little about what TNO is.

12 A Yeah, I was wondering if you might ask me that.
13 Well, TNO is an independent research
14 organization in the Netherlands, a bit like RAND
15 Corporation in the United States, which operates
16 within an independent framework wherein
17 contracts with the government are the main
18 source of research activities that has been
19 carried out, and I had the privilege of working
20 there for seven years leading their cybercrime
21 research program.

22 Q And while you were in that position, you also
23 completed a PhD at the Delft University of
24 Technology where you were part of the economics
25 of cyber security research group; is that

1 correct?

2 A Yeah, that's correct.

3 Q And you completed your PhD in 2019; is that
4 right?

5 A Yeah. So the position ran until 2019 and I
6 defended in 2020. Yeah.

7 Q And since 2020 you've been assistant professor
8 in the faculty technology, policy and management
9 at the Delft University of Technology?

10 A Yeah, that's correct.

11 Q And I understand from your CV you've testified
12 as an expert witness in cybercrime-related court
13 cases; is that correct?

14 A Yes.

15 Q And you participate in training law enforcement
16 and the judiciary on issues related to
17 cybercrime policing?

18 A Yeah.

19 Q I wonder if you could maybe just give us a brief
20 overview of the current focus of your research.

21 A Yeah. That would be my pleasure. I've been
22 focusing on what we call the governance of
23 cybercrime and profit-driven cybercrime to be
24 precise. So I'm looking at cybercriminal
25 business models, how they are built up and how

1 they can be disrupted. And my main focus the
2 past years has been on the most difficult of
3 steps in the criminal business model, which
4 would be the last step that requires cashing out
5 of criminal profits otherwise known as money
6 laundering. So I was researching that for the
7 past couple of years.

8 Q Thank you very much.

9 MR. MCCLEERY: Madam Registrar, I wonder if we could
10 take Dr. van Wegberg's CV down and pull up the
11 list of publications. There we are.

12 Q And, Dr. van Wegberg, do you recognize this as a
13 list of your publications pulled from your
14 Google scholar profile?

15 A Yes, it is.

16 MR. MCCLEERY: If that could be the next exhibit
17 please, Mr. Commissioner.

18 THE COMMISSIONER: Yes, very well. 985.

19 THE REGISTRAR: 985.

20 **EXHIBIT 985: List of publications authored by**
21 **Rolf van Wegberg**

22 MR. MCCLEERY:

23 Q And, Dr. van Wegberg, you've prepared a report
24 for the commission; is that correct?

25 A Yes, I did.

1 MR. MCCLEERY: Okay. And if we could pull that up
2 now, please, Madam Registrar.

3 Q And, Dr. van Wegberg, this appears to be at
4 least the first page of your report?

5 A Yeah, it is.

6 Q And the report is divided into three parts, the
7 first providing a high-level overview of the
8 Dutch anti-money laundering system, the second
9 describing a collaboration between the Delft
10 University of Technology and a Dutch law
11 enforcement agency called the FIOD and the third
12 describing the Dutch approach to regulating
13 cryptocurrency; is that correct?

14 A Yes, that's correct.

15 MR. MCCLEERY: And if that could be the next exhibit,
16 please, Mr. Commissioner.

17 THE COMMISSIONER: Very well. That will be 986.

18 THE REGISTRAR: Exhibit 986.

19 **EXHIBIT 986: Anti-Money Laundering efforts in**
20 **the Netherlands, prepared by Rolf van Wegberg**

21 MR. MCCLEERY: All right. And we can take that down
22 for the time being, Madam Registrar.

23 Q Dr. van Wegberg, before we dive into the
24 substance of your report, I just want to ask you
25 few questions about the topic of cybercrime

1 which you've indicated is your primary research
2 area and it's connection to the issue of money
3 laundering. And I want to maybe just introduce
4 the topic. Can you maybe describe what it is
5 you mean when you use the term "cybercrime."

6 A That's always a very tricky question to
7 answer because I think if you're in a room with
8 four academics and you ask them a definition,
9 you get ten back. But let me give you my
10 definition, which is that the cybercrime that I
11 am studying is a form of crime that is
12 facilitated by the internet or technology which
13 would otherwise not exist.

14 So we're talking about malicious software
15 being used to break and enter into computer
16 systems. We're talking about a virus, for
17 instance, like ransomware which, has been used
18 to hold business processes hostage, or we're
19 talking about so-called DDOS attacks, attacks by
20 generating a lot of internet traffic that make
21 services or servers, computer servers
22 unreachable for any other traffic. That's just,
23 yeah, a couple of examples of what I call
24 cybercrime. Yeah.

25 Q Thank you. In a paper that you wrote that we'll

1 look at that little bit later on, you draw a
2 distinction between cyber-enabled crime and
3 cyber-assisted crime. I wonder if you can
4 explain that distinction for the Commissioner.

5 A Yeah, sure. So the type of cybercrime I just
6 described is what we call cyber-enabled crime,
7 wherein the internet or technology is the one
8 thing enabling the crime to exist right now and
9 would not otherwise exist.

10 In contrast what we have is cyber-assisted
11 crime wherein technology and the internet are
12 facilitating a form of crime we already knew,
13 already know into a digital age. Let's take
14 money laundering -- sorry, let's take drug trade
15 as an example. We can see that being
16 facilitated by the internet or by technologies.
17 I think we will touch upon this later. But we
18 think virtual currencies play a dominant role in
19 that economy as well. And what we see there is
20 that those types of crimes already exist and
21 that these are now assisted by the internet.
22 Also being made possible on platforms such as
23 dark markets in the underground economy where
24 drugs are being traded. So that is a form of
25 cyber-assisted crime.

1 Q Thank you. And we've already touched on your
2 experience training law enforcement in relation
3 to issues of cybercrime. I wonder if you can
4 maybe speak generally to what some of the --
5 whether this type of crime, cybercrime
6 generally, poses unique or particular challenges
7 for law enforcement compared to more traditional
8 types of crime?

9 A Yeah, well, I think mainly we talk about two
10 challenges that arise from cybercrime in the
11 current crime ecosystem as challenges for law
12 enforcement, the first of which being expertise.
13 So expertise within law enforcement to
14 understand how technology, either the internet
15 or software, malicious software to be precise,
16 are helping criminals earn money.

17 So one of the aspects is expertise on how
18 these crimes work, so the phenomenon of the
19 crime. The other challenge is the forensic
20 process wherein evidence is collected in a
21 different way or can be gathered in a different
22 way than it would be in a traditional crime
23 setting; right?

24 To give an example, you could not find of
25 course any fingerprints online of a suspect.

1 enforcement needs to develop is an understanding
2 what we call data science. So having handle and
3 grips on big data challenges. That's the one
4 side. And the second side is shifting gears
5 with regards to financial policing where
6 normally there are intermediaries you could go
7 to, like banks, where you can subpoena digital
8 bank records. We are talking about a totally
9 different financial system when it goes about
10 cybercrime.

11 So that is the second part, I think, where
12 law enforcement can invest in. So investing in
13 progressive follow-the-money approaches.

14 Q Thank you. I think it probably goes without
15 saying that we weren't dealing with this kind of
16 crime in society, at least in a significant way,
17 30 years ago and it's sort of arisen since that
18 time period. In your view or based on your
19 research is -- cybercrime as part of the whole
20 criminal ecosystem, is it growing to this day
21 and becoming more prominent or has it sort of
22 reached a steady state?

23 A Yeah, well, of course now you're asking someone
24 also to find evidence, then, of this. Of course
25 I can say yes, indeed that is the case, but then

1 with regards to which data points I say that,
2 that is important to distinguish. So looking
3 at, for instance, police records or police
4 statistics, crime statistics, we're seeing
5 across the world that the traditional -- what we
6 call traditional crimes, at least in the
7 developed countries, are normalizing or even on
8 the down and that cybercrimes are on the rise
9 taking over, at least in the Netherlands, the
10 majority stake of crimes in statistics that
11 produce -- that is produced by the police each
12 year. Of course there are biases in those data
13 sets, so that's one way to look at it.

14 The second is to look at, for instance,
15 victim studies, so who has been victimized by
16 what type of crimes and also these studies
17 underlying that cybercrime is still gaining
18 ground and the proportion of crimes that make
19 victims is steadily still rising and the
20 proportion that is on the rise mainly is the
21 cybercrime proportion. So I would say yes
22 indeed that is still not normalized yet.

23 Q And based on your experience working with law
24 enforcement and your research, is -- law
25 enforcement have been able to keep up with this

1 growing prominence of cybercrime? Have they
2 shifted their focus and resources proportionally
3 or is there some sort of lagging focus on more
4 traditional types of crime within law
5 enforcement?

6 A I think it requires a different kind of focus.
7 I think maybe we touch upon this later, but the
8 idea of following up on every victim that
9 reports a crime to the police in the digital
10 domain is not feasible. But when you look at
11 the societal impact of crime and looking at the
12 main both technical and financial facilitators
13 of these crimes and going after those
14 individuals or those intermediaries, that is
15 policing with a specific goal, the impact on
16 society -- gaining as much impact on society as
17 possible. And I think that police forces around
18 the world are very much getting to that
19 understanding and are trying to police with a
20 certain impact. And I think that they're quite
21 getting the handle on that. So yes, they are
22 not doing the exact same thing as 20 years ago,
23 but I would not expect them to do precisely
24 that. So I think they are getting there, yes.

25 Q Thank you. Let's turn now and talk a little bit

1 about the connection between cybercrime and
2 money laundering, which of course is the focus
3 of this commission. And maybe you can -- I
4 think you touched on this when you were
5 introducing your areas of research focus, but
6 can you speak just generally to the connection
7 between money laundering and cybercrime and how
8 it fits within that broader category of crime?

9 A Yeah, of course. So I think what I briefly
10 already laid down is that in every criminal
11 business model, be it in a cybercriminal
12 business model or in an offline equivalent of
13 the same crime, let's take drug trade as an
14 example, both physical and online drug trade
15 have a similar challenge whenever money has been
16 made, namely to what we call cash out the money.

17 So diverting the criminal profit stream from
18 the accounts that the criminals hold to a more
19 legitimate part of their enterprise which in
20 other jurisdictions is called money laundering.
21 So that challenge remains throughout the
22 criminal enterprise, whether it be cybercrimes
23 or traditional offline crimes.

24 Yet where these two worlds meet, so the
25 cybercrime world with the money laundering

1 world, is that increasingly these profits that
2 cybercriminals make are in crypto or virtual
3 currencies, which makes the challenges that
4 these criminal face different to the challenges
5 that the drug criminals in the offline world
6 face as they were and are mostly dealing with
7 cash. And that's a different tactic altogether
8 to launder large proportions of cash. So what
9 I've been investigating is how virtual
10 currencies are facilitating money laundering in
11 a digital domain with a specific focus on the
12 profits of crime in the cyber domain.

13 Q Thank you. The -- you've mentioned the -- you
14 know, the laundering of money when those profits
15 of crime are sort of generated in the cyber
16 domain. Do we see, based on your research -- I
17 don't know if this is something that you cover.
18 Do we see more conventional proceeds of crime,
19 whether in the form of cashing or more
20 conventional monetary instruments.

21 Are cyber-enabled techniques being used now
22 to launder sort of more conventional proceeds or
23 is the cyber side of money laundering mostly
24 focused on digital revenue, if I can put it that
25 way?

1 A Yeah, I understand the question. I did not
2 research the first part of the question, so is
3 it indeed the case that the traditional parts of
4 the criminal enterprise are mainly, are mostly
5 now switching to cryptocurrencies as well. That
6 I do not know. What I can state is that in
7 general international police organizations, like
8 Interpol and Europol, are actually -- but again
9 we have to be very careful with interpreting
10 those facts since they are based on police
11 reports and not on a full picture of the
12 criminal landscape. They are saying that they
13 see an interest throughout crimes that for the
14 money laundering stage of the crime virtual
15 currencies have been used. I can only state to
16 the fact what I see in a cybercriminal lawyer
17 landscape is that that is actually empirically
18 the case.

19 Q In the paper that I've already alluded to, which
20 we'll look at a little bit later on in your
21 evidence, you refer to online markets for buying
22 and selling criminal services, I think including
23 money laundering services. I wonder if you can
24 maybe briefly describe sort of how those online
25 markets work and maybe what types of services

1 are being sold as they relate to this
2 commission's mandate.

3 A Yeah. So the online market that you're
4 referring to is in other scientific reports
5 described as crypto markets, dark markets, dark
6 web markets, darknet markets, underground
7 markets. They all mean the same thing or these
8 researchers mean the same thing, which is a
9 market, like Amazon or eBay, but then being
10 operated not on the clear web, so the normal
11 internet but on the so-called dark web, where
12 the Tor protocol is used to make anonymous
13 browsing possible and where the preferred
14 payment system is not in Canadian or US dollars
15 but is a form of cryptocurrency.

16 And the essential difference of course being
17 that these are 99.9 percent illegal goods and
18 services that are being traded instead of the
19 other way around on eBay or on Amazon. And what
20 is then the product portfolio, so what is being
21 sold there, mainly drugs, illegal narcotics, but
22 next to that we see a rising proportion there
23 covering digital goods. So that means stolen
24 credit card credentials, access to bank
25 accounts, large databases of email and password

1 information, compromised accounts. That is a
2 bit of the -- a bit of a sketch of how the
3 market looks like. Yeah.

4 Q Okay. And you've touched on already the
5 challenges that the growth in cybercrime poses
6 for law enforcement. Does the money laundering
7 side of cybercrime specifically pose any
8 different or unique challenges relative to sort
9 of cybercrime more generally or is it more or
10 less the same types of difficulties?

11 A I think same difficulties but essentially also
12 a -- not per se a challenge but also a chance
13 maybe even. I touched upon the traditional
14 forms of policing the financial side of crime
15 wherein you have to go through all sorts of
16 intermediaries to -- like banks or financial
17 institutions in general to get a clear picture
18 about somebody's financial doings or
19 wrongdoings, and with the adoption of virtual
20 currencies that information is publicly
21 available.

22 Of course there's a pseudonymization going
23 on; right? It's not that everyone can check my
24 bitcoin balance, but the point is that the
25 blockchain information gives a lot of data that

1 is open and publicly accessible, meaning that in
2 principle follow-the-money approaches in
3 cybercrime, whereas cryptocurrencies are used
4 for money laundering should also become easier,
5 not per se harder.

6 Q Thank you. With that, then, why don't we shift
7 gears and get into your report. And maybe I'll
8 begin with it in order and start with part 1.

9 MR. McCLEERY: Madam Registrar, could we please pull
10 up Dr. van Wegberg's report again. Thank you
11 very much.

12 Q You begin part 1 by identifying that the
13 response to money laundering in the Netherlands
14 is a bit unusual compared other types of crime
15 in that the Treasury shares in the
16 responsibility for fighting money laundering. I
17 wonder if you can maybe comment a bit on what
18 that tells us about the nature of money
19 laundering or the approach taken to this issue
20 in the Netherlands specifically?

21 A Yeah. I think the main difference is that all
22 other types of crime are being spearheaded or
23 the fight against these types of crimes of
24 course spearheaded by the Justice Department,
25 whereas this is a joint responsibility between

1 the Treasury and the Justice Department
2 traditionally stemming from the fact that of
3 course there are gatekeepers in -- what we call
4 gatekeepers in regards to money laundering,
5 central or crucial intermediaries like financial
6 institutions that could play a major role in
7 preventing money laundering from taking place.
8 And to position those institutes or institutions
9 in the fight against money laundering, the
10 Treasury here is an actor, a government actor
11 who is responsible for the anti-money laundering
12 governance in the Netherlands.

13 Q This focus on gatekeepers and the crucial role
14 that they play, we've already touched on sort of
15 the growth of cybercrime and that connection to
16 money laundering. In your view do those -- the
17 role or the importance of those, say,
18 traditional gatekeepers or the traditional
19 financial markets, is that becoming less
20 relevant or less significant as cybercrime and
21 money laundering through cybercrime grows or do
22 you view those as still having a crucial role?

23 A That's very good question. I would say there's
24 a fragmentation in what we call a gatekeeper.
25 Normally or traditionally we would say at least

1 the financial landscape in the Netherlands is
2 relatively centralized in the sense that there
3 are three banks in the -- not the private
4 banking centre sector, but commercial consumer
5 banking. Three banks that make up over
6 90 percent of the market share, which means that
7 those three banks actually were -- from the
8 get-go were in this case identified as the main
9 gatekeepers for protecting the Netherlands in
10 terms of money laundering.

11 But now in -- not only with regards to the
12 developments in cybercrime but also with the
13 developments in how we have now sort of set up
14 our financial system is that there are all sorts
15 of intermediaries not being banks, payment
16 service providers, bitcoin exchanges, and I can
17 go on and on and on, who are not these
18 traditional gatekeepers but actually maybe now
19 see more of unusual transactions than that banks
20 nowadays do.

21 Q Thank you. And we'll come back to how the
22 Netherlands has begun to regulate some of those
23 intermediaries in a little bit, but at this
24 point let's take a step back in time. And you
25 describe initially in your report as well how in

1 the Netherlands there was initially two pieces
2 of legislation, *Identification of Services Act*
3 and the *Disclosure of Unusual Transactions Act*.
4 And you say that these two distinct pieces of
5 legislation posed a challenge for
6 implementation. I wonder if you can maybe
7 expand a little bit on the difficulty that
8 having these two separate pieces of legislation
9 caused?

10 A Yeah. Well, from the start this legislation was
11 unnecessarily complex. As in there was one
12 piece of legislation which set out the
13 guidelines to identify who you are serving your
14 product to, so as a bank who are you serving as
15 a customer. And the other would be if that
16 person would become a customer, that you should
17 keep an eye out on suspicious transactions.

18 Setting out these two pieces of legislation
19 made it unnecessarily complex for these
20 gatekeepers to keep up with the current level
21 and current details of legislation. And they --
22 I wouldn't use the word "complain," but they
23 made their made these complexities known to the
24 Justice Department and to the Treasury and after
25 a period of time as it goes with legislation, it

1 takes always a bit of time, these were merged
2 together or at least there was a new law being
3 implemented later on that contained both of
4 these sets of requirements for gatekeepers to
5 follow in a uniform and holistic way.

6 Q And did that sort of resolve the problem, make
7 it more -- easier for those institutions to
8 comply based on your --

9 A Yeah, so as they tell me, they now have at least
10 one specific type of standard that has been
11 thrust upon them that they can maintain and
12 keep up so. They say that is the case, yes.

13 MR. MCCLEERY: Thank you. On -- we can go to the
14 second page of the report, please, Madam
15 Registrar.

16 Q And we see the beginning of the second
17 paragraph here you emphasize the importance of
18 reporting within the Dutch system. And you
19 write:

20 "The importance of reporting in the Dutch
21 system should not be overlooked. In the
22 Dutch approach against money laundering,
23 reporting can be described as the
24 cornerstone of the governance structure -
25 without reporting of unusual transactions,

1 all other efforts will have limited to no
2 effect."

3 And maybe you can just comment and expand a
4 little bit on why in your view this reporting
5 structure is so crucial.

6 A Yeah. Well, this reporting structure is crucial
7 as the data it generates forms the logical basis
8 to provide prioritization and followup on cases
9 that have been selected for further analysis.
10 It creates a sort of baseline to compare other
11 reports against. So like in science, the more
12 data the merrier.

13 So in this case the reporting system is, on
14 the one hand, generating a lot of data points
15 which can be used to analyze patterns and to
16 prioritize which reports to follow up on. And
17 on the second hand it is a -- or on the other
18 hand, it is a way in which -- a way to evaluate
19 if these gatekeepers actually perform to their
20 duties. As these gatekeepers are the ones that
21 are mainly responsible for reporting having
22 trends in reporting going down or some other
23 things that are happening on the reporting level
24 can be analyzed further on a more meta level
25 looking at the gatekeepers as the responsible

1 institutions for reporting. So that is why I
2 noted the cornerstone of governance efforts to
3 be this reporting system.

4 Q And on this -- that question of confirming
5 whether gatekeepers are complying with their
6 obligations, later on in this paragraph you
7 write:

8 "The classification thereof as 'unusual'
9 is entirely the responsibility of the
10 reporting institution, e.g., a bank.
11 Hence this is also called the subjective
12 indicator. This means that institutions
13 themselves assess the risks associated
14 with certain clients or products and adapt
15 their efforts accordingly."

16 And I wonder if you can comment on your view
17 sort of -- maybe more so from almost a quality
18 of data standpoint where institutions are
19 responsible for deciding for themselves what
20 constitutes an unusual transaction, how
21 effectively can we determine if they are
22 appropriately complying and, you know, where
23 there may be some variety in what is being
24 reported and what's identified as unusual, does
25 that present a challenge from sort of a data

1 quality standpoint?

2 A Yes, it does. And not only from a data quality
3 standpoint because, you know, having control on
4 the true compliance of these regulations, one
5 needs -- as a supervisor needs to check whether
6 or not the subjective assessments have been done
7 correctively. But by already naming it a
8 subjective assessment, one cannot argue based on
9 hard standards if the institute was indeed
10 obliged to report this because it is, as we
11 know, a subjective indicator.

12 But it is the best that we have. So to the
13 best of the abilities, these organizations
14 within sometimes sectorial compliance
15 standards -- set out how to fill out these or
16 how to fill in how to give meaning to what they
17 think are the indicators -- subjective
18 indicators that they should use to report.

19 But yes, you are totally right, this has
20 issues arising -- quality standard issues but
21 also from a supervisory standpoint issues with
22 regards to if compliance has been met.

23 Q Thank you. You just referred to supervisors in
24 the Dutch anti-money laundering system. I
25 wonder if you can describe a little bit what the

1 role of those supervisors are and sort of what
2 type of organizations they are.

3 A So -- yes. So what we call the supervisor is a
4 government appointed actor that -- or institute
5 that serves as an extra level of control on these
6 gatekeepers so their specific duty is to make
7 sure that these gatekeepers report based on the
8 subjective and objective criteria that were set
9 out to report suspicious transactions, or I have
10 to say unusual transactions because they cannot
11 decide of course if something is suspicious in
12 the eyes of the law. The only thing that they
13 can do is name or label something as unusual and
14 they have a duty to report that and the
15 supervisor is the one -- the supervisory
16 institute is the organization that is
17 responsible for controlling or checking whether
18 or not they meet that obligation.

19 Q Thank you. Are you able to comment on what type
20 of authority the supervisors would have over
21 reporting institutions in the sense of whether
22 they're able to impose penalties or punishments
23 in the event --

24 A Yeah, so in the end indeed -- the final stage or
25 the mandate that they have is indeed be able to

1 fine institutes that do not comply with the law,
2 the law of reporting unusual transactions.
3 There's even -- that is the mandate of the
4 supervisor himself or herself. Moving even one
5 step further we have seen in the Netherlands now
6 three cases wherein not the supervisor but the
7 Justice Department has taken legal criminal --
8 legal action in the criminal justice system
9 against two of the three banks, I just mentioned
10 making up the 90 percent of the market share.
11 And they were -- settled these cases on a fine.
12 So it can even go as far as settling for -- I
13 think these settlements were about -- well,
14 maybe even close to 6-, 700 million euros for
15 not -- or failing to meet the obligation of
16 reporting unusual transactions.

17 MR. MCCLEERY: Thank you. If we can jump ahead to
18 page 3 please, Madam Registrar.

19 Q And you build on your discussion of the
20 importance of reporting on this page and how
21 reports can lead to investigations. And at the
22 top of this page the first paragraph begins:
23 "Reports of money laundering can lead to
24 an investigation by law enforcement in two
25 ways. The first route is through FIU-the

1 Netherlands. In this case, an alert is
2 sent out by an institution obligated to
3 report, after which FIU-the Netherlands
4 examines and analyzes whether these data
5 merit a follow-up investigation. If this
6 is the case, a law enforcement agency can
7 use the enriched information from FIU-the
8 Netherlands to initiate an investigation."

9 I think my question is around sort of the speed
10 with which this process happens. This may not
11 be something that's sort of available to people
12 outside of law enforcement, but do you have a
13 sense of how quickly reports that originate in
14 reporting institutions like financial
15 institutions are received and analyzed by the
16 FIU and sent out to law enforcement for
17 investigation?

18 A Yeah. I can have comment on or -- because I
19 have no knowledge of what the time span is
20 between such a report or such an alert and the
21 analysis that eventually merits a followup
22 investigation by a law enforcement agency.

23 What I can state, though, is because there's
24 an intermediary involved, in this case FIU-the
25 Netherlands, which is the financial intelligence

1 unit gathering all these unusual transaction
2 that are brought forward by these gatekeepers,
3 of course it goes without saying that if we
4 might touch upon the second way in which an
5 investigation is started, the second way where
6 the gatekeeper is in direct contact with law
7 enforcement is of course the fastest way to get
8 to an investigation -- to an ongoing
9 investigation.

10 And it would not surprise you that if the
11 unusual transaction merits speedy investigation,
12 the second way in which an investigation has set
13 up, namely direct contact between the reporting
14 agency or the gatekeeper and law enforcement, is
15 often the route that has been chosen by that
16 institute.

17 Q Do you have a view, then -- is it -- I suppose
18 both avenues have their merits, but do you -- in
19 your view is one of those because of maybe the
20 speed, or maybe on a counterpoint the analysis
21 of somebody at FIU, is one of those more
22 valuable to law enforcement than the other or
23 does it depend on the nature of the case?

24 A Yeah, I would say that it's a case-by-case
25 difference that exists. I would say from a

1 governance standpoint the first route should not
2 be closed completely. Of course because there
3 are international treaties that have to be
4 followed and where an FIU is needed in the
5 Netherlands. But next to that if a notification
6 is not sent on the basis of an unusual
7 transaction to an FIU but solely directly to a
8 law enforcement agency, I think in the
9 Netherlands we have the similar situation as in
10 other countries wherein there are multiple law
11 enforcement agencies handling these types of
12 crimes. Meaning that one could be blind for
13 something that the other has in times of
14 information. Now there is a central repository,
15 fair to say, with all these transaction that can
16 be mined also historically, so both warrant to
17 be there.

18 Q Thinking back to our earlier conversation about
19 growth and development of cybercrime and the --
20 in place of money laundering and that emerging
21 criminal ecosystem, does -- the speed with which
22 this kind of information is transmitted to law
23 enforcement, does that become a more important
24 factor or does it factor into the equation in a
25 different way when we're talking about these new

1 types of crime?

2 A Well, I would say that since the traditional
3 financial system is not so heavily involved with
4 cashout of cybercrime proceeds, they have a less
5 significant role to play. And the other
6 intermediaries that are involved with cybercrime
7 cashout, those are not companies that are set up
8 as financial institutes but rather as
9 technologically driven companies, like the tech
10 start-up scene as you might have known in Canada
11 too, and they are not quite familiar how these
12 financial system regulations work, which means
13 that also for what we just discussed how to set
14 up a system wherein you know what is unusual and
15 what is not for them is -- well, I would say
16 nearly something they have to get an external
17 view on because simply they are not trained or
18 started. Those companies are not founded with
19 the idea of running a financial institution.
20 They're run and they are set up as technological
21 driven companies.

22 Q Let's move ahead, then. The next section of at
23 least the first part of this report deals with
24 the objectives and priorities set by the
25 Treasury for their anti-money laundering

1 measures, and there are two objectives that
2 you've listed here. The first -- or sorry, the
3 second is to detect and prosecute organized
4 crime effectively and efficiently, which is I
5 guess fairly self-explanatory. The first,
6 though, is to:

7 "Prevent and counter integrity violations
8 at financial institutions including
9 clients misusing financial institutions to
10 launder money."

11 And I wonder if I understand this correctly. By
12 "financial institutions" is this intended to
13 single out essentially banks sort of to the
14 exclusion of other types of reporting entities
15 as far as you're aware?

16 A I think -- because the second objective of
17 course is something that the Justice Department
18 would set out and the first would be something
19 that the Treasury sets out. I don't think that
20 the Treasury had the idea in mind to single out
21 these traditional financial institutions, what
22 we call banks. I think they were trying to name
23 a more broader sense or body of institutes that
24 deal with financials. So I would say you have
25 to take it broader than only looking at banks,

1 yeah.

2 Q Okay. So I guess my question was going to be
3 whether that maybe counterproductively excludes
4 some emerging types of financial technologies
5 and perhaps. I'm overly narrowly interpreting
6 that comment, and that would include these new
7 types of financial technology institutions that
8 we've talked about.

9 A Yeah, well, I certainly hope so. However, I
10 think the objectives are predating the
11 spectacular rise in these types of payment
12 service providers as we now call them. So I
13 hope they -- and I think that we touch upon that
14 in a bit, I guess, that the implementation of
15 new anti-money laundering directives from the
16 European Union have indeed widened the scope of
17 what a financial institution and what therefore
18 a gatekeeper is in this ecosystem, yeah.

19 Q And then moving down the page, you set out five
20 objectives that have been identified. I gather,
21 within those -- or sorry, five priorities that
22 are within those objectives. And I'll just
23 quickly sort of ask you some questions about
24 those. The first one says:

25 "Decrease the amount of criminal assets."

1 And I wonder if you can comment on whether this
2 priority is intended to mean that law
3 enforcement should engage to prevent the
4 generation of criminal revenue in the first
5 place or before it can even get to the stage of
6 being laundered.

7 A I think that that is one of the aspects of that
8 priority. I think the second part of that
9 priority is based on the notion that there is
10 money flowing into the Netherlands that is
11 criminal of origin. And the idea behind this
12 priority is that -- to decrease that amount of
13 foreign funds going in which have a criminal
14 heritage.

15 Q If a significant amount of this money that's of
16 concern is coming from outside of the
17 Netherlands, do you have any thoughts on the
18 difficulty that aspect of the problem poses for
19 law enforcement which generally is sort of
20 focused at a national level?

21 A Yeah, that's a good question. So I think, at
22 least in my expertise with regards to
23 cybercrimes, we're talking a global playing
24 field. So for the cybercrime investigators in
25 the Netherlands who deal with the financial side

1 investigation by the police and/or the
2 special investigative services into
3 serious or organized crime."

4 The third is:

5 "As much as possible, the police, the
6 special investigative services and Public
7 Prosecution Service conduct investigations
8 in response to suspicious transactions
9 submitted to FIU-the Netherlands."

10 And the last one is:

11 "When large amounts of cash or other
12 unusual assets are found, an investigation
13 should be carried out into the origin of
14 the cash or assets as often as possible."

15 To put it a little bit crudely, it seems to me
16 that all four of these are different ways of
17 saying that it's important to carry out
18 financial investigations; is that a fair
19 interpretation?

20 A Yeah, I think it is. And with maybe one
21 specific notion, and that is that the third
22 priority actually lays down an approach which is
23 still one of the prominent ways of dealing with
24 serious and organized crime in the Netherlands
25 which is to look at that from the money angle.

1 investigations?

2 A Yeah, that's a very good question. So I think
3 there are two parts in my answer there. So the
4 first part of course is, you know, there's less
5 or no moral outrage where we're talking about
6 the finances of crime that we don't essentially
7 see on the street corner versus a murder that we
8 might see on the news or see on the street
9 corner.

10 And the second is that the speed -- sorry,
11 not the speed, but the amount of data, so the
12 amount of murders is quite limited luckily in
13 the Netherlands, but the amount of these
14 suspicious transactions that might be reported
15 to this financial intelligence units is vast,
16 meaning that -- essentially warrants such a
17 priority to be stated to actually motivate and
18 incentivize law enforcement professionals to
19 follow up on this even though it is not an
20 integral part of an investigation into a serious
21 or organized crime group. But from the
22 transaction onwards looking at which crime is
23 involved, which groups are involved that indeed
24 in this case warrants a specific priority to be
25 set out.

1 Q Thank you. And based on your research and
2 experience has the Treasury found success in
3 encouraging law enforcement to prioritize these
4 types of investigations, and are they actually
5 being carried out as this suggests they should?

6 A Well, it depends on of course how you measure
7 success. Sorry for stating that, but I think
8 that if you look at the amounts of criminal
9 assets seized in the Netherlands from, let's
10 say, the 2010s onwards, that is a figure that is
11 increasing each year. So I think that -- you
12 know, taking that as a measure of success, I
13 think they would agree that that is a priority
14 that has been followed up on.

15 And I think even in reverse, I don't know of
16 any big successful investigations into
17 cybercrime in the Netherlands that did not have
18 a financial aspect to it, whether it be just
19 small, tiny bits of criminal infrastructure that
20 has been rented with hosting provided in the
21 Netherlands where bitcoin has been involved in a
22 payment and that formed a specific outlook for
23 the investigative team or that ransomware
24 payments have been made in bitcoins where the
25 payment was actually tracked so that the crime

1 group could be attributed. I think the
2 essential low the priority is not -- is quite
3 obvious now, more obvious than it was when it
4 was drafted. Yeah.

5 Q Thank you. And maybe just to build on that,
6 then, the next part of this -- or the next
7 section of this part of your report deals with
8 the fiscal intelligence and investigation
9 service, or the FIOD. And I wonder if you
10 can -- you've done it in your report. Maybe
11 just to add to that, describe for the
12 Commissioner what the FIOD is and what its
13 mandate is.

14 A Yeah. So the FIOD is one of the special
15 investigative services and the FIOD is the
16 special investigative service of the Treasury,
17 more in-depth or more specific for the tax
18 office or tax authority. You can compare it
19 with the internal revenue service that you might
20 have or the Internal Revenue Service in the
21 United States. And I know for a fact that in
22 the United States there is a criminal
23 investigations division of the IRS and that is
24 the equivalent of the FIOD. And their mandate
25 is to prosecute tax fraud and money laundering

1 as to specific offences, so that means that they
2 have specialized in those two specific types of
3 crimes and their mandate is following those
4 specific offences.

5 Q Thank you. And can you -- do you have a
6 perspective as to the purpose or value of having
7 an agency that connects those two specific types
8 of crime as opposed to maybe a more general law
9 enforcement agency or separate ones that would
10 focus on those separately?

11 A Yeah. I would say it is all about the
12 specialization and having the expertise in-house
13 to have a deep understanding about how these
14 crimes work and in this case how money
15 laundering evolves. So I think whether that be
16 part of a national police force where would
17 there be no special investigative services, that
18 will be totally fine. But now the governance
19 decision has been made to name a set of special
20 investigative services with specific mandates
21 regarding specific types of crime, one of which
22 being money laundering and the FIOD is the one
23 that has that mandate.

24 So in my mind it doesn't really matter if
25 the FIOD would be a part of the National Police

1 Force having the same expertise and mandate
2 versus whether it be a special investigative
3 service. I think the only difference being is
4 that it is a different part of government. It
5 is a smaller branch of government, it's a
6 smaller investigative service, not as big as the
7 national police would be. So you can imagine
8 that bureaucracy is less since the amount of
9 people that are working there are lower than
10 international police force.

11 Q And we spoke just a moment ago about your
12 perspective on the success the Treasury has had
13 in motivating and encouraging law enforcement to
14 conduct financial investigations. Do you see
15 the existence of a dedicated financial
16 investigation agency as sorts of crucial to the
17 success in that prioritization or do you feel
18 it's maybe not as --

19 A I think it goes hand in hand, specifically
20 because the special investigative service is
21 part of the Treasury department, meaning that
22 they have a special service that investigates
23 these types of crimes whereas they actually have
24 some sort of leverage, if I be crude, over this
25 service, meaning that the priority that's set

1 out is actually something that they can, from a
2 hierarchical standpoint, try to make sure
3 actually has been met because the investigative
4 service is part of their own department.

5 Q Thank you. On the next page of your report, you
6 identify three strategic objectives of the FIOD:
7 those being investigations with maximum societal
8 impact, fighting fraud through public-private
9 partnerships and seizing criminal assets.

10 On the first of those, do we have a sense of
11 what the FIOD means when it refers to societal
12 impact or how it understand the impact of its
13 investigations?

14 A Yeah. I think the measure that they take is
15 trying to maximize the amount of crimes that
16 they can disrupt or the maximizing amount of
17 crimes to prevent. So let me give you an
18 example. If they have a financial facilitator
19 that they can take down which is of course the
20 one case that they're focusing on at a specific
21 moment in time. If that facilitator has over
22 300 customers and customers that people that pay
23 that individual to launder bitcoins, for
24 example, that is a case wherein they say, we
25 choose this operator to go after since we

1 maximize the societal impact, meaning the impact
2 that it has in a positive way on society if we
3 lock up this specific individual.

4 Q Thank you. And then the second refers to
5 public-private partnerships and the Commissioner
6 has heard evidence about various forms of
7 public-private partnerships in different
8 jurisdictions around the world. I wonder if
9 based on your research and experience you can
10 comment on your perspective on the value of
11 engaging with the private sector and bringing
12 them in as partners in these types of
13 initiatives?

14 A Yeah. So I think that these gatekeepers are of
15 goodwill. So what they normally -- also because
16 the second route would be just covered between
17 an unusual or suspicious transaction and a
18 followup investigation by law enforcement is a
19 direct link between those agencies or those
20 institutes that warrants that maybe the
21 structure when they operate and collaborate.
22 Also sharing phenomenons that they see happening
23 is one that is best to be achieved in a
24 public-private partnership. And I think we
25 going to touch upon that in a short while. We

1 actually have such a centre of expertise which
2 relates to these public-private partnerships
3 between law enforcement and the private sector.

4 Q And you're right, we will get to that in just a
5 moment. Before we do that, though, I want to
6 touch on the third strategic objective, which
7 refers to the seizure of criminal assets. You
8 know, when we -- or we often think of the goal
9 of criminal investigations to be ultimately
10 arrests and prosecutions, convictions and maybe
11 jail sentences. And I wonder if you can comment
12 for money laundering investigations
13 specifically, do you have a perspective on the
14 relative importance of asset seizure compared to
15 those other sort of more traditional outcomes?

16 A I would say that there -- that's a crucial and
17 integral part of a successful fight against
18 crime. You know, if you take it very
19 economically from an economic perspective, crime
20 has rewards and crime has risks. One of these
21 risks is of course getting caught and being sent
22 to jail, but that is a risk that you know
23 upfront is out there. However if you have the
24 risks but keep the rewards, that is not
25 something sustainable for society to make sure

1 crime actually is unattractive. So keeping down
2 the amount of reward at the end by seizing
3 criminal assets is of vital importance for
4 fighting crime as a whole.

5 Q Thank you. In the next paragraph you describe
6 how the FIOD is divided into different regions,
7 each with their own specialty. And as an
8 example you indicate that the real estate
9 focused group is based in the northwest of the
10 country. And even though that group is a based
11 in the northwest, would that group have
12 responsibility for real estate-focused
13 investigations throughout the Netherlands?

14 A Yeah. Yeah, of course. That is the upside of
15 being a small country. So the expertise is
16 bundled so to speak with a specific regional
17 task force, but their mandate stretches the
18 whole country. It is just that we want those
19 people or the government wants those people to
20 gather at the same office to best share
21 expertise amongst them.

22 Q And you go on -- again continuing to speak about
23 the structure of the agency, you go on to refer
24 to the special affairs team, or the BZT, and the
25 multidisciplinary team, or MDT. And you say the

1 special affairs team is responsible for major
2 cases while the multidisciplinary team is
3 focused on smaller investigations. Is that
4 right?

5 A Yeah.

6 Q And then going back to that first strategic
7 objective of maximum societal impact, one might
8 think that that goal is best pursued through
9 those major cases. Do you have a perspective on
10 the importance of pursuing investigation at both
11 of those levels, both the major and the smaller
12 investigations?

13 A Yeah, so I think that that is why the priority
14 or the goal states maximum societal impact and
15 not maximizing only the amount of cases or the
16 amount of major cases because sometimes for the
17 public to be trust -- public to have trust in a
18 special investigative service, these small cases
19 need to be picked up as well because otherwise,
20 you know, 9 out of 10 reports that have been
21 submitted to an agency have not been followed up
22 on, and then the public doesn't per se trust
23 that institute to follow up on crime
24 effectively. So there needs to be a balance
25 between still earning the trust of the public on

1 the one hand with maybe even looking at tinier
2 and smaller cases. And on the other one looking
3 at the major cases with financial impact on a
4 large scale, like construction fraud, and that
5 being followed up on by these special teams that
6 exist.

7 Q The phrase "multidisciplinary teams" suggests
8 something about the structure or the expertise
9 that might be within that team. Is there a
10 difference in how these types -- special affairs
11 team and the multidisciplinary team are
12 constituted and the type of expertise or
13 personnel they have within them?

14 A Yeah. So the multidisciplinary teams, if I can
15 stay on that -- or reflect on that, they hold
16 not only people who have a fiscal or legal
17 background but also people who have, like
18 myself, more a criminological background or data
19 science background, computer science background,
20 so to best mind all insights from all types of
21 data to best understand what the case revolves
22 around precisely.

23 And I know for a fact that they actually
24 have also a few psychologists that converge
25 around these teams and take a look at if again

1 there is a suspect to see the psyche of that
2 individual and if that warrants a certain
3 approach in the case.

4 Q Okay. And then continuing on, you write about
5 the staffing of the FIOD and you indicate that
6 it has about 1,400 employees, the majority of
7 whom are law enforcement officers; is that
8 correct?

9 A Yeah. That's correct.

10 Q And you indicate that historically it was
11 staffed with a mix of lawyers and accountants
12 and law enforcement officers. But am I correct
13 in understanding that the approach now has
14 shifted more towards hiring people with
15 different backgrounds which might include
16 lawyers and accountants and then training those
17 individuals as law enforcement officers?

18 A Yeah, that's correct. So instead of taking
19 people who are straight from law enforcement
20 training, so they have completed college
21 programs and then go into the police academy
22 programs, what they now sometimes do is recruit
23 people out of university that have a specific
24 background like law, finances, criminology,
25 computer data science and placing them in teams.

1 And if that still warrants a case that they need
2 to be train as law enforcement officers, they do
3 that, but I know of teams at the FIOD who are
4 sometimes 70, 80 percent people who are
5 operational as they call them, so people who
6 have a law enforcement background or have been
7 trained as a law enforcement officer on the side
8 who can do seizures and who can do all sorts of
9 procedures and on the other hand they have
10 people who cannot do that but are, for instance,
11 the data scientists that are working with the
12 evidence that has been collected.

13 Q And based on your research and experience can
14 you comment maybe on the value of taking
15 individuals with these different types of
16 expertise and then training them so that they
17 are -- not only have that sort of background and
18 expertise but are also law enforcement officers?

19 A Yeah. So the upside of course is taking of
20 including multiple disciplines in a team is that
21 you prevent tunnel vision from happening as
22 people are not trained the same way. But of
23 course we're talking -- you know, we are in the
24 law enforcement domain here, so that means that
25 people need to be trained as law enforcement

1 officers to properly handle evidence, so being
2 able to serve out warrants, et cetera, because
3 otherwise this whole business would of course
4 not be able to be done.

5 Q And you also indicate that sometimes the FIOD
6 now have backgrounds in computer or data science
7 and you've touched on this I think previously.
8 But I wonder if you can comment a little bit on
9 the value that that kind of skill set provides
10 to the FIOD.

11 A Yeah, I think that that is essential, and I
12 think they know this for a fact as well. And
13 although this is what they call a recruitment
14 nightmare because, you know, there are not a lot
15 of these people who actually want to make
16 over -- or come over to the government branch or
17 to the branch of government to work because, you
18 know, if you are trained -- I see that myself,
19 my students. If they are trained as security
20 specialist, they can make a lot of money all
21 over the place. So, you know, it is hard to
22 recruit them, but it is vital.

23 Like we just mentioned, the vast amounts of
24 data, be it a criminal service being seized or
25 be it looking at blockchain information or be it

1 looking at cases that have been reported to the
2 FIU, vast amounts of data and sense-making needs
3 to happen, and computer and data scientists are
4 best trained to do so.

5 Q You've mentioned the experience of your students
6 and maybe the attractions of the private sector
7 compared to this kind of work. Maybe from
8 speaking with your students, do you have a
9 perspective as to how organizations like the
10 FIOD can successfully recruit these types of
11 people even if they can't offer the same
12 financial rewards?

13 A Well, funny you mention this. I think that on
14 the financial side of things, you know, I mean
15 more like the salary perspective, I think that
16 since they are a special investigative service
17 and they are quite small, they have been able to
18 make some leeway into rewarding these people
19 accordingly to their skills. That's the one
20 side. So I think that has been on the plus for
21 students that graduate with me. But on the
22 other of course it's well, stating the
23 adventure, so to say; right? It's kind of an
24 appealing setting for some people to be able to
25 attribute crimes and to work in that specific

1 domain. So it's a little bit about a push and a
2 little bit about a pull.

3 Q Okay. Thank you. And you carry on and talk
4 about the FIOD's role in another organization or
5 agency called the Anti-Money Laundering Centre.
6 And I wonder if -- again, it's -- you've
7 described it well in your report, but maybe just
8 to add to that, can you briefly talk about what
9 the Anti-Money Laundering Centre is.

10 A Yeah, so with regards to the second goal of the
11 FIOD fighting crime or fighting fraud through
12 public-private partnerships, the Dutch
13 government set up a centre of expertise named
14 the Anti-Money Laundering Centre, or AMLC for
15 short, which is staffed by people from the tax
16 office and by the FIOD together with
17 representatives from other parts of government
18 like the public prosecution service and the
19 national police but also from financial
20 institutions and, for instance, bitcoin
21 exchanges to, not per se operationally but more
22 at a tactical level, share insights and share
23 expertise in -- with regard to the money
24 laundering phenomena. So that's the general
25 basis of why the AMLC was founded in the

1 Netherlands.

2 Q And you indicate that the AMLC has about
3 35 staff members, most of who are seconded from
4 the FIOD; is that right?

5 A Yeah, that's correct.

6 Q Do you have a sense of the role or what these
7 permanent staff members are doing, what their
8 role is?

9 A Yeah. So mainly they are responsible for
10 drafting policy briefs that have two goals. One
11 of which is to distribute them across the law
12 enforcement domain in the Netherlands and
13 informing them about new phenomenon, so new what
14 they call money laundering typology. So the new
15 ways in which money laundering happens. So the
16 idea is that they write these policy briefs
17 based on -- that's their second task or their
18 second goal is on sort of like a meta-analysis
19 of cases. So they are not operationally
20 involved in cases, but they have access to these
21 cases since they are seconded from the law
22 enforcement domain. They do a more abstract
23 analysis across these cases to see what are
24 patterns and trends, and they write policy
25 briefs based on those cases together with of

1 course their partnerships that they have with
2 the private sector and with academia. So that's
3 generally the goal and the task that they
4 perform.

5 Q And you mentioned they distribute these -- this
6 work product, these policy briefs to law
7 enforcement. Do the private sector partners in
8 the AMLC also have access to that kind of
9 information?

10 A Yeah, they do. Since they are one of the people
11 that have been -- I have to say this
12 differently. So these people are actually an
13 integral part of the AMLC, meaning that they are
14 part of the team that is actually drafting these
15 policy briefs meaning that they of course then
16 would have access to these typologies.

17 And I even know for a fact that the AMLC
18 just recently about a couple of weeks ago
19 started a podcast that also uses these policy
20 briefs as a basis to generate more awareness
21 about money laundering typology, so it's the
22 essential purpose of sharing that information as
23 broadly as possible.

24 Q And again maybe digging back into our
25 conversation about cybercrime in connection to

1 money laundering. This sort of ongoing work of
2 identifying new typologies, is that becoming
3 more important in your view as, you know, new --
4 as the cybercrime side of money laundering grows
5 and perhaps the innovation in how to launder
6 money might be accelerating?

7 A Yes, I think in the past ten years these
8 typologies have been evolving quite rapidly,
9 especially since the detection of these
10 typologies rather paradoxically has been more
11 straightforward. Like I mentioned, more data
12 points. Blockchain information can be mined
13 effectively. So these typologies change
14 rapidly, meaning that these policy briefs are
15 quite essential for staying on point in the
16 fight against money laundering.

17 Q The final section of part 1 of your report
18 includes your assessment of the effectiveness of
19 the Dutch approach. And I'm going to ask you a
20 few followup questions about some of the points
21 you've made here. To begin with, you describe a
22 lack of clarity about who was in charge of money
23 laundering efforts between the Justice
24 Department and the Treasury. And I'll maybe ask
25 you if you can expand on why in your view it's

1 important, as you put it, to know sort of who
2 was in charge and then maybe as a followup
3 whether you have a perspective as to which side
4 of the equation, Justice or Treasury, is best
5 suited to lead those efforts?

6 A Yeah. So what I think from the conversations
7 that I have with the professionals that are
8 operating in this field is that it wouldn't
9 matter to them specifically which of these two
10 departments would be in charge as long as there
11 is one clear department in charge. And strictly
12 legally speaking, the Treasury is in charge of
13 this effort and the problem here is that the
14 Justice Department is not some -- or is not
15 considering it to be something they can take a
16 back seat on since this is an essential part of
17 their mandate as well.

18 And that's where the friction occurs. But I
19 have to say that these -- this level of
20 transparency on who is in charge is a little bit
21 faded to the background, or at least has been
22 faded a little bit more since the AMLC was
23 established, since that sort of brought together
24 all these different perspectives in one -- just
25 under one roof essentially. And I think that

1 that is clearing up a lot of the confusion that
2 was. But still, you know, when push comes to
3 shove who is essentially responsible, that is
4 still an open question.

5 MR. McCLEERY: And then moving along. If we can jump
6 ahead, actually, to page 5, please, Madam
7 Registrar.

8 Q And scroll down towards the bottom. That's
9 great. We see in the second-to-last paragraph
10 on this page there's a comment that says:

11 >Note however, that a lot of operational
12 results still stem from interpersonal
13 relations and informal conversations and
14 are not legally incentivized."

15 I wonder if you can expand a little bit on what
16 you mean by that and what sort of issues that
17 gives rise to.

18 A Yeah, I'd be happy to. So this is the second
19 route we talked about, how suspicious
20 transaction reports can lead to ongoing
21 investigations. And what we see essentially
22 after the formalization of the Anti-Money
23 Laundering Centre, which is essentially is just
24 a big bunch of informal interpersonal relations
25 between people from the different sides of the

1 equation, that is the main -- sort of the fibre
2 that is this bringing together all these people
3 from these different organizations. And that is
4 definitely something beneficial to this effort
5 since these people trust one another to follow
6 up on stuff they bring to other people's
7 attention.

8 But it's also, on the same -- on the other
9 hand, it's also something that can sort of shut
10 down quite easily as this is a relationship
11 based on interpersonal relations and not based
12 on a formal more institutionalized relationship.
13 And that's what my assessment here brought me to
14 draw up that as a challenge. Because, you know,
15 when people retire or just go out -- go places,
16 you know, then that leaves potentially a big
17 hole in how this now works.

18 Q Do you have a perspective as to how those
19 relationships could be better formalized or
20 incentivized to avoid that problem of --

21 A Yeah. So I think the Anti-Money Laundering
22 Centre is a very good start. And I think
23 that --- I hope at least in a while that is more
24 formalized in the sense that now what you
25 mentioned is that there are staff of about 35,

1 40 people which has been mainly seconded by the
2 FIOD, meaning that the other people are coming
3 and going. As in a bank would push someone
4 forward or would move someone forward and that
5 person would be there for a couple of
6 months, years and then go off to another
7 assignment.

8 I think that if it is institutionalized in
9 the same way that all these private partnerships
10 and public partnerships actually also second
11 people to that specific centre, those
12 relationships are not interpersonal by nature,
13 but are institutionally incentivized as well.

14 Q Carrying on in the next paragraph you comment
15 on -- or I'll go right to it. It says:

16 "In addition to a lack of clarity that
17 hinders cooperation between actors in the
18 governance structure, the performance
19 culture also plays a prominent role.
20 Drawing up performance indicators for
21 government actors incentivizes them to
22 prefer not to share information-as closing
23 cases single-handedly achieves individual
24 targets."

25 I wonder if you can maybe expand on that a

1 little bit and discuss how performance
2 indicators, which we might often see as a
3 positive thing, can actually disincentivize or
4 impede information sharing?

5 A Yeah. Well, in this case it's relatively
6 straightforward. Like we set out previously,
7 there are two routes in which followup
8 investigations can occur on the basis of
9 suspicious transactions. The one is that body
10 of all reports that all law enforcement agencies
11 have access to, which means that then these
12 performance indicators don't per se have a
13 negative influence.

14 But if you look at the second route where an
15 institute can report a transaction directly to a
16 law enforcement agency, they have a choice who
17 to call. And as if there are competing law
18 enforcement agencies, they then have an
19 incentive not to share that information because
20 if they close the case single handedly, it is
21 one case for them and not a case for the other
22 agency to close.

23 I do have to say, though, that this is a
24 situation that is getting better, but it's still
25 there and it's an artifact that is coming from

1 the scenario or the situation that we now have
2 wherein there are these special investigative
3 services next to the national police, meaning
4 that there are multiple agencies that do the
5 same thing basically. Yeah.

6 Q Do you have a perspective as to how that problem
7 can be addressed or is that a necessary result
8 of having multiple agencies with having an
9 overlapping mandate?

10 A Yeah, I think that that is -- you know, the one
11 thing you could do is either centralize
12 everything, so put all the special investigative
13 services together with the national police and
14 close down or -- yeah, close down the second
15 route. So not being able to report suspicious
16 transactions to a law enforcement agency
17 directly but only reporting them to the FIU, but
18 that is going to make it very bureaucratic and I
19 think not in a beneficial way. So I think that
20 this is a necessary evil so to speak to the
21 scenario that we now have, yeah.

22 Q You go on and refer to a concern about an
23 absence of mandatory feedback provided to
24 reporting entities by investigative authorities.
25 I wonder if you can comment on whether you

1 believe mandatory feedback would be a positive
2 change. And if so, why?

3 A Yeah. I would argue it is. If somebody asks
4 you -- imagine, you know, somebody asks you to
5 report a suspicious situation, let's say, in
6 your neighbourhood like a neighbourhood watch
7 type of thing and you wouldn't ever hear back
8 from any report you file; right? It would
9 diminish your incentive to report in the future.

10 So I think it is a crucial element of this
11 system that there is a feedback loop that goes
12 back to the institute that is obliged to report
13 because it learns them what has been done and it
14 gives them, like, a nudge to keep reporting.

15 Q Do you -- we spoke earlier about some of the
16 challenges that might arise from sort of the
17 subjective reporting indicators and the
18 difficulty understanding exactly what needs to
19 be reported and the consistency in reporting.
20 Do you see providing feedback as potentially
21 assisting reporting entities also in
22 understanding what to report and how to report
23 and what might be useful for law enforcement?

24 A Yeah, I think it would definitely help, but of
25 course it's sort of -- reasoning in circles is a

1 bit of a thing that can occur when you are
2 looking at a feedback loop. Getting back
3 information about which types of cases have been
4 followed up on and which haven't because that's
5 not necessarily based on the information you
6 give but more on the prioritization of law
7 enforcement.

8 So it's not something that you should take
9 as a stamp of approval that this was a good
10 notification or something that hasn't been
11 followed up is a bad notification because it
12 might be the case that a was just sheer
13 coincidence that the one has been followed up on
14 and the other hasn't. But I think -- in general
15 I think it helps these organizations understand
16 why and how reporting helps preventing money
17 laundering.

18 Q Thank you. If we could jump ahead to page 6,
19 please, Madam Registrar. I'm going ask a couple
20 of questions about the final paragraph here.
21 And I'll begin with the first incidence. It
22 says:

23 "That law enforcement agencies mostly rely
24 on their own information to initiate
25 investigations into money laundering means

1 two things. First, this creates a rich
2 information position at several
3 specialized units within both the police
4 as the special investigation services,
5 i.e., the FIOD."

6 I wonder if you can maybe just expand a little
7 bit on what you mean by a rich information
8 position.

9 A Yeah. What I mean is that because the
10 information that has been gathered within law
11 enforcement agencies themselves, they build a
12 rich information position in contrast to an FIU
13 where information has been collected and where
14 these specialized investigators are seasoned
15 investigators are working for.

16 Q Okay. Would you see value in -- we've spoken
17 about the value of public-private partnerships
18 and platforms for sharing information between
19 law enforcement and private industry. Do you
20 see a need sort of in light of this point
21 that -- for maybe more formalized information
22 sharing between and among law enforcement
23 agencies?

24 A Well, I think the -- that's one of the main
25 reasons why there are financial intelligence

1 units all across the globe is that there is a
2 harmonization of how they work, meaning that
3 they can theoretically at least to my
4 understanding, share information relatively
5 easily, but again, that is my academic
6 understanding of an operational procedure.

7 Q And then the final part of that paragraph:

8 "Second, this translates to in-depth
9 expertise across these specialized units,
10 e.g., dedicated financial cybercrime
11 specialists or financial investigators in
12 organized crime units."

13 Maybe you can elaborate a little bit on how
14 reliance on an enforcement agency's own
15 information translates into in-depth expertise
16 within a specialized unit.

17 A Yeah, since they have this information at the
18 ready and they are not reliant on any
19 externalities, like reporting or getting
20 information from banks, subpoenaing from banks,
21 that means that that information is ready to be
22 mined. And that is why they have financial
23 cybercrime specialists or financial
24 investigators that can mine that data right
25 away, which they know is going to be beneficial

1 to attributing the crime to a specific person.

2 Q Before we move on to part 2 of the report I want
3 to just maybe invite you to think -- to speak at
4 a higher level about some of the lessons that
5 can be learned from the Dutch system and Dutch
6 experience about what works and what doesn't in
7 combating money laundering.

8 You commented on some of the positive
9 aspects and maybe some of the shortcomings, but
10 maybe thinking at a big-picture level. And of
11 course one of the purposes of this commission is
12 to try to identify how we in British Columbia
13 can better address this problem. And I
14 appreciate you likely can't speak to what would
15 work well and what wouldn't work well here in
16 Canada in BC, but maybe to the extent you have
17 views on sort of what works and what hasn't in
18 the Netherlands and what some of the risks and
19 challenges of those approaches are, we'd be
20 interested to hear those thoughts.

21 A Yeah. I think in general relying on the
22 expertise of financial investigators is one of
23 the main, I would say, enablers of the current
24 governance structure in the Netherlands and you
25 see that in a couple of places. One is these

1 public-private partnerships are revolving around
2 having similar expertise despite of -- where you
3 are employed. I think that that is a crucial
4 step to take. So more collaboration based on
5 expertise, not on where you work.

6 And the second is the specialized units,
7 either within existing organizations, law
8 enforcement organizations or setting up specific
9 dedicated investigation branches that also again
10 revolve around expertise, including and not
11 limited to financial investigators. And I would
12 definitely argue for multidisciplinary teams
13 with data and computer scientists included.

14 MR. McCLEERY: Thank you. Mr. Commissioner, I'm
15 about to move into the second part of Dr. Van
16 Wegberg report. I suggest it might be an
17 opportune time for a break.

18 THE COMMISSIONER: All right. Thank you,
19 Mr. McCleery. We'll take 15 minutes.

20 THE REGISTRAR: The hearing a adjourned for a
21 15-minute recess until 8:41 a.m. Please mute
22 your mic and turn off your video.

23 **(WITNESS STOOD DOWN)**

24 **(PROCEEDINGS ADJOURNED AT 8:26 A.M.)**

25 **(PROCEEDINGS RECONVENED AT 8:41 A.M.)**

1 **ROLF VAN WEGBERG, for**
2 **the commission,**
3 **recalled.**

4 THE REGISTRAR: Thank you for waiting. The hearing
5 is resumed.

6 THE COMMISSIONER: Yes. Thank you, Madam Registrar.
7 Yes, Mr. McCleery.

8 MR. McCLEERY: Thank you, Mr. Commissioner.

9 **EXAMINATION BY MR. McCLEERY (continuing):**

10 Q Professor van Wegberg, we're going to move
11 forward now into part 2 of your report which
12 describes a research collaboration between your
13 institution, the Delft University of Technology,
14 and the FIOD. Before I ask you to describe the
15 project and sort of elaborate on what's in the
16 report, can you just describe what your role in
17 that collaboration is.

18 A Yeah, that will be my pleasure. I'd be happy to
19 lead that partnership from Delft University's
20 perspective or from Delft University's side,
21 which essentially means that I'm responsible for
22 supervising the scientific research that we're
23 currently doing. So that means masters and PhD
24 students that are working on that specific -- or
25 working on those specific challenges that we

1 identified together and supervising them
2 accordingly.

3 Q And can you tell us a little bit about the
4 origins of the project and how it's evolved and
5 developed since that time.

6 A Yeah. So since that I graduated in criminology
7 I have been working ad hoc with the FIOD on
8 numerous, numerous projects. And when I was in
9 the final stages of my PhD project, they
10 approached me if I would be interested in trying
11 to see if we can set up a structural
12 collaboration since we both had similar ideas on
13 how evidence-based policing would be achieved.
14 And with that I mean using empirical evidence
15 that suggests weak points in criminal
16 strategies, week points in money laundering
17 strategies that can be effectively mined by law
18 enforcement to raise that level of impact that
19 they are achieving for it on the basis of
20 empirical research.

21 That is the general idea. And we would then
22 be able to use data that has been seized by
23 them, so law enforcement information, to carry
24 out those projects. To carry out those research
25 projects.

1 And well, to my surprise and I think also
2 very happy to say that we have up until now been
3 working on that for a year or two maybe, I think
4 we're going into the third year now, and to both
5 of our satisfaction still working in a very nice
6 way, beneficial for both institutes, I might
7 say.

8 Q You've indicated you've got masters and PhD
9 students involved. How many students would you
10 have involved in the project?

11 A Yeah, so we have two students two graduate
12 students, two masters students on a rolling
13 basis. So going into the third year, we are
14 on -- now counting five -- student five and six
15 who have been starting just this February for
16 the semester they are using to graduate. And we
17 have been in talks about a second PhD student
18 and we currently have one that is working on
19 that.

20 So -- and I think, you know, looking at my
21 capacity as well that will be it for now as in
22 that will be the capacity that we're going for,
23 but I would be very happy to say that we have
24 been so sort of welcomed with open arms there
25 because you can imagine of course that academia

1 and law enforcement are sometimes polar
2 opposites maybe even. And well, yeah, sometimes
3 they attract. And yeah, I feel very welcome
4 there and the students as well.

5 So we sort of call ourselves embedded
6 scientist. We are actually really embedded in
7 their team. Of course, you know, we have strict
8 guidelines on what we can and cannot bear
9 witness of and types of information we have and
10 have not access to, but beyond that it feels
11 like we're colleagues. So that's a beautiful
12 thing to envision and to see, yeah.

13 Q Thank you. Based on your comment a moment ago I
14 take in this kind of collaboration between
15 academia and law enforcement is not particularly
16 common based on your experience?

17 A No. No, it is not. And when I talk to fellow
18 academics on the matter, they sometimes look at
19 me quite jealously to the level of trust we have
20 in each other and the opportunity that we have
21 to on the one hand contribute to evidence-based
22 policing and on the other, you know, we were --
23 just prior to the break we have been talking
24 about performance indicators. Of course
25 academics have them too and those are mostly

1 counted in papers and citations and stuff. And
2 I'm also very happy that the work that we do
3 results in high standard, high quality work that
4 has been viewed as such by the academic
5 community. So yeah, the best of both worlds.
6 And not indeed a lot of similar initiatives that
7 I know of exist, no.

8 Q I'll ask you in a moment about the value of this
9 partnership from a research standpoint but
10 before we get to that do you have a perspective
11 as to why we don't see more collaboration of
12 this sort between academia and law enforcement
13 and what the barriers might be to these kinds of
14 partnerships?

15 A Yeah. I think it starts with -- you know, that
16 there might be a different language that is
17 within the academic world and within law
18 enforcement that has been used to look at
19 specific issues and solve specific problems.
20 And I think it goes back to what we have been
21 talking about before the break about the
22 multidisciplinarity and about the makeup of law
23 enforcement teams in the Netherlands because
24 those are people that I studied with basically;
25 right? So I took the academic career path and

1 they graduated in criminology or computer
2 science or data science and then joined the FIOD
3 or police unit, which means that they have the
4 same academic background as I have. So we
5 understand one another and I think that that is
6 the essential difference between having this
7 initiative been sort of kick-started here versus
8 where it has not that there is a gap, not per se
9 in knowledge but in language and in backgrounds,
10 that is now or seems unbridgeable for those
11 countries or for those specific regions. So if
12 you ask me why has this not been replicated
13 elsewhere, I think that that is one of the main
14 reasons.

15 Q And let's move ahead, then. As a researcher on
16 the academic side of things, what is the
17 value -- you've indicated you've produced some
18 high-quality publications that have been well
19 received. What's the value of the collaboration
20 from a research standpoint?

21 A Yeah, so beyond of course the performance
22 indicators, which if you ask me a personal
23 question I would not -- you know, I would
24 care -- not care at all about all these. What I
25 do care about is generating insights that are

1 beneficial for both scientific as for a societal
2 perspective. And when I was preparing the
3 report we did not have any of these publications
4 that I just mentioned with a final stamp of
5 approval after peer review.

6 I can talk to you about that situation now
7 as we have two papers that have been accepted
8 for high impact conferences, and one of which
9 covers the security behaviour of criminals. So
10 how they secure themselves. So what type of
11 technology do they use to hide their trail, so
12 to speak. And while that is a paper that
13 contributes to a scientific body of work into
14 how security decisions have been made -- so that
15 is more the theoretical side; that is what I
16 love to produce insights on -- but on the other
17 hand, without me having to adapt anything about
18 the results, it is also of course as you can
19 understand, something that can be used
20 operationally as we have now grouped
21 individuals, grouped criminal actors together
22 who are similar in characteristics -- so, let's
23 say, money launderers, drug criminals,
24 cybercriminals -- and have mapped their security
25 behaviour -- what type of passwords do they use;

1 what type of cashout patterns do they use -- and
2 that becomes exploitable information of course.
3 If you know what types of mistakes which type of
4 actors make, that is something that you can use
5 operationally.

6 So for me as a researcher it's always about
7 the two sides of the coin and benefits on those
8 two sides.

9 Q Thank you. In the report you give an example
10 about a project focused on the Hansa market.

11 A Yep.

12 Q I thought I might ask you some questions about
13 that project to help us better understand some
14 of the work being done in the collaboration. I
15 do appreciate some of this information might be
16 sensitive and can't be shared, so I'll try to
17 keep my questions at a general level but if I
18 intrude on any areas that are difficult, feel
19 free to let us know.

20 If you maybe just begin by explain what the
21 Hansa market is.

22 A Yeah, so Hansa market is one the markets that we
23 talked about before the break that we call
24 online markets, dark markets, underground
25 markets. Markets that operate on the dark web.

1 And Dutch law enforcement together with US law
2 enforcement was able to seize the market, and
3 this is where the digital domain produces even
4 more evidence than the physical domain where
5 you -- if you shut down a market in the
6 traditional physical way, you know, you would be
7 dealing with buildings and maybe -- you know,
8 maybe if you're lucky, with a ledger somewhere
9 with undecipherable things that tell you
10 something about what's going on in the market.

11 If you go to the digital domain there's a
12 server that ran the entire market and that is
13 what law enforcement seized, and the complete
14 administration of the entire market of its
15 entire lifespan was on that server. So you can
16 imagine that that is both a treasure trove for
17 law enforcement as it is for us to mine insights
18 into all sorts of patterns.

19 So I think that what you are referring to
20 which also in your report is that we try to
21 figure out how the market administration -- so
22 that's what we call the back end, what is going
23 on on the server -- relates to what you see
24 visible on the website. And if we can derive
25 certain patterns from that comparison to make it

1 extrapolatable to other markets so that if you
2 would not be as law enforcement in the position
3 to seize the entire administration, could you
4 then still calculate the turnover of a specific
5 vendor.

6 So instead of having the ledger of the
7 entire market where you can look up all the
8 specific sales records, can you then still from
9 just browsing and looking at the market, the
10 front end, so the website is produced, can you
11 still calculate the turnover of a vendor. So
12 what we did is we used our unique access to that
13 back end, so to the server, to design an
14 algorithm. And that algorithm is now used by
15 law enforcement to calculate turnover of vendors
16 in other markets.

17 And as it is -- this is where the
18 partnership goes to its full bloom. As it is an
19 academic independent effort which has passed
20 peer review, which means other scientists
21 approved that this is a method which is valid to
22 scientific standards, that means that if law
23 enforcement goes to the courts and says, we have
24 seized this amount of turnover because we have
25 calculated this with this algorithm, the judge

1 will not say, how did you calculate this and can
2 you please explain how you came to this
3 calculation. They can just cite our work, and
4 that is the body of proof that is very hard to
5 refute.

6 Q And again speaking to -- at a basic level the
7 value of this collaboration, is it fair to
8 assume that this data that this work was based
9 on is something you would not have access to
10 were it not for the collaboration with the FIOD?

11 A Absolutely. Absolutely. To give you an example
12 of all the mechanisms we have in place, this
13 data cannot leave the physical building of a law
14 enforcement agency. This is that type of data
15 that is so sensitive that it cannot leave the
16 building.

17 Of course we had to think of all sorts of
18 privacy preservative things as well; right? So
19 I cannot view any names, so we needed to figure
20 out how to deal with that. Well, we all went to
21 all these routes to make it possible so that we
22 have controlled on-premise access. So yes, we
23 would not be otherwise in a position to use this
24 data. And in reverse, police agencies or law
25 enforcement agencies in general wouldn't have

1 the time that we had to mine the data because
2 we're sort of filling each other's what are sort
3 of like challenges or gaps in our work.

4 So law enforcement has this data but
5 essentially doesn't have the time to follow up
6 on it because, just like we had a discussion
7 about that prior to the break, there's the next
8 body on the street, so -- just to make it very
9 crude; right? So they have to move on. They
10 cannot look back. Yeah, that's what we do. We
11 look back. That's what I do for a living;
12 right?

13 Q And speaking of the question of time that goes
14 into this -- how much can you speak to the time
15 and resources and amount of work that went into
16 this project?

17 A Yeah. So typically when we're talking about the
18 project just like this one, I work on that one
19 two days per week. That's what I spend on this
20 collaboration for the past two or three years.
21 And then the students who I just mentioned, the
22 projects now referred to is one student project
23 which means that a student is working on that
24 full-time, everything ranging from six to nine
25 months. So that's about the time investment

1 from our side. And then of course that's the
2 other side. The law enforcement agency has one
3 dedicated person who spends similar amounts of
4 time as I do on this collaboration. So two days
5 a week I would say conservatively estimated in
6 supervising these students also.

7 Q And can you speak to the qualifications of that
8 person. Are they also trained in data science
9 or something of that nature, or ...

10 A I was very lucky. This is precisely also why I
11 think the breeding ground was very fertile for
12 this type of collaboration because I knew this
13 guy prior to him joining the FIOD. He actually
14 was one year ahead of me in class. He finished
15 his PhD one year prior to mine, so he has the
16 same academic background. So that was a
17 beautiful way in which to combine and join
18 forces again, him from the side of law
19 enforcement and for me from the academic
20 perspective.

21 So he was totally qualified to supervise
22 these students. He could even do that single
23 handedly. He would not even need me per se,
24 but -- yeah. So that is the type of individual
25 you do need, I have to be honest about, yeah.

1 MR. MCCLEERY: If we can actually, Madam Registrar,
2 bring up -- bring the report back up, please,
3 and if we can go to page 7 of the report. And
4 if we can move down to, I think, the bottom.
5 Yeah, perfect.

6 Q I just want to ask you about a couple of things
7 in this last paragraph here. So if we look at
8 the beginning of the paragraph, it says:

9 "A second method helps to identify central
10 players in these markets, which
11 contributes to the effective and efficient
12 attributing of facilitators. Think of
13 sellers of stolen credit card data, for
14 example."

15 And is this -- when you talk about identifying
16 central players, does that mean identifying who
17 they are and sort of de-anonymizing people or is
18 it more sort of connecting different
19 transactions to each other?

20 A No, the latter. So I discriminate between
21 attributing central players, which means
22 actually trying to make a positive connection
23 between a pseudonym or a moniker that someone
24 uses online and an actual identity, and in this
25 case identifying, which is more like a computer

1 science term, meaning to identify/pinpoint
2 central player that is play prominent roles in
3 the market.

4 Q Okay. Thank you. And then carrying on you
5 write:

6 "As an extension of this research,
7 students will be working on a crime script
8 analysis that automatically maps the money
9 laundering techniques of facilitators on
10 Telegram, an encrypted communication
11 application."

12 And I'm wondering -- well, maybe I'll just ask
13 you if you can expand on that a little. And
14 when you say mapping the money laundering
15 technique of facilitators on Telegram, can you
16 speak to sort of what the end product of that
17 analysis will be and what value it might be to
18 law enforcement.

19 A Yeah. The idea here is that on this Telegram
20 communication app there are different channels
21 and some channels are about new festivals that
22 are in town. And some of these channels are on
23 totally different things, namely on how to go
24 phishing, and I don't mean with a rod but I mean
25 phishing for credit card credentials or whatnot.

1 And the idea is that on these channels we
2 collect all the messages and then automatically
3 with a form of machine learning get data out
4 that talks about different money laundering
5 techniques because on these channels people now
6 talk about one part of the criminal business
7 model, so designing phishing webpages, but also
8 talk about if somebody is providing credit card
9 credentials to how to monetize them. And that
10 of course is a part of the money laundering
11 processes that has been talked about on these
12 platforms.

13 And the idea is that if you take a -- maybe
14 this gets too technical, but please interrupt me
15 if it is. If you take a random sample of all
16 these messages and you manually label them --
17 let's say oh, this message is about a money
18 laundering technique -- we can train an
19 algorithm to automatically detect such messages
20 that look very much alike to the message we have
21 labelled manually. So that then it
22 automatically, that algorithm, maps money
23 laundering techniques to certain messages so
24 that we can have an extensive body of new
25 techniques to find in these telegram groups

1 because what we know of course is that police
2 reports are normally 6 to 12 months after a
3 certain technique is used because these reports
4 have delays on them.

5 Here we are witnessing firsthand live or
6 nearly live people talking about certain
7 techniques what are used today, not six months
8 ago. So that's the general idea. So the
9 products we are trying to deliver is an analysis
10 that provides a current overview in frequency
11 and trend of money laundering techniques.

12 Q I take it maybe this is obvious so it goes
13 without saying, but that will then help law
14 enforcement understand exactly what types of
15 techniques are being used at any given time. Is
16 that fair?

17 A Yeah, yeah. I forgot that of course, but that
18 was logic in my head. But yes, indeed that is
19 essentially the case.

20 MR. MCCLEERY: Thank you. Move ahead to page 8,
21 please, Madam Registrar.

22 Q At the beginning of this page you discuss the
23 challenge of what you call short-cycle projects
24 [indiscernible] --

25 A Yeah.

1 Q -- that come with those. I wonder if you can
2 comment on what you mean by short-cycle projects
3 and sort of how they limit what can be
4 accomplished through this kind of a
5 collaboration?

6 A Yeah. So like I mentioned, we started two or
7 three years ago and what I mean by short-cycle
8 project is a project which has a span of, let's
9 say, six months wherein a masters student who is
10 graduating performs their thesis work. The idea
11 there would be that of course that student can
12 be very opportunistic as in is someone who can
13 browse the data because he/she has six months.

14 But that individual is normally not per se
15 familiar with money laundering, cybercrime,
16 et cetera. He or she is familiar of course with
17 all sorts of techniques that we have trained
18 students to acquire during their program that
19 they are following, but that requires yeah,
20 recursive investments from both sides. So that
21 is why we now see that if one student works on
22 one project with one database, if a second
23 student can build on that work -- that's what we
24 are already, are seeing now -- the level of
25 analysis, the level of understanding we get is

1 getting bigger and bigger. So that is the down
2 side of these short-cycle projects that we try
3 to overcome.

4 Q And do I understand correctly that one of the
5 hopes is to engage additional PhD students who
6 might have the time horizon to work on these
7 more in-depth projects?

8 A Exactly. Yes. The idea would that be somebody
9 who has a time span of four years in contrast to
10 one who has six months and then of course
11 someone who is, let's say, getting familiar with
12 the phenomenon he or she is researching in the
13 first six months, then that person still has
14 three and a half years on the project where we
15 can dig out everything there is possibly to dig
16 out out of certain databases and projects.

17 So yeah, I am quite happy that we have --
18 because that's of course also an investment for
19 law enforcement to -- you know, to say yes to if
20 you create such a program, but I'm very happy
21 that we are in that stage now.

22 Q And you've mentioned the one employee at the
23 FIOD who is heavily engaged in this work. I
24 appreciate you're not going to be able to
25 answer for resourcing decisions in the FIOD.

1 But would you see benefit for their engaging
2 people on a full-time basis within the FIOD to
3 assist in or facilitate this kind of work who
4 might have and even longer time horizon than the
5 PhD students?

6 A Yeah, well, I can definitely say that that is
7 beneficial. As I already have mentioned, that
8 the person that is my go-to at the FIOD for this
9 project is someone who has a similar background
10 that I do and I see that that bears fruit. And
11 I see also that because he is not full-time
12 working on this, because I think that that's a
13 distinction that makes, the organization can
14 then still in the other half of his time benefit
15 from the insights that he firsthand gets out of
16 this partnership.

17 And I have to add to that that I think that
18 that is maybe on one of the pages that -- I
19 don't know if we are going to touch upon that
20 soon, but one of the goals of the project is
21 also -- the partnership is also to disseminate
22 the knowledge that we generate within the
23 organization as a whole. So that not one team
24 or one unit is to be learning from this, but the
25 broader organization is learning from this.

1 Q And then maybe touching on that -- or the
2 significance of the divider, the partnership
3 between academia and law enforcement near the
4 end of this part of the paper, you made clear
5 the FIOD has no say in how the university does
6 its research and how it reports its findings,
7 and similarly the university does not influence
8 how the FIOD does its investigations.

9 I wonder if maybe speaking as a researcher
10 you can comment on how important that level of
11 independence is for you and how the research is
12 done and how it's reported.

13 A Yeah. Well, there's of course ethics involved;
14 right? So there's about -- there's ethics
15 involved with steering academic research, but of
16 course there's also ethics involved with non-law
17 enforcement officers steering law enforcement
18 investigations. That's the first part. So it's
19 merely based on ethics that you should need a
20 division like this.

21 Why also there is a need for this is -- I
22 just touched upon that previously -- if I am not
23 independent in researching and presenting and
24 drafting papers, that means that the idea that
25 you can seize funds based on an algorithm that

1 we at the university designed is not
2 independent, which, you know, would wipe out the
3 entire reason that we have this program.
4 Because if that would not be independent, I
5 would not be of beneficiary value. I could just
6 be employed at the FIOD. That would be -- that
7 would make no difference. So it is from an
8 ethics standpoint necessary but, for getting
9 where we want to go, essential beyond ethics.

10 Q And that, I suppose, speaks to my earlier
11 question as well about the value of having
12 people within -- employed by the FIOD doing this
13 kind of work. And in some sense, then, the
14 value of the work for law enforcement is --
15 would be diminished if this was sort of an
16 internal program within the FIOD as opposed to
17 an arms-length research program.

18 A Yeah. And of course that is very crudely put,
19 but, you know, if they would do this in-house
20 every defence attorney would question the
21 independence of such result, which is their
22 right to do, by the way. I am not saying that
23 they aren't in their rights to do so. But of
24 course, right, it feels a little bit strange
25 that if someone with the same qualifications as

1 I have on the FIOD side would perform the same
2 investigation -- the same research as I would
3 do, you know, just by a difference of who does
4 it and the naming of that individual, something
5 is independent or not independent, of course
6 that feels a little bit weird. But, you know, I
7 get how such a division came to be.

8 So I think that that is one of the things
9 why this program works because we're filling
10 each other's need, so to speak.

11 Q I'm going to move on now to part 3 of the paper
12 but before I do maybe I'll just see if there's
13 anything else that you'd like to say or you
14 think it's important we understand about this
15 research collaboration before we move on.

16 A No, I think we touched upon everything.

17 MR. MCCLEERY: Thank you. In that case if we can
18 move ahead, Madam Registrar, to the next page,
19 which begins part 3 of the report.

20 Q And this deals again with the regulation of
21 cryptocurrency in the Netherlands. And in the
22 first paragraph here you speak to the prominent
23 role that virtual currencies play in criminal
24 underground economies and the importance of
25 cryptocurrency as an enabler of cybercrime.

1 And maybe to help set the stage for why it
2 might be important to regulate cryptocurrency,
3 can you maybe elaborate on why in your view
4 cryptocurrencies are so attractive to people who
5 are engaged in criminal activity?

6 A Yes. So in contrast to the traditional banking
7 system, there is no central authority that has
8 control over any ledger wherein all information
9 with a name/surname/address is seized,
10 et cetera, is registered. In this case we're
11 talking about currencies that operate outside of
12 what we call the traditional financial system
13 and where pseudonyms oftentimes are used instead
14 of real identities.

15 So a bitcoin address is, for instance, not
16 connected to a specific identity; it's a
17 pseudonym that someone goes by or a pseudonym
18 that has been used in the form of an address.
19 And that is why due to this somewhat anonymous
20 nature that next to privacy enthusiasts,
21 criminals started embracing this as a form of
22 payment on underground markets and in the
23 underground economy as a whole.

24 Q And you refer to a study -- sorry, a Dutch
25 police study that reported a sharp increase in

1 the adoption of virtual currencies between 2004
2 and 2016; is that right?

3 A Yeah, that's correct.

4 Q Is there -- do you have any reason to believe
5 that that's sort of unique to the Netherlands or
6 would you expect that that's likely a phenomenon
7 occurring in other jurisdictions as well?

8 A Well, of course the issue with police reports is
9 that it follows priorities being set out; right?
10 So if you have the priority to seize something
11 or to follow up on something, that mean that it
12 ends up in your statistics in a representative
13 way, if you understand what I mean.

14 So can it be the case that this sharp
15 increase or this number of reports that have
16 virtual currencies as a means of or a form of
17 money laundering that has been used, is that
18 different in other countries? Yes, it can be.
19 But is that based on the actual level of crime
20 in relation to cryptocurrencies? That I do not
21 know, but it can also be the case that it is the
22 same level of cryptocurrency used across
23 countries but that the reports, the statistics
24 provide you with a different picture just
25 because a certain country has a priority on

1 finding that illegitimate business, finding
2 those cryptocurrencies being used by criminal
3 organizations and therefore ending up in the
4 statistics.

5 Q Maybe to put the question a way that might be a
6 little easier to respond to. Do you have any
7 reason to believe that the Netherlands is
8 special or unique and the degree to which
9 criminals would use cryptocurrency, or do you
10 see it as sort of similar to other
11 jurisdictions?

12 A No, I have no reason to believe that that would
13 be different here than in other parts of world.

14 Q And then you go on to describe some recent
15 changes in how cryptocurrency is regulated. And
16 do I understand correctly that these changes are
17 sort of at least in part the result of the
18 changes to some recent EU directives that
19 require greater regulation in this sector?

20 A That is of course a byproduct of regulation
21 that, if regulation occurs, that more
22 gatekeepers are identified, which means that
23 more notifications are generated which means
24 that if those include cryptocurrency exchanges,
25 which it does, it creates an effect in

1 statistics on crime, yeah.

2 Q And one of the changes is that exchange
3 providers and custodian wallet providers are now
4 required to report suspicious transactions; is
5 that correct?

6 A Yeah, that's correct.

7 Q I think we touched on this a little bit earlier,
8 but in sort of a relatively new area of
9 technology, do you foresee there being
10 challenges in identifying exactly what is
11 suspicious and what isn't with respect to
12 cryptocurrency?

13 A Yeah. I think we have a bit of a paradox here
14 because on the one hand with virtual currencies,
15 cryptocurrencies especially, there is this
16 public ledger, the blockchain, whether we can
17 mine all these specific insights from that can
18 tell you anything you need to know about the
19 heritage of certain funds; however -- so that
20 will be an opportunity for every cryptocurrency
21 exchange, every custodian wallet provider to
22 check the heritage of certain funds.

23 The only problem is that -- and this is
24 going into the subjective indicator is that how
25 many -- normally when you are looking at a bank

1 statement, you go a couple of transactions back
2 and you go a couple of months back and you see
3 if there is a pattern or you can go a couple of
4 steps back in time; right? Here you can go a
5 couple of steps back in time and you are just
6 merely scratching the surface because that --
7 all these transactions happen in a fraction of a
8 second. So the question is not how to follow
9 trends -- or sorry, how to follow transactions
10 over time.

11 The challenge is how far do you go back in
12 time to look at heritage and to look at where
13 money came from. Because I think that if you go
14 far enough back, you will find a connection to
15 an underground market, to maybe a ransomware
16 payment or whatever. Just because there are in
17 the blockchain transactions registered that have
18 such a link. And then the question becomes is
19 then that coin -- was that specific coin then or
20 the value of the specific transaction, was that
21 still in possession of the individual that now
22 is asking to exchange that for, let's say,
23 Canadian dollars or was that someone else that
24 now transferred those coins, transferred the
25 value to the person who is exchanging the coins

1 or is seeking to exchange the coins.

2 That we don't know because everybody goes --
3 there are pseudonyms that are used in this
4 system. So that is the main challenge.
5 Although there is more transparency, there's
6 less identity, which means that it's even harder
7 maybe to see and to evaluate if something has a
8 criminal taint or not.

9 Q Thank you. And another change that's come in is
10 that these services must now be based in the
11 European Union in order to offer services in the
12 Netherlands; is that correct?

13 A That's correct.

14 Q Do you see that having a significant effect on
15 the risk of money laundering using
16 cryptocurrencies?

17 A No, I wouldn't say so.

18 Q And you write as well in your report about how
19 there was an effort to implement a licensing
20 rather than a registration requirement in the
21 Netherlands. And are you able to explain
22 briefly what the licensing requirement would
23 have looked like and how that would compare to
24 the registration requirement?

25 A Yeah. Well, this is going into the theoretical

1 versus the practical situation. The idea was
2 that these bitcoin exchange providers -- or
3 exchange providers because it's not merely about
4 bitcoin. These exchange providers were mandated
5 to get a licence for operating in the
6 Netherlands. And after they have achieved or
7 walked through the process of getting the
8 licence, then they still would have to be able
9 to monitor transactions and to notify or to
10 report suspicious transactions.

11 They were opposed to that since they were
12 then, say -- this is their perspective -- forced
13 to only go and operate within the Netherlands
14 whenever they have achieved such a licence, but
15 they have not been identified as financial
16 institutions. When you want to open up a
17 financial institution in the Netherlands, you
18 have to have a licence, a banking licence to
19 handle these funds. And they say that that is a
20 weird parallel to draw because they are not even
21 considered financial institutions. So that was
22 the push back on the licensing system.

23 And then the government adapted their
24 strategy and went for a so-called registration
25 obligation so that companies who are seeking to

1 operate in the Netherlands providing these
2 exchange services were mandated or were asked to
3 register. And without registration one could
4 not operate within the Netherlands. So
5 theoretically it's different, but in practice it
6 turned out to be much of the same.

7 Q So fair to say, then, that maybe the -- that
8 change from licensing to registration, you don't
9 see that having a significant impact on the risk
10 of money laundering in the Netherlands if
11 they're more or less the same?

12 A No, I would say with regard to the risks, I
13 think the risks are quite unconnected to whether
14 a licensing or registration system is
15 implemented. I think -- but of course I am no
16 legal expert, but from a criminological or data
17 science standpoint, I think it's about enabling
18 those bitcoin service providers who oftentimes
19 are very will to report suspicious transactions
20 but the framework they are pushed in is creating
21 more backlash than they actually see or want to
22 see right now.

23 So it's about, at least from my perspective,
24 enabling them to fulfill their duties and
25 licensing or registration is more into the legal

1 nitty-gritty, so to speak.

2 Q Thank you. At page 11 of the report you refer
3 to a challenge to the new regime from a company
4 called Bitonic, if I'm pronouncing that
5 correctly.

6 A Yeah.

7 Q And just to follow up on that, you indicated
8 that -- I think we expected a decision from the
9 Dutch Central Bank by May 4th. That date was --
10 had not passed in time you finished your report
11 by now has, and I'm wondering if you have
12 received that decision, and if so, what it is.

13 A No, I have not seen it and that is due to the
14 fact that this specific, very intriguing case
15 the company Bitonic, who is one the biggest
16 currency exchange providers in the Netherlands,
17 asked the judge to look at this registration
18 procedure. Through the lens of that, it is a
19 sort of ad hoc -- a licensing arrangement since
20 there would be practically no difference.

21 And the second one is what they call the
22 wallet verification requirement. So to verify
23 the legitimate owner of a certain wallet before
24 exchanging funds for that specific individual.
25 And that is about the heritage discussion we

1 just had; right? So how far along do you go
2 back in time to prove someone is innocent, so to
3 speak.

4 So despite of the court ruling in one of
5 these parties' favour or not, they decided to
6 ask the Dutch Central Bank for an additional
7 explanation for why for they have set out this
8 course of action. I presume they have informed
9 the courts on that specific motivation or they
10 have got an extension. That I don't know. But
11 that was not made public yet, so that I cannot
12 tell you.

13 Q Thank you. Moving along, then, later on this
14 page you get into an assessment of the strengths
15 and weaknesses of the Dutch approach. I just
16 want to follow up on a few of the points made
17 here. In your first paragraph, I think the
18 third sentence begins:

19 "Böhme et al. ... identified four key
20 intermediaries which can be subjected to
21 regulation in the virtual currency
22 ecosystem, namely: a) currency exchanges,
23 b) digital wallet providers, c) mixers and
24 d) mining pools."

25 Am I correct, then, that in the Netherlands the

1 decision has been made to regulate the first two
2 of those currency exchanges and digital wallet
3 providers but not the last two, mixers and
4 mining pools?

5 A Yeah, that's correct.

6 Q And maybe you -- can you briefly describe what
7 mixers and mining pools are for those of us that
8 are not enlightened in this area.

9 A My pleasure. To start with the latter, the
10 mining pools, those are the -- that is an
11 essential feature of the cryptocurrency domain
12 wherein there are miners who not only control
13 the amount of bitcoins that are generated but
14 also perform tasks that normally a central bank
15 would perform, namely looking at the validity of
16 transactions and making sure that you are not
17 double spending or something. So you're
18 overspending the amount of balance that you have
19 on your wallet or on your account. So that is
20 the mining aspect of the cryptocurrency
21 ecosystem.

22 Bitcoin mixers are specific services who are
23 essentially, like your blender on your
24 counter -- your kitchen counter, mixing up
25 transactions with a purpose of de-linking,

1 unlinking transactions that have a specific
2 transactional link with them, if that makes
3 sense. So what I try to say is if I were to be
4 transacting one of my -- the value of bitcoins
5 to you, there would be a link in a blockchain
6 connecting me to you.

7 And what a bitcoin mixer does is it makes
8 that connection that we then have undone in that
9 sense, and it would -- if I would be wiring you
10 or I would be sending you bitcoins through such
11 a mixer, there would not be any connection
12 between the both of us in the blockchain to be
13 traceable.

14 Q Do you see the decision not to regulate those
15 aspects of the bitcoin system as an oversight if
16 our goal is to prevent money laundering?

17 A Well, I think that regulating bitcoin mixers
18 would be the same as trying to regulate
19 bulletproof hosting providers who have a sole
20 purpose of facilitating criminal platforms
21 hosting a website.

22 I think that is beyond salvation in the
23 sense that these actors have chosen to operate
24 outside of any regulatory framework and their
25 sole purpose is to provide privacy to

1 individuals that they advertise as efforts to
2 de-link criminal proceeds from their source, if
3 you get what I mean.

4 So I think that they -- the government has
5 made the decision to regulate custodial wallet
6 providers and exchange providers following the
7 anti-money laundering directive from the
8 European Union, and I think that the European
9 Union and the European commission have decided
10 not to regulate bitcoin mixers since they've
11 taken a different course of action against
12 these, namely through law enforcement
13 investigations instead of through regulations
14 since they are not saying and are not assessing
15 that form of service to be legit in any way.

16 Q Okay. Thank you. In carrying on in this
17 paragraph you say -- you write:

18 "On top of these four intermediaries,
19 Möser & Narayanan ... proposed to
20 establish a blacklist to which coins can
21 be checked in order to more easily detect
22 illicit transactions and assist compliance
23 to regulation."

24 I appreciate this is not your paper or your
25 proposal, but I wonder if you can elaborate a

1 little bit on what that proposal to establish a
2 blacklist would look like and maybe your
3 thoughts on whether that would be --

4 A Yeah. I think it's a very elegant solution to a
5 problem which we have with regards to
6 information asymmetry, wherein there is a notion
7 of an address or a wallet that has been used in
8 criminal activity and has been detected, so by
9 bitcoin exchange provider A. But when that same
10 individual walks down the virtual street to
11 exchange provider B, that exchange provider
12 would not have that same information on that
13 specific wallet number so that he or she cannot
14 take the same course of action so easily as it
15 if were a blacklist to match wallet addresses
16 too.

17 Similar like we have solved the information
18 asymmetry problem with regards to the no-fly
19 list; right? So passenger who are on a certain
20 no-fly list. Similar to bank accounts that are
21 on sanctioned lists. So it's a very elegant
22 solution to reducing the amount of asymmetry
23 between information existing at exchange
24 providers.

25 Q And then a little further down in that

1 paragraph you write:

2 "Although these and other propositions for
3 (self) regulation were made, the European
4 Union decided to apply strict regulations
5 solely to cryptocurrency exchanges, as
6 anyone willing to exchange virtual to the
7 fiat currencies or vice versa has to pass
8 [through] this portal."

9 What I want to ask you about the necessity for
10 exchanging virtual to fiat currencies. If I
11 understand correctly, essentially the EU model
12 that's now been implemented in the Netherlands,
13 does it depend on the assumption that criminals
14 will eventually have to convert their
15 cryptocurrency to fiat currency?

16 A That's correct.

17 Q And I'll maybe again foreshadow this article
18 that we're going to look at in just a little bit
19 in which you and your co-authors describe using
20 bitcoin directly to buy sushi on a food delivery
21 app; is that right?

22 A Yeah, it was fantastic sushi, by the way. But
23 yes, we did that. Yes.

24 Q And I guess my question is, is this assumption
25 that criminals will always have to convert their

1 cryptocurrency to fiat currency, is that safe
2 one to make or are we moving towards a world in
3 which it's possible just to operate in
4 cryptocurrency without having to go through
5 these exchanges?

6 A Yeah, that's a good question. I think if you
7 have asked Elon Musk this question a couple of
8 months back he would've said well, you can buy
9 your Tesla with bitcoins, but now he has
10 retracted that opinion.

11 Jokes aside, I think we're dealing with
12 large numbers of funds here within a criminal
13 organization. Meaning that there would not be
14 enough sushi in the world to order with bitcoins
15 to fulfill the amount of transactions in
16 bitcoins needed for one criminal organization to
17 cash out all their proceeds.

18 So what is needed is a way in which to
19 transfer value to a system wherein fluctuation
20 is not so absurdly going around because that is
21 something that criminals of course also weigh.
22 If they leave their value, their criminal
23 profits in bitcoin, the values can go up of
24 course. Now the fluctuation is upwards, but the
25 fluctuation can also go downwards.

1 And second of all, you know, if you want to
2 retire some day, you cannot buy everything you
3 want with bitcoins and of course that still can
4 raise a lot of questions because we have now
5 entered an era wherein a lot of gatekeepers are
6 named. And when you go and try to buy a house
7 with bitcoins, I beg to differ that that
8 specific individual, be it a notary or be it a
9 real estate agent, is going to notify the
10 financial intelligence unit that you are trying
11 to buy a house with bitcoins.

12 Q Thank you. Before we move on, then, to this
13 paper I'm been alluding to throughout your
14 evidence, is there anything else you'd like to
15 say about the Dutch approach to regulating
16 cryptocurrency? And I appreciate it's a
17 relatively new innovation. Is there anything
18 else that you think that we in British Columbia
19 should know if we're looking to -- as a
20 potential model for how to handle things here?

21 A Maybe one thing and that is that there are of
22 course exchange providers that are actually
23 seeking regulation actively since they want to
24 be part of a traditional ecosystem rather than
25 being the odd ones out. And those individuals

1 and those companies are actually very happy and
2 look forward to being regulated. There are
3 other companies -- and in the Netherlands we
4 have done a first analysis on the companies that
5 we know of operated in the Netherlands before
6 you had to register yourselves and after.

7 And what we see is that there are a couple
8 of companies that have chosen to go operate from
9 some other place, as in a country that did not
10 have any strict regulations. Meaning that we
11 should be aware of the what we in academia call
12 the whack-a-mole or the waterbed effect that
13 just -- companies move places. Instead of that
14 we actually make a dent into this system. So be
15 aware that if you go along the route of
16 regulation, you're regulating the ones that want
17 to be regulated. And the ones that don't want
18 to be regulated, they'll move someplace else.

19 MR. MCCLEERY: Thank you. Then just to conclude with
20 my session, Madam Registrar, if we can move from
21 the report to Dr. van Wegberg's '18 article
22 titled "Bitcoin Money Laundering: Mixed
23 Results?"

24 Q And, Dr. van Wegberg, you recognize this as an
25 article that you co-authored which was published

1 in the *Journal of Financial Crime* in 2018; is
2 that right?

3 A Yes, that's correct.

4 Q Okay. It details the results of an experiment
5 that you conducted to essentially evaluate the
6 utility of different bitcoin mixers as a money
7 laundering method?

8 A Yes.

9 Q I wonder if you can maybe just briefly describe
10 sort of the purpose of the experiment and how it
11 was conducted perhaps in terms that those of us
12 who are less technologically inclined can
13 understand.

14 A Yeah. So the idea behind this experiment was to
15 see to which extent the advertised bitcoin
16 mixing services that what I just explained have
17 as a purpose to de-link, to unlink, to unmatch
18 certain transactions from one another with the
19 purpose of sort of like unclinging someone's
20 identity from crime proceeds. That's the
21 general idea and we wanted to see whether or not
22 these advertised services operate to their
23 description.

24 So what we did is we set that out, a
25 research effort to find as many of these mixing

1 services as we could, characterize them in terms
2 of service percentage. So how much of a
3 percentage they ask to run the specific service
4 they provide. And select five of these services
5 based on their characteristics and then run an
6 experiment with funds that we have obtained from
7 the Justice Department to see whether or not
8 they provide the service they actually claim to
9 provide, namely creating no trace anymore
10 between transactions going in and the
11 transactions going out.

12 And we used software available to us that
13 also is used by law enforcement to analyze
14 transactions in the blockchain to evaluate the
15 results after we have mixed transactions. So
16 that was the goal and the purpose of the
17 experiment.

18 Q And what were your findings? What was the
19 result?

20 A The findings were twofold. On the one hand, the
21 two of five services that we have included in
22 the experiment which had a good reputation on
23 the -- in the underground community -- and that
24 may sound a bit intriguing, but if you're not
25 knowing who you are dealing with, you are also

1 possibly dealing with scam artists who are
2 taking in your bitcoins and not returning any
3 coins after you have put them into their
4 service.

5 And this is where -- the academic angle of
6 this paper, namely investigating those
7 reputation mechanisms. If it would be the case
8 that if you follow reviews, so if you follow
9 other people's advice, if you would then be able
10 to mitigate being scammed. The result from that
11 side of the experiment was yes, if you follow
12 these reputation mechanisms to the letter, you
13 would able to select the two working mixing
14 services and if you would have done so, these
15 mixing service provide the actual description
16 they advertise with.

17 Namely when we ran analytic software after
18 that we have mixed transactions, we could not
19 find any trace between the two addresses that we
20 had used for this experiment, meaning that if we
21 would be criminal actors and law enforcement was
22 trying to attribute our activities, they would
23 not be able to do so.

24 MR. McCLEERY: Mr. Commissioner, if that could be the
25 next exhibit, please.

1 THE COMMISSIONER: Yes. Very well. I am afraid I've
2 lost track of which exhibit number we're at.

3 THE REGISTRAR: Yes. Exhibit 987.

4 THE COMMISSIONER: Thank you.

5 **EXHIBIT 987: "Bitcoin Money Laundering: Mixed**
6 **Results?" by Rolf van Wegberg, Jan-Jaap**
7 **Oerlemans and Oskar van Deventer - 2018**

8 THE COMMISSIONER: Thank you.

9 MR. McCLEERY: Dr. van Wegberg, those are all of my
10 questions for you. Thank you very much for
11 answering them. We'll have some questions now
12 for the lawyers for the participants.

13 Mr. Commissioner, that concludes my
14 examination of Dr. van Wegberg.

15 THE COMMISSIONER: Thank you, Mr. McCleery. I'll
16 turn now to Ms. Addario-Berry for the province,
17 who has been allocated ten minutes.

18 MS. STRATTON: Thank you, Mr. Commissioner. I can
19 advise that I will be asking the questions for
20 the province.

21 **EXAMINATION BY MS. STRATTON:**

22 Q Dr. van Wegberg, can you hear me all right?

23 A Yes.

24 Q I just have two questions for you today. And
25 the first one is about the Anti-Money Laundering

1 Centre. I understand from your report that was
2 commenced in 2013; is that right?

3 A Yeah, that's correct.

4 Q And I was just wondering since its foundation
5 have there been any measurable or observable
6 changes or improvements since the centre has
7 become operational? The sorts of things I'm
8 thinking about are perhaps better quality
9 reporting or increased numbers of prosecutions
10 or forfeitures. Anything like that that you're
11 aware of?

12 A Yeah, you of course should be careful with sort
13 of correlating certain outcomes with the
14 establishment of such a centre because it can be
15 mere coincidence that the time frame is
16 identical, but they do not have a relationship
17 to one another. So I know for a fact that the
18 seizures have increased in value each year, but
19 I do not necessarily know if that has a direct
20 relationship with the establishment of the
21 Anti-Money Laundering Centre.

22 What I do know is that the amount of
23 in-depth insights into money laundering
24 typologies have seen a great increase in the
25 last years meaning that these staffers at the

1 anti-money laundering centre have been tasked,
2 as I testified on before, with establishing new
3 typologies based on data analysis they do
4 themselves and that has helped. But of course
5 that is more of a qualitative indicator and not
6 per se a quantitative indicator of success.

7 That has helped law enforcement
8 professionals in the Netherlands and abroad to
9 better identify new forms of money laundering
10 earlier. Because what I did not say when I
11 asked the question before about the Anti-Money
12 Laundering Centre and their policy briefs is
13 that whenever they write up such a typology, it
14 does not only get distributed to Dutch law
15 enforcement.

16 The body of FIUs and the body of anti-money
17 laundering governance efforts all across the
18 globe has been embodied in what we call the
19 Financial Action Task Force, and these money
20 laundering typologies are also sent to them to
21 distribute further across all their member
22 states.

23 Q Thank you that is helpful. And my next area of
24 questions pertains to an area in your report.

25 MS. STRATTON: Madam Registrar, could we please bring

1 up exhibit 986. And I'm looking to page 2
2 towards the bottom half. Thank you. That is
3 great.

4 Q So in this the second-to-last paragraph. That
5 numbered list. You list the types of reporting
6 entities and they're categorized into four
7 different groups, and each of those groups has a
8 different supervisor. And I am look at bullet 1
9 where is says:

10 "Financial service providers like banks,
11 insurers, casinos and credit card
12 companies."

13 And I understand from the next paragraph that
14 this group of entities is supervised by the
15 Dutch Central Bank. And I was wondering if you
16 have any insight into why casinos are included
17 with financial service providers.

18 A I have wondered that myself for quite some time
19 and I couldn't crack why that is the case. So
20 no, I'm sorry. I have no idea.

21 MS. STRATTON: That is okay. Fair enough.

22 Those are all my questions,
23 Mr. Commissioner.

24 THE COMMISSIONER: Thank you, Ms. Stratton. I'll now
25 call on Mr. Duong for the BC Lottery

1 Corporation, who has been allocated
2 five minutes.

3 MR. DUONG: Thank you, Mr. Commissioner. I can
4 advise that I have no questions for the witness.
5 Thank you.

6 THE COMMISSIONER: Thank you, Mr. Duong.

7 I'll turn now to Ms. Tweedie on behalf of
8 the British Columbia Civil Liberties Association
9 who has been allocated ten minutes.

10 MS. TWEEDIE: Thank you, Mr. Commissioner.

11 **EXAMINATION BY MS. TWEEDIE:**

12 Q Good evening, Dr. van Wegberg. I'm not sure
13 what time it is there.

14 A You can call it the evening. It's quarter to
15 7:00 p.m.

16 Q Okay. Thank you. You can hear me okay?

17 A Yeah, perfect.

18 Q Great.

19 MS. TWEEDIE: Mr. Commissioner, I'd like to seek
20 leave to put an article to the witness because I
21 did not seek -- or I did not give the requisite
22 notice. But it is an article that is cited in
23 his report, and I circulated it last night.

24 THE COMMISSIONER: All right. Dr. van Wegberg, have
25 you had a chance to view the article?

1 THE WITNESS: Yes, I did.

2 THE COMMISSIONER: All right. And are you
3 comfortable in answering questions about it?

4 THE WITNESS: I don't know if I can answer them all,
5 but I would definitely like to have questions on
6 it. Yes.

7 THE COMMISSIONER: All right. Thank you. Go ahead,
8 Ms. Tweedie.

9 MS. TWEEDIE: Thank you. Madam Registrar, can you
10 please bring that article up. It's called
11 "Using Police Reports to Monitor Money
12 Laundering Developments. Continuity and Change
13 in 12 Years of Dutch Money Laundering Crime
14 Pattern Analyses," and it is by M.R.J. Soudijn.

15 Q This was cited in your report, so I assume
16 you've read and are familiar with this article.

17 A Yes.

18 Q Great. Thank you.

19 MS. TWEEDIE: Madam Registrar, can we please go to
20 page 2 of the PDF.

21 Q Just look at the abstract, there are a couple of
22 points in here that the author goes on to expand
23 on. So this article is based on four Dutch
24 crime pattern analyses or CPA reports. And the
25 author admits at the beginning of this paper

1 that these CPA reports are unsuitable to study
2 displacement effects or situational changes in
3 organized crime because they lack precise data.
4 You would agree with that?

5 A I would agree with that, yes.

6 Q Okay. And continuing in that theme. Later in
7 his report he states that data is incomplete and
8 for -- in police reports data is incomplete and
9 research sections are often lacking in detail or
10 absent. And police reports are therefore
11 unsuitable for evaluating policy goals. Would
12 you also agree with that?

13 A I think as a sole basis for evaluating policy
14 goals I agree with him. But I would say in the
15 mix of data points, data sources, it is very
16 well known to be used to evaluate policy.

17 Q Okay. Thank you. Another point that the author
18 makes is that it turns out that over the years
19 the same money laundering methods keep returning
20 and that even with the advent of
21 cryptocurrencies and digital opportunities, cash
22 is still extensively used as the main currency
23 in the criminal economy. You would agree with
24 that?

25 A Definitely. I think across the board and I

1 think that there are reports by both Interpol
2 and Europol, the international and European
3 police organization, they even have report that
4 is, are titled "Cash is Still King." So, you
5 know, following that line of expertise I agree
6 with them that how they are -- but again, right,
7 so they are also looking at police reports
8 because that's what they do.

9 So following the first question you asked
10 me, we should take or tread cautiously
11 interpreting police reports solely, but, you
12 know, doing that, cash would be still one of the
13 forms of money laundering typologies that has
14 been used consecutively across the years, yes.

15 MS. TWEEDIE: Thank you. Madam Registrar, can we
16 please turn to page 9 of the PDF. Thank you.

17 Q So if we scroll down a little bit, the
18 paragraph -- the second paragraph under the
19 "Changes" heading that starts with "the second
20 change is the rise of virtual or
21 cryptocurrencies."

22 So this is the area of the article where
23 Soudijn references virtual or cryptocurrencies.
24 And he writes briefly about some examples of
25 cases in the CPA reports where virtual

1 currencies have played a role. But nowhere in
2 this report does it refer to evidence on the
3 number of crimes regarding virtual currencies.
4 And I take it that you yourself haven't come
5 across any research in that regard as to the
6 precise numbers of these crimes?

7 A Well, what I can testify to is that the
8 financial intelligence unit not only in the
9 Netherlands but also across the world, these
10 specific entities report on which types of
11 notifications they get each year like a
12 statistics overview of all the notifications
13 they get each year.

14 And I hope you don't blame me for not
15 knowing these facts to heart, but what I can say
16 is that at least for the FIU, the Netherlands
17 reports, they have reported hard numbers on the
18 amount of notifications they get each year
19 differentiated on the basis of what type of
20 payment form has been used. So separating
21 virtual currencies from cash, separating cash
22 from bank transfers, et cetera.

23 So these organizations do provide statistics
24 on actual not cases but numbers of
25 notifications.

1 percentage, 1.1 percent, that doesn't tell me
2 much because there are millions and millions of
3 transactions each day.

4 But if that 1 percent is transactions of a
5 very high value, then still cryptocurrencies in
6 a criminal sense are more of a problem than you
7 would know it based on the 1.1 percent. Do you
8 see what I'm trying to say?

9 Q Yes, I do. But just generally speaking I'm sure
10 you would agree that virtual currencies and
11 blockchain are tools that are mostly used for
12 legitimate purposes.

13 A Definitely. Such as cash. Similar.

14 Q Okay. Thank you.

15 MS. TWEEDIE: Mr. Commissioner, can we please mark
16 this article as the next exhibit.

17 THE COMMISSIONER: Yes. Very well. I think we are
18 at 988.

19 THE REGISTRAR: Yes, exhibit 988.

20 **EXHIBIT 998: Using Police Reports to Monitor**
21 **Money Laundering Developments. Continuity and**
22 **Change in 12 Years of Dutch Money Laundering**
23 **Crime Pattern and Analyses - March 2019**

24 MS. TWEEDIE: Thank you. Those are all my questions,
25 Dr. van Wegberg. Thank you.

1 THE COMMISSIONER: Thank you, Ms. Tweedie. I'll now
2 call on Mr. Rauch-Davis on behalf of
3 Transparency International Coalition who has
4 been allocated ten minutes.

5 MR. RAUCH-DAVIS: Thank you, Mr. Commissioner. I
6 have no questions for this witness.

7 THE COMMISSIONER: Thank you, Mr. Rauch-Davis.

8 Anything rising, Ms. Stratton?

9 MS. STRATTON: Nothing. Thank you, Mr. Commissioner.

10 THE COMMISSIONER: Thank you. Mr. McCleery?

11 MR. MCCLEERY: Nothing arising, Mr. Commissioner.

12 Thank you.

13 THE COMMISSIONER: Thank you. Well, thank you very
14 much, Dr. van Wegberg. You have certainly
15 enriched our understanding of the experience in
16 the Netherlands with money laundering and
17 anti-money laundering, and it is very helpful
18 for us to get insights from other jurisdictions
19 as to what their approach and experience is to
20 help us in our -- the task that confront us. So
21 I'm grateful for the time you've taken to share
22 with us your experience and insights. You are
23 excuse now from further testimony.

24 I think Mr. McCleery, we have finished with
25 this session, and we will adjourn until 12:00

1 noon.

2 Oh, I'm we have sorry something left to deal
3 with.

4 MR. McCLEERY: Yes. I will hand the reins over to
5 Mr. Martland, who I see on the screen. He has
6 exhibits to file and things of that nature.

7 THE COMMISSIONER: Thank you. Thank you, Dr. Van
8 Wegberg.

9 THE WITNESS: My pleasure. Thank you so much.

10 **(WITNESS EXCUSED)**

11 MR. MARTLAND: Mr. Commissioner, thank you. I'm in a
12 position now to address a handful of really
13 stray items that are in the category of cleanup
14 items to address as we approach the very end of
15 the evidentiary hearings.

16 I have in general terms about five different
17 things to address at this point on the record.
18 And I'll warn everyone the first is probably the
19 slowest and the longest. The first item of
20 business is the list of proposed exhibits to be
21 entered. And we've circulated that list to
22 participants this week. There's one item we're
23 going to be removing from the list as circulated
24 to participants which is number 27 on the list,
25 which is identified as the "Overview Report on

1 Miscellaneous Documents."

2 I'll ask Madam Registrar's assistance to
3 please display not each of these exhibits but
4 the list, if that is viable to do. And you'll
5 see there, Mr. Commissioner, a numbered list, 1
6 through 32, of a series of proposed exhibits.
7 And Madam Registrar has been helpful in
8 facilitating this. We're proposing that we
9 would leave out number 27 on the list, but then
10 really in an omnibus fashion mark those
11 documents as the next exhibits.

12 So I'll welcome Madam Registrar correcting
13 me but number 1 becomes 989, number 2 becomes
14 990 and so forth, skipping 27 and taking us all
15 the way to exhibit 1019.

16 THE REGISTRAR: That's correct.

17 THE COMMISSIONER: All right. Thank you,
18 Mr. Martland. I direct that those exhibits be
19 marked accordingly.

20 **EXHIBIT 989: Manitoba Justice - Annual**
21 **Report 2019-2020 (formerly exhibit J for**
22 **identification)**

23 **EXHIBIT 990: Affidavit no. 1 of Annette Ryan**
24 **affirmed April 27, 2021**

25 **EXHIBIT 991: Exhibit A to the Affidavit no. 1**

1 of Annette Ryan - FINTRAC CBCR Reports Data

2 EXHIBIT 992: Affidavit no. 1 of Gurprit Bains
3 affirmed May 5, 2021

4 EXHIBIT 993: Affidavit no. 1 of Joel Rank
5 affirmed April 14, 2021

6 EXHIBIT 994: Affidavit no. 1 of Tobias Louie
7 affirmed May 5, 2021

8 EXHIBIT 995: Affidavit no. 2 of Brad Desmarais
9 affirmed May 11, 2021

10 EXHIBIT 996: Affidavit no. 2 of Bud Smith sworn
11 April 8, 2021

12 EXHIBIT 997: Affidavit no. 2 of John Mazure
13 sworn April 30, 2021

14 EXHIBIT 998: Affidavit no. 2 of Patrick Ennis
15 sworn April 21, 2021

16 EXHIBIT 999: Affidavit no. 1 of Calvin Chrustie
17 affirmed April 27, 2021 (redacted)

18 EXHIBIT 1000: Affidavit of Sarah D'Ambrogio
19 affirmed May 3, 2021

20 EXHIBIT 1001: CBCR Seizures 2015-2016

21 EXHIBIT 1002: CBCR Seizures 2016-2017

22 EXHIBIT 1003: CBCR Seizures 2017-2018

23 EXHIBIT 1004: CBCR Seizures 2018-2019

24 EXHIBIT 1005: CBCR Seizures 2019-2020

25 EXHIBIT 1006: Affidavit of Sherri-Lynn Foran

1 **affirmed April 6, 2021**

2 **EXHIBIT 1007: Affidavit no. 1 of Bradley**

3 **Rudnicki affirmed April 7, 2021**

4 **EXHIBIT 1008: Affidavit no. 2 of Bradley**

5 **Rudnicki affirmed May 5, 2021**

6 **EXHIBIT 1009: BCLC0016965 (referenced in**

7 **paragraph 3c of Affidavit no. 1 of Bradley**

8 **Rudnicki)**

9 **EXHIBIT 1010: BCLC0016966 (referenced in**

10 **paragraph 3d of Affidavit no. 1 of Bradley**

11 **Rudnicki)**

12 **EXHIBIT 1011: BCLC0016967 (referenced in**

13 **paragraph 3a of Affidavit no. 1 of Bradley**

14 **Rudnicki)**

15 **EXHIBIT 1012: BCLC0016968 (referenced in**

16 **paragraph 3b of Affidavit no. 1 of Bradley**

17 **Rudnicki)**

18 **EXHIBIT 1013: BCLC0016998 (referenced in**

19 **paragraph 4 of Affidavit no. 1 of Bradley**

20 **Rudnicki)**

21 **EXHIBIT 1014: Overview Report - Cash Payments**

22 **for Building Supplies**

23 **EXHIBIT 1015: Overview Report - Money**

24 **Laundrying and Proceeds of Crime Prosecutions in**

25 **British Columbia**

1 **EXHIBIT 1016: Overview Report: Basel AML**
2 **Index: 9th Public Edition**
3 **EXHIBIT 1017: Overview Report: Criminal**
4 **Intelligence Service of Canada National Criminal**
5 **Intelligence Estimate on the Canadian Criminal**
6 **Marketplace: Money Laundering and Fraud (2020)**
7 **EXHIBIT 1018: Affidavit no. 2 of Cheryl**
8 **Wenezeki-Yolland sworn May 10, 2021**
9 **EXHIBIT 1019: Affidavit no. 1 of Lesley Soper**
10 **affirmed May 11, 2021**

11 MR. MARTLAND: Thank you, Mr. Commissioner. I'll ask
12 to have the list stay on screen because I've
13 been given some language by my colleagues to
14 address and explain for the sake of our record
15 as well as for the sake of participants what is
16 what within this list.

17 Number 2 on the list now exhibit 990.
18 Affidavit of Annette Ryan. This is an affidavit
19 prepared to address cross-border currency
20 reporting data that is held by FINTRAC. It's
21 been circulated to participants who were given
22 the opportunity to have the affiant Ms. Ryan
23 recalled, and that hasn't been necessary.

24 Item 5 on the list exhibit 993 from Joel
25 Rank is an affidavit prepared in response to

1 commission requests for information in respect
2 of the CBSA assessment and revenue management,
3 or CARM project, situated within CBSA's
4 commercial trade branch. Likewise circulated to
5 participants who were given the opportunity to
6 have the witness or affiant called and didn't
7 seek to do so.

8 And maybe instead of my repeating that --
9 every time that comment, I think it applies to
10 all of these affidavits.

11 Number 6, affidavit of Tobias Louie, now
12 exhibit 994, relates to the luxury goods sector.
13 It describes the study of cash transactions that
14 was contemplated for the vehicle sales industry.
15 The affidavit likewise has been circulated
16 without people seeking to ask questions.

17 Number 7, affidavit number 2 of Brad
18 Desmarais, exhibit 995. Mr. Desmarais gave
19 evidence on February 1st and 2nd of this year.
20 The affidavit relates to evidence given by
21 Attorney General David Eby on April 26 regarding
22 who attended a tour of the River Rock Casino
23 that took place while Minister Eby was the
24 opposition gaming critic.

25 Affidavit number 2 of Bud Smith, number 8 on

1 the list, exhibit 996. Mr. Smith gave evidence
2 on February 24th of this year. His first
3 affidavit was filed on that date. After his
4 testimony, Mr. Smith discovered an additional
5 document in his possession relevant to the
6 commission's mandate and to the evidence that he
7 gave on February 4th, and the purpose of the
8 affidavit is to enter that document into
9 evidence.

10 Number 9 on the list, exhibit 997, affidavit
11 number 2 of John Mazure. Mr. Ennis gave
12 evidence -- I see the note about Mr. Ennis gave
13 evidence and I might have a typo there. But
14 there was evidence given on February 5th and
15 11th and a first affidavit that was filed on
16 February 3rd. The -- there were a appendices
17 that were not included with the first affidavit
18 and the purpose of this affidavit is to complete
19 the record entering those two appendices into
20 evidence.

21 I've just seen Mr. McCleery appear on
22 screen, and he may be able to help me along with
23 my fumbling on the carriage of the football down
24 the field here.

25 MR. McCLEERY: Yes, Mr. Commissioner. I apologize to

1 Mr. Martland. I think I likely sent him notes
2 that were perhaps more jumbled than they should
3 have been. I think Mr. Martland's comments
4 would apply to the affidavit of Mr. Ennis, which
5 is now exhibit 998.

6 The affidavit of Mr. Mazure, which is
7 exhibit 997, relates to evidence and some
8 questions that arose in the course of Minister
9 Eby's evidence relating to whether or not
10 Mr. Mazure attended a briefing in 2017. So it
11 adds some additional information attached to the
12 document related to that issue.

13 MR. MARTLAND: I appreciate that correction and
14 improvement. And I'm glad it was Mr. McCleery
15 who was leading the evidence this morning to do
16 it in realtime.

17 Number 11 on the list of exhibits,
18 exhibit 999, is an affidavit prepared by Cal
19 Chrustie, Calvin Chrustie, to attach and
20 introduce into evidence a copy of his
21 January 17, 2014 RCMP assessment which was
22 conducted by then Chief Superintendent Kevin
23 deBruyckere.

24 Number 12 on the list, affidavit -- I'm
25 sorry, exhibit 1000, the affidavit of Sarah

1 D'Ambrogio. It was prepared in response to
2 commission requests for information relating to
3 CBSA's cross-border currency reporting program.

4 Number 18 on the list, exhibit 1006, the
5 affidavit of Sherri-Lynn Foran. It was prepared
6 in response to commission request for
7 information relating to cross-border currency
8 reporting. And in particular a request about
9 the number of appeals taken to the CBSA recourse
10 directorate and the number of appeals resulting
11 in the return of seized assets.

12 Numbers 19 and 20, two affidavits from
13 Bradley Rudnicki, now marked as exhibits 1007
14 and 1008. Mr. Rudnicki gave evidence on
15 March 2nd of 2021 during the real estate sector
16 hearings. He has now sworn two affidavits that
17 set out some analysis of player data as
18 conducted by BCLC. His first affidavit in turn
19 refers to five documents that are not attached
20 to the affidavit as exhibits, but they appear on
21 that list just under numbers 19 and 20.

22 So the documents have these document
23 identification numbers, and they're all BCLC
24 document ID numbers: 0016964, 16965, next
25 16966, next 16967 and next 16968. And as the

1 list on the screen shows, although the one
2 ending in 64 has not been marked as an exhibit,
3 the ID -- I'll refer to the last two digits --
4 65 has been marked 66, 67, 68 respectively as
5 1009, 1010, 1011 and 1012.

6 Our understanding is that the only reason
7 those documents were not attached as exhibits is
8 a technical difficulty because of converting
9 them into a form that could produce an
10 exhibit that was also comprehensible. So we're
11 proposing, and what we've done is to have the
12 documents made exhibits independently of the
13 affidavit. And so that speaks to the four
14 exhibits that I've just listed off there.

15 With respect to the remaining document that
16 has not been marked, BCLC16964, the original
17 version of that document was identified as
18 containing information subject to public
19 interest immunity after it had been circulated
20 to participants, and so we have a revised
21 version. The revised version has document ID
22 BCLC16998. And that is now on the list as
23 you'll see there, number 25, exhibit 1013.

24 Mr. Rudnicki's second affidavit explains
25 circumstances surrounding the creation of the

1 new version. And so that second affidavit has
2 likewise been marked.

3 Finally just to complete with respect to the
4 these particular BCLC documents, exhibit 1011,
5 number 23 on the list, 16967. We've been
6 alerted to a typo in the document which is a
7 summary of gaming transaction data for Li Lin
8 Sha that was identified after the affidavit was
9 sworn. And so as a shorthand or an efficient
10 way of addressing the typo, I'll simply explain
11 on the record what it is.

12 In the summary tab for the spreadsheet, the
13 SID at the top of the left-hand corner reads
14 "22686." Mr. Shaw's SID is indicated in
15 exhibit A to the affidavit as in fact 22868.
16 The correct SID appears in the subject
17 transaction summary tab of the spreadsheet.

18 Again, these are all materials circulated to
19 participants. We haven't had issues identified
20 or people seeking to have affiants produced for
21 questions.

22 And I'm almost done with this painful
23 exercise. Number 26, exhibit 1014, an overview
24 report with respect to building supply
25 companies. It's an overview report compiling

1 the results of research conducted by the
2 commission into the use of cash for purchasing
3 building supplies and a sampling of Lower
4 Mainland businesses.

5 Number 28 on the list, exhibit 1015, an
6 overview report of money laundering proceeds of
7 crime prosecutions in British Columbia. The
8 report summarizes information obtained through
9 interviews by commission counsel with senior
10 representatives of the BC Prosecution Service
11 and the Public Prosecution Service of Canada.

12 Number 29 on list, exhibit 1016, an overview
13 report on the Basel AML index is intended to
14 provide an update to an earlier overview report
15 filed during the commission's overview hearings
16 last spring on May the 25th of 2020, close to a
17 year ago. An overview report attaching the
18 8th public edition of the Basel index on
19 governances anti-money laundering index was
20 filed as commission exhibit number 1.

21 The Basel Institute has now since published
22 its 9th public edition of AML index. And the
23 purpose of this overview report is simply to
24 enter that new version of the index into
25 evidence.

1 exhibits, number 32, exhibit 1019, affidavit
2 number 1 of Lesley Soper. This affidavit was
3 prepared by Ms. Soper of Public Safety Canada in
4 response to commission requests for information
5 dealing with the ACE team initiative and its
6 transition to what is termed FC3, the Financial
7 Crime Coordination Centre, and so that's being
8 tendered through the affidavit.

9 So, Mr. Commissioner, that concludes the
10 explaining on the record this list of exhibits.
11 I will address briefly number 27. It's really a
12 catch-all document called "Overview Report -
13 Miscellaneous Documents." We are close to
14 having that covered off today, but we've had, I
15 think, a few participants raise a few questions.
16 And rather than rushing we wanted to take the
17 chance to consider the points that have been
18 raised and to consider whether that report
19 should be revised as a result. And so our
20 decision has simply been not to mark it as an
21 exhibit today. To defer on that.

22 It may be -- we are scheduled to return --
23 barring any need for additional evidence, we're
24 scheduled to return for closing submissions
25 July 6, 7, 8. And so my suggestion would be

1 that at this point we plan to simply address
2 that at the outset of the July 6 hearing. We
3 won't mark it today.

4 THE COMMISSIONER: Thank you, Mr. Martland.

5 THE REGISTRAR: Mr. Commissioner, just one thing to
6 add. Regarding exhibit 989, it was previously
7 marked as exhibit J for ID on May 5th during
8 Ms. Linda Murray's testimony. I just wanted to
9 say it on the record. Thank you.

10 THE COMMISSIONER: Thank you, Madam Registrar.

11 MR. MARTLAND: I appreciate that clarification. So
12 the first item there, 989 previously was
13 exhibit J, like John, for identification.

14 The next point I wanted to address was that
15 we have an overview report. And, Madam
16 Registrar, I don't think I need the list
17 displayed any further at this point.

18 This is an overview report that doesn't
19 appear on the list of documents. We have an
20 overview report that is entitled "Paul Jin
21 Private Lending" which has been circulated to
22 all the participants with the opportunity for
23 feedback and input.

24 In fact, Madam Registrar, if you're able to
25 display that document, please, that would be

1 helpful. And you'll see obviously redactions
2 made to it. But the name is "Overview Report -
3 Paul Jin Debt Enforcement Against BC Real
4 Estate." Mr. Jin's counsel has indicated he
5 expects to object to the admission of this
6 overview report. As a result of that
7 anticipated objection, my suggestion is that
8 what we would do is to have this overview report
9 marked at this point as an exhibit for
10 identification and that it be done on the basis
11 that Mr. Jin is expected to bring his
12 application within the next two weeks.

13 If he's done that, then the admissibility
14 and use of this overview report falls to be
15 determined through the application process. If
16 there isn't an application brought, then at that
17 point I, barring any other development, assume
18 it could then be marked as an exhibit proper.

19 So on that basis, I'd ask that this please
20 be marked as an exhibit for ID.

21 THE COMMISSIONER: Would that make it K, Madam
22 Registrar? Was K --

23 THE REGISTRAR: Yes, exhibit K.

24 THE COMMISSIONER: Thank you.

25 **EXHIBIT K FOR IDENTIFICATION: Overview Report -**

1 **Paul Jin private lending**

2 MR. MARTLAND: I've been passed a note in relation to
3 the miscellaneous documents overview report, and
4 we will connect with the participants outside
5 the hearing context to have further discussions
6 and address any concerns arising. As I say,
7 we'll simply plan to address that on July 3rd.

8 THE COMMISSIONER: All right.

9 MR. MARTLAND: That document can be taken down, then.
10 Thank you.

11 THE COMMISSIONER: Thank you. Did you say July 3rd
12 or July 6?

13 MR. MARTLAND: I'm sorry. Yeah, I'm getting
14 confused. July 6 it should be.

15 THE COMMISSIONER: Thank you.

16 MR. MARTLAND: Dealing still with Mr. Jin, I wanted
17 to advise, Mr. Commissioner, that we have
18 repeatedly offered some available hearing dates
19 and a number of different dates to Mr. Jin,
20 including if he wanted to have witnesses called,
21 if he wanted to have witnesses recalled to
22 cross-examine or further cross-examine them.
23 Likewise we have offered Mr. Jin through his
24 counsel the opportunity to attend voluntarily
25 and give evidence himself. And he has declined

1 those offers that have been made.

2 The final topic that I wanted to address,
3 Mr. Commissioner, before we adjourn at least
4 until later in the day has to do with Ross
5 Alderson. You may recall, Mr. Commissioner,
6 there's a previous overview report that has been
7 entered in evidence relating to this witness
8 Mr. Alderson, who has not testified.
9 Exhibit 573.

10 Mr. Alderson is someone that the commission
11 has made repeated efforts to contact. He was
12 under a summons. He had been interviewed by
13 commission counsel. Commission counsel fully
14 expected that he would testify and be involved
15 in these hearings. He left the country. He has
16 not provided any means of us contacting him.
17 Our commission has made repeated efforts to
18 contact him. We have not been able to contact
19 him using the contact information that he
20 provided before he left Canada.

21 Recently Mr. Alderson has contacted us in
22 writing. He has sent a courier delivery using a
23 hotel beach resort return address and phone
24 number, which gives us no ability to actually
25 contact him back. We've likewise made efforts,

1 including efforts in Australia, to try to
2 contact him but to no avail. He has not
3 provided any contact information for us to reach
4 him.

5 Mr. Alderson to my understanding seems to be
6 following some of these proceedings. Likewise
7 there may be others who are able to contact him.
8 And so I appreciate it's an unorthodox thing to
9 do in a hearing, but we wanted to put on the
10 record that if Mr. Alderson can please contact
11 us. We reiterate our invitation that he provide
12 us with contact information in order that we can
13 properly address any questions and the issue of
14 him providing evidence to the commission.

15 So with those few comments,
16 Mr. Commissioner, that concludes the issues I
17 wanted to address. I wonder if I might just
18 pause for a moment to see if there's anything
19 arising for any participants given what I've
20 just set out.

21 MS. FRENCH: Yes. Thank you. Mr. Commissioner this
22 is Olivia French. Can you hear me all right?

23 THE COMMISSIONER: Yes, I can, Ms. French.

24 MS. FRENCH: Thank you. I would just like to make a
25 request for a direction with regards to the

1 overview report of miscellaneous documents.

2 This is an overview report that Canada had
3 expected to be entered and we have relied on in
4 drafting our closing submissions.

5 Since it won't be entered into evidence as
6 an exhibit until possibly July, we would like a
7 direction that participants be allowed to refer
8 to it in closing submissions.

9 THE COMMISSIONER: All right. Mr. Martland, do you
10 have any submission on that?

11 MR. MARTLAND: I hadn't appreciated that issue for
12 Ms. French. And this arose through emails
13 yesterday, including last night, so it's been
14 late breaking we haven't had the opportunity to
15 tell all the participants about the issues that
16 have arisen.

17 I wonder -- I think -- I'm very mindful of
18 the difficulty that would create for Canada and
19 perhaps others if this isn't received in
20 evidence, and so my suggestion would be maybe
21 twofold. First that for the sake of us knowing
22 what is being referred to, that number 27 on the
23 list, the miscellaneous documents overview,
24 might be marked as an exhibit for ID. And on
25 the basis that we will later address the

1 question of marking it as an exhibit proper.
2 And then secondly I would support what
3 Ms. French has just addressed and sought from
4 you, which is to have the -- to enable the
5 participants to refer to that miscellaneous
6 documents overview.

7 My understanding -- and I don't have a note
8 about the details, but I understand there have
9 been some concerns raised with a few of the
10 documents within it. And if we send an email
11 later today to participants, it should be clear
12 what the concerns are. And so that may be a
13 non-issue in terms of other parts of the
14 overview report that Canada or others want to
15 refer to.

16 THE COMMISSIONER: All right. I think it should be
17 marked as an exhibit for identification. It
18 will be exhibit L. And I will direct that
19 Canada and other participants have leave to
20 refer to it in drafting up their final
21 submissions.

22 **EXHIBIT L FOR IDENTIFICATION: Overview Report -**
23 **Miscellaneous Documents**

24 MR. MARTLAND: And I thought we'd be nicely polished
25 in getting this all nicely concluded with a bow

1 on top, but not quite. I've also been passed a
2 note just as we address this that that's a
3 further overview report that inadvertently
4 didn't make the list of 32 today. It has to do
5 with the FATF and TBML. And so I will connect
6 with my colleagues. And assuming we get that
7 sorted out, I will try to address that at the
8 outset of the hearing at noon today.

9 THE COMMISSIONER: All right.

10 MR. MARTLAND: I think that concludes it.

11 THE COMMISSIONER: All right. Thank you,
12 Mr. Martland. We will then stand down until
13 noon, and I gather there's a separate -- we're
14 actually not standing down. We're ending this
15 session and there's a separate session to
16 commence at noon.

17 MR. MARTLAND: Yes, that's right. Thank you.

18 THE COMMISSIONER: Thank you.

19 THE REGISTRAR: The hearing is now adjourned until
20 12:00 p.m. Please mute your mic and turn off
21 your video. Thank you.

22 **(PROCEEDINGS ADJOURNED AT 10:18 A.M.)**

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