

**PROCEEDINGS AT HEARING
OF
APRIL 26, 2021**

COMMISSIONER AUSTIN F. CULLEN

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April 26, 2021
(Via Videoconference)

(PROCEEDINGS COMMENCED AT 9:30 A.M.)

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

THE COMMISSIONER: Thank you, Madam Registrar.

Yes, Mr. McGowan.

MR. MCGOWAN: Thank you, Mr. Commissioner. The witness today will be Minister David Eby. I understand the witness will affirm.

**DAVID EBY, a witness
called for the
commission, affirmed.**

THE REGISTRAR: Please state your full name and spell your first name and last name for the record.

THE WITNESS: David Robert Eby. My first name is D-a-v-i-d and my last name is E-b-y.

THE REGISTRAR: Thank you.

EXAMINATION BY MR. MCGOWAN:

Q Good morning, Minister Eby. Can you hear me okay?

A I can. Thank you.

Q Okay. You're currently a sitting MLA and the Attorney General of the Province of British Columbia?

1 A That's correct.

2 Q You're also a lawyer?

3 A That is correct.

4 Q And I understand that prior to entering politics
5 you had a legal career for a time.

6 A Yes, I did.

7 Q I wonder if you might just briefly outline the
8 nature of the work you did as a lawyer prior to
9 becoming an MLA.

10 A I articulated with the federal Department of
11 Justice, and following that I worked as a lawyer
12 with Pivot Legal Society on housing issues, and
13 then I was executive director of the BC Civil
14 Liberties Association.

15 Q Thank you. You were first elected as an MLA in
16 2013 and served as a member of the official
17 opposition until 2017?

18 A That's correct.

19 Q And in your role as an MLA for the opposition,
20 you were the spokesperson on gaming from 2014 --

21 A Yes.

22 Q -- until 2017?

23 A That's correct, for part of my time.

24 Q Yes. And in 2017 your party formed the
25 government and you were appointed the Attorney

1 General and the minister responsible for gaming?

2 A That's correct.

3 Q And you've continued in your role as Attorney
4 General continuously since that time?

5 A That is correct.

6 Q And have you also continued your involvement on
7 the gaming portfolio?

8 A No, I have not. I'm no longer minister
9 responsible for gaming since the last election.

10 Q Okay. Who has taken over that role?

11 A Minister Mike Farnsworth.

12 Q Thank you. I wonder if you just might briefly
13 explain to the Commissioner how you understood
14 your role or what you understood your role to be
15 as an opposition spokesperson on the gaming
16 portfolio.

17 A Well, in opposition generally to examine
18 proposals put forward by the government and try
19 to ensure that they're in the public interest.
20 And specifically I saw my role as to identify
21 any public interest issues, so I was interested
22 in things like gambling addiction, money
23 laundering, loan sharking, how government handed
24 out licences, those kinds of things.

25 Q Okay. And when you took over the gaming

1 portfolio in your role as opposition critic,
2 were you provided any briefing either by BCLC or
3 GPEB or anybody else?

4 A I did have a very detailed briefing at the River
5 Rock Casino. I had a tour of that facility.

6 Q And that occurred sometime after you took over
7 the portfolio following on some correspondence
8 you had with the minister responsible for
9 gaming?

10 A That's correct.

11 Q We'll come to that in a moment. I wonder if you
12 might just address the Commissioner on when you
13 first became aware of an issue respecting
14 suspicious cash entering British Columbia
15 casinos.

16 A When I was gaming critic, I monitored the media.
17 There were a number of media reports by various
18 reporters about large cash transactions at BC
19 casinos. Paisley Woodward is one reporter who
20 stands out in that regard, and it was likely
21 through her reporting that it first came to my
22 attention. And we also did freedom of
23 information requests when I was critic around
24 cash transaction reports at BCLC, and that was
25 one of the things that I looked at in terms of

1 the regulator's annual reports and BCLC's annual
2 reports.

3 Q Okay. And was it the media reporting that
4 initially caused you to become alive to the
5 issue of suspicious cash in casinos and the
6 prospect that casinos might be a vehicle for
7 money laundering?

8 A Yes, that's correct.

9 Q And did you have a sense in your time as
10 opposition critic to how a casino in British
11 Columbia might be used to launder the proceeds
12 of crime?

13 A I did.

14 Q Okay. And what was your understanding at that
15 time?

16 A My understanding was that someone would bring in
17 a large amount of cash, engage in a minimal
18 amount of play and then go back to the cash cage
19 and receive a cheque for the refund of their
20 chips and then they would leave the casino and
21 it would appear as though the money had
22 potentially come from winnings at the casino
23 rather than the original source, which may have
24 been illegal.

25 Q Okay. So sort of a more conventional money

1 launders path, the effects of what you were
2 concerned about in your time as opposition
3 critic?

4 A Yes, that's right. That was my best guess at
5 why people would be bringing in huge amounts of
6 cash like that.

7 Q And has your thinking on whether that method of
8 money laundering was occurring in British
9 Columbia casinos developed over time?

10 A Yes. Yes, it has.

11 Q I wonder if you could just outline that for the
12 Commissioner, please.

13 A Well, that was initially my understanding of how
14 it could work. But I had a tour of the River
15 Rock Casino, and I was paying particular
16 attention to how someone could potentially
17 launder money in that way through the casino.
18 And during that tour it became quite evident to
19 me that it would be incredibly difficult for
20 someone to launder money in that way through at
21 least the River Rock Casino.

22 Q Did you develop a view in your time as
23 opposition critic as to the potential source of
24 the cash that was being used to buy into British
25 Columbia casinos?

1 A I was very concerned that the bulk cash had an
2 illegitimate source. When someone has that kind
3 of volume of cash, it's not something that you
4 would typically see in day-to-day life carrying
5 around hundreds of thousand dollars in cash
6 in -- I guess a briefcase of whatever method
7 people were bringing it into casinos. And so I
8 was concerned that the money coming in had some
9 sort of illegitimate source, but I couldn't
10 understand how it was connected to money
11 laundering because, as far as I understood from
12 the tour that I'd been given from the British
13 Columbia Lottery Corporation, the folks were
14 bringing the money in and gambling and losing
15 the money, which seemed like a very poor money
16 laundering strategy.

17 Q Okay. In your time as opposition critic you
18 engaged with some correspondence with then
19 minister responsible for gaming, Mr. de Jong?

20 A That's correct.

21 Q And the Commissioner has had some of this
22 correspondence put before him. Mr. de Jong's
23 reply to your letter is exhibit 895. But I'd
24 like to pull up your letter to Mr. de Jong,
25 exhibit 889 [sic], please.

1 A Sorry, Mr. McGowan, can you repeat that. Which
2 document is it?

3 Q Yeah. Your letter to Mr. de Jong is GPEB0721.

4 A Thank you. There it is.

5 Q Do you have a binder with tabbed -- with sort of
6 numeric --

7 A I do. I've found it. I've just got to find the
8 right tab, Mr. McGowan. Here we go.

9 Q It might be tab 3, if you're ordered in the same
10 order I am.

11 MS. HUGHES: They're not.

12 THE WITNESS: Thank you. Yes, it's in front of me.

13 MR. MCGOWAN:

14 Q Thank you. Are you sitting in proximity to
15 Ms. Hughes?

16 A Yes, I am.

17 Q Okay. I'll just invite Ms. Hughes, if it
18 assists at any time, to weigh in with tab
19 numbers or documents numbers to help you find
20 what you're looking for.

21 A Thank you, Mr. McGowan.

22 Q This is a letter November 13th, 2014, addressed
23 to Ms. Anton.

24 A Yes.

25 Q I wonder if you could tell the Commissioner what

1 prompted you to write this letter.

2 A My concern was that -- Commissioner, that there
3 were large amounts of bulk cash coming into
4 casinos. And it was my opinion that government
5 was not taking the potential source of the money
6 seriously. And my concern as opposition critic
7 was that BC casinos were being used for the
8 purposes of laundering money and that this
9 required additional attention from government.

10 And I was also concerned that the policing
11 team that was the dedicated policing team had
12 been dissolved over the objections apparently of
13 individuals who were involved in that policing
14 work who had raised concerns that that was a
15 mistake.

16 Q Okay. At the top of the last paragraph on
17 page 1 of this letter, you say:

18 "Unfortunately BCLC has promoted gaming in
19 the province and apparently the chief
20 regulator of suspicious cash transactions
21 does not appear to be concerned about the
22 [indiscernible]."

23 I wonder if you could first address the
24 Commissioner of what you meant when you said
25 that BCLC was the chief regulator of suspicious

1 cash transactions.

2 MS. HUGHES: Bottom of the first page.

3 THE WITNESS: Thank you. Mr. McGowan, I'm just
4 finding that reference.

5 MR. MCGOWAN:

6 Q Yes. It's the first sentence on the last
7 paragraph of page 1.

8 A Yes. Sorry, and your question again?

9 Q Yes. What did you mean when you referred to
10 BCLC as the chief regulator of suspicious cash
11 transactions?

12 A At the time it was my understanding that BCLC
13 had the main role in relation to overseeing,
14 reporting and determining when casinos would be
15 able to accept bulk cash and when they wouldn't.
16 My views are obviously a bit more nuanced now
17 having more experience on the file, but at the
18 time I saw BCLC as the main regulator.

19 Q Okay. Did you understand that the Gaming Policy
20 Enforcement Branch was the regulator of gaming
21 in the province at the time?

22 A I'm not sure that I had that level of nuance,
23 Mr. McGowan, at the time. As the critic I was
24 mainly focused on the BC Lottery Corporation and
25 I don't think I had a sufficient understanding

1 of role of the Gaming Policy Enforcement Branch.

2 Q I have wonder if you can address the
3 Commissioner on why it is that you formed the
4 impression that BCLC did not appear to be
5 concerned about the issue?

6 A Certainly. One of the main sources of concern,
7 Mr. Commissioner, was a series of statements
8 that had been made in relation to BCLC's
9 responsibility and in particular as an example
10 there was an interview that Mr. Desmarais had
11 given on CHML radio in which he indicated that
12 he thought that large amount of cash coming into
13 casinos were just consistent to wealthy
14 individuals gambling in that manner. But also
15 the fact that these types of transactions had
16 been taking place and that the key team, as I
17 understood it, the policing team responsible for
18 overseeing activities in casinos had been
19 dismantled, which did not seem consistent to me
20 with being interested in addressing the money
21 laundering issue.

22 Q Thank you. If we could turn over to the next
23 page, please. I'm looking halfway down under
24 the heading "2003 to 2009 6.6 Million Per Year
25 in Suspicious Transactions Not Investigated."

1 A Yes.

2 Q You see in the first sentence under that
3 heading:

4 "Serious problems with money laundering at
5 BC casinos were identified as early as
6 2003."

7 I wonder if you can tell the Commissioner what
8 you were referring to there with respect to
9 issues identified as early as 2003.

10 A Thank you. This was a reference to media
11 reports that had indicated that there was an
12 understanding that there were serious problems
13 with money laundering at BC casinos as early as
14 2003.

15 Q Okay. And in the next sentence you refer to a
16 time period of 2003 to 2009 and a dollar figure
17 of \$40 million, and then you quote from
18 something that says:

19 "At this time nothing has been done to
20 investigate these situations."

21 Can you tell the Commissioner, if you can
22 recall, what you were quoting from there.

23 A Yes. So there was a review, as I understood it,
24 of -- in these -- in this letter, and I'm trying
25 to recall. I believe it was the review -- one

1 of the provincial reports into the IIGET team,
2 and I can't recall exactly the source of the
3 quote, but that would be my best guess. It's
4 the -- I mention two provincial reports under
5 the IIGET in the third paragraph, Mr. McGowan,
6 and I believe that was the source of the quote.

7 MR. MCGOWAN: Yes. Thank you. Top of the next page,
8 Madam Registrar, please.

9 Q The next page of the letter you have a heading
10 "Government Response 2009: Dissolving the
11 Police Agency Responsible For Money Laundering."
12 What agency are you referring to? Is that
13 IIGET?

14 A Yes, that's correct.

15 Q Okay. At the time you wrote this letter, did
16 you understand that IIGET played a role in
17 investigating suspicious cash or money
18 laundering in lawful -- in legal casinos?

19 A It was my understanding that they could. I
20 don't believe I knew whether or not they did.
21 And I was aware of concerns about IIGET's
22 performance and that may have been in relation
23 to money laundering. I can't remember my frame
24 of mind at the time that I wrote this letter.
25 But it was my understanding that this was -- if

1 these matters were going to be investigated, it
2 was doing to be by the IIGET team.

3 Q Thank you. We can take the letter down now.

4 This is a fairly detailed and strongly
5 worded letter. It seems to be a bit of a call
6 for action. Is that how you interpreted the
7 letter when you wrote it?

8 A That was what I intended when I wrote it, yes.

9 Q Was it unusual for an opposition critic to write
10 a letter to the government of this nature or was
11 it in your view at the time?

12 A Not from my perspective, Mr. McGowan, in terms
13 of what I feel the role of the opposition is.

14 Q Okay. Did you write any other letters of this
15 nature to the topics relevant to our mandate?

16 A I may have written some letters in relation to
17 the source of money in real estate transactions
18 when I was housing critic as well. I can't
19 recall, but I definitely held a town hall forum
20 on that issue that overlaps with your mandate.

21 Q And ultimately Ms. Anton didn't reply to you but
22 Minister de Jong did?

23 A That's correct.

24 Q And the Commissioner has seen his letter. What
25 was your reaction to the response you received?

1 A That it was typical of a government response to
2 an opposition letter. In other words it was
3 largely made up of consistent talking points
4 that I would have heard in question period.

5 Q Okay. Were you ever advised whether any of the
6 measures that you proposed in your letter were
7 implemented?

8 A Yes, I do understand that the IIGET team was
9 refunded and renamed JIGIT, but I don't believe
10 that that was as a result of my letter.

11 Q Okay. During your time in your role as
12 opposition critic did either BCLC or GPEB raise
13 with you any concerns about the issue of
14 suspicious cash or the potential for money
15 laundering in British Columbia casinos?

16 A My interactions were exclusively with the
17 BC Lottery Corporation, and we did squarely
18 discuss the issue of suspicious and large cash
19 transactions in BC casinos during my tour of the
20 River Rock Casino. In fact I would say that
21 that was the thrust of our discussions during
22 that time, although it was also an interesting
23 tour of the facility and its security processes.

24 And so we did have a fairly extended
25 discussion around that, but the discussion

1 wasn't that there was an issue. The discussion
2 was that there -- it was functionally impossible
3 to launder money from BC casinos because of all
4 the safeguards in place and they were North
5 America-leading safeguards.

6 Q Okay. And I understand this tour of the River
7 Rock was in February 2015. Does that seem right
8 to you?

9 A That does seem right to me, yes.

10 Q And who did you interact with from River Rock
11 and from BCLC during that encounter?

12 A I think Chuck Keeling was there from the Great
13 Canadian Gaming company. I believe that there
14 was a representative of the BC Lottery
15 Corporation. I can't recall who it was. And
16 there was -- there were some other folks
17 probably from Great Canadian. There was a group
18 of about four of us who were engaged in the
19 tour, but there was a Great Canadian rep and a
20 BCLC rep. It's also possible that a member of
21 the sort of gaming -- provincial gaming lobby
22 group was there as well.

23 Q Okay. Do you have any recollection of who
24 represented the British Columbia Lottery
25 Corporation during that tour?

1 A I don't. Not independently.

2 Q Do you recall what prompted this tour? Did you
3 request it or --

4 A My understanding is that it may have come out of
5 either this correspondence or my questions in
6 question period related to large cash
7 transactions in BC casinos.

8 Q Did you ask for the tour or were you invited?

9 A I believe I was offered the tour. It's not
10 something that would have occurred to me that
11 was available to me, so I believe I was invited
12 on the tour.

13 Q Okay. And I wonder if you can tell the
14 Commissioner what you recall being told about
15 the issue of suspicious cash or the potential
16 for money laundering in British Columbia casinos
17 during this tour, and if you can [indiscernible]?

18 A Yes, I can. So I was particularly interested in
19 people bringing in bulk cash and being able to
20 get a cheque or -- so now I understand that to
21 be a particular typology of money laundering.
22 And so I was trying to figure out how that could
23 happen. So I was told that if people brought in
24 a large amount to cash to a BC casino to buy
25 chips that the cash would be held in the cash

1 cage, and when they brought their chips back to
2 cash out at the end of their gambling they would
3 be given the same cash back. So they wouldn't
4 be able to use that cash.

5 If there was an extended period and that
6 wasn't possible to do that for one reason or
7 another, then the cheque that they would be
8 given would be clearly marked "not from
9 winnings" or some other kind of indication that
10 this was -- the money that had been taken --
11 that the cheque hadn't originated from winnings
12 at the casino, that the money had been brought
13 into the casino.

14 And they also explained that they kept
15 close track of the chips in the casino and that
16 people were not supposed to bring chips out of
17 the casino and that I had questions about slot
18 machines too. And they explained to me that the
19 pace and the amount of time that someone would
20 have to spend feeding money into a slot machine
21 to get a receipt was so long that it just would
22 not be an efficient way to launder money.

23 And they also explained to me that when
24 people brought in bulk cash that they had to
25 fill out FINTRAC anti-money laundering forms

1 which included their occupation, sometimes they
2 were interviewed about their source of wealth,
3 and that all these safeguards were then -- the
4 forms were forwarded to the federal anti-money
5 laundering agency, which had responsibility for
6 doing additional due diligence on those forms
7 and the sources of cash and the activities in
8 casinos.

9 Q Okay. And these things that you say you were
10 told during the tour, do you recall if they were
11 told to you by a representative of the Lottery
12 Corporation or of Great Canadian?

13 A It was the BC Lottery Corporation. And the
14 reason why I'm firm about that is I would have
15 been quite skeptical had they come from the
16 service provider. Not because there was any
17 particular activity that had caused me to be
18 suspicious of Great Canadian, but just because
19 of their particular interest in demonstrating
20 that their facility did not have money
21 laundering taking place. And so the
22 information, as I saw it, was coming from an
23 independent source, which is the BC Lottery
24 Corporation.

25 Q Okay. And you were told that sometimes patrons

1 Mr. Kroeker.

2 "-- made it clear that we can't say it's

3 impossible, but he did say that it's

4 simply not simply something that is done."

5 Was that -- either that or something similar to

6 that said to you by Mr. Kroeker during the tour?

7 A That was the overall thrust of the tour,

8 Mr. Commissioner. And it was the message that I

9 took away, that it was functionally impossible

10 to launder money through a casino. I mean, not

11 totally impossible, but with all the safeguards

12 in place it seemed -- following the tour it

13 seemed to me that it was almost impossible to

14 launder money through a casino without creating

15 an incredible array of investigatory tools the

16 police could use, which seemed inconsistent with

17 the idea of money laundering.

18 MR. MCGOWAN: Thank you. We're done with this

19 document, Madam Registrar.

20 Q Did the representations made to you during this

21 tour alleviate some of the concerns that you'd

22 expressed in your earlier correspondence to

23 Ms. Anton?

24 A Yes, they did. I found them to some extent

25 reassuring although I was still quite confused

1 about the -- and concerned about the source of
2 the bulk cash and where that money was coming
3 from and who was looking into that.

4 Q You referenced the creation of JIGIT during your
5 time in your role as gaming critic. Is that a
6 move that you supported at the time?

7 A It was.

8 Q And do you continue to support the existence of
9 that unit? Do you believe it's of benefit to
10 the province and to the gaming industry?

11 A Yes, I do.

12 Q You were for a time, and I think you mentioned
13 this in your role as an opposition MLA, the
14 housing critic?

15 A That is correct.

16 Q And do you recall what time period you held that
17 role?

18 A At the very end of my time in opposition.
19 Probably the last 18 months or so.

20 Q Okay. And do you recall --

21 A Leading up to being sworn in in 2017.

22 Q Thank you. And do you recall whether in that
23 role you identified and raised the risk of the
24 BC housing the market being affected by money
25 laundering or illicit proceeds being parked in

1 the real estate -- in British Columbia real
2 estate?

3 A Yes, I did. I produced a list of what I
4 described as red flags of money laundering in
5 real estate, which I used as an education tool
6 about potential risks and the concerns as I saw
7 them as housing critic, both at public events
8 that I attended and on social media.

9 Q Did you have or raise concerns to your
10 recollection about the possibility of money
11 laundering affecting any other sectors of the
12 economy aside from gaming or housing in your
13 role as an opposition MLA?

14 A Not that I recall, no.

15 Q Okay. I'm going to move to your time as
16 Attorney General, Minister. You were --
17 following the 2017 election you were appointed
18 the Attorney General and the minister
19 responsible for gaming?

20 A Yes, that's correct.

21 Q Okay. Did you request to be assigned a gaming
22 brief or did you have any discussion about that
23 possibility prior to the assignment?

24 A No, I did not.

25 Q Did you have any -- other than information you

1 deemed in your role as opposition critic, did
2 you have any experience with the gaming
3 industry?

4 A No, I did not.

5 Q Okay. As the minister responsible for gaming
6 you oversaw both BCLC and GPEB; is that correct?

7 A That is correct.

8 Q Okay. Did you have -- or did you consider the
9 advisability of the Lottery Corporation with
10 responsibility for conducting and managing
11 gaming in the province and the regulator with
12 responsibility for regulating and ensuring the
13 integrity of gaming being supervised by the same
14 minister?

15 A At the time, no.

16 Q Okay. And did your views on situating those two
17 entities in the same ministry develop over time?

18 A Yes, they did.

19 Q I wonder if you could outline that for the
20 Commissioner, please.

21 A Throughout my time with the BC Lottery
22 Corporation and the Gaming Policy Enforcement
23 Branch and the service providers it became
24 clearer to me that there needed to be a
25 separation between regulated agencies and the

1 regulator, including potentially at the
2 political level, that that might provide an
3 additional level of accountability.

4 And the example that I thought was
5 instructive was that the Independent
6 Investigation Office, although very similar to a
7 police agency, was in the Attorney General's
8 office. They're charged with dealing with
9 serious body harm and death involving police
10 officers. It was in the Attorney General's
11 office, not in the Solicitor General's office,
12 which was in charge of policing. And the reason
13 for separating those agencies was to avoid
14 potential conflicts of interest, and it seemed
15 to me some that some of those arguments made
16 sense on gaming as well.

17 Q Thank you. When you took over that portfolio,
18 did your staff in the Attorney General's
19 ministry brief you on the file?

20 A The main briefings that I recall having because
21 the gaming file was new to the Ministry of
22 Attorney General were delivered by the
23 BC Lottery Corporation and the Gaming Policy
24 Enforcement Branch rather than the public
25 servants within the Ministry of Attorney

1 General.

2 Q Okay. Thank you. And I understand that early
3 in your time in that role you were provided a
4 relatively sizable binder with a number of
5 materials relevant to the brief?

6 A There are a number of transition binders that
7 are prepared in the transition between
8 governments and there were transition binders
9 that dealt with both the BC Lottery Corporation
10 and the Gaming Policy Enforcement Branch, and my
11 understanding is that they would have been
12 prepared by those respective agencies.

13 MR. MCGOWAN: I wonder if we could please pull up --
14 Madam Registrar, I have had you prepare what I
15 think is a re-creation of a binder provided to
16 Minister Eby commencing with GPEB1071, which is
17 the index to that [indiscernible].

18 THE WITNESS: Thank you. It's in front of me,
19 Mr. McGowan.

20 Q Yes. And is this the index of a binder that
21 contained materials listed there that were
22 provided to you early in your time as the
23 minister responsible?

24 A Yes, sir, it is.

25 Q And does it appear that this was, given that it

1 has Mr. Meilleur's name at the top, prepared by
2 the Gaming Policy Enforcement Branch?

3 A Yes, that's correct.

4 Q I understand that you were briefed on or about
5 July 31st by the British Columbia Lottery
6 Corporation.

7 A That is correct.

8 Q Okay. Does the date on this index tell us that
9 you did not have this binder at the time you
10 were briefed initially by BCLC or do you know?

11 A That's correct, I didn't have any materials or
12 briefings from GPEB before I was briefed by the
13 BC Lottery Corporation.

14 MR. MCGOWAN: Okay. Mr. Commissioner, I'm -- maybe
15 just to close the loop, then.

16 Q This binder was provided to you sometime after
17 your initial briefing by BCLC?

18 A That is correct.

19 MR. MCGOWAN: Mr. Commissioner, I'm going to ask that
20 this binder, which is the index and the
21 documents referenced on the index, be marked as
22 the next exhibit so we have it together as one
23 comprehensive copy of what the minister was
24 provided.

25 THE COMMISSIONER: All right. That -- just before we

1 do that, Mr. McGowan. Were you intending to
2 mark the earlier document, the email from
3 Mr. Keeling?

4 MR. MCGOWAN: I was not intending to mark that. I'm
5 happy to have it marked. I simply wanted to ask
6 the minister -- use it as -- to see if it
7 refreshed the Minister's recollection of what he
8 was told. So I'm content to have it marked, if
9 you'd like it, but I don't see a need.

10 THE COMMISSIONER: I don't think it's necessary. I
11 just wanted to make sure we weren't over --
12 marking over something else that you intended to
13 mark.

14 MR. MCGOWAN: I do have a habit of neglecting to mark
15 things on occasion.

16 THE COMMISSIONER: Well, so far we have over 900
17 exhibits. One or two are going to be left on
18 the floor, I expect. So this will be 904.

19 MR. MCGOWAN: Thank you.

20 THE REGISTRAR: Exhibit 904.

21 **EXHIBIT 904: Binder of briefing documents**
22 **prepared by ADM and presented to Minister Eby -**
23 **August 2017**

24 MR. MCGOWAN:

25 Q And you were -- your initial briefing

1 [indiscernible] minister was by the British
2 Columbia Lottery Corporation?

3 A That is correct.

4 Q I understand this took place on July 31st, 2017.
5 Does that accord with your recollection?

6 A I don't recall the exact date, but that's about
7 the right time period.

8 Q Okay. I wonder if you could tell the
9 Commissioner who was present for that briefing?

10 A To the best of my recollection -- well,
11 certainly I was there; the chair of the BC
12 Lottery Corporation, Bud Smith; the CEO, Jim
13 Lightbody; Rob Kroeker, who's head of
14 compliance. There were -- I had a ministerial
15 assistant in the room. I can't recall which
16 ministerial assistant I had in the room at that
17 time. And there were, to the best of my
18 recollection, some other BC Lottery Corporation
19 senior level employees in the room as well.

20 Q Was there anybody from the Gaming Policy
21 Enforcement Branch present?

22 A Yes. John Mazure was present as well. He was
23 the head of the regulator at the time.

24 Q I wonder if you can tell us -- tell the
25 Commissioner who was primarily engaged in

1 briefing you at that meeting.

2 A Mr. Lightbody and Mr. Smith did most of the
3 presenting, but mostly it was Mr. Lightbody.
4 There was a PowerPoint presentation that they
5 took me through and there were -- to the best of
6 my recollection there was a binder of materials
7 as well.

8 Q Thank you. And I wonder if you can outline for
9 the Commissioner the nature of the briefing that
10 you received as it is relevant to our mandate.

11 A So as a new minister responsible for a file,
12 typically you get something called 30/60/90,
13 which is important decisions or issues that are
14 coming up in the following 30, 60 or 90 days.
15 That was part of this presentation from BCLC.

16 In addition, it's typical -- I had
17 responsibility for a number of Crown and
18 Crown-like agencies -- to also get presentations
19 on major business initiatives, challenges,
20 opportunities, new programs that were being
21 introduced or current programs they were
22 particularly proud of so that as minister I
23 could be informed and speak with some level of
24 intelligence about the organization, and that
25 was the nature of this briefing.

1 Q Okay. And what, if anything, were you told
2 about the issue of suspicious cash or the
3 potential for money laundering in British
4 Columbia casinos?

5 A That BCLC had a North American-leading
6 anti-money laundering program, that FINTRAC was
7 approving of BCLC's activities, and that is
8 the -- that JIGIT existed. No. Yeah, that
9 JIGIT -- that there was sort of a policing team
10 and that -- the best of my recollection that was
11 kind of the extent of it.

12 Q Okay. Were you left with the impression that
13 there was any level of concern about the issue
14 of suspicious cash entering casinos and the
15 potential that British Columbia casinos might be
16 used to launder proceeds of crime?

17 A No, just the opposite. I was left with the
18 impression that BCLC had as a point of pride the
19 success of their anti-money laundering program.

20 MR. MCGOWAN: I wonder if we could please, Madam
21 Registrar, bring up BCLC16993.

22 While that is coming up, Mr. Commissioner,
23 this is a PowerPoint presentation by BCLC dated
24 July 31, 2017. There is a copy which is already
25 marked as exhibit 514. [Indiscernible] I'm

1 going to ask that this document be marked as the
2 next exhibit so we've got the colour copy of
3 this in evidence.

4 THE COMMISSIONER: All right. That will be 905.

5 MR. MCGOWAN: If we could please turn to --

6 THE REGISTRAR: Exhibit 905.

7 MR. MCGOWAN: Sorry, Madam Registrar.

8 THE REGISTRAR: Exhibit 905.

9 **EXHIBIT 905: BCLC Briefing - July 31, 2017**

10 MR. MCGOWAN: Thank you. If we could please turn to
11 slide 17.

12 A Mr. McGowan, is that commission page number 15?

13 Q Yes, it is.

14 A Okay. I'm looking at that.

15 THE REGISTRAR: Sorry, Mr. McGowan, did you say 17?

16 MR. MCGOWAN: Yes, but I'm looking at the number on
17 the slide, not the PDF page numbers.

18 THE REGISTRAR: Okay.

19 MR. MCGOWAN:

20 Q And was this slide -- is it consistent with what
21 you were told about the roles and
22 responsibilities of entities involved in the AML
23 regime in Canada?

24 A Yes, it is.

25 Q Okay. I note that there's no reference on this

1 page to the Gaming Policy Enforcement Branch.
2 What was your understanding of their role, or
3 were you told about their role at this briefing?

4 A I can't recall exactly what my understanding was
5 at the time, but the fact that they were not
6 presented as part of this was raised as an issue
7 at my Gaming Policy Enforcement Branch briefing
8 later on.

9 Q Did Mr. Mazure have anything to say about the
10 absence of GPEB on this slide during this
11 meeting?

12 A No, he didn't say anything during the BCLC
13 briefing.

14 Q When BC --

15 A To the best of my recollection.

16 Q When BCLC was making the representations to you
17 that you told the Commissioner about respecting
18 the success of their AML regime, did Mr. Mazure
19 offer any comment on that during this meeting?

20 A Not that I recall, no.

21 Q Please flip to the next slide, please. This is
22 a slide titled "AML Program Audit" and is this
23 sort of the nature of the representations that
24 were made to you respecting [indiscernible] of
25 BCLC's AML regime?

1 A Yes, it is.

2 MR. MCGOWAN: Thank you. I'm done with that
3 document, Madam Registrar.

4 Q And I understand that shortly following your
5 BCLC briefing you were briefed [indiscernible].

6 A Mr. McGowan, I'm sorry, I couldn't hear the
7 second half of that question.

8 Q Certainly. I understand that shortly following
9 your briefing by the British Columbia Lottery
10 Corporation you were briefed by members of the
11 Gaming Policy Enforcement Branch.

12 A That's correct.

13 Q Okay. And did that happen sometime in August of
14 2017?

15 A Yes, to the best of my recollection.

16 Q Okay. And was -- the message respecting the
17 success of the AML regime and whether you should
18 be concerned about suspicious cash or money
19 laundering in British Columbia casinos, did it
20 track the same tone as that represented to you
21 during the BCLC briefing?

22 A It did not. It was a profoundly different
23 briefing from what I received from the
24 BC Lottery Corporation in relation to whether or
25 not there was a concern related to money

1 laundrying in BC casinos.

2 Q Okay. I wonder if you could tell the
3 Commissioner what you were doing about that
4 issue during your GPEB briefing.

5 A The broad theme that I recall coming away from
6 that meeting with was that there was a very
7 serious and ongoing money laundrying issue in BC
8 casinos, that there was a very significant
9 criminal investigation into proceeds of crime
10 being brought into BC casinos, that the Gaming
11 Policy Enforcement Branch was profoundly
12 concerned about money laundrying in BC casinos
13 and that they wanted government to take
14 significant actions to address the issue.

15 Q Okay. And what did you make of these apparent
16 conflicting views as to the state of the issue
17 in British Columbia?

18 A Well, there were a couple of pieces. One was I
19 found the Gaming Policy Enforcement Branch very
20 credible when they told me that there was a
21 serious issue and that there was a criminal
22 investigation. They showed me videos that were
23 very troubling of people bringing bulk cash into
24 the casinos. So I thought there was a very
25 serious money laundrying issue that likely

1 needed to be addressed in BC casinos. And it
2 was consistent with my concerns when I had been
3 gaming critic, but I hadn't quite understood how
4 the system worked.

5 And then the second piece was that there
6 was a significant gap between BC Lottery
7 Corporation and the Gaming Policy Enforcement
8 Branch, which was a second and significant
9 issue.

10 Q Okay. You said you hadn't quite understood -- I
11 didn't quite catch what you said, but hadn't
12 quite understood how it might work when you were
13 gaming critic. I wonder if you could explain to
14 the Commissioner what you meant by that.

15 A Yes. When I was the gaming critic, I was trying
16 to figure out how someone could bring bulk cash
17 in and lose it at gambling and that that would
18 somehow be connected to money laundering. And I
19 concluded that clearly it wasn't because if
20 you're losing the money at the casino, it's just
21 the world's worst money laundering system.

22 So the briefing with the Gaming Policy
23 Enforcement Branch helped me understand how that
24 actually could be money laundering. That the
25 laundering took place on the front steps of the

1 casino and the delivery of the cash to the
2 gambler in what I later understood to be called
3 the Vancouver Model of money laundering, and
4 that clarified a lot of things for me.

5 Q Okay. And was this, what you've referred to as
6 the Vancouver Model scenario, outlined for you
7 during this briefing?

8 A Yes, it was.

9 Q Were you aware by the end of this briefing that
10 a number of high-limit patrons continued to buy
11 in with at times hundreds of thousands of
12 dollars, largely in \$20 bills and that these
13 buy-ins which were deemed suspicious continued
14 to be accepted by British Columbia casinos?

15 A Yes, I did understand that and that was a source
16 of concern for me.

17 Q Okay. And did you understand that there was a
18 suspicion that some of these cash buy-ins were
19 dropped off by loan sharks or delivered by loan
20 sharks?

21 A The main concern I remember leaving the
22 presentation with was that the bulk cash was
23 very closely connected to illicit activities and
24 that I should be concerned about that on a
25 couple of levels as certainly minister

1 responsible but also as Attorney General.

2 Q Okay. And who was present for this briefing?

3 A At the time John Mazure was there. There was
4 Len Meilleur as well. And I believe there was
5 also an analyst, Scott -- I think his last name
6 was McGregor.

7 Q Was anybody from the British Columbia Lottery
8 Corporation present?

9 A No. No, the BC Lottery Corporation was not part
10 of this briefing.

11 MR. MCGOWAN: Mr. Commissioner, I've received a note
12 that my sound might be muffled. I wonder if
13 that continues to be the case or if it has
14 improved?

15 THE WITNESS: I can hear you Mr. McGowan. There were
16 times when it was briefly muffled, but it seems
17 fine now.

18 MR. MCGOWAN: Mr. Commissioner, am I tracking okay
19 for the livestream?

20 IT SUPPORT: Yes, it is much better. Thank you.

21 MR. MCGOWAN: Thank you. If that happens again,
22 don't hesitate to interject and let me know,
23 please.

24 Q And I understand there were two PowerPoint
25 presentations delivered to you during the GPEB

1 briefing.

2 A That could be the case, Mr. McGowan. I only
3 recall one.

4 MR. MCGOWAN: Okay. We'll bring it up and see if
5 that refreshes your memory.

6 If we could have GPEB1064 [indiscernible] to
7 the witness, please.

8 THE REGISTRAR: Sorry, Mr. McGowan, can you repeat
9 the number again.

10 MR. MCGOWAN: Yeah. 1064.

11 THE COMMISSIONER: I think what may be happening,
12 Mr. McGowan -- I'm not sure of this, but either
13 it's when you turn away from your microphone or
14 alternatively it's perhaps when there is a
15 source of noise from some other microphone that
16 seems to block what you're saying. So it's
17 sporadic but from time to time it is hard to
18 hear you.

19 MR. MCGOWAN: I wonder if it may be when I'm flipping
20 pages. So I will try to avoid talking while I'm
21 doing that.

22 THE COMMISSIONER: I think it's the page flipping
23 that's doing it.

24 MR. MCGOWAN:

25 Q Okay. This is a PowerPoint titled "British

1 Columbia Anti-Money Laundering AML Strategy"
2 with John Mazure and Len Meilleur's names at the
3 bottom. Does this look like a PowerPoint that
4 was presented to you during the GPEB briefing?

5 A Yes, it does.

6 MR. MCGOWAN: If that could be the next exhibit,
7 please.

8 THE COMMISSIONER: 906.

9 THE REGISTRAR: Exhibit 906.

10 **EXHIBIT 906: Provincial AML Strategy by John**
11 **Mazure and Len Meilleur - August 2017**

12 MR. MCGOWAN: Thank you. And I'm just going to -- if
13 we could flip to the next document GPEB1065,
14 please.

15 Q This appears to be part 2 of the same briefing.

16 A Yes, it is, Mr. McGowan.

17 MR. MCGOWAN: And I wonder if we could please, Madam
18 Registrar, just flip to the first page of that.

19 Q So it's titled "GPEB's AML Challenges."

20 A Yes.

21 Q Are these challenges that were outlined for you
22 by GPEB during the briefing?

23 A Yes, they were.

24 Q Okay. And challenge number 3 is set out:

25 "BCLC and GPEB not aligned on the scope of

1 source of funds ...)."

2 Were these concerns also outlined to you during
3 the briefing?

4 A Yes. They were part of that broad theme that I
5 told you about earlier.

6 Q Okay. And what were you told specifically with
7 respect to the issue surrounding source of
8 funds?

9 A I don't recall in detail what GPEB had said to
10 me about source of funds. Now with my
11 experience on the file I know very clearly what
12 they meant by that, but at the time the file was
13 brand new to me and technical terminology
14 related to money laundering and gaming and so on
15 was quite new to me. And so the presentation --
16 my takeaway from it was quite high level and I
17 don't know -- I can't recall what specifically
18 would have been said to me about these specific
19 examples. Although now I do understand.

20 Q Okay. Thank you. Could we please go to the
21 last slide. Thank you.

22 This is a slide titled "Other Possible
23 Actions," and one of the actions that appears to
24 have been proposed is the implementation --
25 number 3, implementation of a more rigorous know

1 your customer and source of funds standards.

2 Was that a measure that was proposed to you

3 during this briefing?

4 A I recall a number of measures being proposed to
5 me, but I -- yes, it was proposed to me.

6 Q And did you at this time take GPEB up on the
7 suggestion and instruct them to -- them and/or
8 the British Columbia Lottery Corporation to
9 implement a source of funds, implement source of
10 funds measures?

11 A I'm afraid at the time, although it was
12 presented to me, I didn't really understand it,
13 Mr. McGowan. I was new to the file in terms of
14 this level of insider knowledge about how
15 anti-money laundering in casinos worked, KYC and
16 source of funds and these kinds of things. And
17 I was also quite profoundly struck by what I had
18 seen in the videos and the fact that there was a
19 really profound and ongoing money laundering
20 issue in BC casinos because to this point it had
21 been explained to me by many people that that
22 was functionally impossible, and here I was
23 being told that not only was it possible, but it
24 was happening and it was ongoing.

25 And so my focus was very much on that. It

1 was less on specific policy recommendations to
2 address it. And my concern was also the
3 significant gap between the BC Lottery
4 Corporation and the Gaming Policy Enforcement
5 Branch and how I was going to address what was
6 clearly an issue there.

7 Q You'd formed the impression that it was
8 happening and ongoing. Did you not feel that
9 there was a need for some immediate action to
10 mitigate that risk?

11 A Yes, I did. But I didn't understand or know
12 what the best action would be to actually stop
13 the activity. I understood there was an ongoing
14 police investigation. I understood that the BC
15 Lottery Corporation from their perspective had
16 things under control but the Gaming Policy
17 Enforcement Branch disagreed with that. I
18 didn't know the impacts or consequences of any
19 of these particular policy recommendations, and
20 this was just one of my files.

21 So I was -- I was quite surprised by what
22 was happening allegedly in BC casinos, and
23 really left the briefing -- rather than
24 grappling about oh, is the best approach and
25 proved KYC or SOF, it was -- I left the briefing

1 saying oh, my gosh, this is -- I need to talk to
2 my Deputy Attorney General; I need to get some
3 advice about how best to move forward here
4 because the correct route is not clear to me.

5 MR. MCGOWAN: Thank you. Mr. Commissioner, if those
6 two PowerPoint decks could be the next two
7 exhibits, please.

8 THE COMMISSIONER: I think we've marked the first one
9 906. The second one will be 907.

10 THE REGISTRAR: Yes. Exhibit 9 -- the first one we
11 already marked as 906, so this one is 907.

12 MR. MCGOWAN: Thank you.

13 **EXHIBIT 907: Provincial AML Strategy (Part II)**
14 **by John Mazure and Len Meilleur**

15 MR. MCGOWAN: If we could please pull up GPEB1118.
16 If we could flip just to the next page.

17 Q This appears to be a slide deck prepared by GPEB
18 providing an update dated October 26, 2017. Do
19 you recall subsequent briefings with GPEB where
20 this deck was presented to you?

21 A I don't recall it, no.

22 Q Are you able to say whether or not you had a
23 briefing from GPEB around October 26th and
24 whether [indiscernible]?

25 A Yes, Mr. McGowan. I think the reason why I

1 don't recall it is simply that I had so many
2 briefings during this time period on so many
3 different issues, including multiple briefings
4 from staff related to the AML issues in casinos,
5 as well as discussions and trying to figure out
6 how best to move forward. So I -- although I
7 don't recall it that certainly doesn't mean that
8 it didn't happen. It was just part of the
9 avalanche of information that shows up for a new
10 minister.

11 Q Fair enough. If we could slide forward sort of
12 five pages in the deck, please. One more,
13 please. Yes.

14 There is -- on this page and subsequent
15 pages there's some [indiscernible] your
16 handwriting writing and somebody else's. If you
17 could scroll down [indiscernible].

18 A Okay. Thank you, I've got that page.

19 Q Yes. Minister, is this your handwriting or
20 somebody else's?

21 A It's not my handwriting. I don't know whose it
22 is.

23 MR. MCGOWAN: Okay. Thank you. Mr. Commissioner, if
24 this could be the next exhibit, please.

25 THE COMMISSIONER: Yes, very well. That will be --

1 THE REGISTRAR: Exhibit 908.

2 **EXHIBIT 908: PowerPoint deck related to AG**

3 **Minster Briefing - October 26, 2017**

4 MR. MCGOWAN:

5 Q The German review was already underway by this
6 point. Do you recall whether Dr. German
7 attended any of the [indiscernible] you had with
8 the British Columbia Lottery Corporation or the
9 Gaming Policy Enforcement Branch?

10 A Pardon me. It cut out when you said "did he
11 attend any." Did he attend any which?

12 Q Yes, any of the briefings you had with BCLC or
13 GPEB.

14 A No, not to the best of my recollection. He did
15 his work independently.

16 Q And I gather sometime after your first briefing
17 with BCLC and your first briefing with GPEB you
18 had another meeting with the British Columbia
19 Lottery Corporation where the issue of
20 suspicious cash was addressed.

21 A Yes, I did.

22 Q Do you recall when that was?

23 A Just because of my preparation for today, it was
24 in late October.

25 Q Okay. And do you know who instigated that

1 meeting?

2 A I believe it was the BC Lottery Corporation.

3 Q Did they indicate to you why they wanted to meet
4 again?

5 A It wasn't unusual to me that one of the Crowns
6 would want to meet and discuss something. There
7 were regular meetings and discussions. At the
8 time I can't recall whether I understood that it
9 was specifically on the AML issue but that was
10 very likely. It was the major and to my mind
11 only significant BCLC-related issue.

12 Q Okay. And who was present at that second BCLC
13 briefing?

14 A At that meeting would have been Jim Lightbody
15 again, Rob Kroeker again and myself as well as a
16 ministerial assistant. Again I can't recall
17 which ministerial assistant was there with me.
18 And I would imagine that the chair was there
19 too, but I can't recall specifically whether he
20 was or was not.

21 Q Okay. What was the nature of the
22 representations made to you by British Columbia
23 Lottery Corporation representatives during that
24 meeting respecting the issue of suspicious cash?

25 A The theme of the meeting that I took away was

1 compliance with the FINTRAC regime. So I think
2 that if I were to look at it critically, the two
3 presentations were not inconsistent; however, it
4 seemed to me that this should have been an issue
5 that was canvassed in significant detail at the
6 first briefing, and it was not.

7 Q Okay. Were you told at this briefing about the
8 E-Pirate investigation?

9 A I believe that my -- I can't recall if I had
10 that label attached to it, but I knew that there
11 was a large criminal investigation taking place
12 based on my GPEB -- initial GPEB briefing, which
13 I later understood to be -- although it may not
14 have been because they simply referred to a
15 criminal investigation -- the Silver
16 International Project E-Pirate investigation.

17 Q Mr. Lightbody's told the Commissioner that in or
18 about October 2017 at a meeting with you and Bud
19 Smith, Mr. Kroeker and Mr. Fyfe [indiscernible]
20 others he advised you about the E-Pirate
21 investigation [indiscernible] about that
22 investigation. Do you recall that?

23 A I'm sorry, Mr. McGowan. I think I got your
24 question, but it got quite muffled. I don't
25 want to miss it. Can you ask that question

1 again, please.

2 Q Yes, certainly. Mr. Lightbody has told the
3 Commissioner that in or about October 2017 in a
4 meeting with you and Mr. Bud Smith, Mr. Kroeker,
5 Mr. Fyfe and possibly others he advised you
6 about the E-Pirate investigation. Do you recall
7 that?

8 A Yeah, that's quite possible that he also raised
9 that investigation with me.

10 Q Okay. And what were you -- what were you told
11 either by him or what did you understand by this
12 point had been revealed by the -- what we now
13 know to be the E-Pirate investigation?

14 A That the police activities that were taking
15 place in relation to BC casinos were due to the
16 BC Lottery Corporation advocating for the police
17 to investigate a problem that they believe
18 existed in the casinos.

19 Q Based on the information you'd received by the
20 Gaming Policy Enforcement Branch about their
21 concerns and what you now understood to have
22 been revealed by the E-Pirate investigation, did
23 you consider immediately directing a cap on the
24 quantity of cash that could be received or
25 implementing a requirement that cash be sourced

1 prior to acceptance?

2 A Given my concern about unintended consequences
3 related to any particular policy direction,
4 including the fact that we may inadvertently
5 interfere with police investigations by
6 directing -- by shutting down an avenue that
7 police had to monitor people, I was of the
8 opinion that Mr. German was best positioned to
9 liaise between BC Lottery Corporation, the
10 Gaming Policy Enforcement Branch and the police
11 around the best policy route to take going
12 forward. So in his terms of reference I asked
13 him to make immediate recommendations, not to
14 wait for his final report on how to stop the
15 activity in the casinos.

16 It's important, Mr. McGowan, I think, to
17 know that I -- this wasn't the only major issue
18 on my plate at the time and that's why I was --
19 had asked Dr. German to take on this work. I
20 was also working in relation to the Insurance
21 Corporation of British Columbia, which was
22 losing very significant amounts of money that
23 was jeopardizing government's balanced budget as
24 well as our spending on social programs. So I
25 really delegated, from my perspective, the role

1 of deciding which action was most appropriate to
2 an expert in the field, which was Dr. German in
3 my opinion.

4 Q Okay. Were you at all concerned that while the
5 German process was under way and the review was
6 ongoing, the province would be continuing to
7 knowingly stand by while Lower Mainland casinos
8 were accepted what you now believe to be
9 proceeds of crime?

10 A I was concerned about that, but I was equally
11 concerned that the actions that I took might
12 have unintended consequences and that the
13 person -- that it was necessary to understand
14 from the perspective of BC Lottery Corporation
15 and the Gaming Policy Enforcement Branch which
16 did not agree about -- from my perspective,
17 about what was happening and what was best to do
18 as well as any potential police investigations
19 that this had to be done very carefully.

20 And so while I understood that there would
21 be a lag between Dr. German's appointment and
22 any action that he ultimately recommended to us,
23 I had asked him to make that lag as small as
24 possible by providing recommendations.

25 MR. MCGOWAN: Thank you. Can we please have

1 exhibit 556.

2 MS. HUGHES: Mr. McGowan, what's the commission --
3 sorry, the production number on that document?

4 MR. MCGOWAN: GPEB0998.

5 MS. HUGHES: Thank you.

6 MR. MCGOWAN:

7 Q Have you got that?

8 A Yes. Thank you, Mr. McGowan. It's in front of
9 me.

10 Q Yes. This is a briefing document which was
11 prepared, it appears, by Mr. Mazure for the
12 former minister responsible, Mr. de Jong, and I
13 understand from the evidence we've heard that
14 this document may not have gone to Minister
15 de Jong because of the election that was called.
16 And you'll know from having reviewed this that
17 this is a recommendation for a ministerial
18 directive requiring BCLC to complete source of
19 funds interviews and sourced funds at the
20 \$10,000 level and above.

21 So my question for you is did GPEB come to
22 you either with this briefing document or
23 another or with a recommendation that you issue
24 a ministerial directive respecting source of
25 funds?

1 A No, GPEB did not come to me with this briefing
2 note. I can be certain because it has an option
3 to ban people with links to organized crime and
4 to me that wouldn't have been an option. That
5 would be something that would stand out as
6 something that we should be doing.

7 So I've not seen this document before, and
8 I don't recall receiving a briefing note from
9 GPEB related to source of funds. And if I had,
10 I would have directed it to Dr. German.

11 Q Okay. Did you know that you had the power to
12 issue ministerial directives?

13 A Oh, yes, I did.

14 Q Was it ever proposed to you that you issue one
15 respecting the issue of source of funds or the
16 acceptance of cash?

17 A Yes. Dr. German recommended to government that
18 we make a direction in relation to source of
19 funds on bulk cash, and I did so.

20 Q Okay. And was that the first time that a
21 ministerial directive was recommended to you, to
22 your recollection?

23 A No. I believe that GPEB in their initial
24 presentation to me had presented me with a
25 number of potential policy directions that would

1 meetings with me through my staff, through the
2 ministerial advisors, ministerial assistants
3 then at the time, to set up a meeting or a
4 briefing for me.

5 Q And how accessible were you to the executives at
6 BCLC or GPEB if they wanted to set up a meeting
7 or have a consultation?

8 A Well, subject to availability, I was -- I saw
9 that as a priority. It was not the only big
10 issue, but it was definitely a big issue on my
11 plate at the time.

12 Q Okay. You've talked about different messaging
13 from BCLC and GPEB respecting the issue of AML
14 and cash in casinos. Did those differing
15 perspectives continue on a going forward basis
16 as you met with those two organizations?

17 A No, Mr. McGowan. They closed quite dramatically
18 to the point that both organizations were openly
19 acknowledging that there was an issue and making
20 different policy recommendations to me about how
21 to address it.

22 Q One of the things the Commissioner has been told
23 by Mr. Kroeker is that Mr. Kroeker had a
24 concern, that he didn't feel the British
25 Columbia Lottery Corporation had a sufficient

1 opportunity to provide you information in the
2 face of adverse media reports, and I wanted to
3 give you an opportunity to respond to that
4 evidence.

5 A I can't speak about internal BCLC processes,
6 Mr. McGowan, but Mr. Lightbody's office had a
7 direct line to my office and I don't recall ever
8 refusing a meeting with BC Lottery Corporation
9 or a phone call or an email from Mr. Lightbody
10 or from the chair, Mr. Smith.

11 Q Okay. Mr. Lightbody, Mr. Smith and Mr. Kroeker
12 have addressed the Commissioner on the issue of
13 the province continuing its involvement in high
14 limit gaming and have suggested that you were
15 offered the option by them of getting out of
16 high limit games or removing certain game
17 options or reducing bet limits if the risk
18 profile exceeded your risk tolerance. And I
19 wanted to ask you whether you recall the being
20 offered that option and what your response was
21 and why.

22 A Yes, I do recall that being presented to me, at
23 a minimum by Mr. Smith. I can't recall the
24 BC Lottery Corporation presenting it, but I
25 wouldn't be surprised if they had.

1 The policy proposals that came were coming
2 fast and furious from a number of different
3 corners. From the Gaming Policy Enforcement
4 Branch, from the chair of the BC Lottery
5 Corporation, from the BC Lottery Corporation
6 itself, from people outside, you know, just in
7 sort of -- in the media. There were a number of
8 policy recommendations that people were making
9 to address this issue.

10 And my hope was that they could all be
11 centralized, evaluated, prioritized and that we
12 could get recommendations from someone
13 independent of both GPEB and the BC Lottery
14 Corporation, from Dr. German and that he could
15 assist me in sifting through them to find the
16 ones that would be most effective

17 Q Thank you. So is it fair to say from the answer
18 you've given that you didn't take him up on
19 those suggestions respecting getting out of the
20 high limit business or reducing the bet limit?

21 A No, I didn't. But I was open to -- I mean,
22 there were recommendations about getting rid of
23 \$20 bills in gambling, about banning cash in
24 gambling, about banning high level gaming and
25 others. I was open to any of them, but the core

1 document to me, and I recommended that he
2 provide it to Dr. German because I was hopeful
3 that Dr. German would actually look at documents
4 like the specific patrons, specific transactions,
5 follow them through, and be able to provide some
6 advice to government about what exactly was
7 happening in terms of the flow of this money.

8 Q And I understand there was some indication
9 either on the document or at the meeting that
10 the link analysis had been prepared at least in
11 part by an individual named Mr. Rudnicki. And
12 Mr. Kroeker's told the Commissioner that you
13 said words to the effect of, what does a guy
14 with a name like Rudnicki know about Chinese
15 money laundering? And I wanted to give you an
16 opportunity to respond to that suggestion.

17 A No, I did not say that.

18 Q Mr. Kroeker has also put forward to the
19 Commissioner some evidence suggesting that one
20 of your ministerial assistants called in August
21 of 2018 and directed that BCLC put a \$60 million
22 decrease in revenue that BCLC had forecast
23 originally in 2017 into projections for the
24 current fiscal year in what he suggests appeared
25 to be an attempt to show the German

1 recommendations had had a dramatic impact on
2 casino revenue. And I wanted to give you an
3 opportunity to respond to that suggestion.

4 A That's just not how decisions around budget take
5 place within government or within Crown
6 corporations. Ministerial assistants are not
7 able to direct Crown corporations to adjust
8 their numbers. BCLC has an auditor. They do
9 their own independent budget process, and that
10 is not -- now, I can't say -- you know, I don't
11 know everything that my ministerial assistants
12 did, but I can say with confidence that BCLC's
13 budgeting process, to the best of my knowledge,
14 took place in accordance with traditional
15 government approvals for Crown corporations and
16 that they engaged in a budgeting process that
17 would have been consistent with their auditing
18 obligations.

19 Q Did you direct a ministerial assistant to tell
20 BCLC to move \$60 million in revenue from one
21 year to another for the purpose of creating an
22 impression about the impact of Dr. German's
23 recommendations?

24 A No, I did not.

25 MR. MCGOWAN: May I just have a moment,

1 Mr. Commissioner. I'm looking for a document
2 number. BCLC0016987.

3 THE WITNESS: Yes. Thank you. It's in front of me.

4 MR. MCGOWAN:

5 Q Okay. This is a briefing note which appears to
6 have been prepared on July 27th, 2017, by BCLC
7 and I understand may have been presented to you
8 at the initial briefing. Do you recall seeing
9 this document?

10 A I don't. It may have been in binder of
11 materials that I received from the BC Lottery
12 Corporation.

13 Q If we could turn to the second page, bottom
14 half, please.

15 The document suggests and appears to advise
16 you that:

17 "BCLC first learned from JIGIT and GPEB
18 through the June 2017 JIGIT press
19 conference that its anti-money laundering
20 (AML) program may have been undermined by
21 international organized crime figures and
22 that 9 or more individuals engaging in
23 criminal activity related to gambling were
24 frequenting BC casinos."

25 Do you recall being told at that briefing by

1 BCLC that the first they learned of -- that its
2 anti-money laundering program may have been
3 undermined by international organized crime was
4 at a June 2017 JIGIT briefing or JIGIT press
5 conference?

6 A I'm sorry, Mr. McGowan. I'm trying to find that
7 reference in this briefing note. Where is that?

8 Q Third paragraph from the bottom of the second
9 page.

10 A I may be looking at the wrong document.

11 Q It's on your screen as well.

12 A Okay, pardon me. Oh, yeah. Thank you. I've
13 got the right document now. I was looking at
14 the wrong document, Mr. McGowan.

15 No, I don't recall receiving this document,
16 and I don't recall that particular detail.
17 Again, it doesn't mean that it wasn't presented
18 to me, but I don't recall it.

19 Q And there's reference in the next paragraph to
20 BCLC requesting the names of these nine
21 individuals, and the Commissioner heard some
22 evidence about this request. Did you have any
23 involvement in the issue of whether the Gaming
24 Policy Enforcement Branch would provide those
25 names to the British Columbia Lottery

1 Corporation?

2 A No, I did not. I did not.

3 Q Thank you. I'd like to ask you some questions
4 about Dr. German's review. Was that review
5 initiated at your instigation?

6 A Yes, it was.

7 Q Okay. With the expertise you had at GPEB and
8 BCLC why did you feel the need to go outside
9 these organizations to get advice on the issue?

10 A The gap between the BC Lottery Corporation
11 perspective and the Gaming Policy Enforcement
12 Branch perspective was so significant that I had
13 difficulty understanding which of the
14 organizations I could turn to and rely on in
15 terms of the best recommendations going forward.
16 Either we had a FINTRAC-recognized leading
17 anti-money laundering program or we had a
18 profound and ongoing money laundering problem in
19 our casinos, and I suspected the truth was
20 probably somewhere in the middle, but I didn't
21 know that.

22 And I was very concerned there was a
23 serious and ongoing issue, and so I wanted
24 someone to be able to navigate both the
25 BC Lottery Corporation and the Gaming Policy

1 Enforcement Branch and who had the expertise to
2 understand policy proposals that may not come
3 forward from either of them and provide
4 additional recommendations to government.

5 MR. MCGOWAN: Thank you. If we could please have
6 GPEB document 5748.

7 Mr. Commissioner, I neglected to mark that
8 last [indiscernible], and I'll ask that that be
9 marked.

10 THE COMMISSIONER: Yes, very well. I think we're at
11 909, Madam Registrar.

12 THE REGISTRAR: Yes, exhibit 909.

13 THE COMMISSIONER: Thank you.

14 **EXHIBIT 909: BCLC Briefing Note for David Eby,**
15 **re status update on JIGIT - July 27, 2017**

16 MS. HUGHES: Tab 57.

17 THE WITNESS: Thank you.

18 MR. MCGOWAN: Perhaps, Mr. Commissioner, while we're
19 marking documents, I'll just ask that the one
20 that's on the screen be marked. It's a briefing
21 note.

22 THE COMMISSIONER: All right. That will be 910,
23 then.

24 THE REGISTRAR: Exhibit 910.

25 **EXHIBIT 910: GPEB Briefing Note for Decision**

1 possible provide me with the way in which we
2 could have a significant issue like this that
3 was not in the public eye and that the public
4 didn't understand was an issue because that
5 seemed to me to be a significant problem.

6 Q Okay. Had you identified by this time of this
7 note Dr. German as a candidate to conduct the
8 review?

9 A I think it's very possible that by the time I
10 had done this that I was thinking about
11 Dr. German to take on this role.

12 Q Okay. Was Dr. German suggested to you or did
13 you identify him as a candidate to fulfill the
14 role?

15 A I can't recall exactly. He may have been
16 suggested by the deputy, but I knew him
17 previously through his work at the University of
18 British Columbia around international criminal
19 law and anti-corruption work. And I'd known
20 him, it seems to be, I think, through when I was
21 the critic. And I can't recall whether it was
22 my idea or the deputy's or someone else in the
23 public service, but I was very enthusiastic
24 about him taking on this job.

25 Q Okay. And what was the extent and nature of

1 your relationship with him prior to his
2 appointment on this --

3 A We had no relationship. I had seen him speak,
4 I'd maybe met him once or twice at professional
5 events, but we had no existing relationship.

6 Q Okay. And what was it about his background or
7 experience or otherwise that caused you to
8 select him for this appointment?

9 A I liked that he had written a book on money
10 laundering law in Canada, so he was an expert on
11 the issue, recognized as such. I liked that he
12 was a lawyer so that he was able to understand,
13 you know, what he was doing on the review and
14 the laws and make recommendations that related
15 to legislation.

16 And I liked that he was independent of both
17 the BC Lottery Corporation and Gaming Policy
18 Enforcement Branch but familiar with BC gaming.
19 I had understood that he had done some work for
20 both of them in the form of training of some
21 kind. And I liked that he was a former police
22 officer at a senior level because of the
23 policing overlap with this file. And I thought
24 as a former police officer, he might be able to
25 get more information from his former colleagues

1 than someone who was not a police officer.

2 So when I put it all together, he seemed
3 quite ideally suited to do this work.

4 Q You mentioned his role as a former police
5 officer. Did you consider whether, given the
6 positions he had held in the RCMP at relevant
7 times, he might be perceived by some to have a
8 conflict of interest?

9 A Yes, and I considered that in relation to the
10 fact that he had done training with BCLC and
11 GPEB or had some relationship with them. But I
12 selected Dr. German because he had that
13 knowledge, because he had those connections. I
14 wanted him to use them. I thought he was a
15 person of integrity.

16 And I also thought -- one piece that I
17 didn't mention is that he wasn't -- he wouldn't
18 be considered to be a partisan actor. He didn't
19 have any affiliations with either of the
20 parties, and his anti-corruption work had led
21 him to do investigations that were clearly not
22 partisan investigations. So it was actually one
23 of the reasons why I thought he would be a good
24 candidate was his knowledge of the different
25 sectors of policing and gaming in British

1 Columbia.

2 Q Did you --

3 A But not too close. You know, he was independent.

4 Q I think I cut you off there. Did you have
5 anything to add?

6 A Yeah, he was not too close. He could be
7 credibly seen as both knowledgeable and
8 independent, which was important to me.

9 Q Did you. Did you give instructions to
10 Dr. German respecting his tasks other than those
11 contained in the terms of reference?

12 A No, I did not.

13 Q Did you communicate to him any narrative you
14 would like to find its way into his report?

15 A No, I did not.

16 Q Did you suggest to him any particular focus of
17 his investigation or his report?

18 A No, I did not.

19 Q I'd like to ask you some questions about what I
20 understand to be some proposed measures that
21 BCLC put forward during the German review. I
22 think we've identified for you and I expect
23 you've read some excerpts of the evidence of
24 Mr. Lightbody, Mr. Kroeker and Mr. Scott on this
25 issue. And I'm not sure the evidence is

1 entirely consistent, but they each address
2 communications from your office respecting
3 BCLC's desire to implement AML measures,
4 including a cash cap during the German review.
5 Do you recall these communications?

6 A I definitely recall the cash cap discussions
7 with the BC Lottery Corporation. Not the
8 particulars, but the fact that there was an
9 active discussion that BCLC was presenting that
10 as a credible option to address the issue.

11 Q There's some suggestion that in response to this
12 suggestion of a cash cap that you directed BCLC
13 to hold off on imposing a cash cap and instead
14 take their ideas to Dr. German. First of all,
15 did that occur?

16 A Yes. Oh, absolutely.

17 Q I wonder if you can explain to the Commissioner
18 why you took that position and directed BCLC as
19 you did.

20 A So my concern was that BCLC had not had
21 sufficient time to evaluate his policy
22 proposals. They were not on the radar in any of
23 our previous discussions, they were not previous
24 policy proposals from the BC Lottery
25 Corporation. I didn't know all the background,

1 whether or not -- what work they'd done to bring
2 this forward as an option compared to many of
3 the other recommendations that I'd had.

4 And it was something that I'd asked
5 Dr. German to take on, which is to evaluate all
6 these different policy responses to the problem
7 that we faced and to provide the best
8 recommendations to government about how to move
9 forward. And so I suggested to them that
10 they -- if they thought that this was the way
11 forward that they should present that to
12 Dr. German and he would be advising me on that.

13 Q Okay. There's been some suggestion in the
14 evidence, I believe, that you were upset or
15 furious at the proposal to implement -- for BCLC
16 to implement AML measures during the German
17 review, and I wanted to give you an opportunity
18 to respond to that suggestion.

19 A No, I wasn't furious that they were proposing a
20 cash cap. I was definitely frustrated that they
21 didn't seem to understand the process that I had
22 set up where Dr. German would be evaluating
23 policy recommendations and advising government
24 on the best path forward. I thought that they
25 should be interacting directly with Dr. German

1 and that they should be having active
2 conversations about the best policy route
3 forward with the Gaming Policy Enforcement
4 Branch and any other experts that Dr. German
5 wanted to talk to about the best way forward.

6 My vision had been that there would be this
7 conversation and evaluation and an iterative
8 process between all of these different actors
9 and Dr. German would be doing that work through
10 his review, and so my frustration was that that
11 didn't seem to be registering with the BC
12 Lottery Corporation. And so I believe I
13 ultimately wrote a letter to them to that
14 effect.

15 Q Yes. I think it may have been an email. And
16 I'll draw that up for you and see if I'm correct
17 in that regard.

18 MR. MCGOWAN: Could we please have BCLC0015844.

19 Q And this is -- it's a BCLC -- an email between
20 BCLC personnel. But if we scroll down to the
21 second page, this appears to be an email from
22 your office to Mr. Lightbody setting out text of
23 a communication from you to Mr. Lightbody. Have
24 I got that right?

25 A Yes, it is. Yes.

1 Q And is this the email where you provide the
2 direction we've discussed to BCLC and explain
3 your rationale for providing the direction?

4 A Yes, it is.

5 MR. MCGOWAN: Mr. Commissioner, if that could be the
6 next exhibit, please.

7 THE COMMISSIONER: Yes, very well. 911.

8 THE REGISTRAR: Exhibit 911.

9 **EXHIBIT 911: Email chain re AG File**

10 **No. 546040 - January 26, 2018**

11 MR. MCGOWAN:

12 Q Mr. Eby, the Province, as I understand it,
13 largely accepted the recommendations proposed in
14 Dr. German's first Dirty Money review respecting
15 gaming. Are there any of the recommendations
16 he's made that your government has ascertained
17 are problematic or will be difficult or not
18 possible to implement?

19 A Yes. One that comes to mind is the
20 recommendation that BCLC no longer be the
21 reporting entity to FINTRAC, but instead the
22 casinos report directly to FINTRAC. The --
23 currently -- and the issue raised in
24 Dr. German's report as I understand it was that
25 the FINTRAC reports would go first to BC Lottery

1 Corporation and then to FINTRAC, and the thought
2 was that they could go directly from the casinos
3 to FINTRAC. But I was advised by the public
4 service that on canvassing the issue and the
5 relevant legislation that because BCLC was --
6 would be deemed to be the entity responsible for
7 conducting and managing gaming, that that was
8 not possible to do. FINTRAC needed to have the
9 reports come from BCLC in their role of conduct
10 and manage.

11 So that's an example where -- while I was
12 supportive of the recommendation, we would run
13 into an implementation challenge, and this one
14 in relation to federal law which obviously we
15 weren't able to address because it's a federal
16 government possibility.

17 Q And Dr. German in his review recommend a
18 casino-focused police force to address the issue
19 of money laundering. Have you given any
20 consideration as to the advisability of a
21 casino-specific police force or whether it might
22 be more advisable, if there's going to be an
23 investigative unit, for it to be one with a
24 broader focus on the issue of money laundering?

25 A The public service engaged in a number of

1 discussions with police and various stakeholders
2 and presented to me that it was their conclusion
3 that it was better that it not be casino focused
4 because of the fact that the money at issue
5 could be in casinos but could go somewhere else.
6 And if you had a casino-focused policing team,
7 it may not be able to follow that money where it
8 goes if it went into real estate or luxury cars
9 or some other sector. And that it would be more
10 important to have a group that followed the
11 money.

12 And so I thought that made sense, and I
13 believe that that was presented to Dr. German
14 and he was supportive of that more flexible
15 approach in terms of the mandate of this team.

16 Q After his initial review you launched Dr. German
17 on a second review with a broader mandate.
18 Somewhat broader mandate. I gather some of the
19 issues that he was investigating in his second
20 review arose out of his first review. Is there
21 anything else that prompted you to launch him on
22 the second review?

23 A The core of asking Dr. German to take on the
24 second review was findings from his first
25 review. For example, that a number of the

1 individuals alleged to be bringing in this bulk
2 cash to casinos had very close connection to the
3 real estate market, and that was the core of
4 asking him to do this.

5 His discussions in report 1, I believe,
6 also broadly identified the luxury car issue,
7 but that required additional attention. So
8 those were two issues that came out of his work,
9 although they were tangential to what we'd asked
10 him to do in relation to the casinos.

11 Q Thank you. The Commissioner's heard some
12 evidence about an Ernst & Young River Rock
13 cheque audit. Are you familiar with that
14 report?

15 A Yes, I am.

16 Q And were you briefed on it or did you review it?

17 A Both.

18 Q And what was your takeaway from that report?

19 A That people were not bringing bulk cash into BC
20 casinos and receiving cheques, which was the
21 original issue as critic that I had been
22 concerned about in terms of converting bulk cash
23 into a cheque that could then be presented as
24 casino winnings.

25 Q Did you ascertain this report to be presenting

1 information that was inconsistent with what had
2 been reported by Dr. German?

3 A No. It was a different typology of money
4 laundering than Dr. German had been focused on.
5 So Dr. German had been focused on the Vancouver
6 Model of money laundering where bulk cash was
7 delivered to a gambler who was actually going in
8 for the purpose of gambling and potentially
9 winning or losing, not for the purpose of money
10 laundering. The money laundering was taking
11 place at the doors of the casino and not inside
12 the casino.

13 And so this typology that was the focus of
14 the Ernst & Young report was the person who
15 walked into the casino was the money launderer
16 and that they were either trying to convert
17 bulky cash into an easier-to-handle cheque or
18 they were trying to deceive someone else that
19 the cheque was the proceeds of winnings at the
20 casino as opposed to the proceeds of crime.

21 Q There's been some evidence before the
22 Commissioner on this in your response to the
23 report and I wanted to give you a chance to
24 respond to it. I understand from the evidence
25 that there's a suggestion that some in

1 presented as a conclusive determination about
2 whether or not money laundering was happening at
3 BC casinos, it was not that. So that was my
4 concern.

5 Q Okay. And did you have any concern about the
6 cost of the report?

7 A Yes. I understood the report cost half a
8 million dollars and that's seemed like a lot of
9 money from my perspective in terms of this
10 typology of money laundering that I didn't
11 understand to be a source of significant concern
12 at that time.

13 Q Okay. Did you have any discussion or make any
14 attempts to keep the report out of the public
15 domain or a discussion about whether the report
16 should be marked "privileged" or "draft" so it
17 wouldn't be released?

18 A No, I did not. I believed that I supported -- I
19 was asked and I supported BCLC releasing the
20 report and posting it on their website.

21 Q Thank you. Did you have any involvement in the
22 incident involving Mr. Alderson and the leak of
23 BCLC information and ultimately his departure
24 from the British Columbia Lottery Corporation?

25 A Indirect, I guess. But very broadly indirectly

1 I understood that following my delivery of
2 that letter that Mr. Lightbody in his role as
3 CEO sent a message to staff asking -- advising
4 them of the concern and of BCLC policy related
5 to document release and that at that point an
6 individual identified himself as releasing
7 government and Crown information to a reporter.
8 And I understood later that individual to be
9 Mr. Alderson.

10 And I understood then that BCLC was in
11 conversations about Mr. Alderson -- with
12 Mr. Alderson about his future with the
13 BC Lottery Corporation, and that was a source of
14 concern for me from a couple of different
15 perspectives. One, here's an individual who was
16 releasing government documentation
17 inappropriately. Confidential information.
18 Breaking the law. And -- but also here's an
19 individual whose information has led to public
20 scrutiny on what I understood to be a serious
21 issue and could be seen by people as a
22 whistleblower, and it wasn't clear to me about
23 what the appropriate resolution of that issue
24 should be.

25 So I asked Dr. German whether he would

1 consider evaluating what the best course forward
2 was in relation to this. But before Dr. German
3 was able to do that work I understand that
4 Mr. Alderson resigned from his employment.

5 Q Did you give any direction as to whether or not
6 Mr. Alderson should be terminated?

7 A I did not.

8 Q Okay. Did you at any point release to a
9 reporter internal BCLC or GPEB documents or
10 information?

11 A No, I did not.

12 Q I'd like to ask you a little bit about the
13 engagement of law enforcement on this issue.
14 The Commissioner has heard evidence of a
15 perceived difficulty on the part of GPEB and
16 BCLC, at least for a time, in engaging law
17 enforcement on the issue of suspicious cash in
18 casinos. Is that an issue that was drawn to
19 your attention?

20 A Yes, it was.

21 Q There's also been an expression of concern on
22 the part of some of a lack of law enforcement
23 capacity, law enforcement professional
24 engagement on the issue of money laundering and
25 proceeds of crime more generally, especially

1 after the disbanding of the IPOC units. Is that
2 a concern that's been drawn to your attention?

3 A Yes, it has.

4 Q Okay. What action have you taken as Attorney
5 General or are you aware that your government's
6 taken in response to these concerns to address
7 the perceived lack of engagement or insufficient
8 engagement on the part of law enforcement on
9 these issues?

10 A I have raised this issue as one of concern at
11 federal-provincial territorial meetings, which
12 is where attorneys general and ministers of
13 justice from across Canada come together to
14 discuss national issues. I have raised this
15 issue at a house of commons parliamentary
16 committee. I have raised this issue directly
17 with the federal Attorney General and the
18 Minister For Justice federally on multiple
19 occasions.

20 And most of my -- the vast majority of
21 these representations relate to the federal
22 government's really important role from my
23 perspective in helping provinces address this
24 issue with respect to policing because of the
25 international nature of many of the allegations

1 relating to money laundering in our province and
2 in other parts of Canada.

3 I had also been concerned about the
4 defunding of financial crime analysis groups,
5 specifically the very large financial crime
6 policing group in Ontario that was operating
7 nationally that was defunded before Christmas
8 2020. And I had expressed concern about the
9 capacity of the RCMP to be able to do this
10 national- and international-level policing work.

11 Q And have any of these efforts that you just told
12 the Commissioner about, at least to date,
13 yielded an increased engagement on the issue in
14 this province to your observation?

15 A We've had some success with the federal
16 government where they have amended parts of the
17 *Criminal Code* related to money laundering and
18 they have recently announced increased funding
19 for the types of policing that we are hoping
20 for. I've made representations to Minister Bill
21 Blair asking for those resources to come to and
22 focus on British Columbia, and I'm still hopeful
23 that they will.

24 And internally within the province there
25 have been -- a team within the public service,

1 integrating -- discussing how we integrate our
2 efforts with the private sector, with the police
3 around information-sharing registries that we
4 have in relation to property ownership, for
5 example, and other types of information. And we
6 had funded the JIGIT team and made a funding --
7 ongoing funding. So there are a number of
8 measures we've taken provincially as well.

9 Q Thank you. Are you aware of, aside from
10 E-Pirate, how many money laundering prosecutions
11 there have been in British Columbia since you've
12 been the Attorney General?

13 A I'm not aware of the -- in terms of prosecutions
14 of the scale of E-Pirate, I'm not aware of any.

15 Q I'm sure you're aware that the E-Pirate
16 prosecutions were ultimately aborted, and I
17 don't want to ask you or have you comment on the
18 issue of prosecutorial discretion, but aside
19 from that, have you taken any steps to ensure
20 any future prosecutions of this nature don't
21 suffer a similar fate?

22 A Because that was a federal prosecution, I have
23 limited and only third-hand information about
24 the reasons for that prosecution not moving
25 forward. Part of my discussions with my federal

1 counterparts have been around that they should
2 be very engaged on this question and addressing
3 why that federal prosecution was unsuccessful.

4 Q Thank you. Money laundering is an issue that
5 has certainly attracted attention in this
6 province, but it's obviously not an issue that
7 stops at the provincial borders. And I wonder
8 if you could comment for the Commissioner on the
9 extent to which you've been working with your
10 federal counterparts and your observations about
11 the level of federal engagement on this issue
12 during your time as Attorney General.

13 A It's been a mixed record of engagement, I would
14 say, in terms of our federal counterparts. I
15 have been really disappointed by the role of
16 FINTRAC in relation to money laundering in our
17 province in that the focus of the organization
18 from my perspective has been on compliance with
19 the FINTRAC regime rather than preventing and
20 disrupting and addressing money laundering. And
21 I don't blame FINTRAC for that. It's just a
22 mandate issue as far as I understand it, and
23 perhaps a resources issue as well.

24 But given that they are receiving all of
25 these reports, they are the agency best placed,

1 in my opinion, to be able to play a key role
2 here. And I don't understand that my concerns
3 about FINTRAC have been addressed by my federal
4 counterparts.

5 But to the plus side, we have seen the
6 federal ministers step up with additional
7 funding for policing on this issue, which I
8 think is very important and resources for
9 Revenue Canada, which, although I don't know,
10 I'm hopeful are being dedicated to addressing
11 this issue in British Columbia and using the
12 resources we're putting them for them around the
13 beneficial ownership registry of real estate,
14 for example.

15 So it's -- as I say, it's a mixed record.
16 I think there's opportunity for us to have more
17 success together, but we are seeing some
18 movement from the federal government. I imagine
19 the *Criminal Code* amendments is another example.

20 Sorry, Mr. McGowan, I can't hear you.

21 THE COMMISSIONER: I think you're muted, Mr. McGowan.

22 MR. MCGOWAN: Yes, thank you. I hit my space bar by
23 accident. I apologize.

24 Q Minister Blair announced in December creation of
25 a new AML policing unit in the province. You're

1 familiar with that, I gather.

2 A Yes, he had announced that there was new
3 national funding, and I had written to him to
4 ask how that funding would be distributed
5 because it was over a period of time and
6 obviously across the entire country. And I was
7 encouraging him to look to British Columbia as a
8 leader and a government that really wanted to
9 engage on this issue to locate the preponderance
10 of those resources in our province.

11 And he wrote back to me recently, actually
12 just after my discussion -- my preparation
13 interview with commission counsel where I
14 advised that I hadn't heard back from the
15 federal government. Following that I received a
16 response from Minister Blair in which he
17 indicated that there would be policing teams
18 funded in British Columbia and that there would
19 be national distribution of the funding,
20 although there were still details that were not
21 contained in the letter.

22 Q Yes. We'll come to that correspondence in just
23 a moment, Minister. I wonder whether you as the
24 Attorney General of this province had any
25 advanced notice about the creation of this

1 IMLIT, AML policing unit in British Columbia?

2 A So I'm not longer on the money laundering file,
3 the gambling file. This is within the Ministry
4 of Finance and Public Safety and Solicitor
5 General primarily, so it may be that those
6 ministries may have had advanced knowledge of
7 this or that it was a topic of discussion,
8 public service to public service, federal to
9 provincial, which often happens. But I'm not
10 aware of any advanced notice, no.

11 Q Okay. Do you know what the size of the unit is
12 intended to be in British Columbia?

13 A I do not.

14 MR. MCGOWAN: I wonder if we could bring up, please,
15 document PG0068.

16 THE WITNESS: Thank you, Mr. McGowan. That's in
17 front of me.

18 MR. MCGOWAN:

19 Q Thank you. This is your letter of January 29,
20 2019, to Minister Blair?

21 A Yes, it is my letter.

22 Q You start off by saying:

23 "Thank you for meeting with me in
24 Vancouver on January 22, 2019, to discuss
25 the need to improve the detection,

1 investigation and prosecution of money
2 laundering in British Columbia."

3 So [indiscernible] discussed with Minister Blair
4 on January 22nd?

5 A Yes.

6 Q In your discussions did Minister Blair
7 acknowledge that there was a need to improve the
8 detection, investigation and prosecution of
9 money laundering in British Columbia?

10 A Yes, he did.

11 Q Did he give you any indication or assurance that
12 the federal government would assist in this
13 regard or tell you how?

14 A Yes. My discussions with Minister Blair and
15 Minister Lametti have always been positive and
16 consistent that we all agree that there's a
17 serious issue and that they want to assist and
18 that they want both our levels of government to
19 do better in this respect of addressing money
20 laundering in the province. So the -- it was
21 consistent with those other discussions. The
22 challenge has always been how that
23 agreement that action needs to be taken
24 materializes in action on the ground.

25 Q Thank you. If we could turn to the second page,

1 please. Second paragraph of the second page.

2 A Yes.

3 Q You say in the second paragraph:

4 "I would also like to reiterate my request
5 for the 'secret police study.'"

6 I wonder if you could tell the Commissioner what
7 that study is, why you believe it existed and
8 whether you got a response to this request.

9 A There was a news report on Global that -- I'm
10 refreshed by my letter -- on November 26, 2018,
11 that alleged there was a federal data set
12 created of 1,200 luxury real estate purchases in
13 2016 that were analyzed and concluded that up to
14 \$1 billion in those transactions in the luxury
15 real estate sector alone were potentially
16 connected to money laundering or proceeds of
17 crime.

18 And so that was the -- if that information
19 existed, I thought it very important that the
20 province have it, that we use it and investigate
21 it. And so I had asked Minister Blair for that
22 data set so that it could be turned over to
23 investigators in the province.

24 Q And did you get a response?

25 A I -- to this particular piece of -- my letter, I

1 don't believe it was addressed by Minister Blair
2 in his response, but during our discussions I
3 was advised that the federal ministers had
4 looked into this data set and that it was a very
5 loose collection of data and it was not a report
6 and that it was not something that they felt --
7 or they had been briefed, I guess, that it could
8 be used in the way that I was suggesting. But
9 I've not ever seen what was actually prepared or
10 what it was.

11 Q Okay. In the next paragraph you reference an
12 apparent lack of resources or interest or both
13 on the part of law enforcement and federal
14 government agencies. Is that an issue you
15 raised with Minister Blair during your meeting
16 with him?

17 A That is something that I have raised at every
18 opportunity I've had with Minister Blair, the
19 need for ensuring RCMP have the resources to do
20 this work.

21 Q Did Minister Blair agree with your assessment
22 that there was a lack of interest or resources
23 on the part of law enforcement or federal
24 government agencies on the issue of money
25 laundering?

1 A I don't recall what he attributed the issue to,
2 but he definitely was in agreement with me that
3 there was an opportunity for improving and
4 increasing police investigations in relation to
5 money laundering through additional resources.

6 Q On page 3 of your letter you make a number of
7 proposals, the first of which is the
8 "establishment of a dedicated agency or body to
9 take on money laundering and organized crime
10 investigations and prosecutions in British
11 Columbia across jurisdictional lines."

12 Does the announcement of the new AML unit
13 in British Columbia to your mind satisfy the
14 suggestion or request you're making here?

15 A It could potentially, I guess. It all really
16 comes down to implementation with these things.
17 I am no longer the minister responsible, so I
18 don't know all the details of what is being
19 discussed, but it could potentially fulfill this
20 goal.

21 Q Okay. Have you as Attorney General urged
22 your -- the Solicitor General of the province to
23 encourage law enforcement to prioritize
24 investigations of proceeds of crime and money
25 laundering offences?

1 A I have spoken about this issue at many different
2 meetings, publicly and privately, and I know the
3 Solicitor General shares my concern about this
4 issue. I don't believe that I've ever gone so
5 far as to suggest that he direct the police. I
6 think all of us as politicians are extremely
7 reluctant to direct police to do anything in
8 terms of a specific area of responsibility to
9 maintain the independence of police. So -- but
10 I do know that I discussed this issue with him
11 on many occasions.

12 MR. MCGOWAN: Thank you. Mr. Commissioner, if
13 Mr. Eby's letter could be the next exhibit,
14 please.

15 THE COMMISSIONER: Very well. That will be 912.

16 THE REGISTRAR: Exhibit 912.

17 **EXHIBIT 912: Letter from David Eby to Bill**
18 **Blair - January 29, 2019**

19 MR. MCGOWAN: If we could please pull up CAN1786.
20 Pardon me. That's already an exhibit. I
21 believe it's 849.

22 Mr. Commissioner, I believe this is exhibit
23 849 that is displayed.

24 Q Mr. Eby, this is the letter you referred to
25 having recently received from Minister Blair?

1 A Yes.

2 Q In the second paragraph the minister sets out:

3 "The RCMP will receive funding of
4 \$98 million over five years ... to
5 modernize its investigative [capacity], in
6 order to better address the most serious
7 threats to the safety of Canadians. This
8 includes the creation of new IMLITs in
9 four provinces, including British
10 Columbia, which will allow the RCMP to
11 keep pace with the current investigative
12 volume, and to swiftly and effectively
13 respond to future money-laundering
14 threats."

15 I wanted to ask you, first of all, this
16 \$98 million that he references, do you know
17 whether this is new money over and above that
18 announced in the 2019 budget, or is this just a
19 repackaging of that same funding?

20 A It was my understanding this was new money.

21 Q And does that continue to be your understanding?

22 A I don't know. As I say, it's not my file
23 anymore. I did not follow up to see the origin
24 of this particular \$98 million.

25 MR. MCGOWAN: Thank you. The bottom paragraph of

1 that page, if we could scroll down, Madam
2 Registrar.

3 Q It says:

4 "The RCMP anticipates that all IMLIT
5 positions will be staffed by March 2021.
6 Of interest, there are currently five new
7 positions that have been created to
8 support this important work in British
9 Columbia, which are at various stages of
10 staffing. Two of these positions will be
11 assigned to the Counter Illicit Finance
12 initiative, while the remaining three will
13 work within the Federal [Policing] Money
14 Laundering teams."

15 And I'll ask you first of all whether you know
16 if the five positions have been staffed by now.
17 It's now being past March 2021.

18 A I do not know.

19 Q Okay. Do you have a view on whether the
20 addition of five positions in British Columbia,
21 two of which will be doing counter illicit
22 finance and the other three on money laundering
23 is a sufficient response and sufficiently
24 increases capacity such that the province will
25 be in a position to adequately address concerns

1 about money laundering?

2 A I was really glad to see the federal government
3 funding dedicated positions to address money
4 laundering after many representations to them.
5 So at this point I was glad to see them showing
6 up in this way. And I don't know enough about
7 what this team will be doing, what resources
8 they'll be able to leverage and so on to do that
9 work to know whether that's sufficient.

10 On its face I would say five police
11 officers is not, but I don't know who they'll be
12 working with, how they'll be working with those
13 agencies or other police officers, so I don't
14 feel that I'm in a position to be able to say
15 whether that's enough or not.

16 Q Thank you. I understand that the Province of
17 Manitoba has been doing some work on and will be
18 introducing legislation [indiscernible] an
19 unexplained wealth order regime. Have you --
20 are you familiar with this and have you liaised
21 at all with your counterparts in Manitoba about
22 the work they're doing on this issue?

23 A I have not. But the Ministry of Finance would
24 be the ministry doing the policy work in
25 relation to any unexplained wealth order work in

1 British Columbia. And I don't know whether or
2 not they've reached out to Manitoba or the
3 United Kingdom or other places that have these
4 types of orders.

5 Q Thank you. I understand that during the
6 election campaign back in 2017 your party
7 suggested that it would establish a multiagency
8 task force to fight tax fraud and money
9 laundering in the BC real estate marketplace.
10 And I believe you had some engagement on this
11 issue at least during the campaign. Are you
12 able to tell the Commissioner whether you have
13 or your government has established this task
14 force?

15 A So what we've done since being elected on this
16 particular issue is to create the resources
17 available to existing agencies to be able to do
18 this work and negotiate new information sharing
19 agreements to be able to do this work, so we
20 have a beneficial ownership registry for real
21 estate. We are requiring corporations in the
22 province and the federal government has
23 corresponding requirements around beneficial
24 ownership of companies that operate within
25 British Columbia.

1 And we have information-sharing agreements
2 that are new and negotiated with Canada Revenue
3 Agency in order to be able to assist these
4 agencies in working together to address money
5 laundering in these different sectors or the use
6 of corporate vehicles to be able to achieve
7 those goals. And the work is ongoing in terms
8 of information-sharing teams at the provincial
9 level.

10 And there is a team within the public
11 service responsible for implementing the German
12 recommendations as well as the Maloney
13 recommendations -- pardon me, not
14 [indiscernible]. And they are continuing their
15 work to do that. There were a number of
16 recommendations about how we achieve those
17 goals.

18 When you're on a campaign, the commitment
19 to my mind represents a commitment to address
20 the issue /and in terms of what this agency
21 looks like, whether it's existing agencies with
22 new tools and new resources or whether it's some
23 separate type of structure, is developed in
24 partnership with the public service and
25 engagement with stakeholders. And that is what

1 I understand to be happening.

2 Q Okay. So do I take from that that there's not a
3 task force dedicated to fighting tax fraud and
4 money laundering in the real estate market?

5 A That wouldn't be correct, no. Within the
6 Ministry of Finance and within Revenue Canada,
7 to the best of my knowledge they have additional
8 resources, including tools to fight money
9 laundering in real estate in the province.

10 Q Is your government to your knowledge still
11 contemplating creating a specific task force
12 dedicated to that issue?

13 A The discussions, I believe, are focused on
14 policing and policing overlapping with the
15 private sector, including the banking sector.
16 But the public service would be best placed to
17 advise on where we are in terms of where we are
18 on progress on that.

19 MR. MCGOWAN: Thank you, sir.

20 Mr. Commissioner I'm going to suggest that
21 we take the morning adjournment. I am either --
22 I'm very close to or at the conclusion of my
23 questions.

24 THE COMMISSIONER: All right. Thank you,
25 Mr. McGowan. We'll take 15 minutes.

1 THE REGISTRAR: This hearing is adjourned for a
2 15-minute recess until 11:40 a.m.

3 **(WITNESS STOOD DOWN)**

4 **(PROCEEDINGS ADJOURNED AT 11:25 A.M.)**

5 **(PROCEEDINGS RECONVENED AT 11:39 A.M.)**

6 **DAVID EBY, a witness for**
7 **the commission,**
8 **recalled.**

9 THE REGISTRAR: Thank you for waiting. The hearing
10 is resumed. Mr. Commissioner.

11 THE COMMISSIONER: Thank you, Madam Registrar.

12 Yes, Mr. McGowan.

13 MR. MCGOWAN: Yes, Mr. Commissioner. I have reached
14 the conclusion of my questions.

15 And, Minister Eby, thank you for answering
16 my questions.

17 Mr. Commissioner, we've ascertained that the
18 issue of my voice being drowned out was that the
19 microphone at Minister Eby's end is quite
20 sensitive and is picking up his flipping of
21 documents. It may be an issue of the microphone
22 being too good. So what I'm going to suggest
23 when participants are asking questions that when
24 they take him to a document, if they just allow
25 him to get there before speaking so that they're

1 not being drowned out by the document flipping.

2 THE COMMISSIONER: All right. Thank you. That seems
3 like a good strategy. All right. I'll call on
4 Mr. Usher on behalf of the Societies of Notaries
5 Public, who has been allocated five minutes.

6 MR. USHER: Thank you, Mr. Commissioner. Having
7 heard the testimony of the witnesses -- the
8 witness, rather, I have no questions today.

9 THE COMMISSIONER: Thank you, Mr. Usher.

10 Now Mr. Smart on behalf of the BC Lottery
11 Corporation, who has been allocated 25 minutes.

12 MR. SMART: Thank you. Mr. Commissioner, I would
13 like to start by referring Minister Eby to the
14 interview he had about the E&Y report. And I
15 thought we had given notice and we haven't.

16 It is BCLC document 4026. I would have --
17 it's in a binder of materials I had, and I
18 simply thought it had been given notice. I
19 wonder if it could be put on the screen and
20 Minister Eby can decide whether or not -- with
21 Ms. Hughes' assistance, whether or not it would
22 be unfair to ask him.

23 I appreciate I have to seek leave from you.
24 What I want to do is read from him some comments
25 that he made about the E&Y report that are quite

1 positive to BCLC and ask him if he adopts them
2 as accurate today. And what I want to read is
3 from the -- right below Mr. Coopers' name is
4 Mr. McComb -- read that and then read the next
5 three or four paragraphs to him.

6 So I'm seeking leave to do that, and I'm
7 inviting Ms. Hughes or others to object, because
8 of the lack of notice, if they feel that is
9 unfair.

10 THE COMMISSIONER: All right. Ms. Hughes, do you
11 need some time to consult with your client over
12 this?

13 MS. HUGHES: Mr. Commissioner, I would appreciate --
14 perhaps Mr. Smart can ask the minister whether
15 he recalls giving the interview at this point in
16 time. If he does not, then perhaps it might be
17 prudent to give him an opportunity to review the
18 transcript in full prior to him being asked
19 questions about any particular part of it.

20 THE COMMISSIONER: All right.

21 **EXAMINATION BY MR. SMART:**

22 Q Minister Eby, do you recall this interview and
23 your comments about -- were really complimentary
24 about BCLC conducting this E&Y report?

25 A Well, I recall the interview broadly, Mr. Smart.

1 I don't recall the things I said in it. But in
2 terms of the principle, and I can read it on the
3 screen from where I'm sitting that BCLC was
4 doing what they're supposed to do, which is get
5 an allegation, investigate it and determine
6 whether it's a model of money laundering taking
7 place in the casinos. That's certainly by
8 expectation of what they would do as minister
9 responsible.

10 Q And so by doing this report they were doing the
11 due diligence that you thought was appropriate
12 for them to carry out?

13 A Yes, that was my expectation is if they got an
14 allegation, they would look into it. I was
15 surprised by using a third-party business firm
16 to do it, but I definitely would expect them to
17 do that, yes.

18 Q And in fact by doing it they're making sure that
19 there's a problem in this type of typology that
20 the -- if there is one and it's existing, that
21 they addressed it?

22 A That absolutely be my expectation as minister is
23 if they identified a typology of money
24 laundering or there was a credible allegation of
25 a typology of money laundering that they would

1 look into it and either discredit it or that
2 they would find there was some basis for it and
3 they would address it.

4 Q And in this case they essentially discredited
5 it, didn't they?

6 A That's what the E&Y report found. That's
7 correct.

8 MR. SMART: Yes. And do you -- we can take that off
9 the screen, then, Mr. Commissioner. We'll leave
10 it at that. Thank you.

11 Q You agree that public confidence in the
12 integrity of gaming is important and so having a
13 third party like E&Y do this kind of analysis is
14 beneficial to helping maintain public confidence
15 or trying to enhance public confidence in the
16 integrity of gaming?

17 A Absolutely. Like the MNP report looking into
18 the issues at the River Rock Casino, I do
19 understand that third-party reports are used
20 where the Crown feels there's a need or the
21 regulator feels there's a need for an
22 independent perspective. Absolutely.

23 Q Thank you. I'm going to turn to -- it's
24 actually a -- maybe a GPEB document, but it's
25 marked as PG0472. I don't know -- I've got a

1 binder of documents, Minister Eby, and I don't
2 know if you have the same --

3 A I believe, Mr. Smart, I have it in front of me.
4 It's titled "Internal Memo."

5 Q Yes.

6 A Yes.

7 Q So you'll see that this is a GPEB internal memo
8 of February 2016. And it states that:

9 "This report is a follow-up to our
10 previous analysis of cash buy-ins
11 conducted at River Rock Casino cages in
12 the first half of 2015."

13 And the first bullet it says:

14 "Total cash buy-ins conducted at the cages
15 for the period July 1, 2015 - December 31,
16 2015, were [\$102 million]. This
17 represents a decline of 27% from the
18 previous six month period."

19 And you'll see down at the bottom of the page --
20 if we just scroll up, Madam Registrar, thank
21 you -- they actually break down the bills over
22 this six-month period. And you'll see that the
23 number of \$20 bills has dropped by 37 percent.

24 And then over the page, the Gaming Policy
25 Enforcement Branch has prepared a graph that

1 shows the monthly breakdown of cash buy-ins
2 conducted at cages at River Rock. And you'll
3 see in July there's \$38 million. It drops in
4 August to 21 million, to -- September to
5 14 million, October to 11 million, November to
6 10 million and December to \$6.6 million.

7 That obviously was a very significant drop
8 in cash buy-ins, wasn't it?

9 A I'm not familiar with this document, Mr. Smart.
10 I'm looking at the date, and it looks like it
11 was prepared before I became minister
12 responsible. As someone just reading this chart
13 it looks, yes, like a decline in monthly
14 breakdown of cash buy-ins conducted at cages for
15 the period July to December of 38 million to
16 6 million. That's what it shows.

17 Q Were you aware of that significant drop over
18 that period of time? Did you become aware of it
19 when you became the minister, for example?

20 A What I became aware of was the significance
21 of -- I seem to recall July of 2015 as being a
22 very significant peak of this kind of activity.
23 I was not aware of the -- this particular chart
24 or this document at all.

25 Q And July was significant of 2015 because the

1 RCMP investigation was ongoing, E-Pirate, and
2 information was provided to BCLC and others
3 about people that -- that Mr. Jin was now
4 connected to organized crime and cash that was
5 being brought to casinos and provided to
6 high-volume patrons. They now had much stronger
7 evidence that in fact it was the proceeds of
8 crime. You're aware of that?

9 A Yes. Thanks. Your question refreshes me that
10 that that was a key date for E-Pirate.

11 Q Yes. And so this -- and I'll just take you over
12 to another document about a year and a half
13 later. And this would be -- that can be taken
14 off the screen, please. And PG0539. You'll see
15 that is --

16 A I have that in front of me. It's also entitled
17 "Internal Memo."

18 Q Yes. Again, this is the Gaming Policy
19 Enforcement Branch. It's another review. And
20 maybe the best way to capture what is seen in
21 the review is to ask you to turn to page 8 of 8.

22 THE REGISTRAR: Sorry, Mr. Smart. I only have four
23 pages on this document.

24 MR. SMART: Oh, do you? Okay.

25 THE WITNESS: I have eight pages.

1 MR. SMART: All right.

2 MR. LEUNG: Madam Registrar, if I can assist, the
3 document is PG0539.

4 THE REGISTRAR: Yes, this is the one I have, PG0 ...

5 MR. SMART: Well, you and I are the only ones that
6 are going to have it, Minister Eby, so it's not
7 going to be --

8 THE REGISTRAR: Sorry. Just give me one second.

9 MR. SMART: That's all right.

10 THE REGISTRAR: I think I opened the wrong one. I'm
11 very sorry. I've been provided with this one
12 that is the wrong --

13 MR. SMART: Madam Registrar, let's just go back to
14 the first page and I'll just read what the
15 conclusion is. Thank you.

16 It's the wrong one, though. It's the --
17 yeah. There.

18 THE REGISTRAR: Yeah. Sorry. This is 472. This is
19 what I have only. Can you email me quickly?

20 THE COMMISSIONER: Mr. Smart, I'm wondering if
21 Mr. Leung could email Madam Registrar the
22 document.

23 MR. SMART: He just sent it, Mr. Commissioner. Thank
24 you.

25 THE COMMISSIONER: Thank you.

1 MR. SMART: Thank you. Let me just read the first
2 page, Madam Registrar, first.

3 Under "Review Results" you'll see what the
4 author found was that:

5 "The BCLC unsourced cash directive had a
6 significant impact in reducing the amount
7 of cash buy-ins with \$20s, particularly at
8 River Rock Casino.

9 - Cash buy-ins with \$20s decreased by
10 53% in 2016 compared to 2015 at River
11 Rock. The decrease notably started
12 around directive issuance, in the
13 second fiscal quarter of 2015"

14 And then down below:

15 "- For the two quarters before the
16 directive, cash buy-ins at River Rock
17 with \$20s ranged from \$37 to
18 \$47 million. For the six quarters
19 post directive, cash buy-ins with \$20s
20 at River Rock ranged between \$13
21 [million] and \$14 million each
22 quarter."

23 And over the next page under the conclusion, it
24 says:

25 "Although fluctuations in the amount of

1 money coming into casinos (cash and new
2 money deposits to PGF accounts) may partly
3 be attributed to changes in player
4 behaviour, frequency and duration of
5 visits; the most material procedural
6 change over the past two years was the
7 BCLC unsourced cash directive. The
8 results of our analysis showed that the
9 directive resulted in a significant
10 reduction in cash buy-ins with \$20s which
11 correlated with an increase in new money
12 deposits to PGF accounts."

13 MR. SMART: So I'll just -- sorry, having got the
14 document. I think for time reason I'm going to
15 leave it at that.

16 Just take it off the screen, please, Madam
17 Registrar.

18 Q Did you become aware of those -- of that
19 information, that significant drop in the money
20 coming into casinos after the BC unsourced cash
21 directive? Did you become aware of that either
22 when you were the critic or after you became the
23 minister?

24 A The metric that we were using was not \$20 bills
25 that I predominantly was briefed on. It was

1 suspicious cash transactions and large cash
2 transactions, but I was aware of this broad
3 trend that following that peak in 2017 there had
4 been a decline in large and suspicious cash
5 transactions. So it's not inconsistent with
6 what I knew, but I don't recall focusing on
7 specifically the issue of \$20 bill or this
8 document.

9 Q Wasn't the peak in 2015 July --

10 A Pardon me. I misspoke. 2015. That's right.
11 We talked about that.

12 Q And I just want to put in perspective this, is
13 that you're aware that there was a report done
14 by the government commissioned by the government
15 in 2011, authored by Mr. Kroeker, and he made
16 certain recommendations?

17 A I am aware of that now, but no, I was not aware
18 of that at the time.

19 Q And one of his recommendations was BCLC is
20 primarily a reporting entity, and it needs to
21 report suspicious cash transactions but leave it
22 to law enforcement and regulatory authorities to
23 determine the source of those funds. Were you
24 aware that that was what the -- Mr. Kroeker was
25 suggesting or recommending BCLC do?

1 A It was well before my time as minister. I was
2 not aware of that at the time.

3 Q And were you aware that following that report
4 BCLC sent its Suspicious Transaction Reports to
5 not only FINTRAC but to law enforcement? Were
6 you aware of that?

7 A All of this predated my time as minister. I'm
8 glad to hear it, though.

9 Q Yes. And in fact they not only sent it to law
10 enforcement, they actively -- I think you do
11 know this. They -- or were told this. They
12 actively tried to engage law enforcement to
13 investigate the source of this suspicious cash.
14 They attempted, first of all, with CFSEU, the
15 Combined Forces Special Enforcement Unit. In
16 2014 they had them -- they gave them a tour of
17 River Rock, they met with them, they sent them
18 the reports and ultimately were told, we just
19 don't have the resources.

20 So they turned to the unit, the Federal
21 Serious Organized Crime unit in 2015, arranged a
22 meeting and were able to get traction with them
23 and engage them to start the E-Pirate
24 investigation. Were you aware of that?

25 A I think a lot of this was contained or at least

1 it was the thrust of my briefing received in
2 October from a BC Lottery Corporation. So yeah,
3 although all these specifics, Mr. Smart, I don't
4 recall after all this time. I'm sure that was
5 covered in the briefing because it's very
6 consistent with what was presented to me at that
7 briefing.

8 Q Yes. And as a result of E-Pirate, the RCMP were
9 able to give to the BCLC information about
10 this -- the source of these funds, and they
11 started putting the VIPs, the persons who were
12 bringing these large cash transactions, large
13 amounts of cash into casinos, they started
14 putting them on conditions that they had to
15 demonstrate the source of those funds before
16 they were allowed to gamble with the funds.
17 Were you aware of that?

18 A I was aware of two key streams of BCLC responds
19 to the issue. One was emphasizing the
20 importance of the player gaming accounts.

21 Q Yes.

22 A And discouraging players from using cash and
23 moving them to those player accounts. And the
24 other was putting players on a banned list or on
25 restrictions. So I was I was aware of both

1 those streams of effort by BCLC.

2 Q So they weren't -- my point, I guess, Minister
3 Eby, is BCLC was not indifferent to the cash
4 that was coming in the door. They were -- or
5 coming to the cash cages. They were trying to
6 engage law enforcement, as Mr. Kroeker had
7 suggested they do, and once they got that
8 information, thinks changed dramatically in
9 terms of the amount of cash that was permitted
10 to come into casinos. Do you agree with that?

11 A Well, I disagree with the chronology that you're
12 using here, so I think you're using a letter
13 that I wrote when I was critic. And my concern
14 about public interviews -- specifically the Brad
15 Desmarais interview in which he did appear quite
16 indifferent of the issue of cash. I'm glad to
17 know that that wasn't actually the case behind
18 the scenes.

19 Q Yes.

20 A But I was not aware of that until my briefing by
21 the Gaming Policy Enforcement Branch after I was
22 sworn in as minister.

23 MR. SMART: So let me take you to one more document.

24 It's exhibit 482, Madam Registrar.

25 Q And it's an affidavit from an anti-money

1 launders business intelligence analyst with
2 BCLC.

3 A I have that in front of me, Mr. Smart.

4 Q Thank you. I'll take you to page 3, please, of
5 the actual document.

6 THE REGISTRAR: Sorry, Mr. Smart, page 3 of the ...

7 MR. SMART: It's actually page 524. I'm sorry.

8 THE REGISTRAR: Okay.

9 MR. SMART:

10 Q You'll see that beginning in 2014 there was one
11 person put on -- I'm sorry. Let me just read
12 this in context:

13 "From 2014 to 2015, the players that were
14 placed on sourced-cash conditions --"

15 And you understood these are players, no matter
16 how wealthy they are, no matter whether they win
17 or lose were required to demonstrate the source
18 of cash that they were brings to a casino? Do
19 you understand that to be the criteria, Minister
20 Eby?

21 A Yes, I do understand that that was the -- that
22 that's the term used to describe that.

23 Q Yes. So:

24 "From 2014 to 2015, the players that were
25 placed on sourced-cash conditions

1 represent the highest volume players at
2 the time. Subsequent years focused on
3 moderate to high players and then moderate
4 players and by the end of 2019 a total of
5 599 players had conditions placed on
6 them."

7 So this graph demonstrates that in 2015 there
8 was 42 of the highest volume players on cash
9 conditions, 2016 there was another 61, and then
10 2017, 107. And under your watch there was an
11 increasing number that were placed on
12 sourced-cash conditions.

13 That accords with your understanding of the
14 efforts made to deal with -- potentially with
15 money laundering occurring in casinos?

16 A So I'll take your advice about the nature of who
17 was banned before I became minister.

18 Q Yes.

19 A But otherwise yes. And I'll note only that we
20 placed everybody who brought it more than
21 \$10,000 sourced cash following the directive in
22 2017.

23 Q Yes. And if you go to -- I think it's probably
24 page 15 of the PDF. It's got page 13 at the
25 top. You'll see that -- and there's a caption

1 to the right. One is:

2 "Condition players were encouraged to
3 utilize PGF accounts, resulting in less
4 cash transactions, which led to fewer
5 STRs."

6 So we can see that in terms of the time period,
7 that's -- it's sort of in the 2015 period of
8 time, and then it's significantly dropping. We
9 can see that, can't we, down to -- really to the
10 June -- January to June 2018 period when you
11 instituted -- required cash -- certain
12 conditions to be placed on who was buying in.

13 But my point is that even prior to you
14 becoming the minister, there was a dramatic drop
15 in the STR count comparison at River Rock. Do
16 you agree with that?

17 A I do. And I want to -- in the sort of -- in my
18 understanding here reflect on a couple pieces.
19 One is that yes, this chart does show that, and
20 the other is the importance of the -- a number
21 of different measures, including large cash
22 transactions as being one measure and Suspicious
23 Transaction Reports being another. And I agree
24 with you that that's what this graph shows in
25 relation to Suspicious Transaction Reports.

1 Q Yes. And if you go over to the next page,
2 you'll see this one deals with the Suspicious
3 Transaction Reports value. And again, we can
4 see a very significant drop in the time period
5 predating you becoming the minister and then it
6 increase -- continues to increase after you
7 became the minister. Do you agree with that?

8 A I do agree with that, yes.

9 Q My point is only this is BCLC were taking steps
10 to try to deal with the large suspicious cash
11 transactions and those steps were having
12 positive results. Do you agree?

13 A I do, yes.

14 Q But you wanted more done and you bought in
15 further measures, and those -- that occurred;
16 correct?

17 A Yes. These charts show that. Yes.

18 Q Yes. You've given evidence about the first
19 briefing you --

20 MR. SMART: And we can just take that off the screen
21 now, thank you, Madam Registrar.

22 Q You've given evidence about the first briefing
23 that you had from BCLC after you became the
24 minister, and we've got the PowerPoint. There
25 wasn't much discussion about suspicious cash

1 transactions. But you were aware of large cash
2 transactions because in your letter to Minister
3 Anton you had raised that very subject.

4 So I guess my question is was -- these
5 suspicious cash transactions that you were
6 concerned about in 2014, did you raise that
7 subject with BCLC at your first briefing, do you
8 recall?

9 A No. I raised it with them during my extensive
10 briefing at the River Rock Casino when I was
11 opposition critic, and I had the opportunity to
12 ask a large number of questions about those
13 large cash transactions. I'm using the "term
14 large cash transactions."

15 Q Yes.

16 A And -- because I was suspicion of them. And I
17 was presented in detail information from BCLC
18 about how it could not be money laundering. In
19 fact there were a number of safeguards to
20 prevent that from being money laundering.

21 Q But three years later when you became the
22 minister, did you ask questions of BCLC about --
23 you know, I expect you've heard media reports
24 about large suspicious cash transactions. Did
25 you ask them questions about what they were

1 doing to deal with that problem?

2 A No. They presented a slide that indicated BCLC
3 had a leading anti-money laundering program,
4 that there was a joint integrated policing team
5 tasked with policing and I accepted the
6 explanations that I'd been given previously
7 combined with that information that there was no
8 issue here.

9 Q Well, and you've taken further measures, but
10 they may well have been right at that point in
11 time in comparison to the casino industry across
12 Canada and North America. Do you agree?

13 A No, I don't. I think there was a very serious
14 issue of people bringing the proceeds of crime
15 into BC casinos and using those proceeds to
16 gamble with, which I believe is unacceptable.

17 Q Yeah, but there had already been -- we saw from
18 those graphs a very significant reduction in the
19 Suspicious Transaction Reports and the -- not
20 only the volume, but the total cash that was
21 coming in. There had already been a very
22 significant reduction, hadn't there been?

23 A Yeah, I don't dispute that. Those were positive
24 steps in the right direction. I was also
25 briefed by the regulator that they believed the

1 activity was continuing and that insufficient
2 steps had been taken to address it. I found
3 that credible and I acted on that.

4 Q Did you have -- you understood there was tension
5 between the regulator and BCLC?

6 A I understood that from the regulator, yes, and
7 then ultimately from the BC Lottery Corporation.

8 Q Did you ask the regulator during this period of
9 time, 2012, 2013, 2014, 2015, leading up to
10 E-Pirate what steps the regulator had taken to
11 try to deal with the large suspicious cash
12 transactions?

13 A That was the focus, as I understood it, of the
14 briefing, was their frustration that they had a
15 number of policy recommendations that weren't
16 being taken seriously and weren't being acted
17 on. They were also concerned that they didn't
18 have access, direct access to the minister, and
19 I encouraged them to be in direct contact with
20 my office to be able to do that.

21 And so it was kind of -- the thrust of the
22 presentation I received from the regulator was
23 their feeling that they didn't have opportunity
24 to really bring forward these issues.

25 Q Did you get a sense that they might have been

1 embarrassed that it was BCLC that was able to
2 engage law enforcement in 2015 to conduct that
3 investigation?

4 A That wasn't a topic that we covered in the
5 presentation, no, and it predated my time as
6 minister.

7 Q Did you ask them why they didn't go to casinos
8 and question patrons to determine the source of
9 funds themselves?

10 A It was my impression and it may have been a
11 mistaken impression was that they had done
12 exactly that and that's why they were concerned.
13 They had a third-party business firm report
14 similar to the E&Y report done by a firm called
15 MNP that seemed to indicate there was a
16 significant issue.

17 Q So you understood from them that they were
18 actually going to casinos and conducting
19 interviews of patrons?

20 A Not the specifics of that, Mr. Smart, but that
21 they were engaged in the issue in terms of they
22 were talking about specific incidences and they
23 had videotape of incidents and it seemed like
24 they were actively investigating and collecting
25 information about this. I didn't know the

1 specifics of what they were doing around their
2 due diligence. I'll take your advice if they
3 weren't interviewing patrons, but somebody was.
4 I was briefed on that.

5 Q And I understand -- we've heard evidence that
6 GPEB is now going to be doing that, and that may
7 have been under -- with your guidance actually
8 going to casinos, when they open again, and
9 being there during business hours and
10 interviewing patron and potentially even seizing
11 proceeds -- seizing cash if there's a proper
12 legal basis to believe it's proceeds.

13 That's all steps that you've taken with
14 GPEB, directed GPEB to do since you've become
15 the minister?

16 A There -- I can't take credit for that.
17 Dr. German made a number of recommendations.
18 One of the key ones that GPEB not maintain just
19 business hours, that they be there at peak
20 gambling activity moments to be able to
21 intervene and assist service providers in cases
22 of suspicious or large cash transactions. As
23 far as being able to seize or actively intervene
24 in different ways, I think that's probably
25 likely that came after my time as minister.

1 Q I mean, gaming is an important source of revenue
2 for government, isn't it?

3 A Yes, it is.

4 Q Yes. And it was expanded many years ago because
5 of the potential social benefits that come from
6 revenue from gaming and the jobs it creates?

7 A I think that's true.

8 Q Yeah. And -- but there's social harm. I'm
9 using that expression. People become addicted
10 to gambling, they spend money that they can't
11 afford, crime can be involved. That's the
12 social harm that comes from the expansion of
13 gaming that's happened in this province and
14 across the country?

15 A It can be an effect of any of these industries
16 that are highly regulated, including alcohol.
17 And gaming, yes.

18 MR. SMART: Yes. Mr. Commissioner, Mr. McGowan's
19 reminding me on my time. Maybe another five
20 minutes, if I may?

21 THE COMMISSIONER: Yes, that's fine, Mr. Smart. I
22 think there was a bit of a gap in your ...

23 MR. SMART: Yes.

24 Q The challenge for any government in power is to
25 try and find the right balance between the

1 social benefits and the potential social harm,
2 isn't it?

3 A I think that is broadly correct.

4 Q Yes. And gaming was a cash business up to 2009.
5 That's all you could gamble with, and people
6 that came to casinos or other gaming
7 establishments, that's what they were used to
8 using. You understand that?

9 A I'll take your advice on that. I don't know the
10 exact history, but the debate about whether
11 people should be gambling only with cash or
12 exclusively with credit cards or other forms of
13 traceable currency is a very live one in the
14 United Kingdom. I understand they might be
15 headed in the other direction. But yes, it's an
16 issue.

17 Q Well, we've heard some evidence that there's
18 discussions with government and BCLC about
19 trying to move to an entirely cashless process
20 for gaming and know your customer and so that's
21 a -- in over a dozen years or so, that's a
22 pretty profound change, isn't it?

23 A Yes, it is. Yes.

24 Q And change often takes time.

25 A Are you asking me to -- I guess so. Yes,

1 Mr. Smart. Sure. Absolutely. Especially when
2 government's involved. That's true.

3 Q Well, and hindsight's always 20/20. It
4 usually --

5 A Well, I didn't -- Mr. Smart, with respect, I
6 didn't need hindsight with respect to the
7 proceeds of crime allegedly coming into BC
8 casinos to judge that that was a problem.

9 Q Well, do you know the executive director of GPEB
10 had told -- that in his period of time when
11 these large cash transactions were occurring in
12 2013, 2014, he couldn't prove that it was the
13 proceeds of crime, any particular transaction.
14 He couldn't even prove on a balance of
15 probabilities that it was the proceeds of crime
16 and that's why it was important to get law
17 enforcement engaged.

18 A I can't speak to his evidence, but when I saw
19 that video it seemed quite clear to me that
20 there was a problem.

21 Q Well, certainly nobody doubted there was
22 suspicious cash, but the problem was getting law
23 enforcement -- and you've spoken about that, the
24 suspicious of that. And law enforcement has
25 other priorities. But it was that what's been

1 called a pivotal moment, a crystallizing moment
2 in 2015, when law enforcement was able to tell
3 government and BCLC and GPEB organized crime is
4 behind this cash coming in the door.

5 That was -- so that was a statement from me
6 and not a question to you. Let me back up and
7 ask you this: I just want to ask you this. You
8 gave an interview the day before the opening
9 statements were to be made at this public
10 inquiry, and in the course of that you made a
11 statement essentially that the government was at
12 best wilfully blind and at worst essentially
13 knew that proceeds of crime was coming into
14 casinos. Do you recall telling that to a
15 journalist or a reporter?

16 A I don't recall that particular incident, but I
17 do feel that the government was insufficiently
18 sensitive to the fact that organized crime was
19 arranging to bring bulk bundled cash into BC
20 casinos for a period of years. Yes. I've said
21 that many times.

22 Q And have you seen the particular interview I'm
23 referring to?

24 A Well, I mean, if I participated in it, the short
25 answer is yes. I don't think there was a

1 distinction between what I said and what your
2 recollection is of it. You can take me to it,
3 if you want.

4 Q Yes, I would. I'd like to take you to --
5 please, to -- it's not a document. I've given
6 notice to it. It's an interview February 23rd,
7 2020. It's a CBC heading to it.

8 MR. SMART: Madam Registrar, if you could pull that
9 up for us.

10 Q And this is -- this was picked up from a
11 Canadian Press interview that you conducted, it
12 looks like the day before the opening. Just
13 scroll down the first page, please. You'll see:

14 "British Columbia's attorney general hopes
15 an inquiry into money laundering will
16 answer lingering questions about how the
17 criminal activity flourished in the
18 province and identify those who allowed it
19 to happen. "

20 Do you recall giving that interview to a
21 reporter with Canadian Press?

22 A I'm sure I did, Mr. Smart. I don't recall that
23 specific interview.

24 Q I want to take you --

25 A [Indiscernible].

1 Q -- to the third page, please. There's a --

2 A Yes.

3 Q Just under -- just down a bit further -- I'm
4 sorry. Back up the page. It's the heading --
5 "Eby argued" is the paragraph I want to direct
6 you to.

7 A Oh, yes, yes, I see that Mr. Smart. Yeah.

8 Under the photo.

9 Q There we go. Thank you.

10 "Eby argued that most B.C. residents
11 already know the previous government, at
12 best, turned a blind eye, and at worst,
13 recognized dirty money was generating
14 revenue, dismantled a police unit
15 responsible for the problem and increased
16 betting limits."

17 Do you agree that that summarizes what you told
18 the reporter?

19 A Yes, it does.

20 Q Yeah. Why would you make -- this public
21 inquiry, as you know, was to inquire into the
22 subject of money laundering in a number of
23 sectors, including gaming. The Commissioner was
24 tasked with hearing evidence and making findings
25 as to whether there was fault and who may be

1 responsible. And this inquiry was just about to
2 commence and you make a public statement saying
3 what you just said, that most BC residents
4 already know. What was your purpose in doing
5 that?

6 A People needed to understand why government was
7 taking the very serious step of calling a public
8 inquiry. It's not a minor enterprise. It's
9 expensive. It's invasive. And you need to
10 explain to people why you think it's necessary
11 to have an independent commissioner inquire into
12 a problem. So I was doing my best to explain
13 that to the public.

14 Q But you could have done that without saying
15 "B.C. residents already know the previous
16 government, at best, turned a blind eye, and at
17 worst, recognized dirty money was generating
18 revenue." You could simply say, this is a
19 serious concern; we've issued a public inquiry.

20 Why would you say most residents already
21 know that? It makes you wonder why there's
22 going to be a public inquiry.

23 A That's a fair question, Mr. Smart. I admit
24 to -- as a politician when I hear from people,
25 generally they're already activated on an issue.

1 It's quite possible that most British Columbians
2 were not aware. But the issue about why we were
3 calling the inquiry was to understand how we got
4 to where we are, which was multiple years of
5 accepting this cash in BC casinos.

6 Q But isn't there a risk that making a statement
7 like that as the Attorney General, as one of the
8 two people the Commissioner's report is to go
9 to, if he makes findings inconsistent with what
10 you've just said, it might undermine the
11 integrity, public confidence in the
12 Commissioner's report because the Attorney
13 General already told us?

14 A No, I don't agree that there's a risk. The
15 commission was very clearly set up to be
16 independent and this was the explanation to the
17 public of why we called the public inquiry.

18 Q Was this you trying to get ahead and maintain a
19 political narrative that the previous government
20 is at fault and your government and you in
21 particular are the solution?

22 A I make no bones about the fact that I would have
23 handled this issue differently than the previous
24 administration did, if that's what your question
25 is.

1 Q And what you say is very serious, isn't it?
2 Because you're saying that the previous
3 government at best turned a blind eye. That's
4 what you and I as criminal lawyers known as
5 wilful blindness. Do you agree?

6 A Yes, that -- my intention was to communicate
7 that they turned a blind eye to money
8 laundering; they were insufficiently engaged to
9 the extent that they were; they didn't take
10 sufficient action. That was what I intended by
11 that turn of phrase as opposed to all the case
12 law under the *Criminal Code*.

13 Q Okay. But those are very serious allegations to
14 make about politicians that you sat in the
15 legislature with, aren't they?

16 A Yes. But I -- you know, with respect,
17 Mr. Smart, you need to understand that I was the
18 critic for years, had an extensive tour through
19 the BC -- by the BC Lottery Corporation, the
20 Crown corporation responsible, the epicenter of
21 where these allegations were centered, where it
22 was explained to me that it was functionally
23 impossible to launder money through this
24 facility. While I understand from you and from
25 the documents and now as having as some years as

1 minister possible that actually that was about
2 the same time as the peak of the activity at
3 that same facility.

4 And while BCLC was trying to get the
5 attention of police, I could have assisted as
6 critic in getting the attention of police. I
7 wrote to the minister responsible and said it
8 looks like there's a really serious issue here
9 and I got back a letter that said no, there's
10 not. And when I asked about it in question
11 period I got the same response.

12 So I'll say, you know, I wish I had that
13 information, Mr. Smart. I could have assisted.
14 I wish the public had it. They could have
15 assisted in getting attention on what is, in my
16 opinion, a very serious issue.

17 Q Well, BCLC was doing what it could to try to get
18 police attention, weren't they?

19 A I didn't know that at the time, Mr. Smart. It
20 may be true that they were doing all they could,
21 but I certainly didn't know that; the public
22 didn't know that.

23 MR. SMART: Well, all right. Thank you, Minister
24 Eby. Those are my questions.

25 THE COMMISSIONER: Thank you, Mr. Smart. I'll now

1 turn to Mr. Skwarok on behalf of the Great
2 Canadian Gaming Corporation, who has been
3 allocated 10 minutes.

4 MR. SKWAROK: Thank you, Mr. Commissioner. I have no
5 questions for the minister.

6 THE COMMISSIONER: Thank you, Mr. Skwarok.

7 I'll turn now to Mr. McFee on behalf of
8 James Lightbody, who had been allocated
9 10 minutes.

10 MR. McFEE: Thank you, Mr. Commissioner.

11 **EXAMINATION BY MR. McFEE:**

12 Q Mr. Eby, can you hear me fine?

13 A Loud and clear, Mr. McFee.

14 Q Thank you. I want to focus on these initial
15 briefings you received soon after you were --
16 your party formed government and you were --
17 your party formed government and you were
18 appointed the minister responsible for gaming
19 for BCLC and GPEB. And I think in answer to
20 Mr. McGowan's questions you said the first
21 briefing with BCLC was on July 31st, 2017. And
22 Mr. Mazure, the ADM and General Manager of GPEB,
23 was present for that. Did I understand that
24 correctly?

25 A That is correct.

1 Q And after you received the GPEB briefing, I take
2 it a few days later you were struck by the
3 contrast in terms of what you'd been told about
4 suspicious cash and the potential for money
5 laundering in casinos. Is that sort of a fair
6 summary?

7 A Yes, it is.

8 Q Okay. Given that contrast, when you were
9 receiving this briefing from GPEB, did you ask
10 Mr. Mazure why he didn't speak up during BCLC's
11 presentation and say words to the effect that he
12 and GPEB felt that BCLC wasn't addressing the
13 risk of money laundering in BC casinos
14 sufficiently?

15 A No. No, I did not ask him that specific
16 question.

17 Q Now, the GPEB briefing that took place a few
18 days after the BCLC briefing, there was no one
19 there from BCLC as I understand your evidence.
20 Correct?

21 A That's correct.

22 Q Why was Mr. Mazure present for the BCLC briefing
23 but there was no one from BCLC present for the
24 GPEB briefing? Can you help us with that?

25 A Yeah, my understanding from the Gaming Policy

1 Enforcement Branch was that -- and the thrust of
2 their presentation was a disconnect between them
3 and the BC Lottery Corporation in relation to
4 whether or not there was a serious issue. And
5 it was their opinion there was a serious issue
6 with the BC Lottery Corporation as regulator.
7 And that was my understanding of why they were
8 not in the room.

9 MR. MCGOWAN: Mr. Commissioner, I'm sorry to
10 interrupt my friend. I don't object to his
11 question, but there's an issue that I was going
12 to raise in re-examination that I think I should
13 probably raise now.

14 I have been passed a note from Mr. Mazure's
15 counsel. I understand Mr. Mazure and his
16 counsel are monitoring the proceedings today.
17 Mr. Mazure, who has already testified, takes the
18 position that he was not at the July 31st
19 meeting. That while he may have had a telephone
20 call with the minister around the time, he was
21 not at the meeting. His counsel has asked that I
22 put a question to the minister about his degree
23 of confidence that Mr. Mazure was there given
24 his client's position.

25 I was going to address it in re-examination,

1 but given Mr. McFee's line of questioning, I
2 thought perhaps I should raise it and invite
3 Mr. McFee to put that question to the minister
4 or I could do so, Mr. Commissioner.

5 MR. COMMISSIONER: All right.

6 MR. McFEE: Well, I'm not armed with the information
7 Mr. McGowan has. I'm just relying on the
8 evidence that I heard in answer to Mr. McGowan's
9 question, so I'll leave that to Mr. McGowan.

10 MR. MCGOWAN: Yes, I'm not critical of Mr. McFee. I
11 did ask the question. And this is new
12 information forwarded to me.

13 THE COMMISSIONER: All right. Well, you now have the
14 same information that Mr. McGowan does,
15 Mr. McFee, but it's up to you whether or not you
16 wish to ask it now or wait for Mr. McGowan to
17 raise it in re-examination. I leave it up to
18 you.

19 MR. McFEE:

20 Q Well, I mean, let's deal with that in fairness
21 to you, Mr. Eby. You'd indicated fairly clearly
22 in answer to Mr. McGowan's questions that
23 Mr. Mazure, Mr. Meilleur and Scott McGregor, an
24 analyst from GPEB, were all present for the GPEB
25 presentation. I've got that correctly?

1 A Yes, that's the best of my recollection.

2 Q And your recollection was that -- or is that
3 Mr. Mazure was present for the BCLC
4 presentation?

5 A Yes, I recall there was an issue about GPEB not
6 being on a slide that BCLC presented and that
7 causing some real concern in the Gaming Policy
8 Enforcement Branch.

9 MS. HUGHES: Mr. Commissioner, if I may interject.
10 It's Ms. Hughes. Perhaps Mr. McFee could
11 specify which BCLC briefing he's referring to.
12 The minister's evidence was there were two, one
13 in July of 2017 and one in October of 2017. And
14 perhaps that may assist in alleviating some of
15 the confusion.

16 MR. McFEE: Well, I thought I was perfectly clear
17 that we were talking about the initial briefing.

18 Q So I'm focusing, Minister Eby, on the July 31st,
19 2017 initial briefing you had with BCLC. And is
20 it your recollection that Mr. Mazure was in
21 attendance for that?

22 A It is my recollection, yes.

23 Q And moving on to the GPEB briefing, which as I
24 understood your evidence, was a few days later.
25 Do I have that correctly?

1 A Yes. Yes, my understanding is they were very
2 close in time.

3 Q So as a new minister I take it you were relying
4 on the GPEB representatives to give you accurate
5 information and a balanced presentation with
6 respect to the past actions in the gaming sector
7 and the current state of play in gaming?

8 A Yes, I was.

9 Q And which of the individuals that were there for
10 GPEB gave you the GPEB presentation respecting
11 the provincial anti-money laundering strategy?

12 A I don't recall Mr. Mazure doing a lot of the
13 talking. I think it was mostly led by
14 Mr. Meilleur.

15 MR. McFEE: If I could ask Madam Registrar to bring
16 up exhibit 906, which is the first of the slide
17 decks that were presented to the minister at
18 this briefing.

19 Q And I don't know if you've got easy access to
20 that, Minister, but it's GPEB 1064, now
21 exhibit 906.

22 A Okay. One second. Yes, Mr. McFee, I have it in
23 front of me now.

24 Q Okay. And in terms of this first slide, it sets
25 out the provincial AML strategy. Are you with

1 me?

2 A Yes, I am. Yes.

3 Q And it goes from -- starts at 2011, goes on to
4 2017 on. Were you told by Mr. Mazure or anyone
5 else from GPEB at this briefing that the
6 provincial AML strategy was developed by GPEB in
7 2011?

8 A I don't recall that, Mr. McFee. My main
9 takeaway from this presentation was that there
10 was a very significant issue in BC casinos, and
11 being quite startled by what was being
12 presented.

13 Q Were you told that the provincial AML strategy
14 had three phases to it? Were you told even
15 that?

16 A It's possible, Mr. McFee. Again, the content of
17 the presentation, especially the videos, was
18 what made the biggest impression on me. I
19 acknowledge as a new minister new to the file
20 the detailed policy recommendations, history,
21 chronology and so on were lost a bit in the
22 video of people bringing bags of money into
23 casinos.

24 Q But do you have any recollection of being told
25 that there was a phased-in implementation of the

1 provincial AML strategy?

2 A We went through this slideshow and it accurately
3 represents what was presented to me. I don't
4 recall a phased -- drawing any significance or
5 understanding that there was a phased
6 implementation of something. I don't recall
7 that, no. That wasn't my takeaway from the
8 meeting. My takeaway was that there was a big
9 problem, that there was a gap between BCLC and
10 GPEB and that this needed to be addressed.

11 Q Okay. If I could ask you to go over a couple of
12 pages, please. It's got GPEB and it's got 0004
13 at the top. MNP report. Have you got that?

14 A Thank you. Yes, I do. Yep.

15 Q And were you told that the MNP report had been
16 issued in July of 2016?

17 A I don't recall the date, but I was physically, I
18 believe, presented with the report either at
19 that meeting or shortly after, so I was aware of
20 that at that time.

21 Q And you see in the second bullet it says MNP
22 made 30 recommendations to BCLC and GPEB and the
23 first number -- under that is "risk."

24 A Yes.

25 Q "Refuse unsourced cash and province define

1 acceptable level of risk."

2 A Yes.

3 Q Did Mr. Meilleur inform you that in fact MNP's
4 recommendation was that GPEB should consider
5 implementing a policy requirement that service
6 providers refuse un sourced cash?

7 A The content of what was presented to me on MNP
8 is consistent with this slideshow, so it would
9 have been that the recommendations were
10 presented to BCLC and GPEB.

11 Q So he didn't tell you that it was GPEB that MNP
12 recommended was to implement a policy
13 requirement that service providers refuse
14 un sourced cash?

15 A I don't recall that level of detail. I would
16 adopt this slide as being what was presented to
17 me.

18 Q And I take it, then, that Mr. Meilleur didn't
19 tell you GPEB had not implemented that
20 recommendation. Correct?

21 A The thrust of the presentation was that GPEB
22 wanted BCLC to act and that they were not acting
23 on GPEB's recommendations, so maybe it would
24 have stood out in a way that I would have
25 remembered had Mr. Meilleur said, oh, there's

1 stuff, you know, that we should be doing and
2 we're not doing it. Because the whole core of
3 the presentation was that they were concerned
4 about what was happening in the casinos and that
5 BCLC was not acting to restrict that in the way
6 that they thought was -- they, being GPEB,
7 thought was appropriate.

8 Q But to some --

9 A It's not -- it was focused on what BCLC should
10 be doing.

11 Q Right. And without any focus on what MNP had
12 recommended that GPEB do, I take it.

13 A The focus of the presentation was on where in
14 GPEB's opinion BCLC was not taking the issue
15 seriously enough.

16 Q If I could ask you to go over a couple of more
17 pages to "Provincial Direction of BCLC," which
18 is 00006 at the top right-hand corner. Do you
19 have that?

20 A Yes.

21 Q And you'll see under the mandate letters it's
22 got bolded "evaluating the source of wealth and
23 the source of funds prior to cash acceptance."
24 Do you see that?

25 A I see that, yes.

1 Q Were you left with the impression that the
2 province had directed approximate BCLC to
3 evaluate the source of wealth and source of
4 funds prior to cash acceptance and BCLC was
5 refusing to do that? Was that the impression
6 you were left with?

7 A Yeah. Again, I really need to underline where I
8 was in my journey on this issue at the time of
9 this presentation. I understand so much better
10 now what a mandate letter is and why it would be
11 highlighted in this presentation as a
12 significant thing.

13 At the time when I received this
14 presentation I was very focused on the fact that
15 it was GPEB's opinion that there was a serious
16 and ongoing issue and grappling with how as a
17 new minister I would best address it. But what
18 I took away from this was that there was an
19 understanding within government that there was
20 an issue here.

21 Q Well, did Mr. Meilleur tell you that the actual
22 wording of the mandate letter that's quoted in
23 part here was what's missing is within a
24 risk-based framework? Did you have any
25 understanding of that?

1 A No, I did not. No.

2 Q And if you go over to the right-hand side of the
3 page, you'll see there's a listing of various
4 dates, August 2015, and it's got "establish
5 source of funds prior to cash acceptance."

6 A Yes.

7 Q Did Mr. Meilleur leave you with the impression
8 that the GPEB General Manager had directed BCLC
9 to establish a source of funds prior to cash
10 acceptance?

11 A Oh, I see what you're asking. Yeah -- no, I
12 didn't leave this presentation understanding
13 that there had been a formal direction that was
14 being ignored. No, I didn't leave the
15 presentation with that impression, Mr. McFee,
16 but I would have more taken from this that -- at
17 the time that there was sort of an issue around
18 source of funds and that the issue was a
19 concern. And I wish my takeaway had been more
20 sophisticated at the time, but, I mean, it's
21 just where I was at in my sort of development as
22 a minister.

23 Q Fair enough. And if I could take you over a
24 fair distance in this slide deck to page 11 in
25 the top right-hand corner that's got "BCLC

1 Response."

2 A Yes. Thank you. I've got that.

3 Q You'll see "BCLC Response," and it says:

4 "BCLC is generally meeting FINTRAC

5 reporting requirements but GPEB requires

6 more."

7 A Yes.

8 Q So were you left with the impression at this
9 presentation that what BCLC was doing was
10 meeting FINTRAC reporting requirements but not
11 taking additional steps?

12 A Yes, that -- the thrust of the presentation was
13 that BCLC was taking insufficient steps and was
14 perhaps overly focused on FINTRAC reporting
15 requirements as opposed to the issue that GPEB
16 felt was ongoing in the casinos.

17 Q And I appreciate it's difficult as time passes
18 to separate what you know now or learned later
19 from what you actually knew in August of 2017
20 when you were a new minister, but did
21 Mr. Meilleur in this context give you any
22 explanation as to -- or information as to BCLC
23 implementing this unsourced cash conditions
24 program that Mr. Smart canvassed with you?

25 A Yes, I don't recall that being a focus, a topic

1 of discussion in the meeting. It certainly
2 wasn't my takeaway that there was a program that
3 was being -- successful in addressing GPEB's
4 concerns.

5 Q And I take it, then, Mr. Meilleur didn't draw to
6 your attention at this early briefing in early
7 August of 2017 the dramatic effect that was
8 being observed with respect to the decline in
9 large cash transactions and STRs?

10 A There were some charts in the presentation. I'd
11 have to flip through to refresh my memory about
12 what was presented to me, but this is accurate
13 in terms of what was presented to me.

14 But the takeaway that I had was that the
15 activity was ongoing, that there was unsourced
16 cash with an origin in organized crime coming
17 into BC casinos in the millions of dollars, and
18 that was a concern to me.

19 MR. McFEE: Okay. Madam Registrar, if I could now
20 ask you to bring up part 2 of the slide deck,
21 please. Exhibit 907.

22 Q Do you have that, Minister Eby?

23 A I do.

24 Q If I could ask you to go to the second page of
25 that, please. It's got GPEB's AML challenges?

1 A Yes.

2 Q And if you go to point 3, this is similar to
3 what we just discussed. It says:

4 "BCLC and GPEB not aligned on the scope of
5 what needs to be done to mitigate risk of
6 money laundering in casinos (e.g.
7 reporting to FINTRAC is not enough)."

8 Did you understand --

9 A Yes.

10 Q -- Mr. Meilleur to be telling you that BCLC's
11 efforts were limited to reporting to FINTRAC
12 vis-à-vis the AML challenges?

13 A Yeah, bullets 1 and 3 really were one of my two
14 key takeaways. That there was a gap between
15 GPEB and BCLC in terms of what was needed to
16 address the problem.

17 Q If I could ask you to go to the next page,
18 please, where you've got a graphic with respect
19 to AML strategies. Do you have that?

20 A Sort of a step. Yes. I do, yes. Thank you.

21 Q And you'll see BCLC, the arrow that goes up
22 seems to stop at July 2015. You interpret that
23 the same way I do?

24 A Yes. So when I had this briefing it would have
25 been 2017 and the implication would be that GPEB

1 wants these other mitigation strategies in BCLC
2 to stop -- or are somehow not as -- has a
3 different perspective than GPEB over this period
4 of time.

5 Q Well, were you left in the impression that
6 BCLC's AML mitigation strategies effectively
7 stopped in July of 2015?

8 A Like, it wasn't my understanding from reading
9 this that BCLC was not doing anti-money
10 laundering mitigation but rather that GPEB
11 wanted to do more and BCLC did not want to do as
12 much. That was my takeaway from this.

13 Q And given what you know now, and you've learned
14 a lot about this portfolio when you were the
15 minister responsible, does it strike you that
16 it's a material omission not to have listed
17 BCLC's unsourced-cash conditions program that
18 started in April of 2015?

19 A Yeah, I mean, I think that both presentations
20 left something to be desired in terms of their
21 completeness, which is why I asked Dr. German to
22 come in. I didn't know that at the time, but I
23 felt both organizations had their own
24 perspectives and they were quite radically
25 different. And then I needed someone that was

1 independent of both organizations to assist me
2 in understanding the best way forward and also
3 what had happened.

4 MR. McFEE: Mr. Commissioner, Mr. McGowan has kindly
5 told me I'm at my time limit, but if I could
6 just have another perhaps five minutes or less
7 to finish this slide deck, that would be of
8 assistance to me and I think to the
9 Commissioner.

10 THE COMMISSIONER: All right. Thank you, Mr. McFee.
11 You may carry on.

12 MR. McFEE:

13 Q Minister Eby, my question was a little more
14 focused in that. Do you agree with me that the
15 omission on this graph of the unsourced-cash
16 conditions program that BCLC implemented in
17 April of 2015 is problematic; that's something
18 as a minister that would have assisted you?

19 A I think that this presentation is incomplete in
20 that it doesn't include that information, yeah,
21 I would accept that. And it was part of why I
22 asked Dr. German to do this work was because I
23 felt, you know, between the two organizations it
24 was really hard to know what exactly was
25 happening. And I needed somebody independent to

1 get to the bottom of it.

2 Q Thank you. If I could ask you to go over to the
3 next page of the presentation, please. It's
4 "GPEB's AML Challenges, cont'd."

5 A Yes.

6 Q Number 4:

7 "Denial of money laundering problem in BC
8 casinos by BCLC."

9 Did Mr. Meilleur in effect say to you at this
10 briefing that BCLC was denying there was a money
11 laundering problem in BC casinos?

12 A I don't recall him saying that out loud, but I
13 would have frankly nodded along with this bullet
14 from the perspective of having been through my
15 briefing at the River Rock and then my briefing
16 in Kamloops with the BC Lottery Corporation and
17 the presentation and the videos I was being
18 shown by the Gaming Policy Enforcement Branch.

19 I learned later that there was some nuance
20 needed in that, but at the time I would have
21 been very much understanding of why that bullet
22 was there.

23 Q Well, there was more than nuance with this,
24 wasn't there? I mean, you learned subsequently
25 in your capacity as minister that BCLC for a

1 very considerable period of time had been quite
2 active in addressing AML challenges, including
3 being the complainant that initiated the
4 E-Pirate investigation in February of 2015;
5 correct?

6 A Yes. I mean, that's what I'm talking about,
7 Mr. McFee, that there had been work happening
8 behind the scenes. But personally I'd been
9 involved -- I'd read media interviews and
10 participated in a tour on which literally
11 this -- there was a denial of the money
12 laundering problem.

13 So later, you know, I learned about all
14 these things that were happening within the
15 BC Lottery Corporation. I'm glad to learn about
16 them, but at the time that I had this initial
17 presentation from GPEB, this bullet would have
18 made sense to me.

19 Q Right. From what you learned subsequently, and
20 it didn't take you long to learn it, I take it,
21 you now realize that point number 4 is
22 inaccurate. That BCLC wasn't denying there's a
23 money laundering problem. There's a difference
24 of perspective between them and GPEB, but BCLC
25 was taking active steps to address it when you

1 became the minister; correct?

2 A Right. That there were public denials but that
3 privately BCLC had been very active, yes.

4 Q And if you can go down to bullet number 6.

5 "BCLC not providing information early and
6 often which is the key of money laundering
7 risk mitigation ..."

8 A Yes, I see that. Yes.

9 Q Were you given any information as to what that
10 was all about?

11 A I don't recall, no.

12 Q Did you know, as Mr. Smart pointed out to you,
13 that BCLC was submitting all STR reports not
14 just to FINTRAC but to GPEB and to law
15 enforcement?

16 A At the time of this presentation, no, I did not
17 know that.

18 Q But did you learn it subsequently?

19 A Yes, I did learn that at some stage that BCLC's
20 role in relation to Suspicious Transaction
21 Reports, the German report was very instructive
22 in that report.

23 Q And then if we can close this off. If I could
24 just ask you to go over to page 7 of the slide
25 deck, please. It's got "percentage of

1 suspicious transactions not reported to
2 FINTRAC."

3 A Yes.

4 Q Now, did Mr. Meilleur leave you with the
5 impression that BCLC was failing to report
6 transactions to FINTRAC that fell within
7 FINTRAC's definition of a suspicious
8 transaction?

9 A The -- this was another piece of information in
10 the overall thrust of the presentation that
11 there were issues within BCLC that were
12 inhibiting or preventing this issue from being
13 properly addressed, and that was my
14 interpretation of this slide. I wasn't
15 sophisticated enough at the time, Mr. McFee, to
16 understand the difference between a large cash
17 transaction and a suspicious cash transaction,
18 that one is subjective and one is objective and
19 that BCLC had a role to play in evaluating
20 whether a report was suspicious or not before
21 advancing it.

22 I just didn't have that level of analysis
23 when I saw that slide. And I'm sure
24 Mr. Meilleur discussed it with me, but I -- you
25 know, it takes some time to absorb all this

1 stuff. There was a lot in this presentation.

2 Q No, no, I appreciate that. And this wasn't your
3 only portfolio; it was a lot for you to absorb.
4 Did Mr. Meilleur draw to your attention the
5 distinction between unusual financial
6 transactions, UFTs, created by a service
7 provider and delivered to BCLC for review as an
8 actual Suspicious Transaction Report that is
9 then submitted by BCLC to FINTRAC?

10 A Yeah. I mean, he might have, Mr. McFee, but to
11 be blunt, it would have been lost on me, UFTs,
12 SCTs, LCTs and that process.

13 What I took from this slide, which I
14 imagine was the intent, was to convey that in
15 the opinion of GPEB that the BC Lottery
16 Corporation was not being a good partner if
17 addressing money laundering. That was what I
18 took from this.

19 Q Well, more focused than that, this slide appears
20 to indicate that BCLC isn't meeting its
21 reporting obligations to FINTRAC under the
22 federal legislation; correct?

23 A Yes. Yes, I can agree with you about that now
24 that I understand this slide much better. That
25 this slide carries with it the implication that

1 BCLC is reducing the screen or easing the screen
2 in terms of when they receive a report about
3 whether or not to report it to FINTRAC such that
4 they report fewer transactions to FINTRAC. And
5 this was something that was raised by Dr. German
6 in his report and that was accorded to the
7 recommendations, as I understand it, that the
8 service providers directly report to FINTRAC
9 rather than the transactions through BCLC.

10 Q And you know from your subsequent involvement in
11 this portfolio that FINTRAC audits had
12 established that virtually without exception
13 BCLC was meeting FINTRAC reporting requirements;
14 correct?

15 A That was a key part of the BC Lottery
16 Corporation presentation to me, yes.

17 MR. McFEE: Those are my questions for you, Minister.
18 Thank you very much.

19 MS. HUGHES: Mr. Commissioner, it's Ms. Hughes.
20 Perhaps it might be a convenient time for a
21 break.

22 THE COMMISSIONER: All right. We'll take 10 minutes.

23 THE REGISTRAR: This hearing is now adjourned for a
24 10-minute recess until 12:59.

25 **(WITNESS STOOD DOWN)**

1 **(PROCEEDINGS ADJOURNED AT 12:48 P.M.)**

2 **(PROCEEDINGS RECONVENED AT 12:58 P.M.)**

3 **DAVID EBY, a witness for**
4 **the commission,**
5 **recalled.**

6 THE REGISTRAR: Thank you for waiting. The hearing
7 is resumed. Mr. Commissioner.

8 MR. SMART: Mr. Commissioner. Before Ms. Henein
9 begins, I showed two documents to Minister Eby,
10 and I failed to have them marked. They were two
11 reports, one being February 15th, 2016, and the
12 other August 9th, 2017. They were PG0472 and
13 PG0539. I wonder if we'd have those marked as
14 exhibits at the hearing.

15 THE COMMISSIONER: Yes. Very well, Mr. Smart. I
16 think we're at 914 and 915, respectively, Madam
17 Registrar.

18 THE REGISTRAR: We are at 913, actually.

19 THE COMMISSIONER: 13. I'm sorry.

20 THE REGISTRAR: Yes.

21 THE COMMISSIONER: 13 and 14, then.

22 THE REGISTRAR: PG0472 is 913.

23 **EXHIBIT 913: Internal Memo to Len Meilleur from**
24 **Parminder Basi re COMM-8611 Followup - Cash**
25 **Buy-Ins Conducted at River Rock Casino Cages -**

1 **February 15, 2016**

2 THE REGISTRAR: PG0539 is 914.

3 EXHIBIT 914: Internal Memo to Len Meilleur from
4 Parminder Basi re COMM-8939 BCLC Directive
5 Impact on Cash Buy-Ins and New Money PGF
6 Deposits - August 9, 2017

7 THE COMMISSIONER: Thank you.

8 MR. SMART: Thank you.

9 THE COMMISSIONER: Yes. I'll now turn to Ms. Henein
10 on behalf of Mr. Kroeker, who has been allocated
11 10 minutes.

12 MS. HENEIN: Thank you.

13 **EXAMINATION BY MS. HENEIN:**

14 Q Minister Eby, July 2017 was your first briefing
15 with BCLC when you became minister?

16 A Yes, that's my recollection.

17 Q All right. And am I correct that you did not
18 personally take any notes of that meeting?

19 A That is correct.

20 Q And that meeting ran two and a half hours?

21 A I don't recall how long the meeting lasted for.

22 Q All right. Hours?

23 A There was a tour of the BCLC facility and I
24 believe there was some lunch served. I was
25 there for the day, basically, in Kamloops.

1 Q All right. And this meeting that ran for a day
2 with BCLC in July of 2017, the first time you
3 were asked to recall the details of that meeting
4 is when you prepare your will-say?

5 A Just to clarify. The meeting didn't run for the
6 day. I was there for the day in Kamloops, and
7 the best of my recollection that it was -- after
8 I got off my flight, we went to headquarters, I
9 had the briefing, which was the deck and a tour
10 of the facility, and then I was back out again
11 that afternoon.

12 Q Right. So this preliminary meeting where you
13 review a deck, do you agree with me that the
14 first time you're asked to recall the details of
15 what was said to you in that meeting is when you
16 prepare your will-say?

17 A No. No. This was something that was really
18 front of mind for me for a while, the gap
19 between what had been presented to me at the
20 BC Lottery Corporation and the Gaming Policy
21 Enforcement Branch that informed my decision to
22 appoint Dr. German. It informed my whole
23 approach to the file. The gap between those two
24 agencies was very significant in a lot of
25 decisions that flowed from that. No, it was

1 very front of mind what had happened at that
2 meeting.

3 Q All right. But you don't have any notes of that
4 meeting?

5 A No, I don't have any notes of that meeting. No.

6 Q We have to rely on your recollection of what
7 occurred in 2017; right?

8 A We went through a PowerPoint presentation that
9 was consistent with what I was presented at that
10 time.

11 Q That wasn't my question. We have to rely on
12 your recollection of the conversations that
13 occurred in July of 2017; right?

14 A No. There was also a PowerPoint presentation
15 with details [indiscernible] --

16 Q [Indiscernible]?

17 A -- to understand what I was -- no, but that was
18 the part of the presentation that was presented
19 to me.

20 Q Did you make notes about the PowerPoint
21 presentation or on the PowerPoint presentation?

22 A I did not make any notes, no.

23 Q All right. And, for example, one of the things
24 that we heard you say is that you have a very
25 clear recollection of Mr. Mazure being at that

1 meeting; right?

2 A Yes, I believe Mr. Mazure was at that meeting.

3 Q Right. And so if Mr. Mazure were to testify as
4 we have now heard from commission counsel that
5 he was in fact not at that meeting, do you
6 accept that your memory of what occurred at that
7 meeting could be mistaken?

8 A About Mr. Mazure's presence? Yes, I accept
9 that.

10 Q So you accept that a meeting that occurred three
11 years ago, which you say you have a clear
12 recollection of, certainly you could be mistaken
13 as to actually who was even there?

14 A So whether or not Mr. Mazure was there, I accept
15 that I could be mistaken about that. There may
16 have been other people in the room and I can't
17 recall which ministerial assistant I had with me
18 in that meeting.

19 Q I'm not talking about peripheral people.
20 Mr. Mazure is a central figure, right, in this
21 incongruity of BCLC and GPEB; right? He's a
22 significant player; right?

23 A I know that now, but at the time he was -- no.
24 With due respect to Mr. Mazure and the
25 importance of his position, he wasn't anybody to

1 me. I mean, I'm coming new on the file. There
2 was a room full of people, many of whom I'm
3 meeting in person for the first time. So -- but
4 the core to me and the -- what stayed front of
5 mind for me is the discordance between the
6 BC Lottery Corporation presentation on the issue
7 of money laundering and the presentation that I
8 received shortly after from the Gaming Policy
9 Enforcement Branch that was entirely focused on
10 this issue that I hadn't heard anything about at
11 the BCLC board meeting. So that -- I mean, that
12 to me was what was front of mind as opposed to
13 whether or not Mr. Mazure was there. But I
14 recall him being there.

15 Q Right.

16 A Because there was an issue about GPEB not being
17 on the slide.

18 Q No, I understand that, Minister Eby, because
19 you've repeated the incongruity that struck you
20 multiple times now. My question to you, though,
21 is you accept that you could have been even
22 mistaken as to who was present at that meeting;
23 right?

24 A Oh, I don't recall everyone who was present at
25 the meeting. Yes, I openly acknowledge that.

1 Q No, I'm not asking you about everyone. I'm
2 asking about Mr. Mazure. You accept that you
3 were mistake about Mr. Mazure --

4 A No, I don't. I recall him being there,
5 Ms. Henein. To the best of my recollection. I
6 accept that I could be wrong about that.

7 Q All right. Your appointment as the gaming
8 spokesperson for the opposition is that occurred
9 in 2014. Do you recall what month?

10 A No, I don't know.

11 Q Was it at the beginning of the year? The middle
12 of the year?

13 A No, I don't recall.

14 Q All right. And in that first year when you're
15 appointed as the gaming spokesperson you said
16 that in your will-say you didn't know a whole
17 lot about the gaming and casino industry; is
18 that right?

19 A That is correct.

20 Q All right. So you'd had nothing to do with it
21 in terms of your career as a lawyer; right?

22 A I'm trying to remember if when I was at Civil
23 Liberties we did anything related to gaming. I
24 don't think so. No, I don't recall having
25 previous experience on the file.

1 Q All right. And so other than potentially having
2 done a case that related somehow to gaming, you
3 had no detailed understanding of how casinos
4 work and how gaming works; right?

5 A That's correct. I was coming in as a new critic
6 on this file and basically starting from zero.

7 Q All right. And notwithstanding that you were
8 starting from zero, by November 13th, 2014, I'm
9 going to suggest to you you're at a 10 because
10 you write a letter to the Attorney General Anton
11 which is pretty detailed; right?

12 A Yes, I tried to work hard to understand files as
13 quickly as I can.

14 Q Right. And you did in this case; right?

15 A I always try my best, yes.

16 Q All right. So your knowledge had, you'd agree
17 with me, increased certainly by November 13th of
18 2014 as to gaming and in particular money
19 laundering in BC casinos? That's the heading of
20 your letter.

21 A I think there was some mistakes in that letter.
22 But yes, it reflects the best of my knowledge at
23 that time.

24 Q Right. And in fact one of the very first things
25 you say in the letter is that "as you know,

1 money laundering is a serious problem in British
2 Columbia"; right?

3 A I'd have to look at the record to see the
4 context before I adopt that, but that is my
5 letter.

6 Q All right. Well, assuming you can take my word
7 because I've got all of six minutes, I think
8 left, that one of the lines is that money
9 laundering is a serious problem in British
10 Columbia. That's consistent with your
11 recollection of how you felt in 2014; right?

12 A Yes. And it seems I was right.

13 Q And you actually go through your letter to do a
14 historical analysis of suspicious transactions.
15 Do you recall writing -- going as far back as
16 2003?

17 A There's a section of the letter that does refer
18 to 2003, that there -- there was an issue and it
19 was referring, I believe, to another media
20 report or a report that was referenced further
21 on in the paragraph.

22 Q So from 2003 to 2009 you talk about concerns
23 regarding money laundering. You talk about the
24 government response in 2009. You talk about the
25 response in 2010. You talk about 2011, 2013

1 where you discuss doubling again of 2011
2 reports. You talk about the government response
3 in 2014. And then you have a final call for
4 action. Right?

5 A Yeah, that is roughly the outline of the letter.
6 That's correct.

7 Q All right. And so you agree with me that you
8 come into the issue of casinos and gaming
9 admittedly not knowing much, but you work hard
10 and certainly by the time you pen the letter on
11 November 13th, 2014, you've got a pretty good
12 grip on the issue?

13 A Well, no, I don't think so because I had a
14 briefing in detail at a BC casino following that
15 letter led by the BC Lottery Corporation in
16 which I had to acknowledge that despite my
17 concerns about this bulk cash, I couldn't figure
18 out how it could possibly be laundered through a
19 BC casino given the safeguards that were in
20 place. And we talked about functionally
21 impossible as a phrase that I understand. And
22 it seemed to me to be functionally impossible to
23 launder money through BC casinos, and I -- that
24 I clearly had gotten something wrong in that
25 letter.

1 Q So was your view, then, as a result of this
2 tour -- how long was the tour of River Rock?

3 A It was probably a half day. I don't recall the
4 exact duration of it. But we went through the
5 whole facility, the security room, cash cage,
6 Salon Privé. It was a tour of the facility as
7 well as an extensive discussion about my concern
8 about money laundering.

9 Q Did you review any documents?

10 A No. We were mostly walking. I don't recall
11 reviewing any documents at that meeting.

12 Q All right. So it's your evidence that after
13 this physical tour where you're given a verbal
14 summary that all your concerns about money
15 laundering disappear?

16 A No. My concern about the bulk cash didn't go
17 away, but my understanding of what was happening
18 that people were walking this bulk cash in and
19 getting a cheque for it and pretending it was
20 winnings was not a typology that was taking
21 place in the casinos. At least I couldn't
22 figure out how -- short of corruption, you know,
23 that there was some sort of insider within the
24 casino supporting it, and I -- that just felt
25 like a step too far.

1 So yeah, I was -- it was in some senses a
2 very educational briefing. In other senses a
3 bit disingenuous in terms of what was actually
4 happening.

5 Q Did you believe there were no concerns based on
6 that meeting about money laundering? Did your
7 concerns as gaming spokesperson for the
8 opposition disappear as of February 2015?

9 A Not entirely, but they were -- I mean, I just
10 couldn't understand how it worked and my concern
11 about the bulk cash did not go away.

12 Q What did you do to try to figure out how it
13 worked?

14 A Well, we did a number of freedom of information
15 requests to government to try to get information
16 about cash transactions. I talked to as many
17 stakeholders as would talk to me. When you're
18 in opposition it's harder to get people to talk
19 to you about these kinds of issues. But --

20 Q Did you speak with experts?

21 A I asked questions in question period.

22 Q Did you talk with experts?

23 A I can't recall that I talked to any experts in
24 relation to money laundering in casinos. I may
25 have, but I don't recall.

1 Q All right. So is it fair to say that
2 notwithstanding this verbal summary you get and
3 physical tour for a half a day in February of
4 2015, you still continue to do your job as
5 gaming spokesperson and have concerns about
6 money laundering; right?

7 A Oh, yes. Yeah, no, I think I asked questions in
8 question period. We talked about it in relation
9 to real estate. There were a number of
10 concerning transactions around the real estate
11 market in particular, and it overlapped with
12 questions that I had about gaming. So yeah, I
13 continued to be concerned about it, absolutely.
14 But I --

15 Q You --

16 A Sorry, go ahead.

17 Q Sorry.

18 A No, please go ahead.

19 Q You made freedom of information requests; right?

20 You --

21 A Yes.

22 Q -- continued to pursue this. And so you pursue
23 that, I'm going to suggest to you, in 2016;
24 right?

25 A That is -- I mean, that was the period of time I

1 was the critic, yes.

2 Q Absolutely.

3 A I was still interested in it. Yes.

4 Q Right. And you continued to do your job and
5 pursue it in 2017 before you're the minister;
6 right?

7 A Yes, I was still concerned about this issue of
8 bulk cash. Absolutely.

9 Q Right. And so when you come to the meeting with
10 BCLC in 2017, your first meeting, I take it that
11 you haven't forgotten about all the things
12 you've learned and all of your concerns from
13 2014, 2015, 2016, regarding bulk transactions,
14 cash transactions and money laundering in BC at
15 casinos; right?

16 A Yes. That's correct.

17 Q It was uppermost in your mind because you'd been
18 thinking about it and working on this issue for
19 some time; right?

20 A Yeah. The focus of my critic work shifted a lot
21 to the Parq Casino and issues related to the
22 operator of that while I was gaming critic, but
23 I was still concerned. Yes.

24 Q Sure. And presumably at this meeting in 2017
25 you had the opportunity to ask questions?

1 A Oh, yes. Yeah. Yeah. Absolutely.

2 Q And so did you ask any questions to BCLC about
3 the mandate letters that the previous government
4 had issued in 2016/2017 -- to 2016/2017,
5 2017/2018? Did you talk about these mandate
6 letters?

7 A I wouldn't have even occurred to me, no.

8 Q It didn't occur to you when you say they were so
9 sanguine about the money laundering issues to
10 say to them but, golly gee, if you think you've
11 solved the problem, can you explain these
12 mandate letters from the previous government.
13 Did you ask them a question like that?

14 A I didn't do close readings of the mandate
15 letters as critic. I would now, but I didn't
16 note the change in the language.

17 But just one piece about your chronology is
18 it's really important to understand the BCLC
19 briefing came first and the GPEB briefing came
20 second.

21 Q But the letters were available to you to review;
22 right? You prepped yourself for that meeting.
23 You didn't go in cold.

24 A Yeah, that was an oversight in my role as critic
25 and perhaps as minister is failing to close read

1 the previous government's mandate letters. I
2 accept that.

3 Q And what about the Kroeker Report of 2011? You
4 hadn't read that either?

5 A No, I'm not sure I knew that it existed even.

6 Q Right. So there was Mr. Kroeker who was dealing
7 with these issues in compliance for BCLC. And
8 so you didn't ask him, for example, look, you
9 made these recommendations in 2011; how is that
10 going for you at BCLC? You didn't ask any
11 questions about that?

12 A No. Mr. Kroeker to the best of my recollection
13 was the person who led me through the River Rock
14 and explained to me how it's functionally
15 impossible to launder money. I certainly knew
16 his perspective.

17 Q And so is your evidence under oath before this
18 commission, Minister Eby, that BCLC attends this
19 meeting with you, this briefing in July of 2017,
20 and says to you everything's just hunky-dory in
21 the money laundering world at casinos and you
22 don't challenge them or ask them a single
23 question at all about that?

24 A No, I may have, but I -- the core of my
25 recollection of our discussion was that it was

1 entirely consistent with all of my previous
2 discussions with BCLC, which was that BCLC
3 had a -- well, a nationally recognized
4 anti-money laundering program, that their
5 gambling addiction programs were in demand
6 across North America, that they were an
7 exemplar, in fact, in relation to anti-money
8 laundering compliance.

9 Q But they didn't tell you they weren't engaged in
10 anti-money laundering compliance; right? They
11 were telling you what --

12 A No, they said they were -- they said they were
13 leading. Yeah, they said that it was great.
14 Yeah.

15 Q And did you know, for example, whether or not
16 internationally it was a standard to do the
17 source of funds inquiry that BCLC was doing
18 since 2015? Did you know anything about that?

19 A No. At the time I was coming in as the new
20 minister and I was bringing myself up to speed
21 on the file. There's a big difference between
22 being critic and minister in terms of the
23 information you have access to.

24 Q Did you have any knowledge at all as to what
25 they were doing in terms of source of funds

1 inquiries?

2 A I wouldn't have known to ask about that and I
3 wouldn't have known what it meant, had it been
4 mentioned to me.

5 Q Okay. And so just to be fair to you, when you
6 say there's incongruity between BCLC and GPEB,
7 the incongruity you're talking about is that
8 BCLC tells you the sorts of things they're doing
9 and says, we think we're an industry leader.
10 And GPEB at their meeting says no, no, we think
11 things are off the rails. Is that the
12 incongruity?

13 A The incongruity is that they presented
14 30/60/90 day issues to me about issues of
15 concern to government, priorities, things that
16 might be in the media, decisions that needed to
17 be made, and they completely omitted to discuss
18 the very significant money laundering issue in
19 the casinos that was the sole focus of the
20 regulator's presentation to me.

21 Q Well, then, what they were telling you on your
22 own evidence, Minister Eby, is that they had
23 various strategies in place and they thought
24 they were working well; right? They didn't tell
25 you they weren't doing anything.

1 A I can't speak for why BCLC decided not to
2 present that information to me.

3 Q Well, they presented information to you that
4 they were doing things; right? You knew they
5 were doing certain things like source of funds
6 inquiries; right?

7 A I did not know that and that was not a topic we
8 discussed at that meeting.

9 Q And my last question to you is --

10 MR. MCGOWAN: Mr. Commissioner, [indiscernible]

11 Ms. Henein is a ways over her time, and I'll
12 perhaps invite you to inquire where she is in
13 her examination.

14 MS. HENEIN: I'm asking my last question,
15 Mr. McGowan.

16 MR. MCGOWAN: Thank you.

17 MS. HENEIN:

18 Q My last question to you, Minister Eby, is that
19 you told us you decided to download the issue of
20 looking into money laundering in casinos and
21 gaming onto Dr. German. That's who you
22 selected; right?

23 A Download -- I don't -- if I said that, I --

24 Q That was your --

25 A I'm not sure that's the correct way to describe

1 it. I wanted an expert to advise me so that I
2 could make the best policy decision given the
3 gap between the BC Lottery Corporation and
4 Gaming Policy Enforcement Branch on this issue.

5 Q All right. And -- well, that was your word, but
6 let's take the description you've given us. I
7 take it you now know that Dr. German did not
8 have any experience in casinos and gaming at the
9 time you hired him to provide you with this
10 critical information and assessment?

11 A I was offered the opportunity to hire someone
12 with extensive casino experience from Ontario,
13 and the reason why I didn't choose that person
14 was I thought that that individual was too close
15 to the gaming industry. I wanted someone who
16 was familiar with but independent from, and I
17 understand that -- understood that Mr. German
18 had done some training within the organizations,
19 had an understanding of our provincial legal
20 framework and had been a police officer. So he
21 was -- as I said earlier, he was independent but
22 familiar with the structures. So that's what I
23 was looking for. That's why I chose him.

24 Q So you were not looking for a gaming expert?

25 A I wasn't looking for someone closely tied to the

1 industry, someone that had relationships with
2 service providers or BCLC or GPEB that would
3 influence their decisions. I wanted someone to
4 come in from the outside.

5 Q And so the person you ended up with is somebody
6 without gaming experience?

7 A Well, he wrote the textbook on money laundering,
8 so I had confidence that he understood the
9 issue.

10 Q That wasn't my question. My question to you is
11 you relied on somebody without gaming
12 experience.

13 A Well, I can't say that absolutely because
14 he has been involved with training contracts
15 with GPEB and BCLC to the best of my knowledge.

16 Q And that was good enough for you?

17 A Well, I wanted someone independent of the gaming
18 industry and that wouldn't be influenced by
19 that, and that's why I chose him.

20 MS. HENEIN: Okay, thank you.

21 THE WITNESS: Thank you.

22 THE COMMISSIONER: Thank you, Ms. Henein.

23 I'll now turn to Ms. Magonet on behalf
24 BC Civil Liberties Association, who has been
25 allocated 10 minutes.

1 MS. MAGONET: Thank you, Mr. Commissioner.

2 **EXAMINATION BY MS. MAGONET:**

3 Q Minister Eby, can you hear me?

4 A Yes, I can.

5 MS. MAGONET: Excellent. So my questions mostly
6 relate to an article that I would like to ask,
7 Madam Registrar, if you could please pull up.
8 It's entitled "Vancouver Real Estate a Buyers'
9 Market - For Mainland China: Study." It's
10 authored by Sam Cooper.

11 Q I'll give you an opportunity to find that as
12 well, Minister Eby. Just let me know when
13 you're there.

14 A Yes. Yes. Thank you.

15 Q Excellent. Minister Eby, are you familiar with
16 this article that discusses a study by Andy Yan
17 and your perspective on it?

18 A Yes, I am familiar with it.

19 MS. MAGONET: Mr. Commissioner, I would ask if this
20 could please be marked the next exhibit.

21 THE COMMISSIONER: Very well. I think we're at ...

22 THE REGISTRAR: Yes, exhibit 915.

23 **EXHIBIT 915: Vancouver Real Estate a Buyers'**
24 **Market - For Mainland China: Study by Sam**
25 **Cooper - November 2, 2015**

1 MS. MAGONET:

2 Q Minister Eby, it's my understanding that the
3 study referred to in this article by Mr. Yan
4 that he initiated this study at your request.
5 Is that accurate?

6 A I can't recall where his study originated from,
7 but I recall that I provided him with land
8 titles for a number of recent property
9 transactions in the west side of the city of
10 Vancouver so he could do the study. At the time
11 I talked with Mr. Yan quite frequently about the
12 issue of international money in the real estate
13 market and the challenge that it presented. And
14 so I also worked with other researchers doing
15 similar work.

16 Q Thank you. And in this particular study Mr. Yan
17 concluded that 66 percent of all detached homes
18 purchased in Vancouver's west side in a
19 six-month period were bought by mainland China
20 buyers; is that correct?

21 A Yes, that was his conclusion.

22 Q But in his study he assumed that a buyer was
23 from mainland China if they had a non-anglicized
24 Chinese name; is that accurate?

25 A I don't know if that was his assumption, but

1 that was one of the sociological markers that he
2 used in his evaluation. I don't know if he used
3 others.

4 Q He certainly didn't have information on the
5 residency or the citizenship of the buyers he
6 was looking at?

7 A You'd need to ask Mr. Yan that, but I didn't
8 have any of that information to provide to him,
9 nor could I.

10 Q Okay. Thank you. You would agree that a
11 Canadian citizen or a permanent resident of
12 Chinese decent may have a non-anglicized Chinese
13 name, wouldn't you?

14 A Well, maybe I can save you some time. There's a
15 better article where I apologize for my
16 participation in this study. I was supportive
17 of trying to get to the bottom of international
18 money in our real estate market. I was
19 insufficiently sensitive to the impact on the
20 Chinese community of the sociological marker
21 that Mr. Yan used based on other research in
22 terms of the sense that a person's name is a
23 really important personal marker, and to be
24 described as a foreign investor based solely on
25 what your name is was incredibly problematic for

1 China buyers.'" "

2 And I was wondering if you could explain what
3 you meant at the time by "anecdotal feelings
4 about mainland China buyers."

5 A The concern was broadly that international money
6 on which taxes had not been paid at domestic
7 rates and the sources of which were unknown and
8 ambiguous were coming into the real estate
9 market in a significant volume, driving up
10 prices for local buyers that were unable to
11 compete. And that was the concern that had been
12 expressed to me on a number of occasions and
13 that I hoped this study -- erroneously in my
14 opinion, reflecting on my own activity in
15 relation to this study -- but that I hoped this
16 study would assist us with.

17 I am very happy that our government has put
18 in place a speculation tax that instead is based
19 on whether someone is a tax resident in British
20 Columbia as opposed to any particular
21 citizenship status.

22 MS. MAGONET: Thank you. And, Madam Registrar, if I
23 could now ask you to go to the next page of this
24 article.

25 Q You can go there as well, Minister Eby. There's

1 a quote from you here, Minister Eby, that --
2 where you're reflecting on Mr. Yan's study and
3 you say:

4 "The questions that come up for me are:
5 China is an authoritarian state that has
6 lots of issues with corruption. Is the
7 money coming into Vancouver the kind we
8 want to be encouraging? And are we doing
9 everything we can to make sure we leverage
10 this investment to the benefit of British
11 Columbians as much as possible? Or is
12 this just benefiting the super-car
13 dealerships on Burrard Street?"

14 Do you agree that that's what you stated in this
15 interview?

16 A Yes, very likely.

17 Q And from your first question, I take it that
18 you're implying that money coming out of China
19 is associated with corruption. Is that a fair
20 characterization?

21 A No. The concern was that there was a very
22 profound risk that the money coming from
23 international sources, including China, was
24 money that was sourced from activities that
25 might not be endorsed by the government of

1 Canada, the government of British Columbia. And
2 so without knowing -- and there are several very
3 well documented examples of the Chinese
4 government being concerned about people
5 embezzling money in China, moving that money to
6 British Columbia in the real estate market and
7 then not being able to repatriate those
8 individuals because of Canadian extradition
9 policy requirements and that money ending up in
10 the real estate market in British Columbia.

11 And so that was the concern because there
12 was no accountability in terms of criminal
13 activities in China once someone made it to
14 British Columbia. That the money coming into
15 the market here may be problematic. It was
16 based on a number of different concerns, not
17 this study in particular.

18 Q Okay. Thank you. And in your last question in
19 this quote you say:

20 "Or is this just benefitting the super-car
21 dealerships on Burrard Street."

22 I was wondering what the association here is
23 that you're drawing between Chinese investment
24 and these super car dealerships and what that
25 was based on.

1 A So the average family salary in Metro Vancouver
2 is somewhere in the neighbourhood of \$60,000,
3 and yet for some reason Vancouver has five or
4 six super car dealerships along Burrard Street.
5 And the concern that many people in my
6 constituency have and had was that the money
7 coming into those dealerships was money of
8 problematic origin.

9 And since then we had the extensive work
10 done in the Peter German report, volume 2, about
11 the source of money involved in some luxury car
12 transactions and some explanation about why we
13 may be seeing so many of these luxury
14 dealerships in relation to the export of luxury
15 vehicles and also in relation to the purchase of
16 luxury vehicles for cash that have borne out
17 some of these concerns.

18 To the extent that the quote appears to
19 draw a direct correlation between in particular
20 money from China and the super car dealerships,
21 that's not the point I was trying to convey.
22 The point I was trying to convey is by turning a
23 blind eye to the source of money coming into
24 British Columbia, who does that benefit? Does
25 it benefit the super car dealerships? And if

1 so, how does that benefit British Columbians and
2 how does that hurt British Columbians in terms
3 of the impact of that?

4 So I hope that assists you in understanding
5 what I was trying to convey in that quote.

6 Q Yes. Thank you. I have just one last question
7 for you, Minister Eby. In hindsight, do you
8 think that making such broad statements about
9 Chinese investment may help perpetuate a harmful
10 narrative that conflates Chinese money with
11 dirty money in British Columbia?

12 A I have apologized for my participation in the
13 study for exactly that reason.

14 MS. MAGONET: Thank you. Those are my questions.

15 Thank you, Mr. Commissioner.

16 THE COMMISSIONER: Thank you, Ms. Magonet.

17 I'll turn now to Mr. Rauch-Davis on behalf
18 of Transparency International Coalition, who has
19 been allocated 10 minutes

20 MR. RAUCH-DAVIS: Thank you.

21 **EXAMINATION BY MR. RAUCH-DAVIS:**

22 Q Minister Eby, can you hear me okay?

23 A Yes, I can. Thank you.

24 Q Great. So you gave a bit of evidence about
25 changes implemented to the Province on corporate

1 beneficial ownership records. And following up
2 on that topic would you agree that historically,
3 at least, British Columbia has had some of the
4 most relaxed corporate transparency laws in
5 Canada?

6 A I don't know enough about other jurisdictions'
7 transparency laws, but I know a fair bit about
8 British Columbia's now and I'm satisfied they
9 are significantly stronger than they were when
10 we formed government.

11 Q Right. When you took office there was -- prior
12 to you taking office, there was no requirement
13 that companies declare their beneficial owners.
14 You know that, right?

15 A That's correct.

16 Q Yeah. And that's one of the amendments you made
17 to the corporate -- your government made to the
18 corporate -- the *BC Corporations Act*?

19 A Yes, that's correct.

20 Q And I take it you'd agree that a lack of
21 corporate transparency has contributed to money
22 laundering activities and enabled money
23 laundering activities to thrive in British
24 Columbia?

25 A My concern is that that is the case, that when

1 police are unable to identify who owns a
2 particular company and that it's involved in
3 problematic conduct that it makes their job more
4 difficult and the same for tax authorities.

5 Q Right. And so in addition to the amendments to
6 the *BC Corporations Act*, your government is also
7 engaged in consultation from stakeholders on
8 creation of a registry. You know that; right?

9 A Yes, I'm aware of that.

10 Q Yeah. And are you aware last week the federal
11 government announced their budget, their 2021
12 budget, and it contemplated a publicly
13 accessible beneficial ownership registry for
14 corporate entities. Are you aware of that?

15 A I was not aware of that. That's good news.

16 Q Okay. And so I guess following up on that, do
17 you know if it's BC's plan to follow the federal
18 government's lead in the implementation of a
19 publicly accessible corporate beneficial
20 ownership registry?

21 A The policy work around the British Columbia
22 corporate beneficial ownership registry is
23 happening in the Ministry of Finance, and I'm
24 afraid I'm not sufficiently versed in the issue
25 to be able to advise you about if they've

1 decided a particular direction or not.

2 Q Thank you. I figured as much.

3 You also gave some evidence about
4 prosecution numbers this morning, in particular
5 that you're not aware of any criminal money
6 laundering prosecutions other than the Silver
7 International?

8 A Yes. Now, I want to put a caveat on that. In
9 terms of the scale of the Silver International
10 prosecution, there may have been smaller
11 prosecutions that I'm not aware of, but the
12 general understanding that I have is that there
13 are a number of civil forfeiture proceedings
14 related to money laundering but not criminal
15 proceedings.

16 Q Right. No criminal proceedings to your
17 knowledge?

18 A That's correct.

19 Q Right. And I take it you've raised these
20 concerns with your federal counterparts, both
21 formally and informally; right?

22 A Yes, I have. Many times.

23 Q And I wonder if you could describe the response.
24 Have they expressed a shared concern about the
25 low prosecution numbers?

1 A I don't recall them specifically saying that
2 they were concerned about low number of
3 prosecutions, but they were -- they did share my
4 concern about the broad issue about lack of
5 accountability and a lack of investigation and
6 criminal consequence related to money laundering
7 activities in the province. And I realized that
8 sounds a bit vague, but it is an important
9 distinction because, you know, I think that my
10 federal colleagues are probably as cautious as I
11 am about prosecutorial independence.

12 Q Is it -- perhaps I didn't set the premise for
13 that last question, but I'll try now. Is it a
14 concern to you that there are low prosecution
15 numbers for money laundering offences in British
16 Columbia?

17 A Yeah, it's a concern for me, broadly. In terms
18 of our prosecution service. I have confidence
19 that when they are presented a case they
20 evaluate it appropriately, and so I am concerned
21 that we don't see the identification of money
22 laundering, criminal charges, prosecution and
23 convictions resulting in consequences in the
24 numbers that I would expect to see given the
25 amount of challenges we face with illicit

1 substance sales, for example.

2 Q And you know the FATF has highlighted that as an
3 issue as well, the low prosecution numbers?

4 A Yes, I've seen those reports. Yes.

5 Q So at the very least it's a reputational concern
6 on the international stage?

7 A I've made this argument to my federal colleagues
8 that it's important for Canada to address this
9 issue to preserve our international reputation.
10 Yes.

11 MR. RAUCH-DAVIS: Right. And I wonder if -- I
12 wonder, Madam Registrar, if exhibit 912 can be
13 brought up. This is PG0068.

14 Q It's your letter of January 29th to the
15 Honourable Bill Blair. And my friend took you
16 to one portion on the -- I believe it's the
17 second page. Yes, just right there. The
18 paragraph that starts "following Dr. German's
19 initial report on money laundering." Do you see
20 that? It's in the middle of the page.

21 A Yes, yes. Just starting "this concern"?

22 Q Yes, that's right. So it carries on to say
23 that:

24 "... many British Columbians remain deeply
25 concerned about an apparent lack of

1 resources or interest (or both) on the
2 part of law enforcement, federal
3 government agencies, financial
4 institutions, casino operators and
5 regulators ..."

6 And so on. You see that; right?

7 A Yes.

8 Q Yeah. And so the part that I'm focusing on is
9 that you raise an issue that British Columbians
10 expressed a concern about the lack of resources
11 and the lack of interest. Do you see that? Do
12 I have that right?

13 A Yeah. I would read that as either the lack of
14 resources or a lack of interest or both.

15 Q And so did you share those concerns?

16 A Yes. Yes -- well, let me just -- I think that's
17 my letter. Yeah.

18 Q Yeah, yeah. I only ask because it says "many
19 British Columbians remain deeply concerned," but
20 I take it you agree with those --

21 A Oh, I see. I see what you're saying. Yes, yes.

22 Q Yeah. And so I'm wondering, do you think there
23 has been or currently is a lack of interest or
24 what might be described as a cultural problem
25 within government and law enforcement that

1 results in a lack of prosecutions?

2 A My concern is that there is a culture focused on
3 compliance, especially in relation to the
4 FINTRAC system that places an unfortunate amount
5 of emphasis on compliance with that system as
6 opposed to outcomes related to money laundering.

7 And so in that sentence I would use
8 shorthand around "interest." And it's not that
9 there's -- I would clarify maybe not that
10 there's a lack of interest period, but a lack of
11 interest in what I'm interested in, which is
12 accountability for money laundering as opposed
13 to interest in compliance with various statutory
14 regimes.

15 Q Right. You're saying there's a lack of interest
16 in getting to the actual root of the problem?

17 A No, that the interest is focused in a different
18 area. The interest is focused on compliance
19 with regulatory regimes instead of the interest
20 being focused on, you know, why do we not see
21 more money laundering arrests and prosecutions
22 and convictions.

23 Q Right. A lack of interest --

24 A Which is what my interest is.

25 Q Pardon me, I didn't mean to interrupt. But I

1 take it the lack of interest on disruption,
2 deterrence, those types of initiatives; right?

3 A I wouldn't go that far because of the civil
4 forfeiture piece that exists, but really on the
5 criminal side was my focus here in the
6 conversation with Minister Blair, which is
7 federal responsibility in terms of what the
8 *Criminal Code* looks like and what FINTRAC looks
9 like and so on and my interest and my feeling
10 that many British Columbians were interested in
11 seeing arrests and convictions in relation to
12 money laundering, which is something that we're
13 not seeing. Although we do see a lot of focus
14 and effort in relation to compliance with
15 federal requirements related to money
16 laundering.

17 Q Thank you.

18 A Yeah.

19 Q And I have your evidence. Thank you, Minister.
20 Moving on from this document -- we can take this
21 down, Madam Registrar -- my last topic of
22 questions just relate to some evidence in your
23 witness statement -- I believe it was alluded to
24 earlier this morning as well -- that you
25 progressively became concerned that money

1 laundering activities weren't just confined to
2 casinos and you became concerned about the
3 different sectors at play and the scope of money
4 laundering in British Columbia. And I take it
5 that's what led you to request Dr. German to
6 prepare a second report; right?

7 A During his first report he had identified a
8 couple of concerning issues. The first was that
9 a number of -- a significant number of the
10 high-limit gamblers that were bringing the bulk
11 cash into the casinos were also involved in the
12 real estate market significantly. And my
13 question that arose from that, and his as well
14 as I understood it, was if they were bringing
15 that bulk cash into casinos, were they also
16 bringing that bulk cash into the real estate
17 market and what was the source of that money.

18 And then the second piece was that during
19 his review he had also become aware around this
20 potential issue related to luxury car purchases
21 with bulk cash and that issue also needed to be
22 examined. So that was what led to the second
23 round.

24 Q Right. And the second report -- in the
25 interests of time I won't take you to it, but I

1 take it you'll recall the terms of reference are
2 pretty broad. My note is that Dr. German is to
3 report on lessons learned from case studies of
4 large scale international money laundering to
5 highlight elements that could be relevant in BC.
6 Do you recall that section in the terms of
7 reference?

8 A Yes, I do.

9 Q Yeah. But then my reading of the report is that
10 it seems a bit limited. There's -- the scope
11 seems to really focus on, as you said, real
12 estate, luxury vehicles and then horse racing
13 with some minor comments on some other forms of
14 trade-based money laundering and others.

15 So I guess my question to you is -- I mean,
16 you're aware of other forms of money laundering.
17 You've heard of the term "snow washing"; right?

18 A I have heard that term before, yes.

19 Q Yeah, that's the flow of dirty money into Canada
20 from international jurisdictions. Then
21 there's also issues -- you're aware of issues
22 surrounding the Panama papers and large scale
23 tax evasion; right?

24 A Yes, I am aware of those issues broadly.

25 Q Yeah. And corruption and issues surrounding

1 political donation. That might be an area of
2 concern in relation to money laundering?

3 A We have banned political donations from
4 individuals and those people not resident in
5 British Columbia and unions and strictly limited
6 in individual donations and -- because of
7 concern about the influence of political
8 donations on policy making by government. Yes.

9 Q Right. And those aren't highlighted in the
10 German report, of course?

11 A No, they were not a focus of what I asked
12 Dr. German to do.

13 Q And would those be an area of concern to your
14 mind?

15 A We've taken action to address political
16 donations in British Columbia, and the federal
17 government has some rules in place as well. I'm
18 not immediately familiar with any direct
19 connection that I'm aware of between political
20 donations and money laundering-related
21 corruption.

22 Q What about snow washing and tax evasion as we
23 referenced?

24 A Well, I have concern about all of these issues.
25 They're all species of the same kind of concern

1 around the treatment of financial crime and the
2 seriousness with which we should take financial
3 crime because of its connection with violent
4 crime and other undesirable outcomes on
5 Canadians.

6 Q Right. And I appreciate that some of these
7 things just aren't going to be within the scope
8 of Dr. German's report. Right?

9 A Many of these are areas of federal jurisdiction.
10 I'm a provincial politician and asked Dr. German
11 to look at provincially related issues.

12 Q Right. And so I take it, yeah, you agree
13 that -- or you would say that these problems are
14 exclusively within the jurisdiction of the
15 federal government?

16 A Some of these issues that we canvassed are
17 federal jurisdiction, yes.

18 Q Would you agree that more needs to be done to
19 assess and address these types of issues?

20 A I would definitely support my federal colleagues
21 with any support that they needed to take on
22 these issues. I think financial crime is very
23 serious.

24 MR. RAUCH-DAVIS: Thank you, Minister. Those are my
25 questions.

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

2 And Mr. Butcher on behalf of Mr. Desmarais,
3 who has been allocated 10 minutes.

4 MR. BUTCHER: Thank you, Mr. Commissioner.

5 **EXAMINATION BY MR. BUTCHER:**

6 Q I'm going to first -- Mr. Minister, I'm going to
7 first follow up with some questions asked by
8 counsel for the BC Civil Liberties Association.

9 I take it you would agree that it is --
10 would be completely wrong to assume that wealth
11 or money possessed by persons of Chinese
12 ancestry was derived from criminal activity?
13 Completely wrong to make that --

14 A Yes. Yes, I think that's right. Absolutely.

15 Q Now, you were first elected as an MLA in 2013?

16 A That's correct, yes.

17 Q You became a member of the opposition?

18 A I was, yes.

19 Q MLAs, whether in government or opposition, have
20 a number of roles, wear a number of different
21 hats, if you like. Correct?

22 A Yes. I didn't realize that was a question.
23 Yes.

24 Q And some of those are -- some of those roles are
25 politically partisan?

1 A Yes. Well, I belong to a political party. Yes,
2 that's correct.

3 Q You've described your -- the development of your
4 understanding of money laundering issues as a
5 journey; correct?

6 A Yes, that's correct. Yes.

7 Q Your journey began when you were appointed
8 opposition critic in 2014?

9 A Yes, that's right.

10 Q And you're not able to tell us today whether
11 that appointment was made in January or in
12 September or October? Is that --

13 A No, I can't recall when I began. I started as
14 critic for advanced education, if I recall
15 properly.

16 Q The critic's role is to gather information and
17 knowledge about the portfolio?

18 A Absolutely, yes.

19 Q And to provide informed advice and criticism of
20 the actions of government?

21 A That is correct.

22 Q And that criticism can be for many reasons,
23 including political -- politically partisan
24 benefit?

25 A Yes, I think if you do a good job as a critic

1 potentially your political party could benefit
2 from it, yes.

3 Q What sources did you go to, to become
4 knowledgeable about the money laundering
5 portfolio?

6 A I think a lot of them are footnoted in my
7 initial letter to Minister Anton. Government
8 reports, media reports.

9 Q They are almost exclusively from CBC, the
10 *Squamish Chief*, something called the
11 VancouverObserver.com, and some government
12 reports. So a mixture of media and government
13 reports?

14 A Yes, and freedom of information requests done by
15 media outlet and is by the opposition.

16 Q Now, you've told us about a radio broadcast of
17 an interview with my client, Mr. Desmarais. Do
18 you remember that?

19 A Yes, I did. Oh, yes. Yeah.

20 Q Do you remember when that interview was?

21 A I have a transcript of it somewhere,
22 Mr. Butcher. I could tell you exactly when it
23 was. And I think I may have footnoted it in my
24 letter, but I can't recall in this instant now.

25 Q You're not aware of whether that radio station

1 broadcast was -- whether the radio station
2 broadcast the whole interview or whether it
3 edited the interview in some way or another, are
4 you?

5 A So the way that I got the interview was through
6 a clipping service that monitors media reports.
7 So it was publicly reported, but I was not at
8 the clipping service agency. I don't know their
9 method of gathering it or the contemporaneous
10 nature of that work.

11 Q So the clipping service only records what was
12 broadcast rather than what was recorded by the
13 radio station; correct?

14 A Oh, I see what you're saying. Yes, this was an
15 edited news story that used -- or pardon me, it
16 was an edited interview, probably. It was,
17 anyway, an interview with Mr. Desmarais.

18 Q And as a politician you must be very clearly
19 aware that sometimes the media reporting sound
20 bites present a completely different picture of
21 what a person has actually said?

22 A Well, Mr. Butcher, I'm sure we can provide the
23 transcript, but this wasn't a sound bite; this
24 was an extended interview with Mr. Desmarais and
25 a radio host.

1 Q Okay. It was not a sound bite, but you'll agree
2 that sometimes the media can edit the -- a
3 broadcast or a presentation and --

4 A Oh, I would agree with that, yes.

5 Q And sometimes that can result in a misleading
6 understanding of everything the person said.

7 A Sure. That could happen. Absolutely.

8 Q When you described Mr. Desmarais as apparently
9 indifferent to money laundering, you were not
10 aware of any of the steps he had taken or
11 overseen at BCLC in the time that he had been
12 employed -- that would have been since 2013 --
13 were you?

14 A No. That's why I wrote to the government to ask
15 them what they were doing about this issue given
16 my concern about the statements he had made and
17 the conflicting media reports about what was
18 happening at casinos.

19 Q For example, you had no idea that he'd made
20 efforts to engage CFSEU in a money laundering
21 investigation at the casino before you wrote
22 that letter?

23 A Well, I would have had Mr. De Jong responded
24 with that information, but he did not.

25 Q No, the question was whether you had any

1 information about that prior to writing the
2 letter?

3 A No, that's why I wrote the letter, Mr. Butcher.

4 Q No idea that he'd negotiated an
5 information-sharing agreement with the RCMP?

6 A The reason for writing the letter, Mr. Butcher,
7 was to obtain about information about what steps
8 government was taking to address what I thought
9 was a serious issue. Especially in light of an
10 interview that apparently suggested that it was
11 not a serious interview.

12 Q Yes. The question, Mr. Eby, was that you had no
13 idea he had negotiated that information-sharing
14 agreement, did you?

15 A Yes, Mr. Butcher. And I'm trying to tell you
16 that the frame of my writing that letter was
17 that I didn't have that information and I was
18 seeking it from government.

19 Q No, that's fair enough. And you've made it very
20 clear that as opposition critic you're provided
21 much less information than as minister.

22 A Yes. You have to write to government and see if
23 they'll disclose that information to you or
24 through estimates, freedom of information
25 requests, question period, the tools you have

1 available.

2 MR. BUTCHER: Thank you. Those are my questions.

3 THE COMMISSIONER: Thank you, Mr. Butcher.

4 I'll now turn to Mr. DelBigio on behalf of
5 Mr. Jin, who has been allocated 15 minutes.

6 **EXAMINATION BY MR. DELBIGIO:**

7 Q Minister Eby. Are you able to hear me okay?

8 A Yes, sir, I am.

9 Q Thank you. You've had a long day. I'll try to
10 make this as painless as I can.

11 Having regard to your past employment with
12 the BC Civil Liberties Association and your
13 current duties as Attorney General, you fully
14 understand the importance of the *Charter of*
15 *Rights* as it places the limits upon law
16 enforcement; right?

17 A Yes.

18 Q The *Charter of Rights* isn't just a pesky
19 annoyance; it is a critical limit upon law
20 enforcement. You'll agree with that?

21 A It's a very important rights document, yes.

22 Q You'll agree that recommendations from this
23 commission would be most useful to you if they
24 are informed by and compliant with the *Charter*?

25 A Yes, that would be -- certainly by expectation

1 would be they would be consistent with Canadian
2 law.

3 Q Do you know -- have you been following the
4 commission?

5 A Not directly, Mr. DelBigio.

6 Q Do you know if the commission has called any
7 panels on *Charter of Rights* experts?

8 A I don't know that. I don't believe so to the
9 best of my knowledge.

10 Q Do you know if they've called any -- never mind
11 panels, any just -- how many experts,
12 individuals they've called with respect to
13 *Charter of Rights*?

14 A No, Mr. DelBigio, I'm not familiar with
15 witnesses related to that topic.

16 Q And I guess just for thoroughness -- I think I
17 know the answer to my next question, but do you
18 know how many days or hours of evidence this
19 commission has dedicated to the *Charter of*
20 *Rights* and its importance to the law
21 enforcement?

22 A No, Mr. DelBigio. I don't -- I'm not aware of
23 that data.

24 Q Now, you've already testified with clarity that
25 one of your interests is seeing more

1 investigations and prosecutions, and I suppose
2 you would agree, then, also sentences where
3 there's successful prosecutions for money
4 laundering kinds of offences; right?

5 A That is correct.

6 Q Now, I don't have access to a whole bunch of
7 documents, but -- so I'm not going to take you
8 through a bunch, but I did send a note to your
9 lawyer midday. And I apologize for that. But I
10 did want to ask you a question about a media
11 release by this commission dated March 19th,
12 2021. Have you had a chance to look at that?
13 And I do understand that you've had a very full
14 day.

15 A You'll have to take me to it, Mr. DelBigio.
16 Just based on that description I'm not familiar
17 with it.

18 MS. HUGHES: I can advise, counsel, that the witness
19 has not had a chance to look at this document.

20 MR. DELBIGIO: With the commission's permission, what
21 I'll do is I'll take the minister to the
22 portions that I am interested in. I'll ask the
23 questions. And if time is needed, then the
24 minister can let me know if he is caught off
25 guard.

1 THE COMMISSIONER: All right. That's fine, Mr. DelBigio.

2 MR. MCGOWAN: Yes, Mr. Commissioner, I'll just
3 interject. I'm not at this stage raising an
4 objection to what Mr. DelBigio is seeking to do,
5 but just to give you notice that the document
6 was received by the commission and the witness's
7 counsel today during evidence, and as such, if
8 he's going to put it to the witness, ultimately
9 he'll have to seek leave.

10 THE COMMISSIONER: All right.

11 MR. DELBIGIO: Well, I seek leave to put it to the
12 witness.

13 THE COMMISSIONER: Well, let's see if the witness
14 knows anything about it first.

15 MR. DELBIGIO:

16 Q Minister Eby, you were involved in -- you were
17 involved in drafting or approving the terms of
18 reference for this commission, were you?

19 A Yes, I was.

20 Q And you were involved in approving the changes
21 to the terms of reference that were made in
22 March of this year?

23 A Yes, I was.

24 Q And you are aware that the -- there was some
25 communication from the commission to you or --

1 directly or indirectly with respect to term 4(3)
2 and the suggestion that it be deleted; right?

3 MS. HUGHES: Mr. Commissioner, I don't see any
4 reference to this. I've not had the opportunity
5 to speak to my client about this, this line of
6 questioning comes with no notice, and I do
7 object at this point.

8 THE COMMISSIONER: All right.

9 MR. DELBIGIO: The portion of the reference that I
10 am -- I'll draw the minister's attention to is
11 on page 4 of 7 of the document, and it's just
12 above the heading above the -- about the
13 commission at the top -- so scroll down, please.
14 Maybe -- I think we've now gone too far.

15 MS. HUGHES: Again, Mr. Commissioner, this document
16 we've had no notice of. There's no opportunity
17 to consider it and it doesn't even appear that
18 the portion that my friend's referring to is
19 available in the document that's been put up on
20 the screen. So I again reiterate my objection.

21 THE COMMISSIONER: All right.

22 MR. DELBIGIO: I'll ask the questions without the
23 document. You --

24 THE COMMISSIONER: Take the document down, Madam
25 Registrar.

1 MR. DELBIGIO:

2 Q A request was made to you and you agreed to the
3 request to delete a term of reference; right?

4 A Yes, that's correct.

5 Q And the term of reference was a requirement that
6 if the commission came upon information that may
7 be useful in the investigation or prosecution of
8 an offence, that the commission would be
9 required to hand that information to law
10 enforcement; right?

11 A Yes, that's correct.

12 Q And the communication that was made to you was
13 that the term of reference would be vulnerable
14 to constitutional challenge; right?

15 MS. HUGHES: One moment, Mr. Commissioner. I expect
16 my friend's not seeking to tread into matters of
17 legal advice that was received by the minister,
18 but I am concerned that that question may evoke
19 such an answer.

20 MR. DELBIGIO: No, I asked about the communication
21 from the commission to the minister.

22 MS. HUGHES: With that clarification, then I'm
23 content for the witness to answer.

24 MR. DELBIGIO:

25 Q The commission communicated to you a concern

1 that that term would be vulnerable to
2 constitutional challenge; right?

3 A Yes, that's correct.

4 Q And you consider -- well, I'll ask the question
5 and then you pause for a moment. The question
6 is you agreed with that assessment that that
7 term would be vulnerable to constitutional
8 challenge?

9 MS. HUGHES: Again, I don't believe that's a proper
10 question. This witness isn't here to testify as
11 to his opinions on the constitutional validity
12 of certain matters. He can testify as to what
13 steps he took, but going beyond that into
14 matters of legal opinion I think stray beyond
15 what's permissible.

16 MR. DELBIGIO: Okay.

17 Q You agreed to the change -- to the deletion of
18 that term of reference, the term of reference
19 that the commission said might be vulnerable to
20 constitutional challenge, and you agreed to that
21 change in a March of this year; right?

22 A I'll take your advice on the date. But yes, I
23 did agree to it.

24 Q And you're aware that the commission has been
25 conducting its business since May of 2019;

1 right? Or you'll understand that that is at
2 least approximately the date that it began its
3 business.

4 A Yes. Yes.

5 Q And have you seen the interim report of this
6 commission?

7 A Yes. Yes, I have. Yes.

8 Q And do you recall that the terms of reference
9 before they were changed were referred to and
10 incorporated into that interim report?

11 A Yes, that would make sense to me.

12 Q Do you know how much time, if any, the
13 commission gave to the now deleted term of 4.3?

14 A No, I don't. No.

15 Q Do you know whether or not the commission sent
16 any information to law enforcement pursuant to
17 the now deleted section 4.3?

18 A No, I don't know.

19 Q In answer to Mr. Smart -- and I do appreciate
20 that you've had a lot of lawyers in and out of
21 your life today -- but in answer to Mr. Smart,
22 you said that the public inquiry is expensive.
23 My question for you is what has the public
24 inquiry cost to date?

25 A I don't know that answer off the top of my head,

1 Mr. DelBigio. I believe we budgeted somewhere
2 in the neighbourhood of \$10 million for the
3 public inquiry.

4 Q Are you on budget or not?

5 A My understanding is it's on budget, but I'm not
6 a hundred percent on that, Mr. DelBigio. I
7 think this may be a matter of commission counsel
8 and the Ministry of Finance.

9 Q Okay. But at least some of that \$10 million,
10 however much of it it was, at least it's
11 possible that some of that money has now been
12 spent pursuant to a term that is potentially
13 vulnerable to constitutional challenge; right?

14 MS. HUGHES: Again, I'm going to voice an objection
15 to that, Mr. Commissioner. It invites
16 speculation. The minister has testified as to
17 his limited knowledge to the budgetary affairs
18 of the commission.

19 MR. DELBIGIO: Okay.

20 Q You -- I'm going to shift gears for a moment.
21 Have you heard the expression that you can't
22 arrest your way out of certain problems?

23 A Yes, I have. Yes.

24 Q And you understand that a law enforcement model
25 based upon investigation, arrests, prosecution

1 and potentially imprisonment is not always an
2 effective way of dealing with problems. You
3 understand that; right?

4 A Yes, I do.

5 Q And to the extent that the United States has
6 ever -- has been referred to -- and you have
7 actually looked at some of the United States for
8 some of the models with respect to enforcement
9 and forfeiture and such things; right?

10 A More -- yes, to some degree, Mr. DelBigio. Yes.

11 Q Are you able to say just at least in approximate
12 terms how much money the United States spends on
13 law enforcement as compared to Canada?

14 A No, I'm not, Mr. DelBigio.

15 Q Are you able to talk about the incarceration
16 rate in the United States per capita as compared
17 to Canada?

18 A I would guess it to be significantly higher,
19 Mr. DelBigio, but I do not know the answer to
20 that question.

21 Q Are you able to tell the Commissioner anything
22 about the crime rate in Canada in -- the United
23 States per capita as compared to Canada?

24 A No, Mr. DelBigio.

25 Q You don't view more enforcement as being a magic

1 bullet to the solving of social problems, do
2 you?

3 A No, I don't, no.

4 Q Now, you testified in response to a question put
5 to you by Mr. Rauch-Davis, and I only heard the
6 end of your answer. And that is that it is
7 something about civil forfeiture being a piece,
8 and the most I can say is do you recall the
9 question that was asked of you and the answer
10 that you gave about how civil forfeiture is a
11 piece of what you're looking at?

12 A He'd asked me, Mr. DelBigio, in relation to an
13 insufficient, in my opinion, number of
14 prosecutions related to money laundering, you
15 know, was there nothing happening essentially in
16 relation to prosecutions. And to the best of my
17 recollection that was roughly his question. But
18 my response was that a piece of accountability
19 around money laundering was civil forfeiture and
20 that there were civil forfeiture matters that I
21 was aware of connected to money laundering, but
22 to the best of my knowledge there were no
23 criminal prosecutions related to money
24 laundering.

25 Q Can you say that -- civil forfeiture matters

1 relating to money laundering that you're aware
2 of, do you communicate with the Director of
3 Civil Forfeiture?

4 A No. The Director and the Ministry of Public
5 Safety and Solicitor General. But I am updated
6 by our counsel. I may be wandering into an area
7 of solicitor-client privilege, but I do get
8 briefings from our counsel on significant cases
9 that can include civil forfeiture matters.

10 Q And I don't want to hear what your counsel might
11 tell you, but I'm going to ask you this. Do you
12 ever meet or communicate directly with the
13 Director with respect to his activities?

14 A No, I don't.

15 Q Now, has it occurred to you -- let me phrase the
16 question this way. This commission has -- this
17 commission has heard some evidence that one of
18 the difficulties that some enforcement people
19 perceive is *Stinchcombe* disclosure requirements.
20 And do you know what I mean when I say that?
21 *Stinchcombe* being the decision that imposes
22 requirements upon the prosecutor to give police
23 notes and such things to an accused person?

24 A Yes, I am familiar both with the case and what
25 it's come to mean in the justice system and that

1 it is pointed to by some as an impediment to
2 successful prosecutions and information sharing
3 with other jurisdictions.

4 Q And has it occurred to you as possible that in
5 order to avoid *Stinchcombe* and in order to
6 avoid -- I should also say that some of the
7 witnesses have talked about concerns about
8 *Jordan* in the Supreme Court of Canada. It talks
9 about trial within a reasonable period of time.

10 So has it occurred to you that in order to
11 avoid *Stinchcombe* frustrations and *Jordan*
12 frustrations, that police are simply using civil
13 forfeiture instead of criminal -- instead of
14 criminal prosecutions and that's why you see not
15 the number of prosecutions that you would hope?

16 A I was very concerned about Dr. German's finding
17 that there were no active federal officers
18 working on money laundering from the criminal
19 perspective in his report because of a species
20 of what you're describing, which is that I
21 believe there should be criminal investigations
22 of such activity by police.

23 Q The police might find it easier to refer a
24 file over to Mr. Tawtel rather than to send it
25 to one of your prosecutors?

1 A I think the police would be better placed to
2 speak so that. But if there are no police doing
3 criminal investigations, then the result kind of
4 speaks for itself.

5 Q Now, is it your wish -- I understand what you
6 said about prosecutorial independence and I
7 suppose you wouldn't want -- similarly you
8 wouldn't want to tread on the toes of the police
9 in how they do things. But is it your wish that
10 every drug dealer who sells \$10 or \$20s worth of
11 drugs and receives that 10 or \$20 bill into
12 their pocket that they be prosecuted for both
13 trafficking and possession of the proceeds of
14 crime?

15 A Well, to be blunt, it's my understanding that
16 that is a very significant focus of resources is
17 low-level drug dealing activity, and that was a
18 source of frustration to me when I worked in the
19 Downtown Eastside when I saw people who were
20 really sick with addiction who were also selling
21 drugs to support their habits. And I also saw
22 the amount of money that was going into the
23 purchase of those drugs and my belief that that
24 money was being centralized somewhere and I
25 didn't see accountability at the higher end.

1 And that was my concern, was that all of the
2 effort -- and that's an exaggeration. A
3 significant portion of the effort was focused on
4 the low end and insufficient effort was being
5 placed at the high end.

6 Q Now, just about in conclusion. This commission
7 has heard evidence about an investigation -- and
8 I don't know if it's E-National or E-Nationalize.
9 Have you heard of that?

10 A Yes, I have. Yep.

11 Q And there has been evidence given with respect
12 to the status of that. And be clear, and your
13 counsel can be clear that I'm not going to be
14 asking about who's being investigated, but do
15 you understand that that is a live file?

16 A I don't know, Mr. DelBigio. I don't know
17 whether it's live or not.

18 Q Whether -- and I guess to use a word that is --
19 to remove any uncertainty about the possible
20 meaning of the word "live," do you understand if
21 it is either an ongoing investigation or if it
22 is a file that is sitting on the desk of some
23 prosecutor?

24 A I don't know the answer to that question, no.

25 Q I'm going to go back to term 4.3, the now

1 deleted term of the terms of reference of this
2 commission. What do you say -- what do you say
3 if I say to you, you knew that the commission was
4 given powers of -- to subpoena people, you knew
5 that this commission was -- and its lawyers were
6 given powers to conduct investigations and
7 gather information, you were frustrated by the
8 fact that there were not enough prosecutions as
9 you thought it and you included term -- the now
10 deleted term 4.3 in order to simply attain an
11 objective of increasing prosecutions. What do
12 you say to that?

13 A I disagree. The reason that term was included
14 was my understanding that the commission would
15 be interviewing a significant number of people
16 in May, through their work uncover an active
17 criminal issue, and I wanted to be clear about
18 their authority to share information if they did
19 do that. And because there was -- when you're
20 conducting a public inquiry into something like
21 money laundering, which is a crime, there are
22 all of those thorny issues that you're talking
23 about. You know, you have the ability to compel
24 people to testified, which could potentially
25 mean that their evidence that they give by

1 compulsion couldn't be used in a criminal
2 prosecution, and so I wanted to make sure that
3 the -- to the extent possible that the
4 commission had all avenues available to them to
5 avoid inadvertently causing problems in terms of
6 any potential criminal prosecution.

7 I don't agree with you that this was set up
8 as some sort of process by which the *Charter*
9 could be circumvented. And it was removed
10 because of my concern of lengthy litigation
11 tying up the conclusion of the commission. I
12 want to hear the results and act on them.

13 MR. DELBIGIO: Thank you, Minister. Those are my
14 questions.

15 THE COMMISSIONER: Thank you, Mr. DelBigio.

16 I'll turn now to Ms. Hughes, who has been
17 allocated 30 minutes.

18 MS. HUGHES: Thank you, Mr. Commissioner. If I might
19 suggest a brief recess. I'd like to review my
20 questions. I think many of them have been
21 canvassed already, and that will allow me to
22 focus my thoughts and hopefully we can wrap this
23 up in less than 30 minutes.

24 THE COMMISSIONER: All right.

25 MR. MCGOWAN: Yes, Mr. Commissioner. I'll just

1 interject. The witness is under
2 cross-examination, and in the usual course that
3 would prevent Ms. Hughes from speaking with him.
4 There is a document that has been sent over by
5 Mr. Mazure's counsel, and I don't know whether
6 she wishes to seek leave to review that with her
7 client over the break.

8 THE COMMISSIONER: Okay. Ms. Hughes?

9 MS. HUGHES: Yes, thank you, Mr. McGowan. This
10 document has not been produced, and so I'm not
11 certain the extent to which it can even be put
12 before the commission, but I would seek leave to
13 simply discuss the contents of it with my
14 client. I can advise that it relates to
15 calendar entry for July 31st, 2017.

16 THE COMMISSIONER: All right. That's fine. Thank
17 you. I will grant you leave to do that. How
18 long do you --

19 MS. HUGHES: Thank you, Mr. Commissioner.

20 THE COMMISSIONER: How long do you think you need,
21 Ms. Hughes?

22 MS. HUGHES: I think five minutes, perhaps ten -- I
23 just need to arrange to obtain a copy -- ought
24 to suffice, Mr. Commissioner.

25 THE COMMISSIONER: All right. We'll take 10. Thank

1 you.

2 MS. HUGHES: Thank you.

3 THE REGISTRAR: This hearing is stood down for
4 10 minutes until 2:23 p.m.

5 **(WITNESS STOOD DOWN)**

6 **(PROCEEDINGS ADJOURNED AT 2:13 P.M.)**

7 **(PROCEEDINGS RECONVENED AT 2:22 P.M.)**

8 **DAVID EBY, a witness for**
9 **the commission,**
10 **recalled.**

11 THE REGISTRAR: Thank you for waiting. The hearing
12 is resumed. Mr. Commissioner.

13 THE COMMISSIONER: Yes. Thank you, Madam Registrar.
14 Yes, Ms. Hughes. I'm sorry. I think you're
15 muted, Ms. Hughes.

16 MS. HUGHES: All right. Can you hear us now?

17 THE COMMISSIONER: Yes. Thank you.

18 **EXAMINATION BY MS. HUGHES:**

19 Q Minister Eby, stepping back to the summer of
20 2017 when you became minister and Attorney
21 General, what portfolios did you assume
22 responsibility for?

23 A I was the minister responsible for gaming, for
24 ICBC and for the Liquor Distribution Branch
25 which also included the new funnel under that

1 branch for cannabis policy. The government
2 cannabis stores as well. I shared that with the
3 Solicitor General.

4 Q And which -- what were the pressing issues that
5 you were dealing with at that time?

6 A There was the cannabis issue that I was talking
7 about, and then there was also of course ICBC.
8 I had sort of similarly surprising briefings in
9 relation to ICBC around fairly significant
10 financial losses of the corporation and the
11 financial lack of sustainability of the
12 corporation at that time. They were losing
13 hundreds of millions of dollars. And because of
14 the way government accounting worked that meant
15 that government's budget was potentially at risk
16 and also planned social spending based on what
17 we understood the finances were going into the
18 election may be impacted. Do it was a very
19 profound issue on the ICBC side.

20 And then I was also Attorney General, so
21 significant litigation related to government in
22 all of the different ministries.

23 Q And so you were responsible for the gaming
24 portfolio from June of 2017 until November of
25 2020; is that right?

1 A That's correct.

2 Q And in November of 2020 gaming moved to the
3 Solicitor General?

4 A Yes.

5 Q When you were minister responsible for gaming,
6 how did information flow to you from BCLC?

7 A So there were a couple of different avenues.
8 Either I would receive a direct briefing from
9 the chair or from BC Lottery Corporation. They
10 would far more commonly, though, prepare
11 briefing notes, information notes for me that
12 would be passed to staff, my ministerial
13 assistants, and then up to me as minister or to
14 the public service. And then the public service
15 would brief me. Doug Scott was one of my main
16 liaisons with our Crown corporations, including
17 BCLC.

18 Q And in terms of GPEB, how did information flow
19 up to you from GPEB?

20 A It was a similar set of processes. Identical,
21 in fact.

22 Q Stepping back to when you were formally the
23 critic for gaming, and that was approximately
24 2014 to 2017, did you receive any briefings from
25 GPEB during that time?

1 A No, I did not.

2 Q Now, we heard evidence earlier this morning
3 about the July 31st, 2017 briefing that took
4 place for you in your role as minister, and that
5 occurred in Kamloops?

6 A Yes, it did.

7 MS. HUGHES: And, now, Mr. Commissioner, this relates
8 to the information that was passed on to
9 commission counsel from counsel for Mr. Mazure,
10 and it relates to the minister' calendar.

11 Q Minister Eby, your ministerial assistants
12 maintain a calendar for you?

13 A Yes, they do.

14 Q And who inputs information into that calendar?

15 A The administrative staff in my office that
16 maintain my calendar for me and do scheduling
17 for me.

18 Q And you understand that calendar to be kept as
19 accurate as possible?

20 A Yes.

21 Q And is it your ministerial assistants' practice,
22 have you directed them in any particular way as
23 to what information to put into the calendar?

24 A No, I do not.

25 Q Do you understand whether they have a practice

1 of including all attendees at meetings or not?

2 A Sometimes there are a list of attendees and
3 sometimes there are not. It depends on the
4 meeting and who's hosting it and their level of
5 knowledge or I guess whatever they're doing that
6 particular day. I should correct that I do ask
7 for links to online meetings now, especially,
8 and conference call numbers. But they're quite
9 good at it.

10 Q So going back to January -- or sorry, July 31st,
11 2017, do you recall taking that early morning
12 6:10 a.m. flight to Kamloops from Vancouver?

13 A I don't, but if that was what's in my calendar,
14 then that was very likely -- usually I would fly
15 to Kamloops and then rent a car there and drive
16 to BCLC headquarters or wherever my meetings
17 were.

18 Q Okay. And so I take that it's fair to say in
19 terms of what meetings you attended on July 31st
20 you would defer to what's in your calendar?

21 A Yes, I would.

22 Q Okay. And do you recall meeting with BCLC --
23 that the meeting started quite early in the
24 morning, around 7:30?

25 A I do not recall that, but having seen the

1 calendar entry, I do recall that now.

2 Q Okay. And do you recall attending meetings
3 other than at BCLC on July 31st in Kamloops?

4 A Yes. I also went to a meeting at Thompson
5 Rivers University that day.

6 Q Do you recall what time that meeting started?

7 A I would defer to the calendar on that.

8 Q If the calendar shows it started at 10:30 a.m.,
9 you'd have no reason to disagree with that?

10 A That's correct.

11 Q And do you recall what time your flight home
12 was?

13 A No, I don't.

14 Q And, again, if your calendar showed it was
15 approximately 2:50 in the afternoon, you'd have
16 no reason to disagree with that?

17 A That's correct.

18 MS. HUGHES: Thank you. So, Mr. Commissioner, we
19 don't have a produced copy of the calendar
20 before you, and I'm not sure as to what
21 Mr. McGowan's position is in terms of putting
22 forward the unproduced document that Mr. Penner
23 forwarded to commission counsel.

24 What I propose to do is leave the evidence
25 as it is, and we can make arrangements to have

1 the relevant excerpt produced in due course
2 subject to any concerns any other participants
3 might have.

4 THE COMMISSIONER: All right.

5 Mr. McGowan, do you take any contrary view?

6 MR. MCGOWAN: No, I don't take any issues with
7 Ms. Hughes' proposed approach.

8 THE COMMISSIONER: All right. We'll follow that,
9 then, Ms. Hughes. Thank you.

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

11 Q Minister Eby, if I could ask you, please, in the
12 book of documents in front of you if you could
13 please turn to tab 10 and 11. Start at tab 10.
14 Wrong volume, Minister Eby. If you could turn
15 to the one titled "Volume 1 of 2." Thank you.

16 A Yes, it's in front of me.

17 Q Oh, I'm sorry, I've given you the wrong tab.
18 You were in the correct binder. What you should
19 see before you --

20 MS. HUGHES: And, Madam Clerk, if you could please
21 pull up BCLC0016978.

22 Q And so what you have before you, Minister, is a
23 copy of a BCLC briefing note dated July 27,
24 2017.

25 A Yes.

1 Q Titled "BCLC Anti-Money Laundering and Counter
2 [sic] Terrorist Financing Program"?

3 A Yes.

4 Q And you were asked questions earlier about the
5 July 31st, 2017 briefing. And you've indicated,
6 I believe, that you were provided with a series
7 of briefing notes in advance of that briefing?

8 A Yes. Either at the same time or before that
9 meeting, yes.

10 Q And do you recognize this briefing note as one
11 of the notes that was provided to you?

12 A Yes. It looks like that, yes.

13 MS. HUGHES: Mr. Commissioner, if I could please have
14 that marked as the next exhibit.

15 THE COMMISSIONER: Yes, very well.

16 THE REGISTRAR: Exhibit 916.

17 THE COMMISSIONER: Thank you.

18 **EXHIBIT 916: BCLC Briefing Note for David Eby**
19 **re BCLC - AML and Countering Terrorist Financing**
20 **Program - July 27, 2017**

21 MS. HUGHES:

22 Q And then, Minister Eby, if you could please turn
23 over the tab. You should now have --

24 MS. HUGHES: And, Mr. Commissioner, it's recently
25 marked exhibit 909, BCLC16987.

1 Q And, again, Minister Eby, what you should see
2 before you is a briefing note dated July 27,
3 2017, titled "Status Update on the Joint Illegal
4 Gaming Investigations Team."

5 A Yes.

6 Q And is this another one of the briefing notes
7 that was provided to you either shortly before
8 or at the July 31st briefing?

9 A Yes.

10 Q And, Minister Eby, the contents of these two
11 briefing notes, are they consistent to the best
12 of your recollection with the information
13 conveyed at a higher level in that briefing?

14 A Yes.

15 MS. HUGHES: Thank you, Madam Registrar. I no longer
16 need the document on the screen. That one's
17 already been marked as an exhibit.

18 Q Now, following the July 31st, 2017 briefing in
19 Kamloops, do you also recall having a briefing
20 with Mr. Bud Smith in early August 2017?

21 A Yes.

22 MS. HUGHES: And I've given you a copy of a document.

23 Madam Registrar, this is BCLC0016963.

24 And, Mr. Commissioner, notice was provided
25 late for this document, so I do require leave.

1 I understand that commission counsel has no
2 opposition to me referring this document to the
3 witness and, in my submission, there's obviously
4 no prejudice given and he has had time to review
5 it.

6 THE COMMISSIONER: All right. We'll grant leave.

7 MS. HUGHES: Thank you.

8 Q And do you recognize the document in front of
9 you, Minister Eby?

10 A Yes, I do.

11 Q What is it?

12 A It's a letter to me from Bud Smith, who was then
13 the chair of the British Columbia Lottery
14 Corporation dated August 2nd, 2017.

15 Q And can you tell the Commissioner what you
16 recall about your discussions of a meeting with
17 Mr. Smith on that day?

18 A Yes. Mr. Smith was in my office in Victoria,
19 and he presented me with this letter, which is a
20 resignation letter. And -- sort of. In the
21 sense that he says that he acknowledges that
22 government may want to change direction in terms
23 of the BC Lottery Corporation and that he is
24 willing to resign and to have this serve as a
25 resignation letter.

1 And that was one of our topics of
2 discussion was whether or not I would accept his
3 resignation in the role of chair. And then
4 there were also a number of other topics that he
5 wished to canvass with me related to the
6 operations of BCLC and his feeling about the
7 performance of the CEO and the board so that I
8 had his perspective as chair.

9 MS. HUGHES: Madam Registrar, if you could please
10 scroll down to the next page of that document.

11 Q You mentioned, Minister Eby, that there were
12 some discussion points or topics he wanted to
13 discuss with you. Does page 2 of this document,
14 to the best of your recollection, reflect those
15 issues?

16 A Yes, it does.

17 MS. HUGHES: All right. Thank you. Madam -- or
18 Mr. Commissioner, if I may please have this
19 document marked as the next exhibit.

20 THE COMMISSIONER: 917.

21 THE REGISTRAR: Exhibit 917.

22 **EXHIBIT 917: Resignation letter of Bud Smith -**
23 **August 2, 2017**

24 MS. HUGHES: If I could now -- thank you, Madam
25 Registrar. I'm done with the document. If you

1 could now please bring up, Madam Registrar,
2 BCLC -- it's been marked as exhibit 482. It's
3 the affidavit of Catherine Cuglietta.

4 Minister Eby, you'll find this at tab 2 of
5 your volume of documents for cross-examination.
6 There we are.

7 And if you could please, Madam Registrar, go
8 to page 13 of the document.

9 THE WITNESS: Yes.

10 MS. HUGHES:

11 Q Minister Eby, I'd just like to give you an
12 opportunity to have a closer look at this
13 document. As I heard it in questions counsel
14 for BCLC put it to you that the drop that we see
15 in the STR count for River Rock occurred in, as
16 I heard him, and I may have misheard, 2015. If
17 you look at the bottom of the page, can you make
18 out the date there where it says January to June
19 2016 underneath the number 1?

20 A Yes.

21 Q And so would you -- I understand this to be
22 indicating the drop in STRs to have started
23 somewhere in the January to June 2016 time
24 frame?

25 A Yes, January to June 2016 through the big drop

1 there at number 1 through to July, December
2 2016.

3 Q Thank you. Now -- also, Minister Eby, you gave
4 evidence earlier about what you now understand
5 to be STRs versus LCTs, or large cash
6 transactions.

7 MS. HUGHES: And, Madam Registrar, could you please
8 turn to page 4 of this document.

9 THE WITNESS: Yes.

10 MS. HUGHES:

11 Q I just wanted to give you the opportunity,
12 Minister Eby, to reflect and indicate what, if
13 anything, you understand to be the case with
14 LCTs during this same time frame.

15 A When I look at January to June 2016 to July to
16 December 2016, large cash transaction volume is
17 quite similar and is maintained right through
18 until July to December 2017 at which point there
19 is a sharp drop in January through June 2018.
20 Marked as number 4.

21 MS. HUGHES: Thank you. Madam Registrar, I'm done
22 with that document. Thank you very much.

23 Q Minister Eby, following the release of
24 Dr. German's report, first report -- you can
25 hold onto those documents. You'll need the next

1 volume there.

2 MS. HUGHES: Madam Registrar, I'm going to go to
3 GPEB1339.

4 Q That's at tab 68, Minister Eby. And my question
5 to you, Minister Eby, is this. Following the
6 release of Dr. German's first report, you
7 directed certain steps be taken right away; is
8 that right?

9 A Yes, that's correct.

10 Q And could you please identify the document
11 that's before you and speak briefly to what it
12 indicates?

13 A This is a letter from me dated June 27th, 2018,
14 to the deputy Attorney General who is the head
15 of the public service in my ministry, Richard
16 Fyfe, and Mr. Douglas Scott, who was the
17 Associate Deputy Minister who was responsible
18 for Crowns, including BCLC. It's addressed to
19 both of them. And it's a letter to me of
20 direction related to the recommendation from
21 Dr. German's reports.

22 There's a number of recommendations I
23 direct them to implement immediately, and then
24 there are others I suggest because of complexity
25 and requirement for analysis that the teams

1 within the public service assemble a group, a
2 committee, to examine them and implement them.

3 Q And the group that you just spoke of, was that
4 the AML secretariat?

5 A Yes, it is.

6 Q Do you have any direct involvement with the AML
7 secretariat?

8 A No, not anymore.

9 Q And you also requested assistance from the
10 Solicitor General for ongoing support of JIGIT;
11 is that right?

12 A Yes that's right.

13 Q And you made overtures to the RCMP for
14 additional law enforcement support as well?

15 A Yes, I did.

16 MS. HUGHES: Mr. Commissioner, if I could please have
17 that document marked as the next exhibit.

18 THE COMMISSIONER: 917.

19 THE REGISTRAR: 918, Mr. Commissioner.

20 THE COMMISSIONER: Thank you, Madam Registrar.

21 **EXHIBIT 918: Letter from David Eby to Richard**
22 **Fyfe and Douglas Scott directing recommendations**
23 **of Dr. German be implemented, June 27, 2018**

24 MS. HUGHES:

25 Q And now continuing on and following the

1 recommendations that Dr. German made, government
2 is moving forward with a new mandate and
3 government model for an independent gambling
4 regulator; is that right?

5 A That's correct.

6 Q And if I could ask you, please, Minister, to
7 turn to tab 64 of your documents.

8 MS. HUGHES: Madam Registrar, if you could please
9 pull up GPEB1522.

10 Q And so what you should see before you, Minister,
11 is a copy of a briefing note prepared August 27,
12 2019, regarding the issue of mandate and
13 government's model for a new independent
14 provincial gambling regulator.

15 A Yes, that's correct.

16 MS. HUGHES: Minister -- or sorry, Mr. Commissioner,
17 could I please have that document marked as the
18 next exhibit.

19 THE COMMISSIONER: Very well.

20 THE REGISTRAR: Exhibit 919.

21 **EXHIBIT 919: GPEB briefing note for decision of**
22 **David Eby re mandate and governance model for a**
23 **new independent provincial gambling regulator -**
24 **August 27, 2019**

25 MS. HUGHES:

1 Q And actually, Minister, I should ask you to
2 please turn to the last page and identify that
3 that is your signature on the document.

4 A Yes, that's correct. That indicates that I
5 approved the recommendations in the document.

6 MS. HUGHES: Thank you. And, Madam Registrar, if you
7 could pull up GPEB5749.

8 Q Minister Eby, this document is tab 67 of your
9 binder. And so what you should see before you
10 is another briefing note prepared January 24th,
11 2020, regarding the analysis of Dr. German's
12 recommendations related to casino reporting
13 obligations to FINTRAC.

14 A Yes, that's right.

15 Q And if you could please, again, turn to the --
16 well, it's page 8 of the GPEB numbering. And --
17 there you are.

18 A Yes.

19 Q We don't see your signature on this document.
20 Do you recall approving this briefing note?

21 A Yes, I approved the recommended option.

22 Q And this, I believe you testified earlier,
23 Minister, was an example of where government
24 conducted further analysis on one of
25 Dr. German's recommendations and determined it

1 couldn't be implemented as he had recommended,
2 and so you followed the advice of -- you were
3 given in terms of the recommended option?

4 A That's correct.

5 MS. HUGHES: If I could have that marked as the next
6 exhibit, please, Mr. Commissioner.

7 THE COMMISSIONER: 920.

8 THE REGISTRAR: Exhibit 920.

9 **EXHIBIT 920: AML Secretariat Briefing Note for**
10 **decision of David Eby re analysis of Dr. Peter**
11 **German's recommendations related to casino**
12 **reporting obligations to FINTRAC - January 24,**
13 **2020**

14 MS. HUGHES: If you could please now, Madam
15 Registrar, bring up GPEB1447.

16 Q Minister Eby, this is at tab 66 of your binder.
17 I don't believe that's the right document.
18 Certainly not the one I'm looking at.

19 My version, Madam Registrar, does not have
20 comments in it. There we are.

21 THE REGISTRAR: Sorry, this is the only version I
22 have. Do you have ...

23 MS. HUGHES: I just have GPEB1447. Why don't we --

24 Q Minister, you recall -- there we are.

25 MS. HUGHES: That's the document I'm looking for.

1 Thank you, Madam Registrar.

2 Q So what you should see now, Minister, is another
3 briefing note dated October 5th, 2018?

4 A Yes.

5 Q And this one deals with the issue of a
6 short-term funding mechanism for the remaining
7 two years of JIGIT's initial five-year mandate?

8 A Yes.

9 Q And, again, Minister, if we turn to page 5 of
10 this document.

11 A Yes.

12 Q We see that you approved option number 2.

13 A Yes, I did.

14 Q And this is the recommended option?

15 A No, it's not.

16 Q Why did you approve an option different than the
17 recommended option?

18 A It was my feeling that it was better to fund
19 policing related to money laundering and
20 policing related to casino-related illegal
21 activity directly from government rather than
22 from the BC Lottery Corporation in order that
23 there was a separation as much as possible
24 between enforcement and the BC Lottery
25 Corporation and its separate mandates.

1 MS. HUGHES: Thank you. Mr. Commissioner, if I may
2 have that document, please, marked as the next
3 exhibit.

4 THE COMMISSIONER: 921.

5 THE REGISTRAR: Exhibit 921.

6 **EXHIBIT 921: GPEB briefing note re short term**
7 **funding mechanism for the remaining two years of**
8 **JIGIT's initial five-year mandate - October 5,**
9 **2018**

10 MS. HUGHES: Thank you.

11 Q Minister Eby, we're done with the documents for
12 now.

13 In counsel for Mr. Kroeker's questions to
14 you, it was suggested to you that you had
15 suggested that responsibility for policy making
16 or decision making had been downloaded to
17 Mr. German. My note of your evidence was that
18 you used the word "delegated." But in any
19 event, is it fair to say that -- I think this is
20 consistent with your testimony -- you looked to
21 Dr. German for policy recommendations, but you
22 maintained decision-making authority at the end
23 of the day?

24 A Yes. It was my feeling that I would benefit
25 from having somebody with expertise to be able

1 to look at the different policy recommendations
2 and reconcile them and ensure an integrated
3 approach from government, and I wanted
4 Dr. German to play that role.

5 MS. HUGHES: Thank you. Mr. Commissioner, those are
6 my questions.

7 THE COMMISSIONER: Thank you, Ms. Hughes.

8 Anything arising Mr. DelBigio?

9 MR. DELBIGIO: No, thank you.

10 THE COMMISSIONER: Mr. Butcher?

11 MR. BUTCHER: No, thank you.

12 THE COMMISSIONER: Mr. Rauch-Davis?

13 MR. RAUCH-DAVIS: No, thank you.

14 THE COMMISSIONER: Ms. Magonet?

15 MS. MAGONET: Nothing arising. Thank you.

16 THE COMMISSIONER: Ms. Henein or Ms. Mainville.

17 MS. MAINVILLE: No, thank you.

18 THE COMMISSIONER: Mr. McFee?

19 MR. McFEE: Nothing arising, Mr. Commissioner. Thank
20 you.

21 THE COMMISSIONER: Mr. Smart?

22 MR. SMART: Nothing. Thank you.

23 THE COMMISSIONER: And Mr. McGowan.

24 MR. MCGOWAN: Yes, Mr. Commissioner. Just one brief
25 matter. It relates to the communications we've

1 received from Mr. Mazure's counsel today.

2 **EXAMINATION BY MR. MCGOWAN (continuing):**

3 Q Minister Eby, we now have before the
4 Commissioner evidence that your initial briefing
5 with BCLC on July 31st, 2017, was in Kamloops.
6 Mr. Mazure has communicated to the commission
7 today through his counsel that he is -- he has
8 what he believes is a clear recollection with
9 some confidence that he did not go to Kamloops
10 and he had his first meeting with you in
11 Victoria, and I just wanted to give you an
12 opportunity to reflect on your degree of
13 confidence that he was present at the meeting.
14 And to be fair I'm not suggesting to you one way
15 or the other, but I wanted you to have in your
16 mind what he says about it and give you an
17 opportunity to comment on it.

18 A Yes, I would certainly trust Mr. Mazure's
19 judgment about where he was over my recollection
20 of who was at the meeting.

21 MR. MCGOWAN: Thank you, Mr. Commissioner. I don't
22 have any other questions.

23 THE COMMISSIONER: All right. Thank you,
24 Mr. McGowan.

25 Thank you very much, Minister Eby. I'm

1 very appreciative of the time you've taken. And
2 I'm aware of the fact that this has been a very
3 long session, but the commission has benefitted
4 from your evidence about the perspectives you've
5 had over the years, your interactions and your
6 insights and I'm grateful for your willingness
7 to engage with the commission during the course
8 of the day. Thank you. You're now excused

9 THE WITNESS: Thank you, Commissioner. And thank you
10 to the counsel and staff.

11 **(WITNESS EXCUSED)**

12 THE COMMISSIONER: Mr. McGowan, I think we'll adjourn
13 now until tomorrow at 9:30.

14 MR. MCGOWAN: Yes, that's correct.

15 THE COMMISSIONER: Thank you.

16 THE REGISTRAR: The hearing is now adjourned until
17 April 27th, 2021 at 9:30 a.m.

18 **(PROCEEDINGS ADJOURNED AT 2:48 P.M. TO APRIL 27, 2021)**

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