

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

**Public Hearing**

**Commissioner**

The Honourable Justice  
Austin Cullen

**Held at:**

Vancouver, British Columbia  
via video link

Monday, June 15, 2020

## APPEARANCES

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Ron Usher	Society of Notaries Public of B.C.
William Smart, QC	B.C. Lottery Corporation
Mark Skwarok Melanie Harmer	Great Canadian Gaming Corporation
Christine Mainville	Robert Kroeker
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Jitesh Mistry	B.C. Government and Service Employees' Union
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Megan Tweedie	B.C. Civil Liberties Association
Jo-Anne Stark Kevin Westell	Canadian Bar Association, B.C. Branch
Kevin Westell	Criminal Defence Advocacy Society
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1  
Robert Wainwright (for the Commission)  
Examination by Mr. McCleery, Counsel for the  
Commission

Vancouver, B.C.  
June 15, 2020

1  
2  
3  
4 THE REGISTRAR: Good morning. Thank you for your  
5 patience. The hearing is resumed.

6 THE COMMISSIONER: Thank you, Madam Registrar. Mr.  
7 McCleery, do you have conduct of the examination  
8 of the next witness?

9 MR. MCCLEERY: I do, Mr. Commissioner. Today we have  
10 Sir Rob Wainwright, who is a partner with  
11 Deloitte and the former executive director of  
12 Europol. Sir Rob is scheduled to give evidence  
13 today and tomorrow, and I expect we should have  
14 ample time to complete his evidence.

15 And Madam Registrar, I understand that Sir  
16 Rob will affirm.

17 THE COMMISSIONER: Thank you.

18 THE REGISTRAR: Sir Robert, would you please unmute  
19 your mike. I think you are -- thank you.  
20 [Affirmation] Sorry, could you please say it  
21 again?

22 MR. WAINWRIGHT: Do you hear me now?

23 THE REGISTRAR: Yes.

24 MR. WAINWRIGHT: Maybe you could just ask me again for  
25 the record, please.

26  
27 ROBERT WAINWRIGHT, a witness  
28 called for the Commission,  
29 affirmed.  
30

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

33 A My name is Sir Robert Mark Wainwright. Robert,  
34 R-o-b-e-r-t, Wainwright, W-a-i-n-w-r-i-g-h-t.

35 THE REGISTRAR: Thank you very much.

36 THE COMMISSIONER: Yes, Mr. McCleery. Thank you.

37 MR. MCCLEERY: Thank you.  
38

39 EXAMINATION BY MR. MCCLEERY:  
40

41 Q Good morning, Sir Rob, can you hear me?

42 A Yes. Good morning, Kyle.

43 Q Good morning. I'd like to begin by asking you to  
44 tell us a little bit about your background and  
45 professional experience. You've provided us with  
46 a copy of your curriculum vitae.

47 MR. MCCLEERY: And Madam Registrar, I wonder if you

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Commission

1           might pull up Sir Rob's CV, which I believe is  
2           document number 41 on your list.

3           Q     And Sir Rob, can you confirm that this is the  
4           first page of the CV you have provide to us, just  
5           with some contact information redacted?

6           A     Yes, it is, Kyle.

7           Q     Thank you.

8           MR. MCCLEERY: Mr. Commissioner, I'd ask this be  
9           marked as the next exhibit.

10          THE COMMISSIONER: Very well. That will be Exhibit  
11          63.

12          THE REGISTRAR: Exhibit 63.

13

14                   EXHIBIT 63: Sir Robert Wainwright -  
15                   Curriculum Vitae

16

17          MR. MCCLEERY: And Madam Registrar, we can take that  
18          document down now. Thank you.

19          Q     Sir Rob, I understand you've been a partner with  
20          Deloitte since June 2018; is that correct?

21          A     That's correct.

22          Q     And can you please tell us a little bit about the  
23          nature of the work that you do in that role.

24          A     Yes. I'm a partner with Deloitte. I'm based in  
25          Europe but I work globally, serving global  
26          organizations and some national governments,  
27          providing advice, at senior executive level, in  
28          the management of cyber risk, financial risk and  
29          related areas.

30          Q     And can you tell us the extent to which that work  
31          relates to the issue of money laundering.

32          A     I spend a lot -- a lot of my time speaking to  
33          some governments and a lot of the global banks  
34          about the challenge they face in fighting money  
35          laundering as part of the wider financial crime  
36          agenda. And I do that by leveraging my  
37          background, my career background, which we'll  
38          come on to discuss.

39          Q     Thank you. Yes. Why don't we move then to the  
40          beginning of your career. I understand from your  
41          CV you spent approximately 11 years as an  
42          intelligence officer with the British Security  
43          Service. Can you tell us a little bit about that  
44          organization and what your role was there.

45          A     Yes. It's -- it's the domestic security service  
46          of the United Kingdom. It has a responsibility  
47          for safeguarding the national security of the UK,

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Commission

1 principally from threats of espionage, terrorism  
2 and other threats to national security. For 11  
3 years I was an intelligence officer specializing  
4 in a range of fields relating to the work of that  
5 agency, including helping to set up its organized  
6 crime department and, as part of that, to  
7 transfer some of the learning lessons as an  
8 agency we had from fighting national security  
9 threats, particular terrorism, to the organized  
10 crime agenda, to help some of the national  
11 policing institutions take a more effective  
12 response to organized crime, now that included,  
13 of course, money laundering as a constituent part  
14 of the threat from organized crime.

15 And the premise we took therefore of  
16 maximizing our intelligence base and what we call  
17 taking an intelligence-led policing approach from  
18 that counter-terrorist domain included, for  
19 example, the premise of following the money,  
20 which I think is now well known in the field of  
21 combating financial crime.

22 Q Thank you. And then I understand from there you  
23 moved on, and from 2000 to 2003, you worked as  
24 the head of the United Kingdom's Liaison Bureau  
25 with Europol. Can you explain that position.

26 A Yes. I became engaged there for -- in helping to  
27 lead the UK's efforts to coordinate its  
28 activities against organized crime within the  
29 international community of similar agencies, and  
30 that included my first posting at Europol in the  
31 period that you mentioned, head of the UK Liaison  
32 Bureau. Europol is the European Union law  
33 enforcement agency that has responsibility for  
34 coordinating the fight against organized crime  
35 and terrorism across the EU, in particular  
36 through its means by which it can manage a very  
37 large information-sharing platform.

38 Each member state of the European Union, and  
39 indeed other countries that have a cooperation  
40 agreement with Europol, have liaison offices  
41 established in the headquarters of Europol in the  
42 Netherlands. And these liaison offices are  
43 [inaudible - break in recording] --

44 Q Sorry, sir. I think we've lost your audio again.  
45 There, it seems to be back now.

46 A Is that --

47 Q That's working for me. I'm not sure if it's --

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Commission

1 A Kyle, can you hear me now?

2 Q Yes, I can hear you now. That seems to be --

3 A I'm sorry. I've been having these technical  
4 problems for a couple of days. I've tried to  
5 resolve them. If it continues I'll have to  
6 switch to a different microphone set-up, which  
7 will be less clear but will perhaps be more  
8 reliable. So maybe we continue. If it happens  
9 again, I'll have to switch.

10 Q Certainly. If we need to do that, we can  
11 certainly take a break and allow that change to  
12 happen. But it does seem quite clear now, so  
13 hopefully we'll be fine from here on.

14 But -- please. You were describing the role  
15 of the liaison bureaus with the EU when we last  
16 lost you.

17 A Yes. So --.

18 MR. MCCLEERY: Mr. Commissioner, I wonder if -- it  
19 seems like the audio is cutting in and out. I  
20 wonder if it might make sense to take a short  
21 break to see if we can sort these issues out and  
22 I understand that someone from our IT team will  
23 contact Sir Rob and we can hopefully --

24 THE COMMISSIONER: Yes, I think that makes sense. So  
25 we'll adjourn, I think. Let's do it for 10  
26 minutes and we'll check in again at the end of  
27 that just to see where we're at. Does that make  
28 sense?

29 MR. MCCLEERY: Yes, I think so. Thank you very much.

30 THE COMMISSIONER: Thank you. We'll stand down for 10  
31 minutes.

32 THE REGISTRAR: The hearing is stood down for 10  
33 minutes until 9:49 a.m. Please mute your mike  
34 and turn off your video. Thank you.

35

36 (WITNESS STOOD DOWN)

37

38 (PROCEEDINGS ADJOURNED)

39 (PROCEEDINGS RECONVENED)

40

41 THE REGISTRAR: Thank you for your patience. The  
42 hearing is now resumed.

43

44 ROBERT WAINWRIGHT, a witness,  
45 recalled.

46

47 THE COMMISSIONER: Thank you. I understand that the

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Commission

1           problems have been dealt with, so Mr. McCleery,  
2           please carry on.

3           MR. MCCLEERY: Thank you.

4

5           EXAMINATION BY MR. MCCLEERY, continuing:

6

7           Q     Sir Rob, you can hear me and see me?

8           A     Yes, I can. I can. And apologies to the  
9           Commissioner for those problems.

10          Q     That's quite all right. I can hear you loud and  
11          clear now so it seems we've resolved them.

12                 I think when we left off, you were -- had  
13          just begun to talk about the role of the liaison  
14          bureaus within Europol. Do you want to maybe  
15          pick up there and tell us a little bit about what  
16          those liaison bureaus do within Europol?

17          A     Sure. So as I was saying, Europol is the EU's  
18          law enforcement agency and it has -- it  
19          coordinates operations across very many countries  
20          in the EU and beyond. Each member state and each  
21          country with which it has a cooperation agreement  
22          has liaison offices embedded in the headquarters  
23          in The Hague for the purposes of facilitating the  
24          exchange of information with national authorities  
25          and Europol as the coordinating agency.

26                 My period at Europol as the head of the UK  
27          Liaison Bureau between 2000 and 2003 involved my  
28          running, therefore my being responsible for that  
29          bureau of -- a small bureau at the time -- of UK  
30          liaison offices.

31          Q     And then I understand in -- following that  
32          position, you moved on to the UK's National  
33          Criminal Intelligence Service. Can you tell us a  
34          little bit about that agency and what you did in  
35          that role.

36          A     Yes. I returned then to the UK policing  
37          structure, so as the director of the  
38          International Division of the National Criminal  
39          Intelligence Service. And here I was responsible  
40          for police cooperation between the United Kingdom  
41          and its European partners, including Europol but  
42          also the bilateral relationships that we had with  
43          countries around -- around Europe.

44          Q     And then moving on from there, I understand you  
45          then went to the Serious Organized Crime Agency  
46          from 2006 to 2009. What can you tell us about  
47          that agency and your responsibilities there?



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1           A       By 2006, UK government decided to merge three of  
2                   the constituent agencies at the national level  
3                   involved in fighting organized crime, and for the  
4                   first time we created a single agency, which was  
5                   called Serious Organized Crime Agency. And the  
6                   National Criminal Intelligence Service was one of  
7                   the three agencies that was folded into this new  
8                   one.

9                   And I followed that route myself and was  
10                  appointed to a similar role as I had been in the  
11                  National Criminal Intelligence Service, so  
12                  director of the International Department but now  
13                  responsible for global operations of  
14                  international police cooperation between the  
15                  United Kingdom and the rest of the world. So  
16                  that included Europol but also Interpol, for  
17                  example, the global police organization and our  
18                  bilateral liaison officers not only in Europe but  
19                  around the world in -- at areas like South Asia  
20                  and South America.

21          Q       Thank you. You mentioned briefly the connection  
22                   between your first position with the British  
23                   security service and the issue of money  
24                   laundering. I wonder if you might tell us a  
25                   little bit about the extent to which you dealt  
26                   with issues related to money laundering in your  
27                   roles with the National Criminal Intelligence  
28                   Service and the Serious Organized Crime Agency.

29          A       So we understood through these national agencies,  
30                   especially when we formed this new more powerful  
31                   agency in 2006, the importance of financial  
32                   investigation, the importance of putting at the  
33                   heart of our strategy to prevent organized crime  
34                   but also to bring to justice those criminals that  
35                   were causing the most harm to the United Kingdom,  
36                   the importance of conducting investigations into  
37                   financial affairs, and for the purposes  
38                   ultimately of preventing them from benefiting  
39                   from their criminal activities and whilst also  
40                   identifying opportunities maybe to lawfully take  
41                   their assets away from them.

42                  We also saw the benefits of the intelligence  
43                  available by investigating their financial  
44                  affairs in that it would often lead to the  
45                  identification of their network of associates,  
46                  for example. All of those things I just said,  
47                  Kyle, apply to our international approach to

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1 combating organized crime, because we recognized  
2 that by 2006 and certainly since then, the  
3 problems of large scale organized crime -- be it  
4 drug trafficking, major frauds, increasingly  
5 cyber -- were becoming increasingly globalized in  
6 nature, and therefore our work in the United  
7 Kingdom had to have a very significant part of it  
8 that was complementary in terms of our ability to  
9 also connect with similar agencies in  
10 jurisdictions that are of relevance to us.

11 So heroin coming to the United Kingdom  
12 wasn't produced in the United Kingdom, it was  
13 trafficked from South Asia primarily through  
14 certain routes of -- through European countries  
15 to the United Kingdom. Our ability to combat the  
16 problem of heroin on the streets of the United  
17 Kingdom absolutely depended in large part also to  
18 our ability to collaborate with our European  
19 partners, and indeed further afield, in order to  
20 identify the full chain involved in the  
21 trafficking of those drugs.

22 Q Thank you. I understand that after leaving the  
23 Serious Organized Crime agency in 2009, you  
24 became the executive director of Europol. You  
25 spoke very briefly about what Europol is and its  
26 -- I wonder if you might tell us a little bit  
27 more about its role in law enforcement within EU.

28 A Yes. It has something like a 25-year history and  
29 it's constituted to act as a facilitator and a  
30 supporter of international police cooperation in  
31 Europe. Its primary role is to act as an  
32 information hub, as a means by which to  
33 facilitate the exchange of information,  
34 principally between the member states of the  
35 European Union. As I said earlier, Kyle, it also  
36 carries within its mandate the ability to  
37 conclude international cooperation agreements  
38 with other countries. And so its scope of  
39 operations in facilitating the exchange of  
40 information extended beyond the EU. Today it's  
41 something like 40 different countries that are  
42 part of a coordinated information sharing  
43 network.

44 It also uses the extent to which it can  
45 share -- collect, share, analyze that data on a  
46 significant scale to identify opportunities for  
47 operations to engage directly against the

1 organized crime and terrorist networks that  
2 Europol is seeking to help identify. So there's  
3 a basis therefore for data-led operations against  
4 the most serious forms of crime and terrorism.  
5 Europol has progressively become a more and more  
6 important or key instrument of the way in which  
7 European Union fights these more globalized  
8 threats.

9 Q You mentioned that Europol's relationships extend  
10 beyond the member states of the European Union.  
11 Can you tell us a little bit more about the role  
12 played by non-EU states in its operations.

13 A Yes. There's some 20 or so cooperation  
14 agreements that were concluded during my tenure  
15 of nine years as the executive director of  
16 Europol, and the purpose of these binding legal  
17 agreements concluded between Europol and those  
18 other -- third states, as they were known -- was  
19 to facilitate in a lawful manner, therefore, the  
20 exchange of information and to allow the  
21 participating agencies from that third country to  
22 participate in the cross-border operations that  
23 Europol was seeking to support and, indeed,  
24 coordinate.

25 It also allowed, as I said earlier, for the  
26 posting of liaison officers at Europol. And  
27 indeed, by the time I left in 2008, the agency  
28 had something like in excess of 200 different  
29 liaison officers from EU member states and the  
30 third-party countries with which it was  
31 cooperating. So a very large hub -- operational  
32 hub that allowed for the very quick, safe, secure  
33 exchange of information across a landscape of  
34 some 40 countries.

35 For the purposes of Canada, maybe I can say  
36 that that was one of the earliest cooperation  
37 agreements that Europol concluded. I believe it  
38 was signed in 2002, and from that period,  
39 therefore, Europol has had continuous cooperation  
40 with Canada, and I think since 2002 or shortly  
41 thereafter, continuous presence of a Canadian  
42 liaison officer, one or more, at Europol.

43 Each third country would establish a  
44 national central point of contact for its  
45 relationships with Europol, and in the case of  
46 Canada, that was the RCMP.

47 Q Thank you. I wonder if you might tell us a

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1 little bit more about the nature of your role as  
2 executive director over your nine years.

3 A Yes. Well, as the equivalent of a CEO of an  
4 organization, which is what it was, I was  
5 responsible for running the agency's operations  
6 on a day-to-day basis, responsible therefore for  
7 of course its people, its finances, and of course  
8 I was its legal representative.

9 In practical terms, apart from the duties of  
10 managing that agency and developing its strategy,  
11 it was essentially a very outward-facing role.  
12 There's a challenge when I arrived to develop  
13 Europol's reach, I think, into the wider law  
14 enforcement sector in order to better fulfil its  
15 potential it had to help member states fight  
16 organized crime and terrorism. So that meant  
17 very outward facing, trying to influence also  
18 political-legislative agenda and trying to  
19 develop better -- better strategic responses to  
20 organized crime and terrorism in Europe as a  
21 whole, and that certainly included the area of  
22 financial crime.

23 Q And you've alluded to this, but your CV refers to  
24 the transformation of Europol during your tenure  
25 into a leading European security institution.  
26 Can you tell us a little bit about how the agency  
27 changed under your leadership.

28 A Yes. I think when I arrived, I took the  
29 approach, supported of course by many colleagues,  
30 that Europol's key value that it could bring was  
31 in developing this concept of becoming a single  
32 information hub.

33 I made the assessment that the -- 10 years  
34 ago, by then, organized crime and terrorism was  
35 rapidly becoming defined by its globalized nature  
36 and the fact that the offenders involved were  
37 relying increasingly on globalized technology,  
38 for example, and other forms of globalization,  
39 such as greater freedom to travel. And they were  
40 operating more and more together as an integrated  
41 global community. And so we were seeing  
42 increasing dimensions in Europe, for example, of  
43 criminals moving across border and then moving  
44 their illicit commodities drugs, moneys, and  
45 others across border as well.

46 In order to -- in strategic terms, to better  
47 respond to that, we first needed to learn more

1 about it and identify it in a quicker and more  
2 complete way. And for that we needed data, but  
3 data not just held at the national level, because  
4 of its intrinsic cross-border nature, but data  
5 exchanged at a pan-European level.

6 And so I took the view that a single  
7 integrated, coordinated data platform would allow  
8 us therefore to drive a more effective response.  
9 So it became an example, I suppose, of what in  
10 the technology sector these days would be known  
11 as a data network economy driving more -- higher  
12 levels of insight into the problem that we were  
13 trying to solve, and from that insight, creating  
14 greater levels of opportunity to deal with the  
15 problem.

16 And so that was the key defining strategic  
17 vision that I had, and we worked with colleagues  
18 to build the necessary components to implement  
19 that, especially putting at its heart this single  
20 technology platform to share data in that way,  
21 and then, of course, influencing very much the  
22 agenda of those users that would share the data,  
23 essentially the police agencies, trying to  
24 attract more and more agencies to become part of  
25 the -- of the platform and to share more of its  
26 data.

27 Q And I understand that one of the changes made  
28 during your tenure was the creation of a  
29 financial intelligence group in 2012.

30 A The dog's barking. Kyle, let me just shut the  
31 window behind me. Excuse me. I can see the dog.  
32 He's one of the friendliest in the neighbourhood  
33 but he's not happy at the moment. Okay, excuse  
34 me.

35 Q Thank you. I was saying, I understand one of the  
36 changes made during your tenure with Europol was  
37 the creation of a financial intelligence group in  
38 2012. Can you maybe tell us a little bit about  
39 the reason why that group was created and what  
40 the need was.

41 A Yes. It fitted the strategic agenda we had at  
42 the time, which was to collect data on a more  
43 pan-European basis in order that we could  
44 assimilate it, analyze it, and from that, as I  
45 said earlier, learn more about the nature of the  
46 criminal threat that we were trying to deal with.  
47 And so it involved collecting a range of data

1 types and sources from a range of actors, of  
2 course, a range of police agencies around Europe,  
3 on a range of related dimensions of organized  
4 crime. That of course included financial crime.

5 And so the ability to collect data about the  
6 financial affairs of suspected criminals became a  
7 core element, one of many, and that would allow  
8 us, therefore, to serve that strategy.

9 And so in order to do that and in order to  
10 do it in the most efficient way and to raise the  
11 right kind of profile of the importance of that  
12 work, we set about creating a structural  
13 capability at Europol that would raise the  
14 profile of that work. And so we created a so-  
15 called financial intelligence group that could  
16 also become a centre of gravity, we'd hope, for  
17 the way in which national authorities were  
18 fighting financial intelligence. A single  
19 financial intelligence group in Europe that, with  
20 acting as the centre of gravity, could provide  
21 some kind of direction and support for the most  
22 important financial crime investigations that  
23 were being conducted in Europe at the time.

24 Q Thank you. And I understand there were at least  
25 three component parts to that financial  
26 intelligence group entitled Analysis Project  
27 Sustrans, Analysis Project Asset Recovery, and  
28 FIU.net. I wonder if you might tell us a little  
29 bit about what those component parts are and what  
30 they did.

31 A The term "analysis project" was, as the name  
32 suggests, a project that concentrated the  
33 analysis of a certain type of data that was  
34 processed across the single platform in key  
35 targeted areas of our work, and there were some  
36 20-plus different analysis projects. In this  
37 area of financial intelligence, two of the most  
38 important were, as you say, Sustrans and Asset  
39 Forfeiture. These analysis projects involved the  
40 exchange of data relating to the focus of that  
41 project, but also include experts from the  
42 participating agencies in the member states, and  
43 indeed of third countries, designed therefore  
44 also to work against agreed priorities and  
45 identify the key actors.

46 In regard to Sustrans, so-called suspicious  
47 transactions, this was an analysis project

1 focused on cases and phenomena relating to  
2 organized crime involved in money laundering in  
3 broad terms. And it was one of the oldest that  
4 Europol has, one of the first that was opened, I  
5 think in 2001.

6 So it receives -- and it's still going today  
7 -- receives, analyzes, facilitates the exchange  
8 of information relating to money laundering from  
9 investigative cases that member states and other  
10 countries are involved in. It also receives in  
11 certain cases data relating to the suspicious  
12 transaction reporting from obliged entities.

13 It's an analysis project that also  
14 coordinates cross-border operations. And as part  
15 of that, Europol functions as the secretariat of  
16 the so-called Anti-Money Laundering Operational  
17 Informal Network, which was set up in 2012 and  
18 has practitioners from over 20 jurisdictions.

19 The second major analysis project, Asset  
20 Forfeiture, as the name suggests, concerns asset  
21 recovery, so supporting the tracing and  
22 identification of criminal proceeds linked to  
23 organized crime, including working group on, for  
24 example, virtual currencies as a money laundering  
25 instrument, which has become a more important  
26 matter. As part of that -- and again, consistent  
27 with Europol's coordinating role across Europe,  
28 it hosts an Asset Recovery Interagency Network  
29 that includes something like now 54 registered  
30 member jurisdictions, including all the EU member  
31 states, and indeed Canada.

32 So these are the two -- certainly during my  
33 time -- the two primary asset -- sorry, the  
34 primary analysis projects that drove the day-to-  
35 day work of the new financial intelligence group.

36 FIU.net, the third area you mentioned, Kyle.  
37 This is a decentralized and secure IT network  
38 supporting financial intelligence units of all EU  
39 member states. These units are independent of  
40 Europol. They're established within the national  
41 jurisdictions. Europol runs the network on  
42 behalf of that community and integrates its work  
43 into the broader Europol mandate. The FIUs, as  
44 you might know, are set out in national  
45 regulations and each country has a single  
46 financial intelligence unit as a national centre  
47 for the receipt and analysis of suspicious

1 transaction reports from obliged entities in the  
2 banking and other sectors.

3 Q Thank you. And over the course of your tenure, I  
4 gather these -- this financial intelligence group  
5 was created relatively early on during your time  
6 at Europol. Can you tell us what kind of results  
7 were achieved through these or whether they were  
8 seen as successful.

9 A Yes. I don't have to hand detailed statistical  
10 evidence of that, Kyle. But across Europol as a  
11 whole Europol expanded its ability to collect  
12 data across all mandates, something like an  
13 eightfold increase in the amount of data over a  
14 similar number of years, so had succeeded, I  
15 think, in mobilizing to a much greater extent, a  
16 much wider level of participation from the  
17 broader law enforcement community. And those  
18 figures, I think, would be broadly consistent  
19 with what we saw on financial intelligence. The  
20 ability to convert those, I think, into much  
21 greater numbers of cross-border operations,  
22 something like a five- or six-fold increase over  
23 that period in new investigative opportunities in  
24 cases that Europol supported against organized  
25 crime in Europe over that period.

26 I should say that the trend -- its -- I'm  
27 pleased to see, although of course it doesn't --  
28 no longer concerned me, that just in the last few  
29 weeks, Europol has moved to develop the financial  
30 intelligence group into something more  
31 substantial still. On the 5th of June, it  
32 launched the so-called European Financial and  
33 Economic Crime Centre, which reflects, I think, a  
34 trend towards recognizing this horizontal  
35 integration of a range of financial crime and  
36 economic crime offences, such as fraud and  
37 cybercrime. So the idea that a further  
38 concentration, I think, at the European level, of  
39 the approach to financial crime by establishing  
40 it as a new centre with additional resources  
41 supported by the European Union institutions in a  
42 way which also allows it to tackle economic crime  
43 in the wider sense.

44 So I think it's a trend that's continuing  
45 and underlines certainly the continuing interest  
46 in increasing Europe's ability to deal with  
47 financial crime.



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1 Q Thank you. I'd like to now turn to the first of  
2 three reports I'm hoping we can discuss during  
3 your evidence.

4 MR. MCCLEERY: Madam Registrar, I wonder if you might  
5 display document number 45 on your list, which is  
6 a report titled "Why Is Cash Still King?" Thank  
7 you.

8 Q Sir Rob, do you see that report on your screen?

9 A Yes, I do, Kyle.

10 Q And you recognize that report?

11 A I do, yes.

12 Q And this was produced by Europol during your  
13 tenure as executive director; is that correct?

14 A Yes. It was produced in 2015, I believe.

15 Q Thank you.

16 MR. MCCLEERY: Mr. Commissioner, I ask this be marked  
17 as the next exhibit.

18 THE COMMISSIONER: Yes, very well. That will be  
19 Exhibit 64.

20 THE REGISTRAR: Exhibit 64.

21

22 EXHIBIT 64: Europol - Why Is Cash Still King?:  
23 A Strategic Report on the Use of Cash by Criminal  
24 Groups as a Facilitator for Money Laundering  
25

26 MR. MCCLEERY: And Madam Registrar, we can take that  
27 document down now. Thank you.

28 Q Sir Rob, I wonder if you might tell us a little  
29 bit about the purpose of this report and why it  
30 might have been created.

31 A Yes. We wanted to inform our law enforcement  
32 partners, and beyond that also policymakers, for  
33 example, and even legislators, about the trends  
34 we were seeing at that time in financial crime,  
35 and in particular how cash, as we -- as the title  
36 suggests, we were seeing cash was still  
37 overwhelmingly the prevalent form of financial  
38 instrument for criminals. So as we were moving  
39 in our social lives in the legitimate economy to  
40 a more and more cashless society, the point we  
41 were making is this absolutely wasn't the case --  
42 and, I believe, still today is largely not the  
43 case -- in the crime world.

44 And the purpose of the report was to  
45 investigate some of the reasons for that and to  
46 provide certain evidence about the aspects of how  
47 cash is important. And we wanted to shine a

1 light, in particular, in the role of high  
2 denomination notes, in the case of the Eurozone  
3 in particular, the 500-euro note and the way in  
4 which that became the instrument of choice for  
5 very many criminals for a number of reasons.

6 And we wanted to highlight what were our  
7 concerns about the fact that whereas there were  
8 fewer points of evidence towards the legitimate  
9 use of this very, very high denomination note, we  
10 could see more and more evidence of criminals  
11 using it, and that raised for us big, important  
12 policy issues that should be addressed.

13 Q Thank you. And you mentioned that the audience  
14 for this report was in part national  
15 legislatures. Broadly speaking, who -- were  
16 there other, sort of, individuals or bodies that  
17 this was targeted at or would have -- you would  
18 have included in the intended audience?

19 A Yes. we worked also with central banks of  
20 certain member states, and in particular the  
21 European Central Bank, which has certain --  
22 centralized authority for the Eurozone.

23 We worked with officials also in the  
24 European Commission, which is the EU's executive,  
25 and also certain member states, to highlight  
26 these issues. And this was important because in  
27 the end, the report became -- had quite a  
28 significant impact actually in informing this  
29 policy debate around the role of very high  
30 denomination notes in society. And in fact, it  
31 led ultimately to a policy shift, a decision by  
32 the European Central Bank to stop the production  
33 -- the future production of 500-euro notes.

34 Q And I understand the report was, in addition to  
35 being provided obviously to the legislatures and  
36 the European Central Bank, was released publicly  
37 as well; is that correct?

38 A Yes.

39 Q Can you speak a little bit about the value of  
40 making a report like this one available to the  
41 public.

42 A Yes. I think these type of reports typically --  
43 certainly during my time were always produced  
44 publicly. Of course, plenty of information that  
45 Europol deals with on a day-to-day basis  
46 certainly isn't, relating to tactical operation.  
47 But in this case we wanted to inform the widest

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1 possible audience. This included, by the way,  
2 law enforcement officers who weren't yet  
3 integrated on a day-to-day basis in the Europol  
4 community. It included certainly a wider set of  
5 policymakers similarly that weren't working  
6 closely with us on a regular basis.

7 I think it was important also for us to  
8 raise awareness amongst the public more generally  
9 in order that -- we served, I think, our mission  
10 -- part of our missions, which was to fight  
11 organized crime and terrorism in the most  
12 effective way. Part of that involves helping to  
13 inform the wider public so they become sensitized  
14 to the way in which crime operates, for example.  
15 And that in a way, therefore, acts as a  
16 preventative instrument.

17 For all those reasons, that was -- that's  
18 why we produced it publicly.

19 Q Thank you. I mentioned over the course of your  
20 evidence -- we'll look at a couple of different  
21 reports that are somewhat similar to this one.  
22 Can you comment maybe on the process by which  
23 Europol would produce a report like this one in  
24 general and, sort of, how it would identify the  
25 need for such a report.

26 A Yes. As an information hub, which was a, you  
27 know, a primary part of the agency's business, as  
28 I explained earlier, we employed a large cadre of  
29 analysts whose job, as the name suggests, was to  
30 interpret the data that was received and to  
31 convert the data into, in this case, meaningful  
32 intelligence.

33 Most of the analysts were operational  
34 analysts. They were looking for connections,  
35 non-obvious connections maybe, in big data  
36 samples between an investigation in one country  
37 and another. And those connections and the work  
38 of our analysts in interpreting this large amount  
39 of data very often became a highly significant  
40 lead essentially for the national agencies  
41 therefore to investigate.

42 But a good many of our analysts were also  
43 strategic analysts, and their job was to  
44 interpret as much of that operational data as  
45 possible and to draw some strategic sense from  
46 it. These strategic analysts were responsible  
47 for producing reports like this. And they had a

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1 highly informed view, for example in this case,  
2 of financial crime because of the extent to which  
3 Europol was collecting so much information from  
4 so many participating agencies across so many  
5 countries.

6 I'd argue that perhaps they became the most  
7 knowledgeable analysts perhaps in Europe,  
8 certainly within the European law enforcement  
9 community, because of the wealth of information  
10 they had access to through this mechanism that we  
11 created. Now in addition to that, they would  
12 work with the experts of the national authorities  
13 in publishing a report -- in producing a report  
14 like this and very often with members of  
15 academia, for example, who were important members  
16 of our wider community.

17 So reports like this one and the one or two  
18 others we'll see today, Kyle, are the product of  
19 a significant amount of very well informed  
20 research.

21 Q Thank you. I'd like to delve into this report  
22 now to some degree and ask you about some of the,  
23 at least, at the beginning, some of the general  
24 concepts that are raised in the report. Maybe at  
25 the most fundamental level for our purposes, page  
26 9 of the report poses the question of: What is  
27 money laundering? The Commission so far has  
28 heard a few different definitions of what money  
29 laundering is. I wonder if you might explain to  
30 us what money laundering is.

31 A Yeah. It's the process of, I think,  
32 concealing -- disguising the identity and  
33 ownership of illegally obtained proceeds in a way  
34 that makes the origin appear legitimate while  
35 leaving no link to the real source of the funds.  
36 In the end, I think that's how I would understand  
37 money laundering. And of course, at the heart of  
38 that is this understanding, recognition that  
39 almost all criminal activities are carried out to  
40 generate profits. And so, you know, the logic  
41 clearly is that in order for criminals to make  
42 use of those profits in an unhindered way, the  
43 process of money laundering plays this critical  
44 enabling instrument -- critical enabling way  
45 which crime can function, and from that,  
46 criminals can benefit.

47 Q Thank you. As it's perhaps somewhat evident from

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1 the nature of that definition, but you spoke  
2 earlier about the extent to which this has been  
3 an issue that you've addressed in your career.  
4 Can you tell us about why in your view money  
5 laundering is a problem for society and the harms  
6 that it causes that motivate the action to  
7 confront it.

8 A Yes. In Europol -- and this may be something  
9 [indiscernible] in later reports -- you know, we  
10 described it as an engine of organized crime  
11 because it was at the heart of -- of -- is at the  
12 heart of the criminal economy, because it's  
13 about, of course, as I said earlier, for  
14 criminals finding ways to make crime pay  
15 essentially. And that in itself, if they can do  
16 that in an effective way is of course a huge  
17 incentive to engage in crime in the first place,  
18 a stimulus for exponential increase, and it also  
19 acts, importantly, as a funding source for  
20 further illicit activities, and not only for drug  
21 traffickers, not only in drugs but in other very  
22 important offences that impact society, such as  
23 terrorism and modern slavery.

24 I think its intrinsic role as a key enabler  
25 of organized crime is important. Why is it a  
26 problem? Also because of the scale and the way  
27 in which the amount of -- the way in which the  
28 globalized criminal economy has grown. Our  
29 conservative estimates while I was at Europol was  
30 that around 120 billion euros were produced in  
31 annual revenue relating to the criminal economy  
32 in Europe. Actually global estimates -- the one  
33 most reliably quoted, most often quoted from the  
34 UN points to something like two trillion U.S.  
35 dollars, which is over three percent of global  
36 GDP. And of course, when it's at that scale, it  
37 has a serious polluting effect on the integrity  
38 of our financial markets, on our economies. And  
39 of course, it has this very adverse societal  
40 impact because not only does it fuel the crime  
41 itself, it fuels corruption around that to enable  
42 the crime. It drives illicit labour markets.  
43 And we've seen all of that -- a microcosm of all  
44 of that in the last three months with the COVID  
45 impact, for example. We've seen certain sectors  
46 that have declined as a result of the economic  
47 downturn associated with COVID. Some of those

1 sectors have become more vulnerable to criminal  
2 exploitation and even takeover.

3 And where we see, for example, difficulty in  
4 accessing capital because of that, they turn  
5 unknowingly maybe to loan sharks involved in  
6 processing criminal profits. And of course, a  
7 rise in investment scams.

8 So I think money laundering, the scale of  
9 it, the impact of it, has in driving this global  
10 criminal economy is a serious problem actually on  
11 many levels to our interests in society.

12 Q Thank you. The Commission has heard some  
13 evidence already that countries like Canada and  
14 the UK are in some cases destinations for illicit  
15 funds generated through crimes committed  
16 elsewhere. Some may perhaps, in Canada, take  
17 some comfort in that, knowing that perhaps the  
18 money is ending up here but the immediate effects  
19 of those predicate offences are somewhat  
20 distanced from us. Is that, in your view,  
21 misguided thinking, or how would you respond to  
22 that issue?

23 A It's a symptom, of course, of the fact that  
24 financial criminals will tend to operate in and  
25 target the most affluent countries in the world.  
26 That's what makes the European Union -- so not  
27 just the United Kingdom but many other parts of  
28 the EU such a lucrative path for money  
29 laundering. And similarly North America, the  
30 countries of North America, I would say the same  
31 as well.

32 Of course, that's a problem, therefore, in  
33 our societies and perhaps places a high degree of  
34 responsibility on those countries to ensure that  
35 the optimum measures are put in place at the  
36 national level to fight organized crime,  
37 including of course financial crime and money  
38 laundering.

39 Q Thank you. Page 35 of this report refers to the  
40 emerging threat of international money laundering  
41 syndicates. I wonder if you might tell us in  
42 your own words what an international money  
43 laundering syndicate is.

44 A Yes. So we -- I've seen over the last 10 years  
45 the rise of professional enablers of crime, and  
46 it's really an important strategic development  
47 that as crime became more and more of a global

1 concern involving essentially the syndication of  
2 crime with multiple different criminal groups  
3 operating together, supported by modern  
4 technologies, for example. Then to serve this  
5 new, more integrated, criminal economy, we had a  
6 concept that we labelled as "crime as a service"  
7 that developed over this period. And as part of  
8 this new criminal economy, professional enablers  
9 of certain crime would offer their services, for  
10 fees of course, to the largest crime gangs. This  
11 was in many areas. A notable feature of today's  
12 problem with cybercrime, for example, is the way  
13 in which professional hackers, for example, are  
14 offering cybercrime tools and services to  
15 organized crime groups. But it also includes  
16 this area that we're talking about today, and  
17 that we saw at Europol over the last 10 years the  
18 emergence of professional money launderers.  
19 These are typically, or they were at least during  
20 my time, networks of professionals who understood  
21 very well how to game the financial system and  
22 had developed highly efficient, sophisticated  
23 ways to do so, and would offer their services to  
24 drug trafficking organizations and others to take  
25 the cash from their proceeds and indeed to find  
26 the right way in which to launder those proceeds  
27 and deliver at the end of that, in a safe way,  
28 back to the cash -- the proceeds of crime back to  
29 the original owners of it.

30 So it became a very important new feature.  
31 And as of 2008, by the time I left, I think we'd  
32 identified around 400 top professional money  
33 launderers that were operating in Europe,  
34 typically taking a commission of between five and  
35 eight percent for their work.

36 Q Thank you. You mentioned that these groups seem  
37 to have emerged in the last 10 years. Can we  
38 generate any insight into what led to their  
39 emergence or why we're seeing them on the scene  
40 now, whereas we weren't maybe 15 years ago?

41 A I think it just became this, you know, one  
42 notable feature of the way in which this  
43 globalized criminal economy had developed over  
44 that period. And you know, crime just has become  
45 -- at the top end at least, at the most serious  
46 end, crime has become a much more professional  
47 business, taking advantage also of these modern

1 technologies, so huge trading platforms set up on  
2 the dark web to allow them to trade in these  
3 tools and services, for example.

4 And generally, a marked change from the  
5 typical image we have of so-called mafia groups  
6 of days gone by where they would very much engage  
7 in turf war battles between each other to -- and  
8 that sort of violent competition to what is today  
9 and over the last 10 years, much more about  
10 collaboration, and in a way that has some  
11 features that we would recognize as the same in  
12 the legitimate economy in terms of the way in  
13 which globalized businesses are running and how  
14 they run themselves today.

15 Q Thank you. As these groups have emerged and,  
16 kind of, the face of criminal organizations has  
17 changed in the way that you've described, has the  
18 risk landscape changed in the sense that are  
19 these groups targeting or making use of different  
20 industries or economic sectors in ways that that  
21 wasn't the case before, or has there been a shift  
22 in that sense?

23 A To a certain extent, yes. I say to a certain  
24 extent because still, I think, the regulated  
25 financial sector is the primary sector affected  
26 by this. So obviously the banking sector, cash  
27 deposits in accounts and very often, you know,  
28 split into a larger number of smaller accounts,  
29 which are known in the trade as so-called money  
30 mule accounts. Shell companies, of course, that  
31 -- established with no significant assets or  
32 business operations, for example, often embedded  
33 in complex corporate structures, registered maybe  
34 in offshore jurisdictions. So I think the  
35 regulated financial sector remains the primary  
36 means by which criminal funds are laundered.  
37 Alongside that you have the so-called informal  
38 value transfer systems, underground banking  
39 essentially, outside the regulated sector. Some  
40 money services most certainly. Trade-based money  
41 laundering, which is -- which are legal entities  
42 for investment and so [indiscernible] concealing  
43 criminal funds in that case by manipulating  
44 purchase of sales or using false invoicing, for  
45 example, around certain companies. Virtual  
46 currencies, real estate, have been sort of part  
47 of the problem, a smaller part, but still...



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1           Here, you know partial payment by cash,  
2           over- or under-valuing the real estate, for  
3           example. Using non-transparent companies and  
4           trusts. So the real estate sector has been  
5           affected. And, you know, most specifically for  
6           the interests of this inquiry, of course, the  
7           gaming sector as well.

8           Other parts of the hospitality sector  
9           generally, which -- especially because these are  
10          cash intensive businesses and allow therefore for  
11          the transfer of large amounts of cash, and they  
12          will always be likely to be vulnerable therefore  
13          to money laundering.

14         Q    Thank you. I wonder if you might comment on --  
15             you've indicated that the financial sector is  
16             still the primary sector at risk of engaging in  
17             money laundering and has been even prior to the  
18             development -- or the emergence of these money  
19             laundering syndicates. Can you comment on why  
20             it's the case that there's - the financial sector  
21             is so either vulnerable or so heavily targeted or  
22             used in this type of activity.

23         A    Yeah. Well, I think the financial sector, of  
24             course, in itself offers many means -- many easy  
25             means by which it can transfer money, by far,  
26             most of time of course, for lawful business. But  
27             because of that, there are -- criminals will  
28             always be drawn to the ease with which monies can  
29             be maybe moved from accounts across borders very  
30             easily.

31             Where criminals have -- professional money  
32             launderers have developed their capabilities to  
33             effectively dodge the anti-money laundering  
34             regulations that we've developed, then they will  
35             do so. And I'll give some examples maybe later  
36             around what we've seen in terms of how effective  
37             those professional money launderers are.

38             So a number of interesting, you know, cases  
39             of how the professional money launderers worked  
40             during my time at Europol which shine a light, or  
41             shone a light at the time, on how these -- how  
42             these operate. I can take you through two or  
43             three of those if you're interested, Kyle.

44         Q    Yeah, I think that would be interesting if you  
45             wouldn't mind giving us an example or two of how  
46             these work and take us[indiscernible].

47         A    So in 2016, we -- Europol collaborated with very

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1 many European authorities and those from the  
2 United States, focusing on a South American  
3 cocaine cartel that was serving a very large  
4 amount of drugs, cocaine, on the streets of -- of  
5 -- throughout Europe. The cartel employed a  
6 professional network of money launderers to  
7 collect the cash and essentially launder it. It  
8 was interesting. I think in that case -- a  
9 significant case, a large scale -- 85 percent, we  
10 think, of the cash was laundered through the  
11 regulated financial sector. So a typical case.  
12 You'll see 85 percent that went through -- and  
13 the rest through, you know, a combination of  
14 those other sectors and industries that I talked  
15 about earlier, Kyle.

16 They -- similar period, a case again,  
17 focused this time on the Chinese network involved  
18 in laundering criminal proceeds from a range of  
19 offences -- modern slavery, counterfeit goods,  
20 excise tax fraud. Again, they relied on  
21 professional enablers to set up this time complex  
22 corporate structures to transfer money to China  
23 and -- in fact, they offered that service to  
24 other criminal groups as well.

25 The final one -- again, a similar period --  
26 was work focused on 'Ndrangheta, which is one of  
27 the key -- one of the three leading organized  
28 crime groups in Italy. It's traditionally one of  
29 the mafia groups. In fact, 'Ndrangheta probably  
30 is the largest organized crime group in the  
31 world, I'd say. And this is an interesting case  
32 in 2015, and a success for the Italian  
33 authorities in taking down a network of companies  
34 involved in online betting. It's headquartered  
35 in Malta and controlled by this organized crime  
36 group. And companies were set up to launder  
37 large sums of illicit cash, and the case raised  
38 significant concerns around online gambling  
39 market generally and the potential for criminal  
40 abuse and shone a light on that at the time.

41 And in Malta especially the gaming authority  
42 there came under a lot of scrutiny, and it's been  
43 an ongoing challenge, I think, for that  
44 jurisdiction in Europe, and so much so it led to  
45 the Anti-Money Laundering Directive in the  
46 European Union including a modification of it, I  
47 think, by 2017 to try and deal with some aspects

1 of that.

2 So these are some examples, Kyle, of the way  
3 in which professional money launderers were  
4 operating at the time at least.

5 Q Thank you. That's helpful. I wonder if we might  
6 now turn to the focus of this report and speak a  
7 little bit about the role of cash in money  
8 laundering. You've explained that you feel the,  
9 sort of, central point of this report that  
10 despite the decline of the use of cash in  
11 legitimate society, it remains an important part  
12 of the criminal economy, and you indicated that  
13 you still feel that that's the case. Can you  
14 talk a little bit about what accounts for this  
15 persistent important role of cash in money  
16 laundering.

17 A Yes. I think this was a bearer instrument so  
18 it's extremely difficult -- so it's anonymous  
19 essentially of course. It's very difficult to  
20 trace the true owner of that asset. It's highly  
21 portable, particularly in regard to high  
22 denomination notes as well. You can move it  
23 quickly across borders. And very hard, I think,  
24 for the police to track that respondent speed.  
25 Connecting the cash to a so-called predicate  
26 offence, which is a legal requirement in many  
27 jurisdictions in Europe, again, it's very  
28 difficult to prove that this cash, for example,  
29 is the proceeds of drug trafficking, for example.

30 So I think, you know, it's because of the  
31 nature of cash as an instrument itself and its  
32 convenience and portability, then I think that's  
33 the primary reason why it's such -- plays such an  
34 important part in the criminal economy.

35 Q Thank you. The report speaks as well about the  
36 need to convert cash to other assets and some of  
37 the different methods of doing that. Can you  
38 comment on, sort of, the importance of, even,  
39 despite the value of cash in the sense of its  
40 anonymity, the value to criminal organizations in  
41 converting that to other assets eventually.

42 A Yes. It's also -- I mean, eventually of course,  
43 if we're dealing with millions if not billions of  
44 profits from a criminal enterprise, then having  
45 that in cash makes it, I guess, difficult to use  
46 without raising significant attention. If you  
47 were to buy a million dollar property with just

1 cash, then the anti-money laundering regulations  
2 would almost certainly highlight that as a  
3 suspicious activity. So at some point you have  
4 to convert the cash into other forms. And so I  
5 think that's why also we were seeing an increase  
6 towards virtual currencies, for example, and the  
7 way in which cash would be used maybe to buy  
8 smaller types of high value goods, such as  
9 expensive watches or something like that as well.

10 Q Thank you. You -- maybe changing gears just a  
11 little bit. You mentioned previously that  
12 cybercrime is also an area of focus for your  
13 current work. I'd like to ask you some questions  
14 about the connections between cybercrime and  
15 money laundering. Maybe first, I'll just ask you  
16 to tell us in your own words what you mean when  
17 you refer to cybercrime.

18 A It is simply the criminal exploitation of the  
19 digital world. And, you know, popularly it's  
20 sort of seeing into the ways of old crimes but  
21 new methods. So increasingly drugs, for example,  
22 are not sold on street corners any more but they  
23 are traded online, and cyber helps to facilitate  
24 that. Extortion -- we've seen a rise in so-  
25 called ransomware attacks hitting many companies.  
26 This is just a digital form of extortion, which  
27 is a criminal offence that's very, very old.

28 But it's also new forms of crime, so there  
29 are new means by which criminal groups can  
30 defraud people, steal their identity, steal their  
31 money.

32 Q Thank you. I gather from that description that  
33 proceeds of cybercrime are often not generated in  
34 cash; is that fair to say?

35 A Yes, that's right. And very often cybercrime  
36 involves defrauding accounts, for example, and  
37 then doing so maybe diverting certain funds from  
38 one account to another, either by stealing the  
39 password credentials of the user or indeed more  
40 directly targeting bank transfer payment systems,  
41 for example. So in that way, the money is not  
42 cash already. It's sitting in an account, moving  
43 from one account to another, so it's already in  
44 digital form, I suppose, and in some ways the  
45 proceeds of cybercrime very often are easier to  
46 facilitate as a money laundering proceed because  
47 they've already got beyond that first critical

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1 stage, which is a very risky stage of criminals -  
2 - for criminals of introducing cash for the first  
3 time into, say, the banking sector.

4 But after that, you know, the criminals  
5 still face mostly the same challenge, and the  
6 same techniques are available then to convert  
7 that from -- into finally, you know, laundered  
8 goods. So I mentioned earlier the so-called  
9 money mule accounts, and that seemed to be --  
10 that seems to be favoured by cybercriminals, so  
11 retail merchant accounts created under false  
12 identities as a means to transfer proceeds of  
13 crime and, again, to obfuscate the original  
14 source. Virtual currency is clearly an example.  
15 I could come on to describe that later if you  
16 like.

17 Interestingly also, I think, one particular  
18 money laundering method which is more specialized  
19 for cybercrime is, for example, via online gaming  
20 platforms, so criminals using proceeds, for  
21 example, from stolen credit card details to  
22 acquire currencies within gaming platforms -- of  
23 course, these are not cash -- and then sell them  
24 at a reduced price through online marketplaces.  
25 So those are the examples.

26 In the end, though, at some point in that  
27 chain, that asset, that criminal proceed, has to  
28 be cashed out somehow typically, so its -- in the  
29 end, cyber is -- those involved in laundering  
30 proceeds of cybercrime are mostly faced with the  
31 same dilemma.

32 Q And, you know, in light of the, sort of,  
33 different nature of cybercrime, does law  
34 enforcement require, sort of, different  
35 strategies or capabilities to try to disrupt  
36 laundering of the proceeds of this type of crime  
37 than might be the case for, say, cash proceeds of  
38 drug crimes?

39 A Some of the fundamentals are the same, Kyle, but  
40 I think there are additional challenges here for  
41 law enforcement. I mean, as part -- laundering  
42 the proceeds of cybercrime as part of the problem  
43 of combating cybercrime generally, law  
44 enforcement are faced with significant obstacles  
45 around even identifying the beneficial owner. So  
46 the ability through modern encryption  
47 technologies to protect the identity therefore of

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1 the persons engaging in cybercrime online, that's  
2 a significant hurdle for law enforcement, and  
3 indeed the ability of law enforcement to have the  
4 right kind of jurisdictional access to the  
5 offenders, because of course cyber and indeed  
6 the laundering of it is such a global enterprise,  
7 then very often the offender is not within the  
8 jurisdiction of the authority that is  
9 investigating that offence, of course.

10 The speed cybercrime -- the way in which  
11 cyber-enabled technologies allow criminals to  
12 move rapidly, and indeed generally the technology  
13 skill levels of offenders involved in cybercrime  
14 might be higher than they would be in other  
15 offences like drug trafficking. So for all those  
16 reasons, these are additional challenges faced, I  
17 think, by the police.

18 Q Just one other topic I'd like to touch on before  
19 we move into the next report, which would be the  
20 role of professionals and gatekeepers, at least  
21 as it's framed in this report. I think it refers  
22 specifically to lawyers and accountants but  
23 suggests there may be others as well.

24 Can you comment on the role professionals  
25 and gatekeepers play in money laundering and in  
26 the challenges they may pose for law enforcement.

27 A Yes. Again, a part of this evolving nature of  
28 this concept of crime as a service where  
29 organized criminals, in professionalizing their  
30 business, including by making it harder for law  
31 enforcement to detect, will increasingly rely on,  
32 as I said earlier, the professional enablers of  
33 crime, and that would include, as I said earlier,  
34 money launderers abut also those involved in a  
35 range of professional areas that are -- that are  
36 helpful. So IT professionals, certainly,  
37 lawyers, accountants, many others, those maybe  
38 working in the banking sector. These people,  
39 professionals who have been corrupted by criminal  
40 gangs to provide, I guess, an inside -- an  
41 insight but also inside service from their  
42 professions to assist organized crime in this  
43 syndicated way. So typically a large organized  
44 crime group would rely on a full range of  
45 different types of professionals as part of its,  
46 sort of, rather complex global criminal  
47 enterprise.

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1 MR. MCCLEERY: Mr. Commissioner, as I mentioned, I'm  
2 planning to move to a new report, and I wonder if  
3 it might be a convenient time for a break.  
4 THE COMMISSIONER: Very well. We'll take 15 minutes.  
5 Thank you.

6  
7 (WITNESS STOOD DOWN)

8  
9 THE REGISTRAR: The hearing is adjourned for a 15-  
10 minute recess until 11:02 a.m.

11  
12 (PROCEEDINGS ADJOURNED)  
13 (PROCEEDINGS RECONVENED)

14  
15 THE REGISTRAR: Thank you for waiting. The hearing is  
16 now resumed.

17  
18 ROBERT WAINWRIGHT, a witness,  
19 recalled.

20  
21  
22 THE COMMISSIONER: Yes, Mr. McCleery. Thank you.

23 MR. MCCLEERY: Thank you, Mr. Commissioner.  
24 I'd like to now move on to a second report. And  
25 Madam Registrar, I wonder if you might display, I  
26 believe it's document number 43 on your list,  
27 which is a report titled "From Suspicion to  
28 Action."

29  
30 EXAMINATION BY MR. MCCLEERY, continuing:

31  
32 Q Sir Rob, you can see that report on your screen?

33 A Yes, I can.

34 Q And do you recognize that report as one produced  
35 by Europol during your tenure as executive  
36 director?

37 A Yes, I do.

38 MR. MCCLEERY: Mr. Commissioner, I wonder if we might  
39 mark this as the next exhibit.

40 THE COMMISSIONER: Yes, very well. That will be  
41 Exhibit 65.

42 THE REGISTRAR: Exhibit 65.

43  
44 EXHIBIT 65: Europol - From Suspicion to  
45 Action

46  
47 MR. MCCLEERY: Thank you. And Madam Registrar, we

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1 can take that report down now. I don't need it  
2 any further.

3 Q Sir Rob, can you comment on the purpose of this  
4 report and why it was produced.

5 A It examined the nature -- the evolving nature of  
6 organized crime into this more globalized form  
7 that I've been describing, and also examined the  
8 efficacy of the principal instruments, or some of  
9 them at least, that form part of the anti-money  
10 laundering regime. In this case, especially  
11 focusing on the role that suspicious transaction  
12 reporting has in helping to inform and drive  
13 effective financial investigations. So our  
14 research that were focused on a lot of data that  
15 we obtained from the national bodies responsible  
16 for processing these reports as well as, as I  
17 described earlier, the process of interpreting  
18 the results of certain investigations. And it  
19 led to some findings which pointed to some  
20 failings perhaps in the way in which past anti-  
21 money laundering systems were working.

22 Q Thank you. And we'll certainly get into those in  
23 some detail. I wonder if you might tell us who  
24 the intended audience for this report was at the  
25 time.

26 A Certainly again, the law enforcement community,  
27 the regulatory community in this case. That  
28 includes of course the financial intelligence  
29 units. Once again, as per the previous report we  
30 discussed, policymakers, legislators. In this  
31 case the banking sector and other sectors were  
32 also certainly interested relevant to the  
33 findings that we saw. And once again, for the  
34 same reason as I mentioned last time, Kyle, it  
35 was made public.

36 Q Thank you. You wrote the foreword to this  
37 report, and one of the comments you made early on  
38 was that in recent years the task of combating  
39 money laundering had become more difficult. Can  
40 you comment on why it was your view at that time  
41 that this issue -- the issue of money laundering  
42 [indiscernible] was more difficult to deal with.

43 A Yeah. For all the reasons I think I mentioned  
44 earlier, Kyle, so I might not repeat all of them.  
45 But the scale of the problem, the way in which it  
46 was becoming more globalized, the way in which we  
47 could see financial crime and the international



1 flows of illicit money becoming this  
2 instrument -- sorry, this engine of organized  
3 crime, the rise of professional enablers which  
4 were becoming more and more adept at gaming the  
5 system essentially, avoiding anti-money  
6 laundering measures. For all these reasons,  
7 therefore, the scale and the sophistication of  
8 the threat was growing. And at the same time,  
9 whereas we'd noticed some evolution of our anti-  
10 money laundering framework, sometimes in  
11 significant ways, nonetheless the overall extent  
12 of that we judged to be slower and less  
13 significant than the pace and scale of the  
14 threat.

15 And indeed, we were finding -- my view is  
16 that we drifted away from the core purpose of the  
17 anti-money laundering system in a way that had  
18 made the system as a whole much less effective  
19 than it should be essentially. And so the threat  
20 had increased and our response hadn't -- hadn't  
21 been good enough in response to that changing  
22 nature.

23 Q Thank you. And I certainly have some questions  
24 about the way in which the response had failed to  
25 keep up to the pace of crime. But I wonder if we  
26 could take a step back. In the foreword you  
27 indicate that yes, this widespread  
28 acknowledgement of the importance of tackling  
29 criminal finances has led to the development of  
30 this global anti-money laundering framework.

31 I wonder if you might start that  
32 conversation by telling us what you're referring  
33 to when you refer to this global anti-money  
34 laundering framework and sort of how it was  
35 supposed to work.

36 A Yes. I think it has its origins in -- through  
37 the '80s and certainly in the '90s -- the first  
38 significant piece of legislation in the European  
39 Union that governed this framework of anti-money  
40 laundering appeared in 1991, for example,  
41 embedding in law and resulting regulation the  
42 important principles that were accepted in large  
43 parts of the world by that time and promoted by  
44 the Financial -- the so-called Financial Action  
45 Task Force. So this is a regime that has  
46 therefore been in the works for some decades, and  
47 it has some notable features, including the role

1 of, as I described earlier, financial  
2 intelligence units and the purpose of suspicious  
3 transaction reporting.

4 So FIUs, to give the acronym, are national  
5 coordination points of interface essentially  
6 between investigative judicial authorities on the  
7 one side, and the private sector on the other.  
8 And the legislation designated certain entities  
9 as obliged entities, therefore obliged to report  
10 suspicions of financial crime to the FIU as the  
11 main gateway towards the broader policing and  
12 other sectors involved in investigating and  
13 prosecuting financial crime. In regard to  
14 suspicious transaction reporting, as I said, the  
15 legislation placed -- and this was a key defining  
16 -- still is a key defining part of the way in  
17 which the regime works. It places this legal  
18 obligation on certain entities to report in a  
19 timely manner to the FIU, suspicions of financial  
20 transactions across their platforms for example?

21 STRs, to give their acronym, run in  
22 [indiscernible]. For example, there are  
23 identified algorithms that are running across all  
24 transactions -- that's the nature of the  
25 legislation, a demand, and they're configured via  
26 the work of algorithms to report alerts of  
27 suspicious activity for manual review by  
28 compliance officers that are employed by that  
29 entity.

30 The 2017 report that we're discussing, for  
31 example, recognized the use of cash was one of  
32 the primary reasons for triggering these  
33 suspicious transaction reports. And to give some  
34 figures around that count by way of context, as  
35 of 2014, I think, the EU FIUs as a whole were  
36 receiving around a million reports in total from  
37 their obliged entities in each of the national  
38 jurisdictions. It's certainly higher now. The  
39 published figure for the United Kingdom in 2018,  
40 for example, is around 460 -- four-six-zero  
41 thousand suspicious transaction reports.  
42 So this is a big enterprise of suspicious  
43 transactions that are reported.

44 What our report also found was that there  
45 were variable standards in terms of the diligence  
46 of certain entities and even in certain countries  
47 reporting these, and across certain sectors

1           importantly. Lower levels of reporting from some  
2           sectors such as money services bureau at the  
3           time. Interestingly, we found that the gambling  
4           sector appeared simultaneously as among the  
5           highest but also the lowest of those reporting  
6           entities, and that depended really on the  
7           jurisdiction. So a real challenge there of  
8           uniform compliance perhaps.

9           Q     And the report goes on to make some conclusions  
10           about the effectiveness and efficiency of this  
11           global anti-money laundering framework, at least  
12           as it operated in Europe. Can you tell us a  
13           little bit about the conclusions reached by the  
14           report in that regard.

15          A     Very important findings, I thought, and certainly  
16           they were received as such by the broad audience  
17           that we were reporting to and have become also --  
18           findings of this report have become a mainstay of  
19           a lot of the discussion, particularly in Europe  
20           around how the system could be improved.

21                 So among the conclusions, the most notable,  
22           we found that only 10 percent of suspicious  
23           transaction reports that were received by the  
24           FIUs led to further investigation. So  
25           essentially 90 percent of what was being reported  
26           was of no value to police and judicial  
27           authorities. And we found that that was a figure  
28           -- an average figure across the EU, more or less  
29           stable for the 10 years or so before that, and of  
30           course explains a lot of why and how the regime  
31           now is performing, I think, at quite a low  
32           standard.

33                 Now, to put, again, a more current context  
34           around that, I looked at the figures in the  
35           United Kingdom for 2018. So 20 million automated  
36           alerts were produced by the sector in the United  
37           Kingdom, obliged entities. As I said earlier,  
38           the regulation obliges those entities to manually  
39           review all of those alerts by compliance  
40           officers. So algorithms in this case reported  
41           20 million alerts. From that in 2018, 460,000,  
42           as I said, suspicious transaction reports are  
43           filed. That's a figure of around, I think, 2.3  
44           percent. So of all the alerts, to give an  
45           example of one large country in the -- Europe for  
46           one whole year, of all of the alerts manually  
47           reviewed by compliance officers, only two percent

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1 -- some two percent of them reached the threshold  
2 for reporting as a suspicious transaction.

3 Now, in terms therefore of the productivity  
4 yield of this whole system, which is a  
5 cornerstone of the way in which the anti-money  
6 laundering system works, productivity yield is  
7 2.3 percent of 10 percent essentially, because  
8 only 10 percent of those that were received by  
9 the FIUs then lead to further investigation. So  
10 it's a very, very low productivity yield of  
11 investing a significant amount of time and  
12 resources in running this key part of the anti-  
13 money laundering system.

14 Indeed, in the example I'm citing from the  
15 United Kingdom in that year, it led only to 28  
16 investigations, I understand, and something like  
17 50 million pounds seized only, which is a tiny,  
18 tiny proportion of what most observers would  
19 judge to be the amount of criminal revenue  
20 produced in the United Kingdom.

21 Now, what is interesting is also reported  
22 from that year in the United Kingdom, the banks,  
23 for example, are spending a total of about  
24 5 billion pounds in running that system and  
25 employing all of these compliance officers, for  
26 example, and in other means. So quite an  
27 expensive system. A lot of resources thrown at  
28 it and a productivity yield of 10 percent of 2.3  
29 percent.

30 Now, right in conjunction with other Europol  
31 reports produced around the same period, which  
32 identified, for example, that we are seizing only  
33 one percent of criminal proceeds through the  
34 system. Then all of this tells us quite a lot  
35 about the inefficiency in the system and tells us  
36 a lot about the very low level -- low return on  
37 investment that we've had. We've been developing  
38 and implementing legislation since 1991 in  
39 Europe. We got to the point where one European  
40 country and the banks started now spending  
41 billions of pounds to run the system. That's  
42 before one considers staffing the FIU and  
43 judicial authorities. And the net effect of this  
44 whole system is that we're seizing barely one  
45 percent of criminal proceeds. And as a return on  
46 investment, I don't think that's good enough.

47 Q Thank you. The report also refers to some

1 possible secondary benefits to a reporting  
2 regime, being the deterrence that may arise from  
3 the knowledge that a particular entity or  
4 institution is required to report. Can you  
5 comment on the value of those secondary benefits.

6 A Yes. They're not insignificant. Of course,  
7 effective anti-money laundering arrangements will  
8 act as a disincentive. And it's notable, we  
9 think, that criminal activity generally is highly  
10 risk sensitive and criminals will likely go to a  
11 jurisdiction where they think that risk is lower.  
12 So there is an important point about  
13 disincentives here.

14 The problem I have, of course, is that when  
15 these sort of headline figures, which of course  
16 are perfectly well known by criminals, are that  
17 one percent of the proceeds are being seized  
18 only, then that doesn't act -- in practical terms  
19 doesn't act as much of a disincentive to many of  
20 these criminals.

21 Q Thank you. I'd like to turn now to in more  
22 detail some of the challenges that are identified  
23 for the system in this report. I'll refer to the  
24 report in my questions, but it is appreciated  
25 that it's a few years old now. I'll certainly  
26 not ask you to limit your comments to what was  
27 known at the time or the situation as it existed  
28 then, as you've been doing. I'll certainly be --  
29 welcome comments more up to date than that.

30 The first shortcoming I'm interested in  
31 exploring is the notion that this is perhaps a  
32 national level solution aimed at a global  
33 problem. In the foreword to the report, you  
34 wrote that:

35  
36 The anti-money laundering regime still  
37 operates at a domestic level, and has not  
38 yet fully adjusted to the reality of a  
39 problem that is defined by its international  
40 nature.

41  
42 You commented on this a little bit already, but I  
43 wonder if you might explain why you describe  
44 money laundering as a problem that's defined by  
45 its international nature.

46 A Yes. Because of the way that the flows -- the  
47 predicate offences, for example, might take place

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1 in several jurisdictions, the criminals  
2 themselves are operating across jurisdictions.  
3 And in order to effectively launder the proceeds,  
4 more often than not it involves the transfer of  
5 funds across borders. So by its very nature,  
6 financial crime or money laundering, certainly in  
7 its gravest form, is a global enterprise. And  
8 yet -- and it's becoming more so. Against that,  
9 our regime to control it operates primarily  
10 through national arrangements that are enforced  
11 in law. So although there are important  
12 legislative instruments in the EU, they are  
13 transposed into national law in the European  
14 Union, and the enforcement of them is not a  
15 matter for the European Union at an institutional  
16 level, but for the national authorities.

17 Now, there's good reason for that, of  
18 course, absolutely. But I mean, it's an issue  
19 replicated around the world that in the end this  
20 is about national enforcement of a problem  
21 defined by its global nature. And there's a  
22 reality gap there which has grown substantially  
23 since the first legislation in 1991. And some of  
24 the legislation and some of the regulations that  
25 come from revisions of that core legislation have  
26 attempted to deal with that, but it's only been  
27 partially successful at best. And all of this is  
28 compounded, bringing it more up to date, by  
29 development of virtual environments, which of  
30 course are by their nature borderless, which  
31 absolutely challenges this efficacy of  
32 supervising on the international level.

33 And current regulations in some cases  
34 actually even directly prevent effective  
35 international cooperation, for example, in terms  
36 of the exchange of information in the name of  
37 data privacy or banking secrecy arrangements, for  
38 example.

39 Q Are you able to give us any concrete examples of  
40 these types of regulations that prohibit or  
41 inhibit the sharing of information or the  
42 integration systems across borders?

43 A Yes. I think most anti-money laundering  
44 regulations, directives [indiscernible] in the  
45 EU, as transposed in law, of course, embed  
46 certain principles of data privacy especially,  
47 again for very good reason. In doing so, and in

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1 the name of data privacy, have therefore limited  
2 the extent to which the obliged entity may share  
3 that data with other obliged entities, certainly  
4 limits the extent to which that data can be  
5 shared across borders. And in some cases it even  
6 limits the extent to which it can be shared with  
7 law enforcement. There are different variations  
8 of this.

9 Now, you reach a point where essentially  
10 data privacy, which is an essential interest,  
11 absolutely, has been codified in legislation to  
12 reflect that, but at the same time, the challenge  
13 of fighting money laundering, a financial crime,  
14 has become increasingly dependent on the ability  
15 of us to work also cross-borders, not least by  
16 sharing information that can drive that more  
17 effective response. And so you have a conflict  
18 of interest essentially. And I'm not always  
19 convinced that the regulations and legislation  
20 has adequately dealt with that conflict of  
21 interest.

22 Q A second challenge identified in the report is  
23 the speed at which the system operates. And  
24 again, I'll turn back to the foreword for some  
25 comments that you wrote. You wrote that:

26  
27 The time taken to cooperate between the  
28 private sector, FIUs and law enforcement  
29 means that the speed of response is simply  
30 too slow to stem the flow of funds which  
31 move globally almost instantly.

32  
33 I wonder if you might elaborate on the pace at  
34 which the global anti-money laundering system  
35 moves and how that compares to the pace of, sort  
36 of, modern financial crime.

37 A Yes. So modern financial crime seeks to exploit  
38 the very efficient global digital ecosystem that  
39 we all inhabit ourselves, and so has made use of  
40 what has become a much more convenient system, of  
41 course, to transfer money very quickly and  
42 securely.

43 And ranged against that are the significant  
44 problems of international coordination between  
45 the authorities, even where the regulations or  
46 legislation might allowed -- might allow, so even  
47 where data privacy paths might not be an issue,

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1 the ability to connect authorities and indeed  
2 entities across jurisdictions is difficult  
3 because, of course, this is a system, as I said  
4 earlier, primarily designed around national  
5 configurations. So you have, again, this reality  
6 gap of a problem which is becoming more global  
7 and more and more facilitated by modern  
8 technology, and the speed with which that  
9 operates, and the fact that the international  
10 community hasn't really adapted well enough to  
11 deal with that.

12 For reasons that are extremely recognizable  
13 and even unsurmountable. It's not that I have  
14 any magic solutions here today, but it's become a  
15 notable feature of the problem.

16 Q I wonder if you can comment on the speed at which  
17 the system operates even domestically. You  
18 mentioned earlier that suspicious transaction  
19 reporting system [indiscernible] deadlines by  
20 which reporting entities are required to submit  
21 reports. I mean, does -- even within a nation,  
22 is it -- are these systems moving at the speed  
23 necessary to keep track of or keep up with, as  
24 you mentioned in the foreword, this sort of  
25 instantaneous flow of money?

26 A I think my -- my concern is that the system is  
27 configured around this business of suspicious  
28 transaction monitoring and reporting, which by  
29 its very nature is reactive essentially, which is  
30 trying to find evident suspicions of criminal  
31 activity, very often when it's too late. And the  
32 reporting of it therefore arrives with the FIU  
33 and with police teams in a way that in some cases  
34 10 percent, from my report, is useful for further  
35 investigation. Very often it's not, partly  
36 because it's yesterday's news perhaps.

37 And so the system, in my view, you know, has  
38 to move much more to being a more proactive  
39 instrument for dealing with financial crime, and  
40 that involves making better use of information  
41 and intelligence, in the way that I can describe  
42 if you like. But I think there are essential --  
43 there are intrinsic difficulties with operating  
44 essentially a reactive system to deal with  
45 something that is extremely dynamic in form and  
46 scale.

47 Q Thank you. We can certainly get into some of



1           those ideas about how to reform the system  
2           shortly.

3           But maybe the next challenge we can talk  
4           about, and we've certainly touched on this  
5           already to some degree, is the notion of  
6           technology-enabled crime. The role of technology  
7           is certainly a central theme to this report. It  
8           sort of presents it as both a blessing and a  
9           curse. Maybe before we get into the  
10          opportunities presented by technological  
11          enhancements, I wonder if you might comment a  
12          little more on the dark side of technology for  
13          the global AML framework. And maybe I'll ask you  
14          about a couple of the technologies that you've  
15          mentioned if we don't get to them, but maybe I'll  
16          invite you to just comment generally about the  
17          manner in which technology has changed crime in a  
18          way that sort of inhibits efforts to combat money  
19          laundering.

20         A       So we have -- I mentioned earlier the dark web,  
21                 which is really a core trading and communication  
22                 infrastructure for these increasingly global  
23                 criminal markets. Huge trading platforms and  
24                 hundreds of thousands of different types of  
25                 illicit commodities. And they have to provide  
26                 this underpinning crime-as-a-service  
27                 infrastructure to the criminal economy, and that  
28                 includes money laundering and financial crime.  
29                 They connect professional enablers with  
30                 criminals. They work in the entrepreneurial,  
31                 innovative way even to develop new solutions, for  
32                 example, for money laundering offences,  
33                 cybercrime for example, within this sort of very  
34                 vibrant entrepreneurial criminal community  
35                 operating at this substrata --anonymized,  
36                 encrypted substrata of the internet  
37                 infrastructure.

38                 Cryptocurrencies, virtual currencies, is  
39                 clearly - are clearly an important way in which  
40                 criminals are making use of modern technology,  
41                 and here we have a problem because, at least in  
42                 the past they have been less well regulated. And  
43                 there is a key problem with virtual currencies in  
44                 that there is no centralized authority generally.  
45                 And they also operate in a way that are anonymous  
46                 or, in some cases, pseudo-anonymous, so the owner  
47                 of the criminal asset, in this case virtual

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1 currency, is much harder to identify.

2 And I think not until 2017 were virtual  
3 currency exchanges, for example, made obliged  
4 entities in the EU. I think the U.S. were  
5 slightly quicker off the mark.

6 I think when considering money laundering,  
7 for example, through online gambling, again the  
8 introduction of a possibility to pay and play, I  
9 think cash-out using virtual currencies has added  
10 a new level of anonymity, and indeed a new  
11 generation of online casinos has emerged  
12 specifically for virtual currencies, some of  
13 which promote themselves indeed on the level of  
14 anonymity that they provide. So you have a real  
15 challenge from the fact in that case there were  
16 reported 95 percent of all virtual currency  
17 transactions move across unregulated  
18 jurisdictions. So not only are 95 percent of all  
19 transactions moving across borders, they're also  
20 moving across certain borders that are  
21 unregulated. So it makes it extremely difficult  
22 therefore for law enforcement to deal with that.

23 It's interesting also -- and I make a point  
24 about how the regulation has since, at least in  
25 Europe, been modified to apply to virtual  
26 currency exchanges. And that's because still in  
27 today's world virtual currency has rather limited  
28 spending possibilities. It's still not possible  
29 in the main to buy a house or a car, for example.  
30 So you have to cash it out at some point into a  
31 fiat currency, and that's the role that the  
32 virtual currency exchanges have, and that's why  
33 they've been regulated as obliged entities.

34 I think in the future the threat will become  
35 a real problem once indeed we get to the stage  
36 where you can indeed buy cars and houses with  
37 virtual currencies, and then -- and then we have  
38 a real problem on our hands, I think.

39 So these are some of the ways in which  
40 technology, I think, [indiscernible] have been  
41 helping here and are relevant.

42 Q Thank you. And you -- in describing the global  
43 anti-money laundering framework, you described a  
44 system in which financial institutions, other  
45 reporting agencies, are sort of -- have the  
46 responsibility of identifying what is and is not  
47 suspicious. When we're talking about rapidly

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- 1 changing emerging technologies, is that a  
2 feasible thing to ask them to do, to identify  
3 sort of what is and is not suspicious with the  
4 new payment mechanisms and other enhancements?
- 5 A No, it's a significant challenge and a notable  
6 part of this new age, I guess, of trying to  
7 combat money laundering in a much more technology  
8 setting. Indeed, it's much more difficult to do  
9 so, describe the way in which anonymization  
10 capabilities help to protect the identity of the  
11 [indiscernible]. It's more difficult to enforce  
12 money laundering regulations. All the more  
13 reason, I think, why we need to sort of change  
14 the system in a way that can drive a more  
15 proactive response.
- 16 Q Thank you. The next challenge I'd like to  
17 discuss, we've spoken at some length about the  
18 impact on reporting entities in terms of  
19 resources and the money it requires to run those  
20 systems and certainly, I imagine, the labour  
21 hours that it commands. I wonder if maybe, aside  
22 from this resourcing impact, are there other  
23 impacts on reporting entities that you can  
24 identify that might sort of give us an indication  
25 of how this reporting burden affects the  
26 priorities of those organizations or affects how  
27 they might think about their role in combating  
28 money laundering that maybe is not as productive  
29 as it could be?
- 30 A Well, the regulations create a rather clear  
31 yardstick by which all obliged entities, they  
32 know they have to measure up to, and that's  
33 driven indeed the injection of significant levels  
34 of resources in the way that I was describing  
35 earlier, into monitoring suspicious transactions  
36 and indeed reporting them, and indeed regulators  
37 have been quite diligent in many jurisdictions in  
38 fining obliged entities for serious failings in  
39 living up to those regulations. So that's driven  
40 a certain perspective that's always kept this  
41 matter a fairly high priority, I think, in most  
42 obliged entities.
- 43 The challenge they face, I suppose, is in  
44 resourcing that in an effective way. But also,  
45 it's not just about managing to resource it out  
46 of their budget. It's also really -- it's a  
47 challenge that comes with recognizing that it is

1 such an unproductive system producing two percent  
2 of value or less. And of course, the banks know  
3 that, and other obliged entities, and indeed as  
4 do the compliance officers that have that. So,  
5 there is a serious problem of motivation and  
6 morale levels in energizing the men and women  
7 that are involved in this industry, and I think  
8 that's an important point.

9 There is, on the other side, an even greater  
10 challenge, I think, in terms of the generally low  
11 levels of resourcing of the financial  
12 intelligence units who are receiving these  
13 suspicious transaction reports. That's a  
14 significant part of the challenge that we face in  
15 most jurisdictions.

16 Q Thank you. I'll suggest now we sort of move on  
17 to the sunnier side of the story and talk about  
18 some opportunities for improvement or solutions  
19 to these challenges. But before we do, are there  
20 any other shortcomings or challenges that you can  
21 identify with this global anti-money laundering  
22 framework that we haven't had a chance to  
23 discuss?

24 A I think one that sort of encapsulates all of it,  
25 Kyle, which is the concern that I had at Europol  
26 and I continue to have now in the work I do is  
27 that since 1991 in Europe, use that as the  
28 example still, we've effectively created a  
29 compliance-led culture at the heart of our anti-  
30 money laundering response. The focus has been on  
31 the regulatory effort, including the fining of  
32 obliged entities in that case, is to measure  
33 compliance with a rule book essentially, rather  
34 than the effect of compliance. And it's a subtle  
35 but very, very important point. And my view is  
36 that although creating incentives to comply is  
37 clearly important, it's not good enough to only  
38 do that because what's the point of being a  
39 hundred percent compliant if the system is still  
40 only seizing one percent of criminal assets?

41 So, we have to remind ourselves what the  
42 original focus of our efforts in designing the  
43 system in the first place were. It is not to  
44 comply for the sake of complying with any rule  
45 book, but for the purpose of preventing dirty  
46 money from entering the legitimate economy and  
47 polluting our way of life. So, I do think

1           therefore that there's a cultural norm that needs  
2           to be reset and indeed a strategic narrative and  
3           objective at the highest level that has to  
4           underpin that.

5           Q     Thank you. As I said, we've discussed a number  
6           of the different challenges and shortcomings with  
7           this system. Let's move now to talking about  
8           some possible solutions. Specifically on the  
9           issue of resource allocation, you've alluded to  
10          some ideas that you have about how to better  
11          organize the system to better apply those  
12          resources.

13                    What can you tell us about how we can ensure  
14           the resources dedicated to anti-money laundering  
15           efforts are better and more efficiently deployed?

16          A     Yeah. In outline terms, it's -- my strong  
17           experience from Europol is that we needed to get  
18           better at collaborating within the sector,  
19           between the sector and law enforcement, and  
20           across borders, and collaborating in a way that's  
21           driven by better information sharing. So,  
22           becoming more intelligence-led, to use that  
23           phrase, and more collaborative. And I'm  
24           encouraged, Kyle, by the fact that since leaving  
25           Europol and joining Deloitte, at the end of last  
26           year in October 2019, Deloitte published the  
27           paper of the joint research they did with the  
28           Institute of International Finance, that surveyed  
29           the sector in some depth actually and concluded  
30           the same essentially, that we needed to get  
31           better in those two principal ways.

32                    Now, what do I mean by intelligence-led  
33           approach? I think that the key point is that  
34           these anti-money laundering controls, including  
35           transaction monitoring, actually are very  
36           powerful in their construct, but they're made  
37           weak in their impact by being generally left  
38           undirected. It's a blanket-wide, rather blunt  
39           instrument, trying to monitor absolutely anything  
40           to try and hopefully find the odd needle in the  
41           haystack. And instead, you know, I think we need  
42           a much more laser-like approach that is capable  
43           of identifying the very small subset of  
44           transactions, the very small subset of, for  
45           example, the banking customer community that are  
46           engaged in nefarious activities and should  
47           attract the highest attention. So rather than

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1 spreading ourselves extremely thinly in trying to  
2 cover everything, we need to focus on identifying  
3 at the start of the process where the most likely  
4 criminal offenders are and the methods that  
5 they're operating.

6 So, gathering and analyzing intelligence  
7 from multiple sources, all of the hallmarks of --  
8 that I've been involved in my career to improve  
9 our knowledge of the problem set, down to very  
10 practical things. Who are the financial  
11 criminals? Where are they? In which sectors are  
12 they operating? What methods are they using?  
13 And so on.

14 So, it's -- it's an experience I have also  
15 in other areas of combating criminal problems,  
16 particularly in also terrorism, and one which is  
17 largely missing, at least up until now, from the  
18 way in which anti-money laundering systems are  
19 operating.

20 Q I understand that since 2012, the Financial  
21 Action Task Force has emphasized the importance  
22 of a risk-based approach and that there is some  
23 take-up of that within the industry. Is a risk-  
24 based approach synonymous with what you refer to  
25 as an intelligence-led approach? And if not, how  
26 would they differ?

27 A Yeah. Essentially, I think it is Kyle -- for  
28 purposes of this inquiry I think it is. It's the  
29 premise of directing your control efforts, of  
30 course, to the best effect, you know, both to  
31 bring maximum impact on identifying and reducing  
32 the problem of money laundering, but also, which  
33 is an important point, minimizing the collateral  
34 damage caused by the way in which the regulations  
35 work. The regulations are such that they operate  
36 in a way that they lead to significant levels of  
37 financial exclusion of innocent people  
38 essentially who cannot enter the banking system,  
39 for example, maybe cannot buy property because of  
40 the onerous nature of those regulations.

41 And being more risk approach implies, of  
42 course, that you are indeed being a big more  
43 laser-like about where you should really focus  
44 your attention on rather than trying to cover  
45 everything with everyone.

46 Q And the intelligence-led approach you've  
47 described would seem to obviously require a

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1 higher degree of centralized coordination than is  
2 currently in place. Can you speak a little bit  
3 about the resources and infrastructure that would  
4 need to be in place to make that type of a system  
5 function?

6 A Yes. Of course, it -- it requires a legislative  
7 and regulatory environment that would allow, of  
8 course, for effective information sharing between  
9 entities. In the models that I found to be most  
10 effective in my career, what I and others helped  
11 to build at Europol, which is this information  
12 hub I was describing at the start of my evidence.  
13 Earlier in my career, and indeed at different  
14 points along my career, the way in which many  
15 national authorities have led the fight against  
16 terrorism, for example, very much govern by  
17 similar principles. But if you think about how  
18 our jurisdiction tries to manage terrorism, it  
19 doesn't try to monitor the transaction of the  
20 activities of every citizen in a blanket way in  
21 the hope that some alerts from some of them can  
22 be identified. Absolutely not. It works in a  
23 way that starts by harnessing the right kind of  
24 data in a way, in a centralized coordinated way,  
25 from multiple sources to gather intelligence on  
26 the likeliest offenders, and then to throw a very  
27 strong control regime at that very small subset  
28 of the population. That's essentially how  
29 counterterrorism works and it's been largely  
30 effective right across Europe, I would say. And  
31 it's a hallmark of the way in which Europol has  
32 led the response to all forms of crime and try to  
33 encourage the same on financial crime.

34 Now, for that to work, as I said, you need  
35 legislation or regulation to allow it to happen.  
36 You need a technology. You need a platform. And  
37 in a different -- in the modern digital community  
38 we live in, there are different forms of doing  
39 this. It doesn't have to be a centralized  
40 database. It can be one that is linked in a  
41 federated way. But essentially it has to have  
42 the technology -- the technological ability to  
43 connect data, in a big data environment, to  
44 identify this idea of non-obvious connections.

45 And then, of course, analytical technology  
46 but also analytical horsepower in terms of people  
47 who can drive a more coordinated response.

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1           So, it's a different kind of response that  
2           is operating in parts, certainly of the law  
3           enforcement community. There are some examples,  
4           smaller examples of how this partnership between,  
5           for example, the banking sector and law  
6           enforcement is operating in some countries in  
7           ways that are beginning to look a bit like this.  
8           But largely these examples are not commonplace  
9           and not yet fully developed.

10        Q     Can you maybe help us identify where we might  
11           look to find those examples of [indiscernible] at  
12           least starting to do this in a way that makes  
13           more sense?

14        A     Yeah. The United Kingdom initiative from 2015  
15           called the Joint Money Laundering Intelligence  
16           Task Force, innovative at the time and held up  
17           today as the best practice model, certainly that  
18           concerning the banking sector, around the world.  
19           Not without its deficiencies, but still, it had a  
20           strategic design that I think was the right one  
21           and has been effective. So this is a so-called  
22           public-private partnership, so it brings together  
23           the leading police authorities in the United  
24           Kingdom with, in this case, up to, I think, 40  
25           financial institutions, the regulator as well,  
26           and -- for the purposes of exchanging  
27           information, analyzing, working on essentially  
28           live cases that the national police authorities  
29           are working on, the most -- highest priorities  
30           that they have.

31           And this sort of illustrates, I think, in a  
32           more practical way what I've been describing.  
33           This is a more proactive way of running a system.  
34           The police are operating a way to try and  
35           identify major organized criminals operating in  
36           the United Kingdom. They identify a one. They  
37           need to acquire more information about the  
38           network path that this criminal is involved in.  
39           They recognize that the banking sector, for  
40           example, has access to significant quantities of  
41           information that can help to identify, for  
42           example, the financial accomplices, contacts, the  
43           networks of that individual.

44           So, with the name of an individual or a  
45           suspect, they seek the banks' support in  
46           interrogating the banking records. So instead of  
47           throwing a blanket over all of the suspicious



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1 financial transactions, you start with a single  
2 name or a single group of names, or a typology of  
3 crime, for example, or a suspected region of the  
4 jurisdiction, and then, in this more laser-like  
5 way, you try and interrogate the database of  
6 financial transactions that you have, and when  
7 you find something very specific, you report that  
8 back through the financial authorities in the  
9 usual regulated way through financial  
10 intelligence units. And it's led in this case,  
11 the example I gave you, since 2015, they've  
12 developed over 500 new investigations in this  
13 way, identified 5,000 suspect accounts and  
14 criminals.

15 But the statistical evidence I think I saw  
16 which most interested me was that within the  
17 first two years of running this system, there was  
18 an 80 times increase in the productivity of  
19 suspicious transaction reports that go to the  
20 FIUs. So those suspicious transaction reports  
21 that were the result of these leads coming  
22 through this initiative from the police were  
23 flagged, in amongst the many, many thousands of  
24 others. I think I said earlier there were over  
25 400,000 a year in the UK. Only a proportion, a  
26 small proportion of those came from this  
27 initiative. But those were the only part of the  
28 set that were proactively driven in this  
29 intelligence-led way. On the set of the  
30 Financial Intelligence Unit, where the average is  
31 10 percent only led to further investigation,  
32 those that came through this initiative were 80  
33 times more likely to be accepted for further  
34 investigation, which kind of makes sense because  
35 of the way in which the system works.

36 But that, albeit non-scientific, experiment,  
37 isolated example, tells you a lot, I think, about  
38 how the system indeed could run. And as a model  
39 -- and various forms of that is something that is  
40 being copied to a certain extent, replicated --  
41 in other parts of the world there are variations  
42 of that, maybe in Hong Kong, Singapore, to a  
43 certain extent Australia. I've worked on models  
44 with the community in the Nordic region, also in  
45 Canada actually. I'm still working on that at  
46 the national level.

47 Q Thank you. I'm interested in going into a little

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1 bit more detail on this issue of information  
2 sharing with private sector organizations. The  
3 traditional system that you've described does  
4 rely on the private sector to an extent to  
5 provide information in the form of suspicious  
6 transaction reporting, but as you say, it's not  
7 in any way in sort of a targeted way. Can you  
8 speak a little bit more about what the -- how the  
9 role of a private sector organization like a  
10 financial institution would shift under this kind  
11 of an intelligence-led approach, and what the  
12 nature of their involvement in, not necessarily  
13 the joint money laundering investigation team,  
14 but in the initiative.

15 A Yes. I think the suspicious transaction  
16 controls, the monitoring controls, need not  
17 change very much. As I said, as a sort of -- the  
18 latent power of the instrument is very high. The  
19 value depends on how well you use that, of  
20 course. And then in the system that I described,  
21 if it was much better directed around the idea of  
22 having pre-analysis that helps to identify with  
23 more granularity the suspected offenders in your  
24 system, suspected accounts in your system.

25 Even with less granularity, which is  
26 something that we developed at Europol on a pan-  
27 European scale, a more highly informed view on  
28 the typologies of financial crime. This modus  
29 operandi of how professional money launderers  
30 work is emerging as a mock on this is what it  
31 looks like. This is how it works. These are the  
32 techniques that they use, and maybe even coming  
33 from certain jurisdictions. Anything that would  
34 lead to an increase in the knowledge and the  
35 understanding of the reporting entity, a much  
36 richer insight into what is likely to be  
37 occurring across their transactions, can  
38 therefore be used by those entities to  
39 essentially modulate their controls to focus  
40 specifically in certain areas or specific  
41 accounts.

42 And so, it's driven from the top, I guess,  
43 in a better way. A lot of that coming out of law  
44 enforcement for obvious reasons, but not all of  
45 it. Some of it could come through more effective  
46 sharing of information and typologies within the  
47 banking sector, between different banks or

1 between different obliged entities, for example.

2 Within a single enterprise, I've been  
3 arguing for some time the case for sharing data  
4 within, for example a bank, in order to connect  
5 better our understanding of cybercrime, fraud and  
6 money laundering, because they too are becoming  
7 much more part of an integrated criminal economy,  
8 the controls against which should not be  
9 compartmentalized any more. And yet they are,  
10 for example, in the banking sector.

11 So, you know, a vision of a more integrated,  
12 coordinated response which faces up to the  
13 reality of how crime is changing. One that is  
14 using data to drive a richer understanding and a  
15 more, again, laser-like response to the problem.

16 Q You spoke earlier about the challenges that arise  
17 from the creation of a compliance culture within  
18 some of these entities. Do you see a more  
19 targeted approach, a more intelligence-led type  
20 of a system resolving those challenges as well to  
21 any extent?

22 A Yes. But I think the issue that we have, though,  
23 Kyle, is that at the moment the obliged entities  
24 are essentially forced to do what the regulations  
25 expect and how the regulators measure them, of  
26 course, under the threat of fines and you know,  
27 public opprobrium.

28 For the culture to change, the regulations  
29 have to change. The yardstick has to change.  
30 The way of measuring it has to change. And for  
31 that to change, one needs a tweaking of the  
32 legislation, but perhaps more importantly, a  
33 different kind of mindset within the community  
34 that helps to govern and fashion a more  
35 productive response. And you know, the system as  
36 a whole is kind of working on that. You  
37 mentioned that the Financial Action Taskforce is  
38 moving more and more to promoting a risk-based  
39 agenda. That's good. We're seeing regulators,  
40 national authorities, governments in certain  
41 countries in Europe beginning to move  
42 [indiscernible] a bit slowly but they at least  
43 move to a system based on that. But that's what  
44 we need. We need a mindset shift amongst those  
45 that are responsible for running the system.

46 Q And you've alluded to this earlier today that  
47 whenever we begin to speak about changing how

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1 information is shared and the nature of  
2 information-sharing arrangements, the issue of  
3 the barriers imposed by privacy legislation, I  
4 think, invariably comes up. In your  
5 experience -- I appreciate the European  
6 legislative environment is a little bit different  
7 from Canada's, but I think both have fairly  
8 robust privacy protections -- has that been a  
9 challenge or a significant barrier to the  
10 creation of these kinds of intelligence-led  
11 initiatives that we're speaking about?

12 A Yes, it is, because we have sort of unwittingly  
13 walked into a trade-off, you know, a trade-off in  
14 the end between you know, privacy and the ability  
15 to fight financial crime, which is a trade-off  
16 that doesn't make sense in my view. I've never  
17 thought it was a binary choice that we had to  
18 make in any event, not least because, you know,  
19 privacy is also about preventing data abuse by  
20 criminals. To prevent that, it relies on more  
21 effective ways to investigate financial crime,  
22 which relies on a need to exchange information  
23 better. So, there's a sort of deficit of logic  
24 in the way in which we've constructed this  
25 because we've again done it in piecemeal fashion  
26 essentially.

27 And I think there's a better way of doing  
28 this. And my experience with Europol was one of  
29 seeing absolutely the virtues of a privacy-by-  
30 design approach that could also be enabling of  
31 our ability to fight financial crime.

32 Maybe I could explain. Because I arrived at  
33 Europol and found the most robust data privacy  
34 regime that was -- that I still know today. It  
35 was probably the most robust of any law  
36 enforcement agency that I know. My default  
37 reaction was that that would prevent the  
38 transformation of Europol into an effective  
39 operational centre essentially.

40 Actually within 18 months, two years, I'd  
41 flipped my view and came to realize that it is  
42 not the binary choice, and indeed privacy can  
43 even help you to run a more efficient data-led  
44 digital operation. And what I mean by that is  
45 data privacy legislation forced the police in  
46 that case to limit the extent to which -- limit  
47 the data that we could collect. We weren't

1 allowed to collect data for which we had no  
2 purpose to process and share. We weren't allowed  
3 to store data for longer than we actually needed  
4 it. So, the result of that, of course, was that  
5 our databases became cleaner. We had much less  
6 junk. We no longer had data that we never needed  
7 anyway. And also, our analysts, the minds of our  
8 analysts became much more precise, so we became  
9 sharper and leaner in our digital operations.  
10 And that in itself, of course, gave tremendous  
11 operational benefits. And that operational  
12 benefit was the result -- unintended but happy  
13 result of implementing privacy legislation.

14 So, I do believe that privacy even is an  
15 opportunity to shape up your digital operations  
16 in a way that can also lead to significant  
17 benefits, for example, in fighting financial  
18 crime.

19 The key comes down to making sure that in  
20 doing that, you take a privacy-by-design approach  
21 that follows very, very closely, three important  
22 principles for privacy legislation. And the  
23 first, and perhaps most important, is this  
24 principle of proportionality. You construct a  
25 data system, a data-sharing mechanism, on the  
26 principle of proportionality, which is that you  
27 limit your data collection operations, as I said  
28 earlier, to those types of data that you need  
29 strictly only for the purpose of why you need it.  
30 Provided you stick to that, those guardrails, in  
31 my experience privacy legislation actually  
32 enables you to fight financial crime, and it even  
33 enables you to do other things.

34 The other two principles are ones of  
35 accountability and transparency, transparency  
36 before the data owner, data user. In our case at  
37 Europol that was actually the police teams and  
38 the national authorities. They still owned the  
39 data. They could see what we were doing with the  
40 data. That helped to embed trust in the system  
41 and indeed encourage others to add their data.

42 And accountability in the sense that you  
43 have to be governed by clear legislation, but  
44 also an independent oversight body that in our  
45 case, had full independent access to all our  
46 datasets. So that helped, again, to build trust  
47 in a wider community, though we were operating in

1 a way in which there was no dark secrets about  
2 what data we were using and so on.

3 So that's a long answer. Excuse me, Kyle.  
4 But I do think that there is a different way of  
5 seeing the role of privacy in a way that doesn't  
6 have to make it this binary choice between the  
7 two things we're talking about.

8 Q Very helpful. I wonder if we might now move on  
9 to sort of another of the challenges we discussed  
10 earlier, which was the nationally or domestically  
11 oriented nature of the system. And I think  
12 you've spoken at some length about the importance  
13 of an internationally coordinated approach. I  
14 wonder if you might comment on, having spoken  
15 about the value of that approach, what a regional  
16 or international intelligence structure might  
17 look like and whether there are examples sort of,  
18 we might draw on to better understand how to more  
19 appropriately focus the geographic scope of these  
20 systems.

21 A Yeah. The only examples really that I know that  
22 are functioning are not actually in the private  
23 sector generally. In the law enforcement sector,  
24 Europol itself being -- I guess I'm biased, but  
25 perhaps being the best example, not least because  
26 today I think Europol's intelligence-sharing  
27 platform connects over 1,200 different law  
28 enforcement entities across 40 countries. So,  
29 it's an enormous enterprise. So, we did it at  
30 scale, and in a way that I could immediately see  
31 the fruits of the work that we did and the  
32 approach of the work. It was absolutely a core  
33 instrument in Europe's response to the terrorism  
34 attacks over the last five or six years.  
35 Absolutely it works, and becomes very quickly a  
36 primary instrument to control the problem that  
37 you have. So that's why I'm so convinced by the  
38 principles.

39 In the private sector, there have been  
40 significant attempts to connect law enforcement  
41 with the private sector. I gave you some  
42 examples in the UK. At Europol also we had this  
43 initiative across many industries in Europe as  
44 well. I think in the private sector essentially  
45 its -- there are very few examples because the  
46 nature of the regulation in most countries  
47 effectively limit those opportunities, if indeed,

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1 in some cases, even exclude the potential for  
2 those opportunities.

3 So internationally this is challenging. I  
4 think at a national level it is less challenging  
5 but still -- still there are not very many strong  
6 examples of these initiatives. And there, I  
7 think the opportunities are greater for this more  
8 collegiate response connecting different sectors  
9 and industries, and different entities within  
10 certain sectors and industries. There I think  
11 there are very many possibilities actually. I  
12 wouldn't say limitless, but very many  
13 opportunities to do this within the banking  
14 sector or within the real estate sector or within  
15 indeed the gambling sector, each time with or  
16 without cross-industry cooperation with law  
17 enforcement. Always better if you can. Even  
18 without, it's still a good start. And so, there  
19 are different -- different modes of operating  
20 here that are possible.

21 Q Thank you. And sort of on this same subject of  
22 international or regional integration, this  
23 report that we're [indiscernible] seems to endorse  
24 the idea of the creation of a pan-European  
25 financial intelligence unit. I gather there's  
26 been some movement in that direction recently.  
27 Can you comment on why the creation of a pan-  
28 European financial intelligence unit might be of  
29 particular value in the European context?

30 A Yes. To use the European Union as an example, as  
31 I said earlier, each country has a single  
32 dedicated financial intelligence unit. That's  
33 governed by national regulation, and in each case  
34 created a legal gateway by which information  
35 could be shared between the obliged entities and  
36 the financial intelligence unit. But that legal  
37 gateway very often did not extend to anything  
38 outside of the national jurisdiction.

39 Meanwhile, in the way that I've been  
40 describing, Europol as a pan-European body was  
41 monitoring this growth of a more globalized form  
42 of crime, international flows of illicit money,  
43 movements of criminals, and finding pan-European  
44 typologies or indeed leads of criminal syndicates  
45 that were operating across multiple  
46 jurisdictions. And yet there was no gateway for  
47 us to share at Europol those leads, for example,

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1 with multiple banks in different jurisdictions,  
2 which would have been the most effective way to  
3 deal at the pace, with the fact that these are  
4 high-level, high-harming, global syndicates of  
5 financial crime.

6 So once again, the reality gap that I  
7 described earlier had exposed this deficit of  
8 understanding -- deficit of capability. To  
9 correct that, this idea of an EU-wide financial  
10 intelligence unit alongside the national ones --  
11 not instead of them, became a proposal. In fact,  
12 it was a proposal under the so-called Fifth Anti-  
13 Money Laundering Directive, which was going  
14 through the works in my last year or two at  
15 Europol. In the end it was not supported by the  
16 EU institutions. But encouraging for different  
17 reasons - that are perhaps not so relevant here,  
18 -- encouragingly, in the last couple of months,  
19 the European Commission has published a new so-  
20 called EU action plan on money laundering, on  
21 financial crime, and this avenue seems to be open  
22 for debate again, so [indiscernible] encourage  
23 that.

24 Q And then the last topic I'd like to cover,  
25 subject to anything further you would have to  
26 add, on the subject of solutions is -- turning  
27 back to the question of technology, we've spoken  
28 at some length about the challenges that  
29 technology poses for efforts to combat money  
30 laundering. I gather there are also significant  
31 opportunities in that regard, and I wonder if you  
32 might comment on what you're seeing in terms of  
33 new tools that technology might be providing to  
34 help us in these efforts to combat money  
35 laundering.

36 A Yes. I won't labour the point too much more.  
37 But of course in the field of big data and data  
38 analytics, which is the central premise of my  
39 argument, the technology available today is very  
40 powerful -- machine learning, artificial  
41 intelligence -- the business therefore of  
42 interrogating large, disparate datasets in a  
43 quick, reliable form to, again, find these hidden  
44 connections in the system, has been made more  
45 possible, more powerful by the advent of machine  
46 learning and now artificial intelligence as well.

47 I think the world of -- in the area of



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1 compliance solutions, technology-enabled ones, I  
2 think is worth mentioning around digital  
3 identity, which is -- which offers the ability to  
4 enhance identity verification essentially, for  
5 online [indiscernible] and transactions, through  
6 the use of biometrics, other authentication  
7 methods essentially for sensitive transactions.  
8 So this is making the system of what we call  
9 onboarding essentially into obliged entities like  
10 banks, proving the identity, identity  
11 transaction, a digital identity form is likely to  
12 provide a more accurate result, less prone to  
13 criminal exploitation, certainly more portable  
14 and efficient, and in digital form therefore  
15 capable of being processed and shared across  
16 other networks. So digital identity has become  
17 an important new development in this area and has  
18 a lot of potential, so implementing it is quite  
19 important.

20 But any business environment that has a  
21 vulnerability of money laundering essentially  
22 will always have a core challenge and a core task  
23 of proving the identity of the beneficial owner  
24 of the asset, and that could be somebody seeking  
25 to buy a house, somebody seeking to buy -- open a  
26 new bank account, somebody of course seeking to  
27 register as a customer at a casino. In any of  
28 those cases where you can apply modern  
29 technology, for example digital identity, it is  
30 likely to add a level of robustness to the system  
31 that's not there at the moment.

32 Q Thank you. Before moving on to the third report  
33 I hope to discuss, while we're still on the  
34 subject of solutions and opportunities, are there  
35 other potential enhancements to our global anti-  
36 money laundering framework that we haven't had a  
37 chance to discuss that you think it's important  
38 to speak about?

39 A I think in the area of FIUs, I think I've talked  
40 before about resourcing being important  
41 [indiscernible] low levels. Certainly, if you  
42 were to compare the size of the compliance  
43 community, and budget underpins that in finance  
44 sector to the size of the FIU in any  
45 jurisdiction, it's extremely lopsided. That  
46 gives rise to significant problems of resourcing  
47 those leads, of course. And it might be one of

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1 the reasons why only 10 percent are taken  
2 forward, I guess. But it also gives rise to a  
3 consistent criticism in the sector, which is very  
4 poor feedback from financial intelligence units  
5 to the obliged entity. So that in itself slows  
6 down the process of -- or makes less efficient,  
7 of course, this system.

8 I think consistent application of regulatory  
9 controls across jurisdictions, even between  
10 different sectors, is important. And above all  
11 that, this idea of what the UK calls in its new  
12 response to this, a whole-of-government response,  
13 which is, I think, going back to a point I was  
14 making earlier, that the problem of dealing with  
15 economic crime in its widest sense is best  
16 challenged if multiple relevant parts of  
17 government and indeed the private sector are  
18 working hand in glove. That's the point. And  
19 so, the challenge really is about creating a  
20 strategic framework of coherence that's not there  
21 at the moment.

22 Q Thank you.

23 MR. MCCLEERY: Mr. Commissioner, as I just indicated,  
24 I'm going to turn to a new report, and I thought  
25 this might be a convenient time for a break.

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

28 THE REGISTRAR: The hearing is adjourned for a 15-  
29 minute recess until 12:23 p.m.

30  
31 (WITNESS STOOD DOWN)

32  
33 (PROCEEDINGS ADJOURNED)

34 (PROCEEDINGS RECONVENED)

35  
36 THE REGISTRAR: Thank you for waiting. The hearing is  
37 now resumed.

38  
39 ROBERT WAINWRIGHT, a witness,  
40 recalled.

41  
42 THE COMMISSIONER: Yes. Thank you, Mr. McCleery.

43 MR. MCCLEERY: I see that I was muted there. Thank you,  
44 Mr. Commissioner.

45  
46 EXAMINATION BY MR. MCCLEERY, continuing:

47

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1 Q As indicated before the break, I'd like to turn  
2 now to a third report.

3 MR. MCCLEERY: And Madam Registrar, I wonder if might  
4 display document number 44, which is a report  
5 titled "Does crime still pay?" Thank you.

6 Q Sir Rob, you can see that report?

7 A Yes, I can.

8 Q And do you recognize that report as one produced  
9 by Europol during your tenure as executive  
10 director?

11 A Yes, it is.

12 MR. MCCLEERY: Mr. Commissioner, I ask that be marked  
13 as the next exhibit.

14 THE COMMISSIONER: Very well. That will be  
15 Exhibit 66.

16 THE REGISTRAR: Exhibit 66.

17

18 EXHIBIT 66: Europol - Does crime still pay?  
19

20

21 MR. MCCLEERY: Thank you. And Madam Registrar, you  
22 can take that down now. We don't need it any  
23 further.

24 Q Sir Rob, I wonder if you might comment on the  
25 purpose of this report and the audience for which  
26 it was produced.

27 A Similar to the other two reports that we've been  
28 discussing, Kyle, it was to raise awareness  
29 amongst a broader community, again the law  
30 enforcement community, policymakers, regulators  
31 and indeed the wider public, on the way in which  
32 financial crime is impacting on society.

33 So, the three reports that you've chosen to  
34 highlight during my evidence, you know come as a  
35 set, a complementary set that describe the nature  
36 of financial crime and the response to it. In  
37 this case, "Does crime still pay?" analyzing the  
38 size of the criminal economy in Europe in so far  
39 as we were able to assess that with any degree of  
40 reliability, and in particular focusing on how  
41 much of -- how many of those -- how much of that  
42 revenue, how many criminal assets are seized and  
43 frozen and finally confiscated. And I alluded  
44 earlier to the figure of one percent, which comes  
45 from this report.

46 Q Maybe before we speak in more detail about the  
47 contents of this report, aside from the  
production of a report aside from the production

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1 of a report like this one, can you tell us a  
2 little bit about the role that Europol plays in  
3 asset recovery and confiscation within Europe.

4 A Yes. I think I probably covered this at the  
5 introduction in terms of the analysis project in  
6 this area around asset recovery. It is the so-  
7 called European Criminal Assets Bureau, and its  
8 role is to support this network of asset recovery  
9 offices. These are also like the FIUs. They are  
10 national coordinating points, as the name  
11 suggests, for the business of recovering assets  
12 from proceeds of crime. And similarly, with the  
13 FIU network, Europol has a role in helping to  
14 support -- facilitate the work of these national  
15 offices. They're on a pan-European basis,  
16 including in the areas I mentioned earlier about  
17 managing a network concerning anti-money  
18 laundering.

19 Q Thank you. And you've mentioned now the headline  
20 conclusion of this report, which is that it seems  
21 that there's a success rate of confiscating one  
22 percent of the criminal assets believed to be  
23 generated in Europe. I wonder if you might tell  
24 us in a little bit more detail about some of the  
25 key conclusions of this report around the  
26 effectiveness of asset forfeiture in Europe.

27 A We tried to estimate the size of the criminal  
28 economy in Europe. As I said earlier, it's  
29 extremely difficult to do that with a high degree  
30 of competence, and that's -- that's something  
31 that is the case facing, I think, any  
32 jurisdiction.

33 Conservatively, we took a piece of work --  
34 an estimated piece of work. The academic  
35 community had done a significant amount of work.  
36 This is an academic institute based out of Italy  
37 called Transcrime Institute. And they measured  
38 that EU illicit markets generate around 110  
39 billion euros each year. Now, that is a figure  
40 that is much smaller than the UN figure for the  
41 globe that -- for the world, rather, that a lot  
42 of experts rely on, which is why I think it's a  
43 conservative figure. We went with that to -- we  
44 preferred to err on the side of caution so that  
45 we wouldn't be in risk of generating any undue  
46 alarm.

47 But even against that figure of 110 billion,

1           which I do think is an underestimate certainly by  
2           today's standards, we then compared that against,  
3           as I said, the volume of assets that were seized,  
4           frozen, and eventually confiscated. Now, in  
5           doing that we had more confidence indeed in that  
6           statistical evidence because of our work in  
7           supporting the network of asset recovery offices  
8           around Europe, so we were getting first-hand data  
9           from the responsible authorities in the European  
10          Union.

11          Now, that showed that in a given year, some  
12          2.4 billion euros' worth of criminal assets were  
13          seized and/or frozen, and that represented 2.2  
14          percent of this headline figure of the size of  
15          the criminal economy of 110 billion. And now,  
16          seized and frozen doesn't necessarily mean  
17          finally confiscated because of the way this  
18          process worked and how only 1.1 percent finally  
19          of those though were finally confiscated. So  
20          that's my figure that I use of one percent.

21          As the report's title suggests, you know, we  
22          think that the way in which financial crime works  
23          indeed sort of gives rise to the notion that  
24          indeed crime does pay, still pays. And we're  
25          left with this you know, extremely unsavory  
26          finding that 99 percent of -- almost 99 percent  
27          of criminal assets, you know, continue to be  
28          enjoyed essentially by the offenders. And that's  
29          a figure therefore that we focused on in this  
30          report and wanted to bring to the attention of  
31          authorities and the wider community.

32          Q       Thank you. The introduction to this report  
33          describes confiscation of assets as one of the  
34          most important measures for fighting organized  
35          crime. And I wonder if you might tell us if you  
36          agree with that assertion, and if so, why in your  
37          view it's such an important part of the fight  
38          against organized crime.

39          A       Yeah. As I've been talking, making money, of  
40          course, is the primary motivation for most  
41          criminals. There are some exceptions  
42          [indiscernible] involved in child sexual abuse,  
43          for example. But overwhelmingly, for criminals  
44          the primary motivation is to make money.

45          So, if the authorities are able to run an  
46          effective forfeiture regime that therefore  
47          removes or denies those assets to the criminals,

1           then that is obviously going to reduce the  
2           incentive for criminals to engage in the first  
3           place, and indeed reduce the reward for engaging  
4           in crime. And then to a certain extent there is  
5           a moral purpose here behind this idea of asset  
6           forfeiture that we will have to make sure, to the  
7           best of our ability in the public space, that  
8           criminals do not profit from their illicit  
9           activities. That's the fundamental principle  
10          that I think is important.

11           There's another secondary benefit of asset  
12          forfeiture. It becomes an important source of  
13          intelligence to understand the broader network in  
14          the sense that you can identify the assets that  
15          are owned by the criminal for the purposes of  
16          finally trying to forfeit them, then it also is a  
17          means by which it's giving you more information  
18          about the lifestyle perhaps of a criminal and who  
19          he or she might be associated with, for example.

20          Q       And we'll speak a little bit later about the  
21          importance of financial investigative capacity.  
22          I wonder, the secondary benefit of asset  
23          forfeiture as a source of intelligence, is  
24          that -- I presume that's dependent on the asset  
25          forfeiture regime having some level of capable  
26          investigative resources.

27          A       Yes, indeed. But in that asset forfeiture has  
28          become an instrument -- a common instrument in  
29          financial crime, it -- although there are, once  
30          again, in this area, resource limitations faced  
31          by the authorities. Nonetheless, in constituting  
32          this as an important principle, it does therefore  
33          direct a certain amount of investigative capacity  
34          in this direction, and therefore makes -- makes  
35          possible therefore, these secondary benefits of  
36          intelligence.

37                Now it's not -- sometimes those secondary  
38          benefits are not fully utilized, very often  
39          because some asset forfeiture regimes, some asset  
40          recovery offices are not connected closely enough  
41          to the broader ecosystem of authorities that are  
42          fighting financial crime. They're operating in  
43          siloes perhaps to a certain extent, and therefore  
44          this opportunity to make the best use of the  
45          information that they are identifying is lost.  
46          And that's, again, a notable feature actually of  
47          the way in which law enforcement authorities in

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1 the wider community operate in trying to  
2 prosecute to the limit financial crime.

3 Q Thank you. The -- this report doesn't refer to  
4 this directly, but the two we looked at  
5 previously both offer some endorsement of one  
6 particular form of asset recovery, that being  
7 unexplained wealth legislation. Before I ask you  
8 your views on the merits of that type of  
9 legislation, can you tell us what your  
10 understanding of unexplained wealth provisions  
11 is.

12 A Yes. It's not a primary area of my expertise,  
13 but maybe I know enough to answer your question.  
14 It's -- these orders are also now a key  
15 investigative instrument to act on criminal  
16 assets, relatively more recent in their construct  
17 and evolution. Again, to use the UK as an  
18 example, the area perhaps I know best, in 2017,  
19 for example, the *Criminal Finances Act* introduced  
20 this power of an unexplained wealth order. And  
21 an order from, for example, a law enforcement  
22 agency can go to a high court judge, and if that  
23 judge accepts it on the basis of certain key  
24 criteria that is met, then that order is served  
25 on a suspect.

26 Now, those criteria are quite important.  
27 They include, for example, some evidence that the  
28 suspect's known income is insufficient to obtain  
29 the asset in question. And when that order is  
30 therefore served on the suspect, he or she is --  
31 has to positively evidence before the court the  
32 source of income for that order. So, it is an  
33 important principle of -- which is, reverse  
34 burden of proof, that the burden of proof is  
35 therefore imposed on the defendant, not in this  
36 case the prosecutor. You have to prove that the  
37 house or the expensive yacht or the car that you  
38 have has come from a source of income that is  
39 legitimate.

40 That concept of reversing the burden of  
41 proof isn't new to unexplained wealth orders. It  
42 was part of a kind of civil-based forfeiture  
43 procedures that have been the hallmark of some  
44 financial crime -- so financial crime strategies  
45 in some European countries for some time, 2002 in  
46 the United Kingdom's case, *Proceeds of Crime Act*,  
47 that in itself following a similar innovative

1 approach taken by Ireland in the years before  
2 that.

3 Q Thank you. As I mentioned, this mechanism is  
4 mentioned in the [indiscernible] too, the first  
5 two reports that we looked at. And the  
6 "Suspicion to Action" report suggests that  
7 unexplained wealth provisions with a reverse  
8 burden of proof would mean a strategic and  
9 substantial quick win for all law enforcement  
10 agencies and anti-money laundering supporters. I  
11 take your comment that this isn't a primary area  
12 of expertise for you, but to the extent you're  
13 able to comment, was that an assertion you would  
14 agree with, and if so, can you tell us why in  
15 your view this is such an important tool for  
16 combating money laundering in particular.

17 A Yeah, I think applying it will have the usual  
18 round of teething problems, and we've seen the  
19 first few notable cases, celebrated cases in the  
20 UK which - so, I think it remains to be seen how  
21 effective they are at implementation, but  
22 certainly the -- that aside, the purpose of these  
23 orders certainly has a large potential to bring  
24 significant benefits to the world of fighting  
25 financial crime, because in the end, of course,  
26 it helps to deny criminals indeed the assets that  
27 are the proceeds of their activities. So again,  
28 going back to my more general remarks earlier,  
29 the more effective we can be denying these  
30 assets, then the more of the incentive to engage  
31 in the first place will be reduced and the more  
32 we'll win this fight to prevent criminals from  
33 benefitting, being rewarded by their criminal  
34 lifestyle.

35 Q Thank you. This report that we're speaking of  
36 now makes a number of recommendations, as they  
37 all do. But I'd ask you for your thoughts on one  
38 in particular. The report recommends that  
39 financial investigative capacity in particular be  
40 strengthened. I wonder if you might comment on  
41 what -- you've spoken a little bit about the  
42 value of that as a potential source of  
43 intelligence. But can you comment on why  
44 financial investigative capacity in particular is  
45 critical to the confiscation regime.

46 A Yeah. I think it's axiomatic that if we make the  
47 case, persuasive case, I think, that illicit



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1 proceeds are at the heart of money laundering, is  
2 an engine of organized crime at the heart of the  
3 criminal problem we're trying to deal with and  
4 that which drives us therefore to the need to  
5 seize as much -- take -- deny as much of those  
6 assets to the criminal as possible for all the  
7 reasons we've been talking about. To get to that  
8 point, as I've been describing earlier, you need  
9 better intelligence to identify, of course, the  
10 criminals, the lifestyles and the ownership of  
11 certain assets.

12 Then all of that needs to be found through  
13 investigative work. So, the idea of financial  
14 investigative work, therefore, becomes one of not  
15 just -- not only one important part of how to  
16 deal with organized crime, but it becomes in  
17 itself an enabling instrument to fight it more  
18 effectively.

19 And so for some years, you know, a few of us  
20 have been saying that we need to mainstream  
21 financial investigation in every significant  
22 organized crime case, and that we need to move  
23 from the traditional space that it's had in the  
24 law enforcement community of being a rather niche  
25 area of police work into one that is a  
26 centrepiece of every major investigation. And  
27 this process of so-called mainstreaming has been,  
28 you know, a challenge for the last 10, 20 years.  
29 This got a lot better in some countries. It's  
30 just been successful. Now, to make that work, in  
31 addition to that you need the resources to back  
32 it up. We talked about that earlier. You need,  
33 importantly, the technical competence within your  
34 teams because it's a highly technical area, so  
35 the same way as criminals are making use of  
36 corrupt accountants, for example, then police  
37 increasingly rely on that kind of technical  
38 proficiency within their teams, for example.

39 And again, you know, going back to a point  
40 I've said many times before, it needs to be  
41 embedded also as part of an interagency framework  
42 of coordination.

43 Q Thank you. Are there particular agencies in  
44 other jurisdictions that you can identify that  
45 are maybe good models for what a robust financial  
46 investigative capacity might look like?

47 A I think the challenge has been found by every

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1 European country, and those that I know, like  
2 Canada and the United States and further afield  
3 in Australia. I think some like Australia, maybe  
4 the UK, maybe the Netherlands have been slightly  
5 ahead of the curve in recognizing this and in  
6 sharpening up their act. I think that in itself  
7 is still work in progress, but the UK launched --  
8 is in the process of launching it's new economic  
9 crimes strategy I mentioned already, and that  
10 definitely places, I think, this [indiscernible]  
11 financial investigation at the highest strategic  
12 level priority. And so, work in progress, I  
13 think, is the best I can say, Kyle.

14 Q One other question on this report. The  
15 recommendations also make specific reference to  
16 the need for financial investigative capacity at  
17 the national level as well as at the regional  
18 level. I wonder if you might comment on why this  
19 -- maybe this was particular to Europe, but why  
20 it might be necessary to have this capacity at  
21 both levels.

22 A Yes, in the same way if you were to build a most  
23 effective financial investigative capability,  
24 then it needs to have the capacity to follow the  
25 flows of illicit money across the borders in the  
26 way that the threat therefore is operating as I  
27 explained earlier. And therefore, you know, the  
28 investigation doesn't stop within the national  
29 borders, and therefore relies on gateways of  
30 cooperation with other jurisdictions, of course.  
31 And that's why effective pan-European  
32 arrangements in the EU and in broader afield than  
33 that are so important. The threat, as I keep  
34 saying, is absolutely moved in that direction,  
35 and if we are to properly investigate it, then we  
36 need to have the ability to do the same.

37 So that's why at Europol, you know, as an EU  
38 coordinating mechanism, we focused so much on  
39 facilitating the exchange of financial  
40 investigative work across the different  
41 dimensions we've been talking about.

42 I mentioned earlier that in the last few  
43 months, the EU Commission has published its so-  
44 called action plan on money laundering. That  
45 includes some further steps -- proposals at least  
46 -- to take further steps to facilitate more  
47 effective pan-European cooperation, including the

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1 establishment of a dedicated -- an agency  
2 dedicated to anti-money laundering, a dedicated  
3 EU agency, that is. As well as the point we  
4 discussed earlier, which is more effective EU  
5 coordination mechanisms for FIUs.

6 Q Thank you. Just changing gears then and moving  
7 on from this report, I'd like to ask you a few  
8 questions now about some work that you've done  
9 recently for the Province of British Columbia in  
10 your role with Deloitte. And -- mostly for the  
11 benefit of the participants, there's been some  
12 discussion, and I understand that while your work  
13 is subject to a non-disclosure agreement, the  
14 Province has advised that they don't object to  
15 your speaking about your work in this regard,  
16 with two exceptions, the first being that you're  
17 not permitted to disclose information subject to  
18 solicitor-client privilege, and the second being  
19 that you're not permitted to disclose information  
20 that originated with federal entities such as  
21 information obtained from the Royal Canadian  
22 Mounted Police. So, in answering these  
23 questions, I'll simply ask you to remain within  
24 those limits.

25 But I wonder if you might tell us in a  
26 general nature -- general sense what the nature  
27 of your engagement with the Province was.

28 A Yes. They've occurred within the last year and a  
29 half. I'll explain shortly what they are. So  
30 yes, you're correct in that all of it during a  
31 period in which I have been a partner of  
32 Deloitte. That said, the nature of my engagement  
33 in so far as I shared any advice, you know, is  
34 heavily -- has heavily drawn on my former career,  
35 not least at Europol. So, I wanted to make that  
36 distinction. Yes, on behalf of Deloitte, and as  
37 part of a wider Deloitte enterprise to support  
38 the Province in fighting financial crime, but a  
39 lot of it was based on my former career.

40 So, reading from my notes, Kyle, on the 7th  
41 of February 2019, I took a visit to British  
42 Columbia. I met a range of officials in the  
43 Attorney General's office, the AML Secretariat,  
44 to have a discussion very similar to some of the  
45 points I've been raising today during my  
46 evidence.

47 I had a follow-up call in the next month,

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1 13th of March, with the Anti-Money Laundering  
2 Secretariat to discuss the proposals that they  
3 were then shaping in response to the Peter German  
4 report and the follow-on developments around the  
5 establishment of possible police units.

6 Some advice and support, more indirectly via  
7 my Deloitte colleagues, in the time in between.  
8 And most recently, on the 23rd of April this  
9 year, a telephone call with the Attorney General  
10 Eby, again to give him the benefit of my wider  
11 experience as he seeks to marshal his thoughts on  
12 the strategy in this space. I should say there  
13 are follow-up visits being planned and might have  
14 occurred already, possibly also by physically  
15 meeting the Attorney General if it wasn't for  
16 coronavirus.

17 Q Thank you. And you've indicated that  
18 [indiscernible] you obviously drew on your  
19 expertise from your time with Europol and prior  
20 to that in giving this advice. Is it safe to say  
21 that the advice you gave to the Province would  
22 have been generally consistent with the evidence  
23 that you've given here today?

24 A Yes, that's correct.

25 Q You might be aware -- I'd like to ask you about  
26 one of the recommendations that was made to the  
27 Province and your thoughts on that. One of the  
28 recommendations related to this issue of  
29 financial investigative capacity that we've been  
30 speaking about, and in particular it proposed the  
31 creation of a designated policing unit focused  
32 specifically on casinos. And I wonder if you  
33 might have comments on the wisdom of creating a  
34 policing unit with a mandate focused in  
35 particular on -- whether casinos specifically or  
36 even generally -- on one specific economic  
37 sector.

38 A I think there are two important issues here in  
39 answering that question. The need to ensure  
40 optimum anti-money laundering arrangements within  
41 the gaming industry, casinos -- that's an  
42 absolute requirement, as it is indeed in all  
43 industries that are affected by money laundering.  
44 So, you clearly need to ensure as best as  
45 possible that there are optimum arrangements for  
46 countering financial crime.

47 A second related issue here is to -- need to

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1 ensure that those arrangements in a particular  
2 sector like casinos are part of an integrated and  
3 coordinated approach to financial crime that  
4 reflects the reality of the threats that I've  
5 been describing today, and therefore is geared to  
6 achieve the biggest impact. And those two points  
7 are important, and maybe I'll just sort of talk  
8 through a bit more and unpack that.

9 So, for the first point, money laundering  
10 through casinos, in my experience, is a  
11 relatively small part of the overall problem.  
12 It's still important enough certainly to fully  
13 address in a way that's consistent with standards  
14 in other sectors, of course. In the EU it's a  
15 regulated sector, although there are variable  
16 standards of enforcement. I mentioned Malta's  
17 [indiscernible] earlier for example.

18 Going back to the UK, I think the UK is  
19 perhaps a more positive example. The UK Gambling  
20 Commission seems rather proactive in my  
21 experience, quite diligent in inspecting levels  
22 of compliance. They have some -- amongst their  
23 board of directors -- board of commissioners  
24 rather, they have people like Trevor Pearce, who  
25 is a former -- occupied a very senior position in  
26 UK policing, fighting organized crime. And it  
27 helps, I think, the Gambling Commission to be  
28 very well informed in this area.

29 Further afield, Hong Kong police and the  
30 problems of money laundering through casino  
31 networks in the Macau Province, for example.  
32 We've seen -- although I'm much less of an expert  
33 there. We've seen how that was addressed rather  
34 -- rather successfully.

35 Second point is to make sure -- to ensure  
36 it's part of a more coordinated response.

37 Well, again, to reiterate, financial crime  
38 has been described as global in nature, operating  
39 relatively freely across borders and between  
40 different sectors and I think to -- a simple  
41 premise here -- to even understand it properly as  
42 a basis for giving you the best shot to counter  
43 it, a similarly, I think, coordinated approach is  
44 needed -- as much as possible across borders and  
45 as far as regulation allow, as much as possible  
46 integrated across multiple relevant sectors.

47 Not least because -- financial crime is not

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1           only global in nature -- I want to stress this  
2           point -- it operates in a way where it is in  
3           multiple sectors and industries simultaneously or  
4           they're a part of the network with this sort of  
5           footprint around different sectors of the  
6           community, and you have to start with the premise  
7           of acquiring the information that will give you  
8           the best hope of understanding where the full  
9           extent of that financial crime operation runs to.

10           And the way to do that is, in my experience,  
11           this data-led approach, public-private  
12           partnership if possible.

13           And I think this joined-up approach is all  
14           the more important given the scale and complexity  
15           of money laundering methods and the  
16           professionalization of the actors that I've been  
17           describing because, you know, that threat, I  
18           think, I'm finding, is often outstripping our  
19           capability at micro-levels in the system. So,  
20           where we're compartmentalizing our resources and  
21           therefore generally making them weaker and  
22           smaller in individual components, it doesn't  
23           measure up to the threat. You know, as I said,  
24           we have outstripped in terms of our know-how, our  
25           knowledge, our resources of AML teams in  
26           different bodies, and so we really need to  
27           leverage the effects on our side as well of a  
28           network economy, of a data-powered network  
29           economy. We are stronger together, if we can  
30           work together, are part of a coherent, broad  
31           strategy. That's my view.

32           Q     Thank you. I wonder if you might comment as well  
33           on the idea that there's a need to, within this  
34           need for coordination, in terms of how we  
35           organize police resources, with the need to have  
36           myriad resources or expand the scope of an agency  
37           beyond even this question of money laundering to  
38           financial crime more broadly. Is there a  
39           sensitivity in focusing my unit specifically on  
40           money laundering or is that an artificial  
41           distinction and is there a need to ensure that  
42           there's a broader integration with financial  
43           crime more broadly?

44           A     No, I think the sort of highly technical nature  
45           of parts of financial crime require clearly a  
46           degree of specialization. That in itself will be  
47           -- will call for a depth of horizontal

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1 specialization that is very important. But at  
2 the same time there must be some sort of vertical  
3 integration to leverage the capability of our  
4 specialist knowledge as part of a holistic  
5 strategy to fight it.

6 So you know, to go back to the analogy of  
7 Europol, you know, we had different analysis  
8 projects that we were describing, an analysis  
9 project on asset forfeiture, an analysis project,  
10 by the way, on heroin trafficking, on cybercrime,  
11 on people trafficking -- around 20 to 25 at any  
12 one time, and all requiring degrees of  
13 specialized knowledge, bringing specialized  
14 experts together each time, indeed even sharing  
15 specialized pools of data. But all 20 or 25 of  
16 them were connected as well on an integrated  
17 single platform.

18 So you bring the best of your vertical and  
19 your horizontal integration, and that for us was  
20 -- the importance of having both was very, very  
21 central to our ability to drive some kind of  
22 progress against organized crime because the  
23 depth of expertise allows you therefore to really  
24 understand the problem, but the vertical  
25 connectivity allows you to then define those  
26 golden, non-obvious connections, that what you're  
27 working on, this important asset forfeiture case,  
28 is actually connected to a modern slavery case in  
29 a different part of the forest. And knowing that  
30 is a very important lead in most investigations.

31 Q Thank you. I thought, to conclude my examination  
32 at least, I want to take a bit of a step back and  
33 ask a couple of bigger picture questions around  
34 priorities and the most important areas we need  
35 to get right in this province if we want to  
36 really address this problem.

37 Let's assume the Province has established  
38 this Commission because it's genuinely serious  
39 about trying to meaningfully address the issue of  
40 money laundering. As someone who advises  
41 governments and private sector organizations on  
42 doing just that, what would you identify as the  
43 most critical areas that British Columbia needs  
44 to get right if it wants to make real progress in  
45 this regard?

46 A Well, of course in answering that question,  
47 there's nothing that I'm going to say now that

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Commission

1           you haven't heard me sort of explain during the  
2           last two or three hours. I'd be surprised if  
3           there was. So, if I think off that, you know,  
4           it's sticking with that last theme that I talked  
5           about, this idea of strategic coherence. A  
6           strategy that is clear about the objectives and  
7           clear about its construct of joining up the  
8           system as much as possible and enabling  
9           regulatory environment and helps to implement  
10          that in practical form. Drawing the right kind  
11          of balance of interests and objectives across  
12          different privacy and other things. Clearly the  
13          resources in technology to support that. Clearly  
14          what the Province does -- so I'm describing that  
15          the Province should deal with the problem of  
16          money laundering in the province by seeing it as  
17          something that affects multiple sectors and  
18          industries. And it needs to design an approach  
19          that accommodates that, and doing so within the  
20          province, to do it in a way that is consistent  
21          and, as much as possible of course, also  
22          integrated with a national response, for obvious  
23          reasons and not least because the financial  
24          sector, which is still a primary part of problem  
25          money laundering, is operating essentially in the  
26          east coast of Canada, of course, so there has to  
27          be a national integration, as much as possible,  
28          international as well.

29                 My last important element that I would  
30          mention, and I think I've hinted at before, is  
31          this idea of effective leadership, that in the  
32          end there have to be champions of change in  
33          relevant sectors and it has to be supported at  
34          the political level. So, the need, the appetite  
35          for reform, has to be clearly signalled at the  
36          level where the most influence can be brought,  
37          and its implementation must be carried by those  
38          who carry those legislations.

39          Q        Thank you. And then just as a final question, I  
40          wonder if you're able to identify other  
41          jurisdictions that have made real progress,  
42          either overall or in particular sectors or areas  
43          that British Columbia might want to look to as  
44          models of reforming.

45          A        Yeah. I think Australia was quick off the mark  
46          in a way back 20 years ago, and it's quite an  
47          interesting model to look at now. I know much



1 less about how Australia governs its casino  
2 industry, so I'm not sure about that. But in  
3 overall terms, pretty good.

4 The UK is the -- I mean, if you look at the  
5 -- its strategy recently, going through the  
6 process of being published and implemented,  
7 important principles that they're getting right -  
8 - I mentioned earlier the whole-of-government, so  
9 again, the strategic coherence. Interesting that  
10 they are modelling a strategy -- it's not even  
11 financial crime. It's beyond that. It's the  
12 terminology of economic crime, recognizing,  
13 therefore, that in this much more globalized,  
14 integrated criminal community, cyber and fraud  
15 and money laundering and other dimensions are  
16 much more closely integrated [indiscernible]  
17 before. So again, this idea of a holistic  
18 approach.

19 The SARs reform process has been put up in  
20 the United Kingdom and in these other countries  
21 as a significant part, a flagship part of  
22 developing a more effective response, along with  
23 the points we've been talking about today. And  
24 there's also a nod in the direction of public-  
25 private partnerships in the UK, in the  
26 Netherlands, and indeed in other jurisdictions.

27 Q Thank you very much.

28 MR. MCCLEERY: Mr. Commissioner, I believe that  
29 concludes my examination of this witness.

30 THE COMMISSIONER: Thank you, Mr. McCleery, and either  
31 you or Mr. Martland will correct me if my list of  
32 participants asking questions of Sir Robert is  
33 wrong or in the wrong order, but I first have Ms.  
34 George on behalf of the Law Society of British  
35 Columbia, who's been allotted 15 minutes.

36  
37 EXAMINATION BY MS. GEORGE:

38  
39 Q Good afternoon, Sir Robert. My name is Catherine  
40 George and, as you've just heard, I represent the  
41 Law Society of British Columbia. My questions  
42 for you today are focused on clarifying a few  
43 things for the record with respect to the work  
44 that you and Deloitte have done for the Province  
45 of British Columbia. And the reason that I'm  
46 asking you about this is simply that when the  
47 panel from the Province and the AML Secretariat

- 1 testified last week, Megan Harris indicated that  
2 there were some points that someone from Deloitte  
3 might be better placed to clarify.
- 4 MS. GEORGE: If I could ask Madam Registrar to just  
5 briefly bring up Exhibit 49 -- that's the  
6 Jurisdictional Scan -- up on the screen, please.
- 7 Q Sir Robert, do you recognize this as the  
8 jurisdictional scan that Deloitte prepared for  
9 the Government of British Columbia in September  
10 2019?
- 11 A Yes, I do recognize it, although I wasn't a  
12 principal architect of it.
- 13 Q Well, I'm hoping you'll be able to help me with a  
14 very small detail about it.
- 15 A Sure.
- 16 Q You'll notice at the bottom of the first page  
17 here that it says "draft." Do you see that?
- 18 A Yes.
- 19 MS. GEORGE: And Madam Registrar, if you could just  
20 turn to the second page, please.
- 21 Q This also features a large watermark that says  
22 "draft." Do you see that?
- 23 A Yes.
- 24 Q So Ms. Harris testified that this was the form of  
25 the jurisdictional scan that was accepted by the  
26 B.C. AML Secretariat. And so, I'm not at all  
27 suggesting that there's anything wrong with this.  
28 I'm just wondering if you can clarify why  
29 Deloitte put this jurisdictional scan in in this  
30 draft format.
- 31 A I'm afraid I can't answer that question. I don't  
32 know the answer to that. I'm sorry. So, as you  
33 can see on that page, it's signed by one of my  
34 colleagues, Peter Dent.
- 35 Q Mm-hmm.
- 36 A So Peter would know. I understand Peter is  
37 scheduled to give evidence to the inquiry later,  
38 at a later date. But I'm afraid that I don't  
39 have that information to hand.
- 40 Q All right. Well, thank you. The other thing I  
41 wanted to ask you about -- and again, this is a  
42 question Ms. Harris indicated that was better put  
43 to someone from Deloitte. And perhaps it's not  
44 you, and we will return to this in the fall. But  
45 if you know, if you could describe the mandate  
46 Deloitte received more broadly from the Province  
47 of British Columbia. My understanding is that

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1 Deloitte did work that was outside of the  
2 creation of this jurisdictional scan.  
3 A Apart from the elements that have directly  
4 included me, which was giving a general  
5 impression of my understanding of financial crime  
6 and some advice that I gave the Province in  
7 regard to its proposals for a policing unit in  
8 regard to the casino sector, these are the areas  
9 specifically that I advised the Province on. I  
10 think this report in question is much broader  
11 than that and it refers to other work that  
12 Deloitte has given -- has provided to the  
13 Province on the subject of money laundering, and  
14 I'm not in the best position, I'm afraid, to  
15 comment on that. I wouldn't want to give you  
16 false or misleading information, and certainly it  
17 would be incomplete according to my knowledge.  
18 MS. GEORGE: All right. Well, thank you, then, Sir  
19 Robert. Those are my questions.  
20 A Thank you.  
21 THE COMMISSIONER: Thank you, Ms. George. The next on  
22 my list is Mr. Usher on behalf of the Society of  
23 Notaries Public. He has been allotted 10  
24 minutes.  
25 MR. USHER: Thank you, Commissioner. I have no  
26 questions today.  
27 THE COMMISSIONER: Thank you, Mr. Usher. Next then is  
28 Mr. Smart on behalf of the British Columbia  
29 Lottery Corporation, who's been allotted 20  
30 minutes.  
31 MR. SMART: Thank you.

32  
33 EXAMINATION BY MR. SMART:  
34

35 Q Sir Robert, we've been provided some notes  
36 prepared by someone of your meeting with the  
37 Anti-Money Laundering Secretariat in February of  
38 last year, and in those notes I have -- I don't  
39 know if you have those before you.  
40 A I can find them, I hope. Please continue while I  
41 search for them.  
42 Q I don't have very much. I just want to -- one of  
43 the notes I have is "Casino money laundering is  
44 very small compared to what is actually happening  
45 in the banking system." Does that accord with  
46 what -- what you advised the Province when you  
47 met?

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Columbia Lottery Corporation

1 A Yes. I mean, of course they sound like -- as  
2 they would be, of course, notes -- so shorthand  
3 notes of the broader discussion that we had. And  
4 so, I cannot recall if those were the specific  
5 words that I used. But of course, it would be  
6 the general sense of what I told the Province, in  
7 keeping with what I said, I think, as part of  
8 this evidence which indeed, it's a relatively  
9 small part, certainly compared to the banking  
10 sector.

11 MR. SMART: Now let me just see. I've been told I  
12 need to adjust my camera. I hope that's better.

13 A I can see you fine. Thank you.

14 Q Okay, thank you. And is that -- that's  
15 consistent with what you've said about casinos in  
16 relation to money laundering. Does that come  
17 from looking particularly at the regulation of  
18 casinos in this province or just your knowledge  
19 generally about money laundering in casinos?

20 A No. Thank you for asking that, Mr. Smart.  
21 That's an important distinction. It's from my  
22 broader global, and specifically more European,  
23 experience. I'm not sufficiently well versed in  
24 the specificities of the problem in the province  
25 for me to make that judgment.

26 Q All right. I wanted to ask you about what's  
27 Exhibit 66, "Does crime still pay?" and your key  
28 findings. And if you need to find that document,  
29 please go ahead and do that. But I'll just read  
30 to you paragraph 1:

31  
32 The results of this survey show that the  
33 amount of money currently being recovered in  
34 the EU is only a small (portion or)  
35 proportion of estimated criminal proceeds:  
36 98.9% of estimated criminal profits are not  
37 confiscated and remain at the disposal of  
38 criminals.

39  
40 And you've told us about the Italian study that  
41 you've referenced in terms of the amount of --  
42 the volume -- the dollar amount of criminal  
43 proceeds. Can you assist in terms of the  
44 different areas that proceeds originate from? By  
45 that I mean, certainly drug trafficking cartels  
46 get lots of publicity, certainly in Canada and in  
47 the United States. But you've talked about

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1 financial crimes. What -- do you have a sense of  
2 what -- I'd like you to explain what you consider  
3 financial crimes and what role that plays in  
4 money laundering -- generating proceeds of crime,  
5 I guess.

6 A Yes. I still think the drugs -- the illicit drug  
7 sector is still the largest part of the criminal  
8 economy, and therefore the largest producer of  
9 illicit proceeds. That said, there are other  
10 substantial parts of the criminal economy also  
11 producing substantial illicit -- you mentioned  
12 financial crime. In the wider sense that  
13 includes fraud, for example, and fraud, in Europe  
14 for example, is also a multi-billion euro  
15 problem. Fraud in different ways -- fraud on --  
16 defrauding banking customers of their money,  
17 sophisticated tax frauds, also relating for  
18 example to carousel fraud, which is a major  
19 problem. So, I think fraud is a major part of  
20 the criminal economy. Trafficking of people to  
21 work in illicit labour markets or for sexual  
22 exploitation is a growing part of the problem.  
23 Cybercrime I described earlier. So still  
24 important elements of it.

25 I think the point I was trying to make  
26 earlier, Mr. Smart, was that increasingly this  
27 range of different serious criminal offences are  
28 part of an integrated criminal infrastructure  
29 that is operating across borders and they're  
30 served by more and more a common criminal  
31 marketplace and infrastructure that supports  
32 that.

33 So certain professional money launderers,  
34 for example, financial criminals, are likely to  
35 be serving a range of criminal syndicates, not  
36 just those in any particular sector such as drugs  
37 trafficking.

38 Q What's the impact from -- your opinion of the  
39 impact of these professional money laundering  
40 networks on money laundering? Just that we have  
41 much more sophisticated specialists undertaking  
42 those tasks for criminals?

43 A Yeah. I think that's largely it. That we  
44 have -- the impact has been to professionalize  
45 the business of money laundering much more, and  
46 what that means is that generally those involved  
47 in that have become more adept at laundering

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- 1 money through different means and more adept at  
2 identifying and exploiting any loopholes that  
3 exist in the anti-money laundering framework,  
4 more adept at concealing the identity of  
5 themselves and maybe their criminal associates  
6 that they're serving. And so yes, it's just a  
7 more professional criminal operation which has  
8 made it a fair degree harder, actually  
9 challenging, even in the best of worlds for law  
10 enforcement to combat.
- 11 Q Do you -- but my sense from your evidence today  
12 is it's important that the reporting entities and  
13 the public are aware of evolving methods of money  
14 laundering so they can be more able to recognize  
15 it when it occurs and report it.
- 16 A Yes. Yes. I think -- I think any regime, any  
17 response to a sophisticated criminal problem like  
18 this, or terrorism, relies first -- you know, the  
19 basics are that you have to understand the nature  
20 of the threat. Know thy enemy is something  
21 Confucius wrote millennia ago. And so, this idea  
22 of improving your knowledge set is fundamental to  
23 any hope of designing the right strategy in the  
24 set of interdiction measures, because otherwise  
25 you might not know in which direction you should  
26 be pointing and prioritizing your resources. And  
27 so that relies therefore on -- knowledge comes  
28 from data. Data will come from -- the best data,  
29 the best knowledge will come from the collection  
30 of the best data sources in some sort of  
31 intelligence-led way.
- 32 Q And I gather you would encourage, to the extent  
33 reasonable, law enforcement and financial  
34 investigation units to share information with  
35 reporting entities so they're more knowledgeable  
36 in identifying transactions that are suspicious  
37 or put -- well, transactions that are suspicious  
38 and individuals who are suspicious.
- 39 A Yes indeed. And it is indeed a regulatory  
40 requirement on obliged entities to do so. And  
41 absolutely that remains a cornerstone of the  
42 regime and should continue, but alongside some of  
43 the other response measures of improvement that  
44 I've been talking about today.
- 45 Q Mm-hmm. This is a provincial inquiry, as you  
46 appreciate, and I think a clear theme of your  
47 helpful evidence today has been how global crime

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- 1 and money laundering has become. And so  
2 provincial efforts are necessarily going to be  
3 handicapped and really need to coordinate with  
4 national and international efforts. Am I -- do I  
5 capture that accurately?
- 6 A Yes. I think where the impact of anti-money  
7 laundering takes effect in practical form will  
8 always be, of course, at the end point, at the  
9 local level and regional level. So --
- 10 Q Yes.
- 11 A -- you have to have structures that are  
12 implementing, enacting these principles with  
13 practical effect every day. That's clear. But  
14 you're right in the sense my evidence today is  
15 pointing to that those actions that should be the  
16 product of a systemic approach that is across  
17 government and indeed across provincial  
18 boundaries.
- 19 Q Mm-hmm. I note from the notes that we've been  
20 provided of the telephone meeting with Deloitte  
21 in March of last year that somebody has noted  
22 that:
- 23  
24 British Columbia is lightyears ahead of any  
25 other province or the feds --  
26  
27 Being the federal government.
- 28  
29 -- by considering and coordinating competing  
30 mandates and the other efforts that B.C.'s  
31 taken.
- 32  
33 I don't know if that was you that offered that  
34 or --
- 35 A No, it wasn't.
- 36 Q Yeah. So you -- If I -- we've heard some evidence  
37 about this and this may have been your  
38 experience, that law enforcement tends to  
39 prioritize certain crimes over others, and  
40 obviously terrorism is one that in recent years  
41 has priority, and there are others, but that  
42 financial crimes and money laundering, at least  
43 until recently, has not been given that priority.  
44 Is that consistent with your experience?
- 45 A Yes, it is, broadly. Yeah.
- 46 Q Yeah.
- 47 A In many countries in Europe and to a certain

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1 extent I would say, to the best of my knowledge,  
2 in Canada and the United States as well.

3 Q Yes. So, one of the efforts this province can  
4 make, from your experience, would be to encourage  
5 the federal government to coordinate a national  
6 and international response to money laundering  
7 and put sufficient resources and give a  
8 sufficient priority to financial crimes in  
9 general and money laundering in particular.

10 A Yeah. I think as a principle, Mr. Smart, that  
11 that is right and I believe that. I know also  
12 from my -- my experience of running an  
13 operational agency how difficult it is to assign  
14 competing priorities against one another. So, I  
15 know how difficult and how hard these choices  
16 are. But yes, as an absolute principle, that  
17 yes, we have to make sure that we have the right  
18 resources to tackle financial crime, of course  
19 that's true.

20 Q Yes. The last thing is, this inquiry is focused  
21 on money laundering. But money laundering is  
22 just part of a larger effort to reduce crime,  
23 isn't it?

24 A Yes. Yeah, absolutely.

25 Q Yeah. You've talked about the benefit of seizing  
26 assets, the proceeds of crime, because it takes  
27 the incentive out of committing crimes and, I  
28 guess, recycling those assets back into crime.  
29 But really in a sense money laundering is just  
30 another component of an effort to try to deter  
31 criminals generally, and it's really the  
32 predicate crimes that need to be the focus of law  
33 enforcement rather than just money laundering.  
34 Do you agree? That's a long statement from me,  
35 but do you agree with that?

36 A Well, and in the sense that there are -- I  
37 believe that the most effective investigation and  
38 prosecution of organized crime, yes, depends on a  
39 range of complementary, simultaneous actions,  
40 including of course the investigation of  
41 predicate offences.

42 But I'm not sure I agree with the sentiment  
43 of your question in the sense that it's more  
44 important to do so. I think -- my concern for  
45 some time has been the way in which money  
46 laundering has become one of these great engines  
47 of organized crime, as I said, and must clearly



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- 1 be tackled with some degree of focus and  
2 efficiency because it is instrumental actually.  
3 It's not the only key instrument but it is an  
4 instrumental component of how the criminal  
5 economy works, and it has this capacity, if we  
6 get the actions right, of hitting the criminals  
7 where it hurts most, taking their assets away,  
8 stopping them from benefitting from  
9 [indiscernible]. And it's a major part of why  
10 anti-money laundering strategies are so  
11 important.
- 12 Q Isn't what hits the criminals most is the sound  
13 of the cell of a jail closing on them? They've  
14 been effectively investigated and prosecuted, and  
15 there's those consequences, penal consequences.
- 16 A Actually in my experience, no. It might surprise  
17 many of us, but I think some of the -- you know,  
18 to use a sort of slightly more everyday parlance,  
19 criminal godfathers that I've had the deepest  
20 pleasure of investigating over my years have  
21 feared nothing more than losing their assets.  
22 And there is another important point here,  
23 which is those same criminal kingpins are very  
24 adept at removing themselves from any important  
25 chain of evidence, so it's relatively more  
26 difficult, I think, for authorities to get to the  
27 point where they can actually lock up, prosecute  
28 the kingpins themselves. So, if that's not  
29 possible, then through the different means that  
30 we've been talking about today, if you can take  
31 away their assets meantime, then that's the other  
32 avenue that's clearly worth exploring.
- 33 Q But if you're only taking 1.2 percent of the  
34 money generated, we need to do better than that  
35 to have a significant deterrent effect.
- 36 A Absolutely. And that's why we need to inform --  
37 reform the anti-money laundering system in all  
38 its respects. We all need to do better, frankly,  
39 as part of a more effective overall strategy.
- 40 MR. SMART: All right. Thank you, Sir Robert. Those  
41 are my questions.
- 42 A Thank you.
- 43 THE COMMISSIONER: Thank you, Mr. Smart. And now, on  
44 behalf of the Great Canadian Gaming Corporation,  
45 Ms. Harmer, who has been allotted 10 minutes.
- 46 MS. HARMER: Thank you, Mr. Commissioner. Great  
47 Canadian does not have any questions at this

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1 time.

2 THE COMMISSIONER: Thank you, Ms. Harmer. Next -- and  
3 Ms. Mainville, I leave it up to you. We've got  
4 about tenish minutes left. You've been allotted  
5 30 minutes. Do you wish to start today or would  
6 you prefer to start tomorrow morning?

7 MS. MAINVILLE: My preference would be tomorrow  
8 morning. I may well not be 30 minutes. In fact,  
9 I don't think I would be, but it would still be  
10 my preference to start in the morning if I could.

11 THE COMMISSIONER: All right. That's fine. We will  
12 then adjourn until tomorrow morning at 9:30.

13 MR. MCCLEERY: Mr. Commissioner, sorry to interrupt.  
14 I wonder if I might offer one point of  
15 clarification on evidence that was offered  
16 earlier.

17 THE COMMISSIONER: Yes.

18 MR. MCCLEERY: There was a comment about Mr. Dent  
19 giving evidence later in the Commission's  
20 proceedings. That's certainly a possibility, but  
21 I didn't want to leave the participants with the  
22 impression that we've finalized our witness list.  
23 So that is something that may well happen, but we  
24 can't say so with certainty. However, we're  
25 happy to look into this question of the watermark  
26 on that jurisdictional scan and confirm why it  
27 said that.

28 THE COMMISSIONER: Thank you for that, Mr. McCleery.  
29 And Ms. Mainville, as far as you're concerned and  
30 the rest of the Commission, we'll adjourn now  
31 until tomorrow morning at 9:30.

32 MS. MAINVILLE: Thank you.

33 THE REGISTRAR: The hearing is adjourned for the day  
34 and will recommence at 9:30 a.m. on June 16,  
35 2020.

36 MR. MARTLAND: Mr. Commissioner, I'm sorry to  
37 interrupt. It just occurred to me, though, that  
38 in order for us to be consistent with our past  
39 practice with the witness still there, I think  
40 we've been in general terms having a direction  
41 not to discuss evidence once we've moved under  
42 examination by participants. I would simply ask  
43 whether we might do that again here.

44 THE COMMISSIONER: Yes. Thank you, Mr. Martland, for  
45 that timely reminder. Sir Robert, it has been my  
46 practice [indiscernible - break in recording]  
47 that while they're under cross-examination, they

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1           may not discuss their evidence with anybody.

2           Thank you.

3           A     I understand, Commissioner. Thank you.

4           THE COMMISSIONER: Thank you. We'll adjourn then.

5

6

(WITNESS STOOD DOWN)

7

8           THE REGISTRAR: The hearing is adjourned for the day

9           and will recommence at 9:30 a.m. on June 16,

10          2020. Thank you.

11

12

(PROCEEDINGS ADJOURNED TO JUNE 16, 2020, AT  
9:30 A.M.)

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