

**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

Friday, June 5, 2020

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1
Michael Levi (for the Commission)
Peter Reuter (for the Commission)

Vancouver, B.C.
June 5, 2020

1
2
3
4 THE REGISTRAR: Good morning, everyone. Thank you for
5 waiting. The hearing is resumed.

6 THE COMMISSIONER: Thank you, Madam Registrar. Yes,
7 Ms. Latimer. Are we ready to proceed today?

8 MS. LATIMER: Yes. Good morning, Mr. Commissioner.
9 We have today two witnesses before the
10 Commission. We have Professor of Criminology
11 Michael Levi of Cardiff University, and Professor
12 Peter Reuter, who is a professor in the School of
13 Public Policy at the University of Maryland with
14 a secondary appointment as Professor in the
15 Department of Criminology and Criminal Justice.
16 And both witnesses are scheduled to testify today
17 and tomorrow.

18 THE COMMISSIONER: All right. Thank you. Would they
19 prefer to be sworn or affirmed?

20 MS. LATIMER: They prefer to be affirmed, please.

21 THE COMMISSIONER: Thank you. Yes, Madam Registrar.

22 THE REGISTRAR: Yes. Professor Levi, please state your
23 full name and spell your first name and last name
24 for the record. Sorry I have to -- you have to
25 unmute. There you go. Can you start again.

26 PROFESSOR LEVI: Okay. My name is Michael Levi, M-i-
27 c-h-a-e-l, L-e-v-i.

28 THE REGISTRAR: Thank you. Professor Reuter, please
29 state your full name and spell your first name
30 and last name for the record.

31 PROFESSOR REUTER: Peter Reuter, P-e-t-e-r, R-e-u-t-
32 e-r.

33 THE REGISTRAR: Thank you.

34
35 MICHAEL LEVI, a witness
36 called for the Commission,
37 affirmed.

38
39 PETER REUTER, a witness
40 called for the Commission,
41 affirmed.

42
43 THE REGISTRAR: Thank you.

44 THE COMMISSIONER: Thank you.

45 MS. LATIMER: Good morning, professors. Madam
46 Registrar, could we have document 28, please,
47 from the list of documents be placed on the

2
Michael Levi (for the Commission)
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Examination by Ms. Latimer, Counsel for the Commission

1 screen.

2

3

EXAMINATION BY MS. LATIMER:

4

5

Q Professor Levi, you recognize this as your
6 curriculum vitae, correct?

6

7

PROF. LEVI: Correct.

8

9

Q And this accurately sets out a summary of your
9 professional accomplishments; is that right?

10

PROF. LEVI: It does, yes.

11

MS. LATIMER: Mr. Commissioner, I ask that this
12 document be marked as the next exhibit, please.

12

13

THE COMMISSIONER: Very well. That will be Exhibit
14 21.

14

15

THE REGISTRAR: Exhibit 21.

16

17

EXHIBIT 21: Curriculum vitae of Professor
18 Michael Levi

18

19

MS. LATIMER: Madam Registrar, I don't need that
20 document displayed any longer.

20

21

Q And Professor Levi, I'll ask if you could please
22 begin by describing your educational background.

22

23

PROF. LEVI: Okay. I was an undergraduate at Oxford
24 University where I did philosophy, politics and
25 economics, a different definition of PPE than is
26 in the common discourse these days.

25

26

27

I then went to Cambridge, where I did what
28 was then a post-graduate diploma in criminology,
29 and after that I did a Ph.D. at Southampton
30 University on the organization and control of
31 bankruptcy fraud. And later on I received an
32 honorary higher doctorate from Cardiff for the
33 general body of my work on economic criminology.

28

29

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34

Q Thank you. And you've been a professor in
35 criminology at Cardiff University since 1991; is
36 that correct?

35

36

37

PROF. LEVI: Yes. And I was there before then as a
38 more junior staff member.

38

39

Q Okay. And you've received a number of academic
40 distinctions, including most recently in 2019 the
41 Gilbert Geis Lifetime Achievement Award, Division
42 of White-Collar and Corporate Crime, from the
43 American Society of Criminology; is that right?

40

41

42

43

44

PROF. LEVI: That is right.

45

Q And what's that award to do with?

46

47

PROF. LEVI: Well, that was to do with basically my

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

Examination by Ms. Latimer, Counsel for the Commission

1 publications and the way I have helped to reshape
2 and provided a lot of empirical work on white
3 collar crime research around the world, mostly in
4 the UK and also in North America and Australia,
5 but also in developing countries.

6 Q And you've also been awarded the Outstanding
7 Achievement Award from the British Society of
8 Criminology; is that right?

9 PROF. LEVI: That's right.

10 Q And is that a similar distinction?

11 PROF. LEVI: That's for -- that includes other work
12 that I'd done on terrorist finance, on organized
13 crime, on money laundering, and on violent crime
14 generally.

15 Q And then as well you've been awarded the Lifetime
16 Achievement Award for Tackling Economic Crime
17 Awards.

18 PROF. LEVI: That's correct.

19 Q And what's that for?

20 PROF. LEVI: That is, I suppose, for doing some work
21 that has had some practical and policy effect in
22 the area mostly of fraud and money laundering,
23 business crime generally.

24 Q Okay. And you hold a number of public positions
25 that are enumerated beginning at the bottom of
26 page 1 of your CV; is that right?

27 PROF. LEVI: That's right.

28 Q And many of those positions -- we won't have time
29 to go through all of them, but many of those
30 relate to anti-money laundering and related
31 initiatives; is that correct?

32 PROF. LEVI: That is correct.

33 Q I would just like to highlight a couple with you,
34 but first of all, those include that you are
35 presently a member of the Law Society Money
36 Laundering Task Force; is that right?

37 PROF. LEVI: That's right.

38 Q And what does that position entail?

39 PROF. LEVI: Well, we have periodic meetings, both
40 together and with the UK Financial Intelligence
41 Unit to discuss money laundering problems as they
42 affect the legal profession. It also involves
43 looking at consultation documents and formulating
44 policy responses to those documents, both in
45 relation to the UK and in relation to the
46 European Union and more broadly.

47 And we occasionally try and formulate more

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Peter Reuter (for the Commission)

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1 proactive approaches to outreach to the legal
2 profession in England and Wales, because Scotland
3 is dealt with separately and Northern Ireland
4 also. So we help to organize outreach seminars
5 and conferences with legal professions to discuss
6 the problems that they experience in interpreting
7 and applying the anti-money laundering
8 legislation and regulations.

9 Q And you're a member also of the academic advisory
10 group, Law Commission proceeds of crime project;
11 is that right?

12 PROF. LEVI: Correct.

13 Q What is that group looking at?

14 PROF. LEVI: Well, at the moment it's inactive. But
15 the Law Commission was given the task of looking
16 at two primary things. One was the suspicious
17 activity reporting regime, which I also advised
18 about. And the other was to try to enhance the
19 amount of proceeds of crime that were recovered
20 by looking at what the problems were in the
21 system, whether those were legal problems,
22 whether they were institutional problems, or
23 whether they were practical problems.

24 Q Okay. And on page 2, I see that you've advised
25 Europol on the Serious and Organized Crime Threat
26 Assessment and the Internet-facilitated Organized
27 Crime Threat Assessment; is that right?

28 PROF. LEVI: That is right.

29 Q And what was the nature of those roles and
30 assessments?

31 PROF. LEVI: Well, many years ago, even long before
32 that, I used to be in charge of analyzing the
33 organized crime situation reports for the Council
34 of Europe. And then later on, as the EU grew in
35 size and sophistication and Europol developed,
36 they started to produce threat assessments as
37 part of the EU policy cycle. And so what we try
38 to do in those separate reports, which are issued
39 every few years, is to analyze, well, what are
40 the major threats facing the European Union. And
41 there's a lot of conceptual problems about
42 whether the European Union really is a union and
43 how that relates to individual countries. And
44 likewise, with the Internet Threat Assessment,
45 that's a more regular thing, but that focuses
46 solely on cyberthreats, whereas the other one
47 includes online and offline threats. The basic

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Peter Reuter (for the Commission)

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1 idea of it is to get academics with a moderate
2 involvement to look at the analysis that Europol
3 has done itself. And I see its former director
4 is due to appear before you and will no doubt
5 expand on this. It's to look at whether Europol
6 could have done a better job in analyzing the
7 threats and to discuss the priorities, which are
8 mostly politically set rather than set by
9 academics.

10 Q I see at the bottom of page 4, you note that
11 you're an Associate Fellow of RUSI and a Senior
12 Fellow of RAND Europe; is that correct?

13 PROF. LEVI: Yeah. I'm now where -- it's a promotion.
14 I'm now Senior Associate Fellow of RUSI, yeah.

15 Q Could you tell us a little bit about those two
16 organizations.

17 PROF. LEVI: Okay. Well, RUSI is a long-established
18 defence security body. It would probably
19 describe itself as a thinktank. And in keeping
20 with the history of defence, it used to be just
21 about military defence. In recent years, as
22 people have become aware asymmetric threats and
23 cyber -- I speak as somebody who typed my own
24 Ph.D. on a typewriter; they'd just invented the
25 corrector ribbon -- so we now have a lot of
26 cyberthreats about. So it does quite a bit of
27 work on cyberthreats. And in the last few years,
28 it has been doing an increasing amount of
29 research on money laundering, terrorist finance,
30 et cetera, and more recently fraud.

31 So it's probably doing more work on those
32 than any other institution in the UK outside
33 government.

34 Q And you've been conducting international research
35 on the control of white collar crime and
36 organized crime, corruption and money laundering
37 and the financing of terrorism since 1972; is
38 that right?

39 PROF. LEVI: Yeah. My Ph.D. was on the organization
40 and control of bankruptcy fraud, which was
41 something done by gangsters but also by
42 businesspeople when times were hard, and by other
43 businesspeople who were, if you like,
44 professional fraudsters not connected with
45 organized criminals. So this is the kind of
46 interaction that I've maintained ever since, and
47 also in the work that I do for RAND Europe, which

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1 we're currently evaluating the EU policy cycle,
2 organized crime policy cycle, and we're also
3 doing some work on looking at the infiltration of
4 organized crime in the European Union.

5 Q And on page 5 of your CV, you begin here to list
6 some of your significant studies that you've been
7 involved in, and I'll just highlight a couple of
8 these.

9 The first one I wanted to ask you about was
10 on page 6. It's "Evaluating Country Performance
11 in Anti-Money Laundering: the Search for
12 Rationality and Legitimacy." That was for the
13 American Bar Foundation and British Academy in
14 collaboration with the International Monetary
15 Fund. Could you tell us a bit about that.

16 PROF. LEVI: Yes. Peter Reuter is a co-author of
17 that. Essentially what happened was that we came
18 to the conclusion that country evaluation, and
19 indeed all forms of evaluation of money
20 laundering, was a very interesting subject to
21 study and the IMF concurred with that. We were
22 concerned about how good the nature of those
23 evaluations were, whether it was better, for
24 example, to have professional evaluators or
25 whether the current, if you like, more democratic
26 method of evaluation where it's distributed more
27 widely, whether there was any evidence that
28 either of those were better or worse than the
29 other. What was the -- what were people actually
30 evaluating? And we did a rather interesting
31 methodology. What we took was a sample of
32 countries -- Germany, the Netherlands, Mauritius,
33 and Armenia -- to get a sample of different kinds
34 of countries to look at, some more developed than
35 others, and we interviewed both the IMF staff who
36 had been present doing these evaluations and some
37 public officials and private sector officials from
38 the countries, and we looked at their different
39 perceptions, which were sometimes very different,
40 of what they thought had happened, how satisfied
41 they were by the evaluation process, what they
42 thought the strengths and weaknesses of that
43 evaluation process were. And we also looked at,
44 well, to what problems did the evaluation process
45 seem to be a solution, which, as we concluded and
46 as we may go on to discuss later, was not always
47 obvious on the face of things.

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Peter Reuter (for the Commission)

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1 Q In 2008 and 2010, you did some research entitled
2 "The Impact of Anti-Money Laundering Measures
3 within Developing Countries against Proceeds of
4 Corruption" with the World Bank. Could you tell
5 us about that?

6 PROF. LEVI: This was a project Peter Reuter was
7 running, the general project looking at draining
8 development, and I was tasked with looking at how
9 AML -- we might as well use that summary
10 phrase -- how AML was working or not working in
11 some developing countries. It wasn't a huge
12 project, but I spoke to officials and the private
13 sector in some developing countries. I talked to
14 some aid officials, looked at -- and I looked at
15 some of the literature on corruption and
16 organized crime in developing countries, and I
17 tried to work out -- which hadn't really been
18 done very much before -- how well the system that
19 was being applied in developing countries was
20 working to address these problems. So the
21 general line was that of problem-oriented
22 policing, where you look at a problem and work
23 out, well, how well is it being addressed by the
24 measures that are in place. And a lot of the
25 measures that were in place were foisted, if
26 that's not too severe a term, on the countries by
27 the developed rich world. They fell in line,
28 very largely because this was a precondition for
29 getting aid and because they were afraid of being
30 cut off economically from correspondent banking
31 and aid relationships if they didn't have these
32 rules in place.

33 So it wasn't perhaps a surprise that some of
34 this implementation at the time -- that's 10
35 years ago -- were not well developed.

36 Q I'm just jumping around a little bit, but I have
37 a note that I meant to ask you. At the bottom of
38 page 4, sort of the first full paragraph there
39 and about halfway through that paragraph, you
40 note that you have served as Deputy Rapporteur
41 for the UN Money-Laundering Conference at
42 Courmayeur, 1993; as General Rapporteur for the
43 joint Moneyval/Greco meeting in Paphos, Cyprus,
44 2002; and that you chaired and animated Council
45 of Europe Moneyval Money-Laundering Typologies
46 and Annual meetings in Montenegro, Strasbourg and
47 Limassol in 2001, '07, '09 and '16.

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1 And I was wondering, without telling us
2 every bit of it about those positions, if you
3 could give us a bit of an overview about what
4 that was about.

5 PROF. LEVI: Yeah. I guess I've done my bit for
6 global warming. But essentially those are
7 meetings that -- the Courmayeur meeting was the
8 first attempt of the UN to discuss after the 1990
9 report that we did on money laundering for the
10 UN, to discuss how to go about the process of
11 developing anti-money laundering around the
12 world. And so there were -- being the UN, a lot
13 of countries were represented.

14 But amongst the arguments -- and I will be
15 brief -- were arguments about what predicate
16 offences should be covered by anti-money
17 laundering. Some countries took the view that it
18 should be drugs only because they thought drugs
19 were the major harm that should be aimed at and
20 they were also perhaps suspicious of the
21 motivation of other countries in trying to extend
22 the predicate offences to things like tax crimes
23 and fraud. So it was partly a political
24 negotiation about the scope of anti-money
25 laundering, an attempt to build some kind of
26 consensus within a UN framework for getting
27 countries to be more active than they had been in
28 the past in combatting money laundering.

29 The other meetings, for example the
30 Greco/Moneyval meeting -- you've had Professor
31 Gilmore talking about Moneyval, so I don't need
32 to add to that volume of knowledge. But this was
33 actually the first meeting. What happened was
34 that I and some people in the Council of Europe
35 decided that corruption had been too split off
36 from anti-money laundering. This was also my
37 experience in doing work for the UK government,
38 that in the early years anti-corruption officials
39 weren't interested in money laundering. That
40 they saw as a different kind of issue. Their job
41 was to reduce poverty, et cetera, and money
42 laundering wasn't really part of the mindset.
43 Likewise the anti-corruption movement. In Greco,
44 the Council of Europe anti-corruption body,
45 wasn't really focused at all on the money
46 laundering component of corruption. So the idea
47 was to bring those worlds together to some extent

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

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1 with a joint meeting, and they needed somebody
2 neutral and inoffensive to chair the gathering,
3 and that happened to be me.

4 Other activities, for example, only partly
5 relevant to the Cullen Commission's inquiry, I
6 was a member of -- I did some work on e-gambling
7 and money laundering in Europe, and I was a
8 member of the Council of Europe typologies group
9 on e-gambling, not casinos. And that was quite
10 an important event, although it was submerged
11 because it took a long time to report. I wasn't
12 in charge of writing it up.

13 And the other Moneyval meetings -- again,
14 myself and Bill Gilmore were probably the two
15 academics with the greatest involvement in
16 Council of Europe money laundering activities.
17 So we alternated in our roles in that regard.

18 Q Okay, excellent. And we're going to be talking
19 in due course during your testimony about just a
20 handful of your publications. But I see that, at
21 the bottom of page 9 in your CV, you've listed a
22 number of publications that include books and
23 articles in learned journals and articles in
24 books and papers in conference proceedings that
25 are all related to your areas of research. In
26 the interest of efficiency, I'm not going to take
27 you through the full list, but I'll just simply
28 note that it extends from page 9 to page 36, so
29 it's a considerable volume of writing; is that
30 fair?

31 PROF. LEVI: Yes, perhaps too much. [indiscernible]

32 MS. LATIMER: I'm turning next to Professor Reuter.

33 And Madam Registrar, if I could ask, please, that
34 document 17 from the list of documents be placed
35 on the screen, please.

36 Q Professor Reuter, you recognize this as a
37 redacted copy of your curriculum vitae; is that
38 right?

39 PROF. REUTER: That's correct.

40 Q And this accurately sets out a summary of your
41 professional accomplishments, right?

42 PROF. REUTER: That is correct.

43 MS. LATIMER: Mr. Commissioner, I ask that this be
44 marked as the next exhibit, please.

45 THE COMMISSIONER: Very well. That will be Exhibit
46 22.

47 THE REGISTRAR: Exhibit 22.

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

Examination by Ms. Latimer, Counsel for the Commission

1
2 EXHIBIT 22: Curriculum vitae of Professor
3 Peter Reuter

4
5 MS. LATIMER: And I won't need that displayed any
6 more.

7 Q I hope, Professor Reuter, that we can begin, as
8 we did with Professor Levi, and I'll just ask you
9 if you could, please, describe your educational
10 background.

11 PROF. REUTER: Sure. I grew up in Australia and did
12 my Bachelor of Arts at the University of New
13 South Wales. My degree was in -- I think in
14 economics but it was mostly mathematics and
15 statistics. I then went to Yale, in the
16 Economics Department, where I got a Master of
17 Philosophy and then a Ph.D.

18 Q What was the topic of your Ph.D. research?

19 PROF. REUTER: So that was about illegal markets and
20 resulted in my first book, *Disorganized Crime:*
21 *The Economics of the Visible Hand*, a study of
22 three markets in New York, two forms of gambling
23 -- bookmaking and numbers betting -- and
24 loansharking was the third market, and then dealt
25 with the question of how these are organized.

26 Q Okay. And you are currently a professor in the
27 School of Public Policy at the University of
28 Maryland with a secondary appointment as
29 Professor in the Department of Criminology and
30 Criminal Justice; is that right?

31 PROF. REUTER: Correct.

32 Q And prior to this, you were the director of the
33 Program on the Economics of Crime and Justice
34 Policy, correct?

35 PROF. REUTER: So I briefly created this research
36 effort. I had a collaborator in the Department
37 of Criminology, and when he left, I lost
38 enthusiasm. The centre, as so often in academia,
39 disappeared.

40 Q Okay. And you founded and directed RAND's Drug
41 Policy Research Center from 1989 to 1993; is that
42 right?

43 PROF. REUTER: That is correct. And that's long
44 lasting. That's not like the other centre. We
45 just celebrated 30 years of the Drug Policy
46 Research Center at RAND and it's doing very well.

47 Q What's the nature of that group?

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

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1 PROF. REUTER: So it is the one research organization,
2 I think, that covers all aspects of drug policy,
3 in addition to treatment and prevention, which
4 are the subjects of many research centres. It
5 also deals with issues of enforcement and supply-
6 side issues in drug policy. It's a -- I don't
7 know the volume of its research now, but it has
8 many projects in it covering a wide range of
9 disciplines and topics. I'm still very much
10 involved with it and write papers with people at
11 RAND on a regular basis, and have done ever since
12 I left RAND.

13 Q And you were the -- in 2019, the winner of the
14 2019 Stockholm Prize in Criminology, correct?

15 PROF. REUTER: That is correct.

16 Q Could you tell us about that prize and why it was
17 awarded to you?

18 PROF. REUTER: Sure. So it's generally described as
19 the sort of leading prize in the field of
20 criminology. And even though my training is in
21 economics, I have -- almost all my work has dealt
22 with illegal markets of one sort or another, or
23 organized crime, and so I'm now classified as a
24 criminologist. It's awarded to one or two people
25 each year for -- not for a specific project.
26 They're not for lifetime achievement, but for the
27 contribution of a body of work on a particular
28 topic. And the particular topic they picked out
29 was drug policy, and my co-awardee that year was
30 Ruth Dreifuss, a former president of Switzerland,
31 who had been a major figure in encouraging
32 research related -- experimental research related
33 to drug policy in Switzerland.

34 Q And you've held a number of positions looking at
35 illicit flows and illicit markets, and those
36 include as research director for the World Bank
37 Institute project, "Illicit Financial Flows in
38 Kenya; Assessing Sources, Channels and Policies";
39 is that right?

40 PROF. REUTER: That's correct.

41 Q Could you tell us about that position?

42 PROF. REUTER: Well, it was a -- it was a medium-sized
43 project, not a particularly successful one. I
44 learned about the difficulty of measurement in
45 yet another country. And it -- it involved
46 efforts to collect data on how much was generated
47 by different kinds of illegal business activities

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

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1 in Kenya and corruption and how much of that
2 flowed out. It wasn't just dealing with Kenya.
3 We tried to collect data with a survey of
4 businessmen in, I think, five East Africa
5 countries, and -- not one of my successful
6 projects.

7 Q You were chair of the National Research Council
8 panel on illicit tobacco markets; is that right?

9 PROF. REUTER: That is correct.

10 Q Can you tell us about that?

11 PROF. REUTER: Sure. So there was considerable
12 concern about the growth of illegal tobacco
13 markets in the U.S., mostly in the form of
14 interstate smuggling, so moving cigarettes from
15 low tax states like North Carolina to high tax
16 states like New York. And that's not an example.
17 That really was a big chunk of the problem. And
18 the -- I think it was -- I actually can't
19 remember who commissioned the National Academy to
20 put together a panel, but the issue was -- the
21 question that the panel was to address was: how
22 substantial is this problem, and how effective
23 are different approaches for dealing with it?
24 And we produced, I think, a decent report,
25 quickly outdated by the growth of e-cigarettes
26 and concerns around e-cigarettes. But -- that
27 was what the report was about.

28 Q You begin on -- beginning on page 2, you
29 enumerate sort of an extensive list of
30 publications that spans all the way to page 20, a
31 very --

32 PROF. REUTER: I feel inadequate given that it was 27
33 pages for Mike Levi. But go ahead.

34 Q Well, it's not a competition.

35 PROF. REUTER: Yeah, yes it is.

36 Q Well I wanted to ask you about, not all of them
37 of course, but maybe just a couple of these
38 publications. At the top, the second entry is
39 your book, *Chasing Dirty Money: Progress in*
40 *Controlling Money Laundering*. Can you tell us a
41 bit about that.

42 PROF. REUTER: Yeah. So that's how I got into this
43 topic of money laundering, and it was sort of an
44 odd -- the Institute for International Economics
45 had received a grant from a rich businessman who
46 was concerned about ethical issues, and simply
47 said to the Institute it should fund a study or

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Peter Reuter (for the Commission)

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1 something related to ethics, and that got them to
2 money laundering. And my co-author, Ted Truman,
3 is a very distinguished former official from --
4 he had been Assistant Secretary of Treasury and a
5 long-time leading staff member at the Federal --
6 Board of Governors of the Federal Reserve Bank.
7 And we thought that -- he thought that his
8 expertise about banking and my expertise about
9 illegal markets was just right for studying money
10 laundering. That was the first time I came to
11 deal with that, which is almost 20 years ago now.

12 And so it was an effort to first of all
13 identify what was the problem that anti-money
14 laundering was supposed to deal with -- which is
15 an issue I have continued to work on -- and then,
16 what could we say about the effectiveness of
17 different approaches to it. And we brought
18 economists' sensibilities to this and - I mean,
19 in this little field it's a highly cited work. I
20 think we both felt that we made less progress
21 than we expected but the simple -- I thought of
22 this as another illegal market to study, so there
23 was a market for this service, money laundering,
24 and if it's a market, I should be interested in
25 prices. And then it turned out, well, it wasn't
26 a market like that. Very hard to talk about
27 prices. And so it didn't go as well as we
28 expected, but we produced a lot of analyses of
29 what you could say about the cost of money
30 laundering, of AML, and we reviewed estimates
31 back then of the level of money laundering, and
32 tried to provide a sort of set of criteria for
33 assessing the effectiveness of money laundering
34 controls.

35 And what started out as a sort of modest
36 report ended up being a fairly substantial book.
37 Q Okay. And moving down to your monographs, you
38 have an item here. It's entitled *Assessing the*
39 *Assessors: How Well Do the International*
40 *Monetary Fund and the Financial Action Task Force*
41 *Evaluate National Efforts to Control Money*
42 *Laundering?* Can you tell me about that?

43 PROF. REUTER: Well, that's essentially what Mike Levi
44 was talking about. That's the work he and I did
45 together with Terry Halliday, a sociologist at
46 the American Bar Foundation. So in effect you've
47 already had a description of that.

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

Examination by Ms. Latimer, Counsel for the Commission

1 Q Okay. If we look at the bottom of page 4,
2 there's another publication here entitled "Anti-
3 Money Laundering: An Inquiry into a Disciplinary
4 Transnational Legal Order." Could you tell us --

5 PROF. REUTER: Yes. Fine, okay. So Terry Halliday,
6 Mike Levi and I, having spent all this time
7 studying the assessments of money laundering
8 control efforts, the FATF mutual evaluation
9 reports, were then interested mostly -- this
10 reflected Halliday's interest -- in how this
11 regime compared to other efforts at creating a
12 body of law and practice that was used across the
13 world. So you know, how does this compare to the
14 World Trade Organization or the copyright or the
15 bankruptcy, et cetera? And so that article is
16 taking our previous research that Mike described
17 about the evaluation syst - about the evaluation,
18 about FATF as an institution, and seeing how it
19 compared to other global lawmaking institutions.
20 FATF is unusual in that it's not a treaty body,
21 it's not a UN agency, and yet it's very powerful
22 and the question is why -- and it's very
23 powerful. And so every country basically follows
24 the FATF rules. As we argued, there's very
25 little evidence that the rules have been
26 effective, and the interesting question is: why
27 is it that this particular transnational legal
28 order is subject to so modest -- so little
29 criticism? It's very modest. So that's what
30 that article was about.

31 Q Thank you very much. And I think at this point I
32 will let the CVs speak for themselves, and I'll
33 move now to the specific publications that I hope
34 to put before the Commission today. So I'm
35 turning first to the topic of money laundering
36 typologies.

37 MS. LATIMER: And Madam Registrar, could I ask,
38 please, that document 30, which is entitled
39 "Money-Laundering Typologies: A Review of Their
40 Fitness for Purpose" be displayed on the screen,
41 please.

42 Q And Professor Levi, you recognize this as an
43 October 31st, 2013, report that you produced for
44 the Government of Canada; is that right?

45 PROF. LEVI: That is correct, yeah.

46 MS. LATIMER: And Mr. Commissioner, I ask that this
47 report be marked as the next exhibit, please.

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

Examination by Ms. Latimer, Counsel for the Commission

1 THE COMMISSIONER: Very well. That will be Exhibit
2 23.

3
4 EXHIBIT 23: Document entitled "Money-
5 Laundering Typologies: A Review of Their
6 Fitness for Purpose"
7

8 MS. LATIMER: And I don't need that displayed any
9 longer, Madam Registrar.

10 THE REGISTRAR: Exhibit 23.

11 MS. LATIMER:

12 Q I'm going to, Professor Levi, just to orient you
13 in the document, I'm going to jump over the
14 introduction and start, please, at page 4 of this
15 report. Well actually, before we get into the
16 report, could you explain to the Commissioner,
17 please, the context in which this report was
18 prepared.

19 PROF. LEVI: Yes. I'd had some interaction with staff
20 at FINTRAC over the years previously, and it
21 occurred to some of the staff -- I'm not sure for
22 what particular reason -- but I think they were
23 just dissatisfied with some of the typology stuff
24 that was being produced at the time, and they
25 wanted a more analytical look at the typologies
26 exercises and what academic research and thinking
27 might bring to the table.

28 Perhaps it might be worth just pointing out
29 the general context. People in the AML world
30 typically work very hard. I'm not saying that
31 just to be nice. It's an empirical statement.
32 And it's quite a -- it's a tough job. There's
33 lots of stuff going on. But people don't have an
34 awful lot of time for really thinking about what
35 it is they're doing. You know, because if you're
36 given tasks to do, you go out and do them. And
37 that's quite an effortful exercise, as is your
38 own. But the -- so I think FINTRAC just thought,
39 well, let's have a look and see what an external
40 person who's, along with Peter Reuter, who's one
41 of the few gurus in this area, might have to say
42 about this topic. And they commissioned a
43 relatively short time report from me on that. So
44 I took a look, not just at what the FATF had been
45 doing, which I knew partly because I'd been
46 involved in one or two of the FATF typology
47 exercises and the Moneyval ones, but also what

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

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1 the academic studies told us about typologies and
2 their use, and just did a little bit of -- not
3 quite blue sky thinking, but bottom-up thinking
4 about how well the typologies as they appeared at
5 that time in FATF -- I think it's fair to say
6 they've got better over the years -- how well
7 they matched against what we knew about the
8 process of money laundering, and I found it
9 wanting.

10 Q Okay. And you -- if we skip over now the
11 introduction, and at page 4, this is a section of
12 this report where you address conceptualizing and
13 defining laundering. And as I read this section,
14 you address it from both an etymological and
15 legal standpoint, and I was -- well, first of
16 all, is that fair? Do you agree with that
17 characterization?

18 PROF. LEVI: That is fair, yeah.

19 Q And part of what you describe in this section is
20 the sort of historic broadening of the legal
21 definition of money laundering, with specific
22 reference to the United States, I was wondering
23 if you could briefly describe that history for
24 us.

25 PROF. LEVI: Yeah. Well, money laundering sounds as
26 if it's doing a lot and it's very complex.
27 The -- really the American push against money
28 laundering started in earnest -- I mean, there
29 were money laundering investigations before the
30 1980s. People were interested in what they could
31 show about how Al -- where Al Capone's money was.
32 But they were mostly interested in it for proving
33 offences in the case of Al Capone. Tax evasion,
34 Meyer Lansky, other kind of major figures in
35 American organized crime. And so there were --
36 before we had money laundering legislation, there
37 was an interest in how criminals hid money and
38 where they hid it.

39 And the Reagen Presidential Commission on
40 Organized Crime saw money laundering as being one
41 of the kind of key components, just as -- if you
42 read *Oliver Twist*, Dickens, without fences there
43 would be no thieves; without Fagan and his method
44 of distribution, itself copied from a real-life
45 man called Jonathan Wild, who was both the Thief-
46 Taker General head of the police and also head of
47 London's underworld, and organized the Lost

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1 Property Office as a way of basically reuniting,
2 reselling handkerchiefs and other stolen objects
3 with their original owners for money.

4 So just by analogy with that, you could see
5 that without the possibility of laundering money,
6 organized crime would be much weaker and would
7 not find its way into the tentacles of some parts
8 of the American political system, though they
9 didn't think of that in a very high-up way.

10 But also there's a method of dealing with
11 corrupt labour unions, for example, like the
12 Teamsters pension fund, and other kinds of
13 activities of American organized crime, as they
14 construed it. Going after the money and going
15 after the money in the international drugs trade,
16 was a -- seemed like a very promising way of
17 calling a halt to the process, because in a
18 sense, if you couldn't pay for the drugs, then
19 you wouldn't be able to import the drugs -- long
20 before synthetics and home-grown hydroponics.
21 But if you couldn't import the drugs and pay for
22 them, you wouldn't be -- you know, the drugs
23 trade would disappear on a kind of supply-side
24 control basis.

25 And they saw that initially in a fairly kind
26 of narrow frame of mind to apply to organized
27 criminals -- that's the drugs trade, corrupt
28 labour unions -- the kinds of issues that were
29 important to people in the '80s. It was not
30 applied to tax crime at that time.

31 And so American legislation was developed in
32 1986 -- I mean, there were earlier controls on
33 reporting cash coming in and out of the country,
34 but I won't deal with that unless you want me to.
35 But this found its way into U.S. legislation, and
36 political pressure from the U.S., from Britain
37 and from France, mainly, found its way into the
38 Sommet de l'Arche, which created the FATF. So I
39 don't know if you want me to talk about that or
40 not.

41 But essentially American legislation was
42 keen to -- people wanted an easy way of
43 visualizing this process, and placement, layering
44 and integration was an easy way of thinking about
45 the process, particularly for drugs money. It
46 didn't work so well with, say -- with corrupt
47 pensions fund laundering, but people were not

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1 thinking in that way. You needed -- just as we
2 have in the anti-corona virus campaign, we
3 usually have a simple three-stage statement, at
4 least in the British Behavioral Insight
5 influenced thing, and people talk about the law
6 of rhetoric, which is in Cicero, as having three
7 dimensions. So placement, layering and
8 integration was the modern Cicero -- not Cicero
9 in Chicago, but Cicero in the laws of rhetoric.
10 And this was something that people could easily
11 grasp because in those days -- we may regard this
12 with cynicism -- many bankers had no idea, at
13 least many people in retail banks had no idea
14 what money laundering was.

15 I interviewed the head of the British -- the
16 Secretary of the British Bankers' Association in
17 connection with a project I was doing in 1988
18 after the Brinks-Mat gold bullion robbery, and I
19 said, you know, how did this all come to start?
20 They said, well, in 1986, the UK Parliament
21 wanted to have a review of anti-money laundering
22 efforts in combatting the drug trade, and they
23 were going to the U.S. So I rang up the Chair of
24 the American Bankers Association and said, what
25 is this money laundering thing? Tell me
26 something about it. So the Americans told them
27 about placement, layering and integration and,
28 you know, the efforts to get banks to report
29 stuff. Right. And that formed part of the
30 briefing exercise.

31 So you can see as a process of -- not quite
32 osmosis but policy interchange, how these
33 concepts kind of grew and became the common
34 currency.

35 I don't know -- is that sufficient answer to
36 your question, perhaps too sufficient?

37 Q No, I think that's very helpful, and what I take
38 from it is you've described a broadening sort of
39 from drugs to other kinds of crimes, and maybe
40 also from cash to other kinds of assets. Is that
41 fair?

42 PROF. LEVI: That is fair. I mean, what -- what soon
43 began -- I mean, some people had a kind of
44 strategic vision in which they wanted everything
45 to apply to all crimes. And bankers and other
46 people were quite suspicious of that net-widening
47 process. But others thought the main problem

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1 facing the West today, the main illegal crime
2 policy, is the drugs problem. That was something
3 that most people could agree to. And you asked
4 me earlier about the Courmayeur Conference of the
5 UN. That was what they could all agree in. So
6 if you are in a political process, what you want
7 to do is to find an area of common agreement, and
8 drugs was the area of highest common factor
9 agreement.

10 But it spread because, you know, what
11 happened if people -- say you were an armed
12 robber and you had a lot of cash that you wanted
13 to put in your bank account. There's been
14 periodic -- in Canada there have been periodic
15 armed robbery -- I wouldn't say crises, but
16 certainly spells of armed robbery. And you want
17 to put money into your bank account in a bank.
18 You know that bankers normally had a duty of
19 confidentiality towards their customers. And if
20 the bank said to you, where's this money from,
21 because they had a duty to report it if they
22 suspected drugs, and said well, it's from armed
23 robbery or fraud -- even more likely, though it
24 needn't be cash in fraud -- but in armed robbery
25 it certainly was cash -- then in a sense, that
26 was the end of your job. You know, you had
27 customer confidentiality before then. The U.S.
28 talked about misprision of a felony, so it could
29 still theoretically have been your duty to
30 report, but not very many people ever did that.

31 So then I thought, well, if people can get
32 away -- can basically stop bankers' reports and
33 get away with it by saying, well, it wasn't that
34 crime, it was another crime, maybe we'd better
35 apply this across the board to other crimes. So
36 it's a question partly of what the political
37 market will bear, whether the legislatures in
38 each country separately will really go along with
39 extending it to that.

40 At the moment this whole process started,
41 bankers were in a bit of a bind. It became
42 unacceptable -- when I first started research on
43 money laundering, Swiss banks used to have
44 privacy guaranteed. You know, you flew into any
45 Swiss airport and you'd have kind of customer
46 confidentiality, privacy, et cetera. And they
47 soon found that that just wasn't an argument they

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1 could put forward any more because the massive --
2 the Marcos corruption, the Latin American
3 corruption, et cetera, put them on the back foot.
4 They couldn't any more say, well, this is -- you
5 know, is so important, privacy of customers.
6 People began to get angrier and angrier about
7 bankers helping criminals. And it became
8 politically unacceptable, in the public sphere
9 anyway, to say, well, customer confidentiality is
10 more important than fighting global corruption or
11 fighting the arms trade, the illegal arms trade,
12 or fighting gambling. And that's how, basically,
13 the legislation began to shift, but at a
14 different pace. And the legislation wasn't
15 necessarily reflected in practice.

16 Q And the other kind of broadening that you talk
17 about in your article, if I understood it
18 correctly, also has to do with what kinds of
19 actions were captured by the definition. So sort
20 of from the -- what you explain in your article
21 about how in the beginning it was about achieving
22 a misleading appearance and that became a broader
23 definition over time. Could you tell us a bit
24 about that?

25 PROF. LEVI: Yeah. I mean, a similar process of
26 basically legislators and lobbyists worrying
27 about what was left out if we didn't extend this
28 definition. Well, could people get away with it
29 if we didn't include -- or gradually almost
30 everything that involved hiding the proceeds of
31 crime became money laundering.

32 So in theory, in the UK, if I do any major
33 crime and I hide the money in my wall safe, or
34 even in a sock under my bed, this could count as
35 money laundering. This has got very little to do
36 with the legitimization of the proceeds of crime,
37 or indeed, integrating it into the mainstream
38 economy. It just suddenly became a way of
39 thinking about the problem. Yes, we've got to
40 stop people -- it's very difficult to prove that
41 people were trying to legitimize the money into
42 the mainstream economy, so we've got to get back
43 earlier and earlier in that process to
44 criminalize it.

45 And as with the other stuff, each
46 jurisdiction moved at a different pace. Canada
47 moved a different pace from the US and from the

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1 UK. Other countries less so. You know,
2 basically China at that time, for example, didn't
3 have much of an economy. It does now. And yeah,
4 so it wasn't -- it wasn't an issue. They were
5 bothered about drugs but not much else. Many
6 countries took the view that they shouldn't be
7 too bothered about where money came from as they
8 were developing because basically they needed any
9 money that came in because that was an important
10 part of the process of development.

11 So there's a kind of political economy
12 component of this, which is important in
13 understanding it.

14 Q At the end of your -- or in your introduction,
15 you end by saying -- and I'm quoting from your
16 article. You say: "The focus on 'true'
17 laundering has been dissipated somewhat," and
18 then you say there has been some goal
19 substitution in the process.

20 And could you explain what you meant by
21 that.

22 PROF. LEVI: Yeah. Well, I mean, originally -- and
23 this is clear in the Presidential Commission on
24 Organized Crime, which published its money
25 laundering final report and the final report of
26 the Commission in 1986, which was the year, not
27 coincidentally, that the U.S. criminalized. It
28 was clear that anti-money laundering was part of
29 the process of reducing or eliminating crime,
30 particular forms of crime. It became an end in
31 itself, so people -- and this is a challenge that
32 faces your commission, if I may say so, as well.

33 People began to treat it as an end in itself
34 and lost sight of its impact on controlling
35 different crimes or particular forms of crime, or
36 crime in general. And it became -- attacking
37 money laundering became the goal instead of using
38 money laundering to attack crime. It was just
39 taken for granted that if you reduced money
40 laundering or did more about money laundering --
41 I'll clarify the distinction between that if I
42 may. You can attack money laundering, you can
43 pass laws, you can have measures that do things
44 to capture more money laundering without
45 necessarily reducing it, because the money
46 laundering may be displaced or it may be that the
47 crimes themselves don't need that much money

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1 laundering -- terrorist finance, for example.

2 And therefore, if you only focus on doing
3 things about money laundering and you're not
4 measuring how much money laundering there was
5 before or after or how money laundering was
6 accomplished before and after, then you may not
7 be actually doing much about money laundering
8 itself. I won't trespass into what I know Peter
9 Reuter will be talking more about, but that's
10 what I meant by the goal displacement.

11 So doing more about money laundering in
12 different fields becomes an end in itself. And
13 people often lose sight of how big a problem is
14 this area of money laundering. And that's what I
15 did when I was looking at e-gambling. You know,
16 people can launder money by e-gambling. You can
17 lose money to your friend, peer-to-peer poker,
18 online poker. You can do various things in
19 online gambling, even without corruptly owning an
20 online gaming business.

21 But how important is that in the scheme of
22 things? What effect will that have on the
23 general level of money laundering and of crime,
24 is a question we need to pose.

25 Q At page 9, you talk about seriousness of the
26 predicate crime, and you say -- I'm reading under
27 the heading "Seriousness of the Predicate Crime"
28 -- you say:

29
30 For decades researchers in the area of fraud
31 have observed that policy makers have merely
32 paid lip service to the seriousness of
33 white-collar crime and fraud while
34 concentrating on the illegal drugs trade.

35
36 And then just jumping down at four lines from the
37 bottom of this section of the text, you've quoted
38 -- the text you've quoted says:

39
40 However, it is important to recognise
41 that drugs have been a priority for law
42 enforcement in the UK and overseas for
43 many years, and as a result more is
44 known about the drugs threat than
45 about, for example, organised
46 immigration crime or fraud, the true
47 scales and significance of which are

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1 those patterns are and how you can understand the
2 patterns, then you won't be in a position to do
3 sophisticated typologies of it. You won't be in
4 a position to tell bankers and non-bankers,
5 lawyers, how this is done. And therefore your
6 typologies in those subjects will be
7 comparatively weak. And most people would agree,
8 and the research that I've done on perceptions of
9 crime seriousness, are that fraud and corruption
10 are regarded very seriously, but drugs has been
11 the major priority, and the temptation -- and
12 when new organized crime bodies are formed,
13 they're formed usually out of existing personnel,
14 and people tend to do what they've done in the
15 past. It's been a difficult thing to improve
16 intelligence. Actually the British are now doing
17 this better than they used to do, but I've just
18 published something this month about a critique
19 of our efforts in fraud policing and fraud
20 policy, because in the final analysis, it's how
21 many bodies on the ground have you got. As
22 Stalin reportedly said, how many regiments has
23 the Vatican?

24 You know, if you don't have the people doing
25 the work, then you don't have the intelligence.

26 Q Okay. And -- so I'm turning now to your
27 discussion of the common conceptualization of
28 money laundering, where you're talking about
29 placement, layering and integration, and the idea
30 of integration of money into the legitimate
31 mainstream. I'm hoping you can just walk us
32 through what you see are the benefits and
33 shortcomings of that typology.

34 PROF. LEVI: Okay. Well, the -- the benefits of the
35 placement, layering and integration was that it
36 was a simple thing for bankers to look for, for
37 car dealers to look for, for lawyers to look for
38 in those jurisdictions where they were regulated,
39 and for financial investigators to look for,
40 because when you're starting from a low
41 sophistication base rate, you need to give people
42 some kind of clue as to where to start. And so
43 I'm not actually kind of knocking that typology.
44 It served its purpose for some crimes in its day,
45 and it still does. A lot of the drugs trade is
46 still done for cash. A lot of gambling is still
47 done in cash, less so perhaps since lockdown as

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1 e-gambling rises. We need to think about this as
2 a dynamic reflection of the nature of crime, the
3 nature of society, routine activities of what
4 people do.

5 But for fraud, except -- yeah, for romance
6 scams -- and I don't want to deal with the issue
7 of whether all romance is a scam. That's too
8 much of an issue for this grave hearing. For
9 romance scams still, in general, people are
10 sending cash or wiring cash to people that they
11 think are their true love somewhere. Whether
12 they're actually of the same gender, ethnicity,
13 nationality, and intention, unfortunately they
14 are not. Otherwise we wouldn't be calling them
15 scams. But that's still primarily a financial
16 transfer business.

17 But you know, tax fraud and other things --
18 some tax frauds are a cash issue. If people are
19 just not reporting to the revenue, tax things
20 that they sell for cash, that's a cash business.
21 But we need to -- for other kinds of things,
22 particularly if we're going to worry about -- as
23 anti-money laundering has increased in effort and
24 scale, people -- a rational offender will think
25 to themselves, how am I going to explain my
26 wealth -- you know, first of all, what form am I
27 going to put it in? And how am I going to
28 explain this if I'm challenged?

29 So there are two kinds of important issues
30 that -- first of all, do you want -- are you
31 actually saving it? What is the savings ratio of
32 different kinds of criminals? In general,
33 criminals are not Protestant ethic
34 businesspeople. They're not trying to save -- to
35 integrate themselves into the economy. Some are,
36 some aren't. Some are just there to have a good
37 time. So they may not have any assets that are
38 going to be there.

39 And I could quote you legion cases where --
40 which we may get into in more depth a little bit
41 later -- where there's a financial investigation
42 and the person has no known assets at the end of
43 the day. They got a lot of money from crime, but
44 we can't find any of it. Is that because the
45 system is poor or because they've spent it? So
46 that's a question that we maybe don't always have
47 the answer to.

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1 So the issue of justification for the assets
2 that you have, or if it can be shown that, you
3 know, you spent X money in the nightclub or on
4 the latest Tesla or on the cruise that you paid
5 for in cash. Let's hope for your sake it wasn't
6 a coronavirus cruise. But most cruises are not
7 so toxic as those, but you paid for that in cash.
8 And if it can be evidenced that you went on that
9 cruise, then how did you pay for that? Now, that
10 may be an issue for Revenue Canada rather than
11 for the RCMP or for the police, but that's a --
12 you know, or you spent all that -- you gambled
13 away a lot of money in the casino. So if it can
14 be shown that you did those things, you may need
15 a justification as to how you got it.

16 And that becomes then an important feature,
17 having a good explanation. But it also
18 depends -- you may need to explain that to the
19 banker and to the lawyer as well as to the
20 criminal investigator, if that investigation
21 happens.

22 Q The only other point I took from your article was
23 about sort of a mismatch between that typology
24 and the sort of expanded definition of money
25 laundering. Is that something you could tell us
26 about?

27 PROF. LEVI: Okay. So the more the definition
28 expands, the more every proceeds of crime becomes
29 a money laundering offence. You know, in the
30 U.S., in the RICO racketeering legislation,
31 spending a lot of money ostentatiously, if it can
32 be reasonably demonstrated that you did so to
33 avoid confiscation, itself becomes a money
34 laundering offence. So it's not then just about
35 saving. It's not then just about finding
36 sophisticated ways of integrating this into the
37 mainstream economy. And what do we mean by that
38 phrase? Do we mean just buying a house? Do we
39 mean buying a business? Do we mean running for a
40 political office? But if you say, well,
41 everything we do with the proceeds of crime to
42 hide it and to move it in whatever fashion, then
43 the typology -- we can say, well, we're really
44 just stopping at placement -- even pre-placement.
45 You can have placement in your wall safe,
46 placement in your sock. It almost becomes
47 slightly absurd so that you get to a situation

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1 where you don't need any typology.

2 Of course, in a sense, if you've got it in
3 your wall safe or in your sock, then no banker,
4 no car dealer, at that stage will be making a
5 report or will be expected to make a report. But
6 that then becomes a mismatch with the definition
7 of -- with the tripartite, the placement,
8 layering, integration model.

9 And you don't need to justify it except if
10 you get raided by the authorities. If you get
11 raided by another criminal in a kind of home
12 invasion burglary, then there's no explanation
13 required, justification required either.

14 Q Okay. I'm turning to page 14 of this report.
15 And this is where you -- there's the heading "The
16 Use of the Three Stage Typology in Policy and
17 Practice." And I'm hoping you can just describe
18 for us what it is that you're looking at here.

19 PROF. LEVI: Yeah. Well, people who haven't --
20 generally not really thought about what do we
21 want a typology for, it's just a good thing to
22 develop one. And I agree it's a good thing to
23 try to systematize knowledge. You could say, if
24 we had -- part of the problem with the
25 coronavirus was that the typology people had of
26 it was of a flu-like virus, whereas a coronavirus
27 had a different pattern. So it does make a
28 difference how you analyze and break the
29 behaviour down.

30 A lot of the reason people want a typology
31 is so that they can tell people in the private
32 sector or criminal investigators, yeah, how this
33 stuff is done, how the crimes are done. What
34 does the money laundering look like? And part of
35 my criticism of this is that people haven't asked
36 enough, how good is our intelligence on this
37 behaviour, whether it's drugs, whether it's
38 fraud, whether it's tax, whether it's corruption?
39 How do we know what we know? And have we done a
40 good enough job in collating intelligence about
41 how the money moves?

42 So in a sense, what I'm saying is that very
43 often in policy -- and that was why I was pleased
44 to do this work for FINTRAC. Yeah, part of the
45 purpose of this is to think harder about what can
46 we do? Can we do a better job with typologies
47 and with collating the intelligence that

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1 underlies it? But in general, people in the busy
2 world we live in, people just say, what do we
3 know about X? That's our typology. Let's try
4 and break it up.

5 Simon Lord, one of the other people who is
6 presenting before you has done some important and
7 interesting work. But the number of -- the
8 amount time that busy practitioners have for
9 thinking about what the use of the typology is is
10 quite limited. And the private sector are always
11 or often asking the authorities, can we have a
12 good typology of X, whatever it is, including
13 terrorist finance, so that we can design what
14 we're doing to pick it up better. So that's what
15 I was trying to suggest.

16 And of course, if you've got a bad typology
17 or an incom -- we don't really know what a
18 complete typology would look like. But if you've
19 got a poor typology, then you may find yourself
20 looking in the wrong place or looking for a
21 relatively trivial thing rather than important
22 things.

23 So even something -- yeah, even very major
24 organized crime prosecutions like the recent
25 Mexican ones in the U.S., the amount of
26 information that has been developed and available
27 about how the money was moved as opposed to the
28 number of planes and boats and trains that he had
29 or used in the process of crime is actually quite
30 poor, so the amount of intelligence that we
31 compiled about high level trafficking is quite
32 weak.

33 Q I'm now looking at page 16 of your report. This
34 is where you begin a literature review of
35 laundering typologies. I'm wondering if, first
36 of all, you could tell us a little bit about the
37 methodology that underlies this aspect of your
38 report.

39 PROF. LEVI: Okay. What people have generally done,
40 academics as well as police and intelligence
41 organizations, what people have commonly done, to
42 the extent that they've done it systematically at
43 all, is look at the range of cases that the
44 authorities have collected and to deduce a
45 typology from that. And that is what Beare and
46 Schneider did. I won't rehearse that. It's in
47 my report and certainly in Stephen Schneider's

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1 report. But basically they looked at the cases
2 that the RCMP had dealt with and they looked at
3 how the money laundering components of those
4 cases that had had money laundering
5 investigations or sometimes even if they hadn't
6 had money laundering investigations. But unless
7 people have looked at the financial movements in
8 those cases, then there's nothing for the
9 academics or for the public officials to review.

10 So we start with the known knowns, and we
11 usually finish with the known knowns. So in the
12 work that I and Petrus van Duyne, a Dutch scholar
13 who used to work for the Ministry of Justice, did
14 on drugs and crime -- and what we did was to look
15 at the money laundering prosecutions, indeed
16 convictions, of the Dutch authorities and looked
17 at the money laundering processes in those cases.
18 And that's what leads to the conclusion that a
19 lot of the money laundering was not
20 sophisticated. A lot of it was loan-back
21 constructions where basically you put the money
22 from crime in sometimes a Caribbean jurisdiction
23 and then you borrow the money from your own bank
24 account. You say, look, I've got a loan and this
25 accounts for the money that we've got.

26 To be honest with you -- and this is not in
27 the report but I'm telling you because it's
28 important -- Petrus and I had a disagreement
29 about this issue because he said, the only cases
30 that you can validly call money laundering are
31 money laundering convictions that have been
32 upheld on appeal. My view was and is that that's
33 a rather absurd criterion because by that
34 criterion you don't have any undetected money
35 laundering, you know -- and you can't talk about
36 money launderers that haven't been detected.

37 So if we apply this in the Canadian context,
38 Peter German's report was not about money
39 laundering because very few of those cases had
40 led to convictions. So if we relied only on the
41 convictions, then we wouldn't have very much to
42 do a typology about.

43 I got fed up with arguing that because, you
44 know, we had to get the book done. So I would
45 say that was a partial methodology that we used
46 for that process. So if we included and if we
47 could get access to information that hadn't led

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1 to a conviction for money laundering, then we
2 would have done an expanded typology and the
3 money laundering would have included more
4 sophisticated cases, though I would warn you that
5 the term "sophisticated money laundering" is
6 itself a term of art. What are we calling
7 sophisticated? That's a huge range of behaviour,
8 just as organized crime is everything from the
9 mafia to three burglars with a window cleaning
10 business and an offshore bank account, if you
11 want to call it transnational. And that's a huge
12 range. So too is sophisticated money laundering.
13 Do we mean they had a company, or is that not
14 enough? So we need to deconstruct that a little
15 bit. So what we did -- or sorry, what I did in
16 that section of the work was to go through every
17 relevant study that I could find, including
18 particularly, because this was for the Canadian
19 authorities, all the Canadian studies and to try
20 and draw out what I thought were some salient
21 features about money laundering typologies in
22 there and then say, well, of course, this does
23 depend on where the data come from, and this
24 reflects the unevenness of the data collection
25 exercise and what we know about money laundering
26 behaviour.

27 Q One of the points that you draw out in this
28 literature review is that not much of it makes
29 particular use of the three-stage model. And on
30 my reading, the exception being Madinger, who is
31 discussed at the beginning of page 19.

32 A Yeah.

33 Q Is that right? And you say on page 20 at the
34 last four lines of the first full paragraph, you
35 say this -- and I'm reading from your report:

36
37 Madinger's focus is how to investigate
38 laundering schemes, and reverse-engineering
39 this gives us a model of how the criminals
40 act. Schemes of varied complexity are set
41 out in chapters 20-23, though drugs cases
42 predominate, perhaps because drugs
43 trafficking investigators are the primary
44 audience for this book.

45
46 And I'm wondering if you can explain for us why
47 it is that you're highlighting the audience of

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1 this research in connection with the typology
2 that's being described.

3 PROF. LEVI: Well, I don't know Madinger personally, I
4 don't think. I may have come across him at one
5 of the many meetings in which I've been damaging
6 the global environment. But the -- but I don't
7 think I know him. And he's an ex-financial
8 investigator and -- yeah, he was writing at that
9 time -- drugs invest -- yeah. If you're writing
10 a professional book for professional
11 investigators -- I'm not using professional in a
12 derogatory sense -- but people who have a real
13 job as opposed to me.

14 If you're writing a book for professional
15 investigators, then you have to think, well, who
16 am I writing this for? And drug investigators
17 are, you know, -- if you're writing it for
18 financial investigators, for fraud investigators
19 in the police, you wouldn't have very many people
20 buying your book. If you're writing it for drugs
21 financial investigators, you might have a bigger
22 audience. I mean, this is pure hypothesis on my
23 part. I don't know what his primary audience
24 was. If you're writing it for tax authorities,
25 who after all are daily -- though they might not
26 conceptualize their job in that way -- really
27 dealing with money laundering in almost all major
28 tax investigations.

29 Then what he is trying to clearly
30 communicate -- and it's quite a good book
31 actually -- is if we reverse-engineer what they
32 did, then, if we're thinking like a criminal,
33 then these are the kind of signs that we've got
34 to look for. This has all the benefits and all
35 the weaknesses of the known knowns approach which
36 I've talked about before, which is that you may
37 then miss the bits that are not in your typology.

38 So if you have a simple typology and if
39 you're not thinking more broadly -- and I'm not
40 saying -- I think it's untrue nowadays that all
41 typologies are based on this. And it was untrue
42 of the studies, of the few analytical studies
43 that I analyzed in that section. Then if you're
44 thinking in that way, then you may be missing
45 some important features you may not be looking
46 for. You have people talk a lot about red flags.
47 First of all, I'd probably call them amber flags

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1 rather than red flags because is every time
2 somebody comes in with a bag full of cash into a
3 retail bank, is that always a red flag, or are
4 they collecting for charity?

5 Well, not these days, in corona times, but
6 previously.

7 So we need to think about the context a
8 little bit more.

9 So I think reverse engineering is a good
10 thing, but you also need to think about what am I
11 missing with this? Now, he did that up to a
12 point, and it's quite a good account, but not as
13 much as I would have liked.

14 Q Okay. Beginning at page 22, you discuss some
15 academic research on laundering techniques and
16 typologies. And then if you go to the last
17 paragraph on page 23, you say there that it's
18 helpful to look at laundering techniques in terms
19 of the problems that offenders have to confront
20 and that laundering methods used may depend on
21 the nature of the regime that's in place. And
22 I'm hopeful you can explain to us why that's a
23 helpful lens to view things through.

24 PROF. LEVI: Yeah. Well, one of the general -- in the
25 range of my academic work over the last decade
26 and a bit, even perhaps going back to my Ph.D. in
27 the early '70s, I just think if we're going to
28 understand the money laundering process, we need
29 to understand how criminals view it. There have
30 been very few studies into that, and in a way, if
31 -- if criminals don't see the money laundering
32 controls that we put in place, we put expensively
33 in place, expensively both in terms of finance
34 and in terms of civil liberties -- if they don't
35 worry about those things, then we've obviously
36 done a really bad job.

37 So you know, if the controls in place don't
38 have a business -- I mean, the simplest example
39 would be, hopefully you can't just walk into a
40 major bank with \$150,000 or a million dollars'
41 worth in cash, open up a new account, and deposit
42 that and nobody asks you any questions. Well,
43 people used to do that quite a bit. Sorry, some
44 people used to do that quite a bit. A very tiny
45 proportion of criminals used to do that quite a
46 bit. And so we need to know how criminals see
47 the effects of our typologies and our legislation

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1 on different groups in society, whether it's
2 police investigators, whether it's casino
3 operators, whether it's e-gambling firms, whether
4 it's retail banks, whether it's private banks
5 that deal with high net worth individuals, all of
6 those -- whether it's car dealers, jewellery, art
7 vendors from Sotheby's to a local firm, all of
8 those people, how big an obstacle does this
9 represent for people?

10 And this varies in society. You know, when
11 we were looking at Germany in our study in
12 collaboration with the IMF, then one of the
13 things we noticed was that there were zero
14 reports in the whole of Germany by car dealers
15 who'd sold for more than 10,000 euros in cash.
16 Zero reports. It's unimaginable that no car
17 dealer in Germany had sold any high-end Mercedes,
18 Audi, Porsche, Daimler -- I may be doing some
19 vendors a disservice here -- in cash, yeah, and
20 had reported it because that was a technical
21 obligation. They didn't need to be suspicious.
22 They needed to report a sale of that volume.

23 So, you know, it's important to understand,
24 you know, what criminals think about that and
25 also how the rules are actually operated. That
26 was what I was getting at.

27 Q And if I look at page 24, in the last three lines
28 of the first paragraph, you turn to examine what
29 is known about patterns of laundering, and you
30 say here -- you make note that many studies are
31 country-specific, and so you make note that
32 you're examining European evidence. And I guess
33 my question is, given that you say that
34 laundering methods used depend on the nature of
35 the regime in place, what cautions or caveats
36 should we have in mind if we try to draw
37 conclusions about methods that might be used in
38 Canada in terms of approaching this European
39 evidence that you're talking about here?

40 PROF. LEVI: Well, I think -- and this is almost
41 leading us into the issue of risk assessment.
42 The -- which we'll deal with later, that Peter
43 Reuter has done a lot fine work about. What I'm
44 saying is, there are some problems that are
45 common to an illegal trade -- and Peter may have
46 something to say about this as well -- you know,
47 that are almost control regime free. I mean, in

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1 the state of nature, if you're selling drugs,
2 what are people buying them with? If they're
3 mostly buying them with cash, you have an issue
4 about what you do with the cash. If, as in the
5 regular -- not very regular, and not based on any
6 criminal knowledge of my behaviour, if you get
7 the regular emails that I do asking me to pay in
8 bitcoin for -- because they've been observing one
9 of my passwords has been compromised -- in fact
10 they haven't got it quite right. But one of my
11 passwords has been compromised, as almost
12 everybody's has in the world, and they say, we've
13 been watching your surfing of porn sites and we
14 have the pictures of you doing that and of all
15 the disgusting things that you've done. And if
16 you don't want me to broadcast this to the world,
17 then I want X fractions of bitcoin to be wired to
18 this bitcoin address. Now, if I had been surfing
19 for porn, which I haven't and that's why I'm
20 completely untroubled by these -- even if it was
21 legal for me to do so, I still don't -- if I had
22 been surfing these porn sites, then the criminal
23 who is trying to extort ransom from me would have
24 a problem. He's not going to come and see me
25 probably, unless he's trying to blackmail me for
26 something else, in person, unless he wants me to
27 help him with some other scheme. If he just
28 wants my money, then he's not going to visit me
29 in person. So he wants me to wire it in some
30 untraceable thing to some place, and bitcoins are
31 a pretty easy thing for him to be doing that in.
32 He could make me, or try to make me, just wire
33 him some money, but he may be aware that Western
34 Union may be on the lookout for this kind of
35 thing, and other money service businesses may be
36 on the lookout for this kind of thing. So
37 bitcoin is maybe seen by them as a relatively
38 safe -- it's not actually as safe as other
39 mechanisms, but it's the thing that is pretty
40 easy to get into and to transfer, whereas if they
41 asked me for some more obscure cryptocurrency, I
42 might just not do it because it seems too hard or
43 too obscure.

44 And likewise, final point, if they're
45 actually locking down the city of Atlanta or
46 Baltimore, as has happened, for that kind of
47 level of ransomware, then in a sense the only way

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1 that they can -- you know, sending them cash is
2 not a likely thing for them to be doing because
3 they know that the government would be really
4 interested in pursuing them, and the full
5 resources of the U.S. state would be devoted to
6 that, and that the money service bureaus would
7 also be looking at them. So for them,
8 cryptocurrencies would be by far the most
9 favoured route.

10 Q Okay. And then perhaps, instead of walking
11 through each of the studies you've looked at
12 here, can you just summarize for the Commissioner
13 what your primary conclusions from this review
14 were? You've already touched on sort of the lack
15 of sophistication. Were there some other primary
16 conclusions that we should have drawn to our
17 attention?

18 PROF. LEVI: Well, the lack of sophistication with the
19 provisos that if we're just looking at money
20 laundering conviction cases or even organized
21 crime cases, which I'll talk about more later,
22 and those cases haven't been going after the most
23 sophisticated offenders -- I mean, they may be
24 represented as doing that. But if they haven't
25 actually been that, then we've got a picture of
26 the lower end of the criminal spectrum. So I am
27 not saying -- and I hope I wasn't saying there
28 either -- that there aren't any sophisticated
29 cases. All I'm saying is that the level of
30 sophistication in the cases that were dealt with
31 in the eras that those researchers were looking
32 at were not very sophisticated.

33 And even today, if we looked at a lot of
34 money laundering, it wouldn't be very
35 sophisticated. And I would also say that one of
36 the conclusions that we come to, for example, in
37 the work that we did on drug offenders in the
38 Netherlands is that people often are -- you know,
39 if they're investing in real estate, they're
40 often investing in them close to home or where
41 they want to be. At the time I was writing this,
42 the explosion in foreign real estate purchases
43 had not yet happened as far as we know. There
44 may have been a lot of that kind of behaviour
45 going on, but nobody was really looking at it.
46 It's an important question to address as to why
47 people weren't looking at it as an issue.

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1 Perhaps the real estate professionals didn't want
2 them to look at it. Maybe the people who were
3 wanting to sell their property for a very high
4 profit didn't want them looking at it.

5 But that's a separate chapter. I wasn't
6 writing about that. You asked me to summarize.
7 So I would say the evidence that was present
8 there and also in the developing countries,
9 research that I did suggests that people often
10 want their -- even their property, but certainly
11 their cash, where they can get at it. So they
12 might want a chunk of it. It might be a
13 diversification strategy to have money elsewhere.
14 But you need some money that you can get your
15 hands on easily in the event that you need to do
16 a runner, which also applies even to kleptocratic
17 heads of state.

18 So the notion that all of this is so deeply
19 buried that you can't touch it yourself could be
20 a problem, and the assassination of some Dutch
21 money launderers presumably led lots of criminals
22 with a problem that they maybe didn't know where
23 their own money was. And so that's part of my
24 insight into we need to think how criminals see
25 this, so if they don't trust their money
26 launderers, they also want to keep at least a
27 chunk of it where they can get their hands on it
28 easily, which is one reason why we find a lot of
29 money buried in people's gardens and such.

30 Q You end by discussing alternative and
31 complementary models of money laundering, and I'm
32 wondering if you can explain to the Commissioner
33 what are the principles or the considerations
34 that inform that section of the review.

35 PROF. LEVI: Yeah. The -- well, I began to think more
36 widely. The key thing is, what do people want to
37 do with the proceeds of crime, of their crimes?
38 If they just want to keep in criminal business,
39 then they can just recycle the proceeds in
40 whatever form into their new crimes. Now, they
41 might just want to do that. You know, if your --
42 maybe the drug business is the only business they
43 know, and they think they're good at it, and
44 particularly if they've corrupted people in the
45 area or if, for example, coming back to the
46 Quebec money laundering and corruption inquiry
47 into price fixing in the construction sector, if

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1 they want to just carry on in the business of
2 construction contracts, then they might be quite
3 happy recycling the proceeds of crime into more
4 bribery or more -- in that case into more
5 heavyweight pressure on people who didn't join in
6 with the threat of violence, though that's
7 comparatively rare.

8 So if they just want to keep on the same
9 criminal business, you might be puzzled and say,
10 well, why do they want to do that? Why don't we
11 just stop? But actually getting out of the
12 criminal business can be a difficult thing
13 because you become more vulnerable once you're no
14 longer in the business. You might be regarded as
15 a target by other criminals. So a lot of people
16 just carry on, and if they're spending a lot of
17 money on cruises or gambling -- gambling not just
18 as a method of money laundering but as something
19 criminals like to do. Then why stop? You know,
20 it's excitement, and if excitement is what you
21 crave, then you may just carry on.

22 So we need to think about that percentage of
23 people, we need to think of whether by
24 controlling money laundering at all, we are just
25 stopping people maturing out of crime. That's a
26 very disturbing thought because it's a thought
27 that maybe we shouldn't be controlling money
28 laundering at all. We should let criminals
29 become legit. There aren't very many people who
30 think that's an okay way of doing, that people
31 should live off the fruits of their crime. But
32 many of the robber barons in 19th century America
33 and the medieval barons in Britain, you know,
34 started out thieving and looting and then mostly
35 went legit.

36 So it's not an acceptable thought for many
37 people, but we should at least think what it is
38 that we're doing, and we need to think, well, if
39 we were doing sophisticated frauds -- and in
40 Europe we've certainly had a lot of sophisticated
41 frauds -- what can the Canadians learn from this?
42 Maybe the targets of fraud in Canada need to be
43 thought about more. Is that primarily vulnerable
44 individuals, in which case it's not likely to --
45 the laundering may not be that sophisticated, or
46 is it major frauds against Revenue Canada or
47 against, you know, coronavirus business lending

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1 schemes? We just need to think through what that
2 laundering process looks like at an analytical
3 level and what the -- if we're talking about
4 corruption as well, what forms does corruption
5 take? If it's transnational bribery, which some
6 Canadian corporations have been involved in, how
7 did they pay the money? Did they have to perhaps
8 unlaundry? How do they generate a slush fund if
9 they're paying in cash, or what kinds of
10 international transactions did they do?

11 So, we need typologies, in other words, that
12 are more concretely geared to the type of crime
13 and also the level of respectability of the
14 corporation. There aren't very many -- you know,
15 multinational corporations have audits. They
16 have internal and external auditors. Yet the
17 issue about how they manage to have large slush
18 funds and pay people is not a trivial question.
19 What does that tell us about the audit process
20 and its adequacy for anti-money laundering and
21 crime control purposes?

22 MS. LATIMER: Thank you very much. Mr. Commissioner,
23 this is a convenient time for a break. I'm about
24 to move to a different article.

25 THE COMMISSIONER: Yes. Thank you, Ms. Latimer. We
26 will take 15 minutes.

27 THE REGISTRAR: The hearing is adjourned for the 15-
28 minute recess until 11:40 a.m. Please [inaudible
29 - break in recording] and turn off your video.
30 Thank you.

31
32 (WITNESSES STOOD DOWN)

33
34 (PROCEEDINGS ADJOURNED)

35 (PROCEEDINGS RECONVENED)

36
37 THE REGISTRAR: Thank you for waiting. The hearing is
38 now resumed. Please ensure you're muted unless
39 you are speaking.

40
41 MICHAEL LEVI, a witness,
42 recalled.

43
44 PETER REUTER, a witness,
45 recalled

46
47 THE COMMISSIONER: Yes. Thank you, Ms. Latimer.

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Peter Reuter (for the Commission)

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1 MS. LATIMER: Thank you. I'm turning next to a
2 different article, Madam Registrar. I'd just ask
3 that document 33, which is entitled "Cash, Crime
4 and Anti-Money Laundering," be displayed, please.
5

6 EXAMINATION BY MS. LATIMER, continuing:
7

8 Q Professor Levi, you recognize this as a 2018
9 publication that you co-authored with Michele
10 Riccardi; is that correct? I think you're muted.

11 PROF. LEVI: A state devoutly to be wished. Yes, that
12 is correct.

13 MS. LATIMER: Mr. Commissioner, I ask that this be
14 marked as the next exhibit, please.

15 THE COMMISSIONER: Very well. That will be Exhibit
16 24.

17 THE REGISTRAR: Exhibit 24.
18

19 EXHIBIT 24: Article entitled "Cash, Crime
20 and Anti-Money Laundering"
21

22 MS. LATIMER:

23 Q And Professor Levi, this article explains the
24 connection between cash and criminal actors and
25 money laundering, and it notes that measures
26 implemented by governments to minimize money
27 laundering, one of the first measures used is to
28 reduce the use of cash, either through rules and
29 thresholds on cash and/or through fostering
30 adoption of alternative means of payment.

31 I wanted to focus on the policy questions
32 that are addressed in this article, and I'd
33 invite both you and Professor Reuter, to the
34 extent you have views on this, to comment here.
35 Specifically, I'm hoping for a comment on what
36 would the effect on money laundering be if cash
37 was legally restricted, and if you could talk
38 about effects on different groups, different
39 people, different crimes, and also the legitimate
40 economy. I appreciate that's a far-ranging
41 question.

42 PROF. LEVI: Shall I give Peter first go at this, just
43 to --

44 PROF. REUTER: You can go first.

45 PROF. LEVI: Okay. The -- I'm not sure that --
46 historically, the reasons for moving towards
47 cashlessness have very little to do with crime

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Peter Reuter (for the Commission)

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1 reduction or money laundering reduction. I think
2 it's just been a general trend in the way people
3 shop and purchase. It's true that revenue
4 authorities in general have been keen to reduce
5 the use of cash to evade income tax and sales
6 tax.

7 MS. LATIMER: I apologize for just cutting in here,
8 Madam Registrar. We don't need the article
9 displayed any longer. Thank you.

10 PROF. LEVI: But certainly it's been one of the
11 drivers in the AML world for trying to see what
12 further they can do. I mean, when we started out
13 it was more to track the use of cash and to catch
14 people out if they hadn't declared. So one of
15 the great virtues from a customs regime point of
16 view and the criminal law regime was that if you
17 oblige people to declare stuff and they don't,
18 and you catch them with the excess -- cash over
19 that limit, then you can say, ah hah, you
20 violated this law. So, you would be punished,
21 not necessarily in criminal law, but perhaps the
22 money would be forfeited, or both, as a way of
23 discouraging people and encouraging them to
24 report accurately.

25 So, we didn't actually start out by
26 restricting the use of cash. In recent years in
27 Europe, there's been a lot of, if you like,
28 internal disagreement, basically the Austro-
29 Hungarian Empire that was and the Hapsburg Empire
30 that was -- basically Germany, Austria, Hungary
31 very -- have got a much more liberal approach to
32 money and a more privacy-oriented approach as
33 well. And so they haven't been keen on
34 restricting the amount of cash that people spend,
35 whereas in the UK, which is the -- was always the
36 most developed payment card economy in Europe and
37 in -- possibly in the world -- [inaudible]
38 dodgier ground there -- apart from Sweden. So,
39 Scandinavia is very anti-cash and in favour of
40 official means. They're also very anti-tax
41 evasion. The UK, it's just grown up -- a lot of
42 people pay for stuff by credit and debit cards.

43 But this started in AML context more -- not
44 to -- not reduce to zero or to a very low level
45 the amount that people could pay in cash, but to
46 stop the use of high denomination notes. So the
47 national -- the Serious and Organized Crime

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

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1 Agency, now the National Crime Agency in the UK,
2 did some work, and I helped a little bit with
3 that too -- we showed the very high percentage of
4 the very high denomination notes that they had
5 come across, and their work seemed to be
6 controlled by major criminals. And this was used
7 as an argument to get wholesalers of euro notes
8 not to accept large denomination notes in the UK.

9 And the idea of that spread slowly across
10 Europe. Scandinavians likely keen. The Germans
11 -- I mean, the reason why there was a 500-euro
12 note in the first place was basically because the
13 Germans had very high deutschmark value notes, I
14 understand, and were very -- and it was regarded
15 as politically a bad thing not to have high
16 denomination euro notes. But gradually, through
17 terror finance and organized crime -- and I'm
18 going to stop my peroration -- it began to be --
19 the argument began to be accepted across Europe
20 that high denomination notes were particularly
21 easy, and I participated in a *Financial Times*
22 exercise where we looked at how much of every
23 denomination you could crowd into a standard size
24 briefcase. And that is just part of the cultural
25 exercise that was you say, look how easy we've
26 made it for money launderers to just move cash
27 across borders. We ought to make it harder. And
28 Peter and a Dutch police colleague of mine --
29 ours did some proper research on the use of that,
30 which he may choose to talk about.

31 PROF. REUTER: Let me supplement what Mike said. So
32 this Dutch criminologist is in the police agency
33 there. He and I did a study of a set of
34 businesses whose sole business activity was
35 moving money generated by cocaine smuggling sales
36 in the Netherlands back to Colombia. And the
37 only relevant part here is that it all revolved
38 around the use of 500-euro notes. The first
39 action was to take the money that the drug
40 dealers handed over and convert that to 500-euro
41 notes, and you'd like to know, the standard price
42 is three percent. So, you have to pay three
43 percent of the money in order to wash this into
44 500-euro notes. Then the 500-euro notes were
45 packaged into briefcases with concealed -- or
46 backpacks with concealed pockets et cetera.

47 And the European Central Bank has now agreed

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

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1 to the following very limited change, which is
2 they will print no more 500-euro notes, so
3 there's only, you know, 100 billion euros' worth
4 of 500-euro notes out there to work with, and you
5 know,-- our grandchildren may have trouble
6 finding a 500-euro note, but it's going to be a
7 long time before there is any problem with that.

8 So there's no question but that the high
9 denomination notes -- which the U.S. was very
10 angry about when the euro started and was very
11 critical, said, correctly, that this is nothing
12 but a device for allowing for criminal
13 transactions -- the 500 -- the high denomination
14 notes have been important for crime.

15 But your question goes obviously well beyond
16 that, which is what happens if we go to a
17 cashless society. And, as Mike mentioned, Sweden
18 is very much pushing for that. I mean, so
19 many -- I mean, when I got the Stockholm Prize, I
20 went to Stockholm, and one of the things I
21 discovered was it was pointless to change money
22 into Swiss -- kroner, is that right?

23 PROF. LEVI: Swedish kroner.

24 PROF. REUTER: Swedish kroner. Yeah, Swiss kroner
25 would not have helped. Swedish kroner. Because
26 I never had any way of spending Swedish kroner.
27 It was all credit cards.

28 PROF. LEVI: [indiscernible] I did find a -- one
29 restaurant that would accept cash because I
30 changed 50 pounds into Swedish kroner, and I
31 thought, how am I going to get rid of this? It's
32 not accepted anywhere.

33 PROF. REUTER: Right. And so we've now identified one
34 money laundering operation in Stockholm, this
35 restaurant.

36 The retail drug trade is a cash trade. And
37 you could imagine that in a world in which we're
38 able to move money across accounts through our
39 telephones, not through credit cards, that this
40 is not really critical anymore. When the only
41 alternative was to -- for the dealer to have a
42 credit card account, and somehow that divulged
43 his activity, then it seemed like cash was really
44 critical. I think -- and I'm not an expert about
45 this -- I think that if you can just transfer
46 money between accounts, then cash is much less
47 important. Where it does become a problem,

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Peter Reuter (for the Commission)

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1 though, is exactly as you move up the chain. All
2 very well, you know, if you're a retail drug
3 dealer with handfuls -- sells \$25,000 of cocaine
4 every year, a couple of thousand dollars goes
5 through your bank account each month and you say
6 you're a labourer and that doesn't look so
7 unreasonable. But when you're talking about, you
8 know, my Colombian cocaine smugglers in the
9 Netherlands, then not having cash to move could
10 be really difficult because then you've got large
11 sums of money, and once they're in some banking
12 system or credit card system, they look very --
13 you're very exposed. So, I could believe that
14 for drug dealing, a cashless economy is a
15 problem, not for the retailers but for the higher
16 end of the system. But maybe I just haven't
17 thought through all the ways that you get around
18 that.

19 Of course, a lot of money laundering does
20 not involve cash. So, we have this old-fashioned
21 image of somebody coming with cash and having to
22 turn it into something else. But so much of what
23 Mike studies are frauds that generate you know,
24 electronic entries from the beginning. And so
25 for them, cash is irrelevant. So, it's not clear
26 to me that, except for the drug trade and maybe a
27 few other street offences, that cash is really
28 central. Certainly, if you're thinking about
29 money coming out of China, I doubt that much of
30 it is coming in the form of currency. It's
31 electronic probably from its beginning.

32 PROF. LEVI: Yeah. Perhaps I'll just add to that.
33 The -- I mean, there is the -- it's partly a
34 stocks and flows issue, is perhaps a useful way
35 just of representing it. You know, like the 500-
36 euro note, stocks and -- I mean, it remains the
37 case, and this is the puzzling bit, what do
38 people do with the 500-euro notes? You know,
39 I've been told that some of them get moved to
40 Panama and that. But you know, the -- you would
41 look pretty suspicious trying to exchange a 500-
42 euro note in a bank or in a shop. So, what are
43 you buying them for? You could go to a high-end
44 jewellery or art place. And this is where the --
45 yes, if you couldn't -- if you had the money from
46 crime in some other format, then you might be
47 able to swing -- one of the issues in

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

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1 cryptocurrencies is that you can spend
2 cryptocurrency in a rather limited range of
3 places at the moment. I mean, there are some
4 bars and restaurants that for show, you know, you
5 can pay in bitcoin or -- other cryptocurrencies
6 are available, but they're mostly bitcoin ATM
7 type things. But how many people actually use
8 them, or are they just there as a kind of fashion
9 accessory, is something that hasn't been examined
10 that much.

11 The -- I mean, illegal gambling then use --
12 quite a lot of that may be in cash. Again,
13 there's the issue about where -- where that ends
14 up, how that distributes. And as Peter rightly
15 says, it's more important the higher up the --
16 the chain you get because how then, do you -- you
17 don't have the storage problem that you have with
18 cash any -- anymore. So, what would people do?
19 Would it disincentivize them to carry on in
20 crime? That depends on how hard the other media
21 were to -- to control, and in a way, that's --
22 that brings me back to the question you asked me
23 in the previous session, which I'll just briefly
24 comment on.

25 What is the relevance of things going on in
26 Europe for Canada? The answer is that the
27 control -- one of the things that is different is
28 that the control process for AML is different in
29 parts of Europe from Canada. But otherwise,
30 relatively little except that the patterns of
31 crime may be different. For example, in a
32 comparative study of price fixing in the
33 construction sector, the Dutch didn't need
34 heavies as part of that process in ways that they
35 seem to in Quebec, the commission discovered in
36 Quebec. But the money aspect of things would be
37 probably much the same.

38 If you trust your counterparties, then less
39 money needs to exchange hands. You can -- you
40 can trust them to do a deal to favour you in the
41 next occasion. So, you need to -- to be less
42 cash-based than in a high distrust economy.

43 Q And so did you reach a conclusion in this article
44 or otherwise on whether restrictions on the use
45 of cash is effective at reducing money laundering
46 or reducing crime?

47 PROF. LEVI: In my case, no, because you'd -- these

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1 are proposals. You know, what's the
2 counterfactual? Yeah. As is currently being
3 argued in the coronavirus, because it's very hard
4 to know how to evaluate something that is a
5 possibility in the future. Unless you have -- I
6 mean, in Sweden, for example, which is somewhere
7 that you could do it, it hasn't been done, to my
8 knowledge anyway. Is there less crime in Sweden
9 since cash was less available? Nobody's done
10 that analysis. But there's still quite a bit of
11 drugs business and prostitution in Sweden.
12 Sweden's such a special case anyway because of
13 alcohol monopoly -- you know, each country rests
14 on its own particular facts. But I don't think
15 anybody would say -- I mean, the main thing
16 they're concerned about at the moment in the
17 organized crime area in Sweden is motorcycle
18 gangs, which is a generic in most of the
19 Scandinavian countries they are bothered about,
20 and in Australia.

21 There's not any evidence that -- that those
22 organized crime businesses are really that
23 influenced by the reduction in the -- in cash in
24 Sweden. It's still an issue.

25 PROF. REUTER: So, let me give you a sense of what I
26 think are the complications here, which arise
27 from the substitutability of different methods
28 for laundering money. So, the U.S. does not have
29 any high value currency. Hundred dollars is the
30 highest, substantially less than the European.
31 So, you might say that it's more difficult to
32 launder drug proceedings in the U.S. than it
33 would be in Europe. Of course, in the U.S. much
34 of it is laundered through the Black Market Peso
35 Exchange, which is simply another way of doing it
36 that doesn't involve transferring large bundles
37 of cash across -- across international borders.
38 So I think we tend to have some simple mechanical
39 views about the relationship of cash to money
40 laundering, and what we should do is step back
41 and look at the variety of alternative ways of
42 doing it, and cash is the simplest, but the
43 alternatives are pretty accessible anyway.

44 PROF. LEVI: Yeah. I mean, the -- so when we're
45 saying, well, cash is still king in some areas of
46 crime, that's a current situation. What we need
47 to do, as Peter says, is to think, well, how easy

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1 would it be to have an alternative, and that's
2 the question in relation to Canada that I think
3 you should be asking yourself. Not just trade-
4 based money laundering or service-based money
5 laundering. Yeah. I was part of some initial
6 OECD thinking about service-based money
7 laundering, and the question I raise is, why --
8 okay, you can falsify statements about the cost
9 of services that you have given. You know, for
10 example, in some of the Ukrainian political
11 things, this is an allegation, that people have
12 charged for services they did not in fact render
13 or over -- they were paid too much for the modest
14 services that they gave.

15 But you know, my view about this is yes, you
16 could -- they could do it that way, but trade-
17 based money laundering is also very easy. So why
18 would you need to have more obscure methods? So,
19 my general argument would be that money
20 laundering only needs to be as complicated as
21 what we force it to be. So, you can get the
22 displacement issue -- the displacement might not
23 be pure. There might be some offenders who just
24 can't shift to the new -- and you have to say,
25 how significant is that prevention? Because it's
26 a partial prevention, not a -- yeah, how
27 significant would be the fall in the total
28 number? But some offenders would be knocked out
29 of the game. And you know, whether that's a good
30 or a bad thing, if it doesn't lead to a reduction
31 in the total volume of the criminal activity, you
32 haven't achieved much in crime reduction or even
33 in money laundering reduction.

34 Q In terms of displacement that you're talking
35 about -- and I appreciate it's probably the way I
36 framed the question -- you've been imagining a
37 cashless society and you're talking about
38 displacement of typologies in that context. But
39 I suppose, if you applied restrictions
40 differently across different sectors, might you
41 see a kind of displacement in typologies in terms
42 of, you know, first we're using this cash
43 intensive business, but now that's not allowed so
44 we're using this other one? Or -- is that
45 something that you've studied?

46 PROF. LEVI: You mean -- well, yeah. In Sweden there
47 just aren't any places that you can easily spend

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Peter Reuter (for the Commission)

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1 a lot of cash. So, you might then have to take
2 it overseas. So, if Europe -- let's say Europe
3 goes Swedish. Then where would the money have to
4 be stored and spent? You know, where would the
5 real estate be purchased? If the real estate is
6 being purchased in cash -- yeah, you could go to
7 Turkey. People do. I mean, there's a lot of
8 Turkish real estate that is purchased, presumably
9 from drugs and from other stuff, for cash. And a
10 lot of it is not from crime at all. So people
11 would -- it would be more effortful if lots of
12 countries in a region -- I mean, to come back to
13 my own findings with Petrus van Duyne, people
14 tend -- Dutch criminals like to buy property in
15 Netherlands as well as in Turkey or in Spain. You
16 know, if those countries were blocked off, what
17 would people do?

18 Now, Peter's given a really good example of
19 the Black Peso Exchange. So I'm not
20 overoptimistic about the control impact of doing
21 away with cash, and there's also -- quite apart
22 from there are other kinds of arguments about
23 vulnerable people, people who aren't good at --
24 with technology and ATM machines, you know, there
25 are other kind of social issues in this control,
26 which it's probably not my job or yours to
27 rehearse. But I agree that it's an interesting
28 question to pose, you know. But the U.S. is not
29 currently controlling cash. What they're
30 doing -- it's been said they don't have a very
31 high denomination note.

32 Q Okay, thank you.

33 MS. LATIMER: Madam Registrar, I'm moving to the next
34 article, which is document 31 on our document
35 list. This is an article entitled "Understanding
36 the Laundering of Organized Crime Money."

37 Q And Professor Levi, do you recognize this as a
38 March 2020 article that you co-authored with
39 Melvin Soudijn?

40 PROF. LEVI: Soudyne (phonetic), yeah. Yes, I did.
41 Yeah. I do recognize it.

42 MS. LATIMER: Mr. Commissioner, I'm asking that this
43 article be marked as the next exhibit, please.

44 THE COMMISSIONER: Thank you. That will be Exhibit
45 25.

46 THE REGISTRAR: Exhibit 25.

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Peter Reuter (for the Commission)

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1 EXHIBIT 25: Article entitled "Understanding
2 the Laundering of Organized Crime Money"

3

4 MS. LATIMER: And we don't need that displayed any
5 longer.

6

7 Q Now, this article examines the question of what
8 are the conditions that influence the level of
9 complexity of money laundering and, to a lesser
10 extent, its patterns in relation to organized
11 crime. Is that correct?

12

13 PROF. LEVI: It is correct.

14

15 Q And you talk at page 3 about that most of the
16 literature and examples used in the article again
17 come from the Global North, and especially
18 Europe, and it's because of what you say are
19 analytical or empirical weaknesses of research
20 elsewhere. And I wanted to invite both you and
21 Professor Reuter, as you've studied so much in
22 this field, to comment on the state of the
23 research and the state of the data that's
24 available to you, and what would be better data
25 that would assist your research if you could
26 access it.

27

28 PROF. LEVI: Hmm. Mmh.

29

30 PROF. REUTER: I'll go first. Actually, could you
31 clarify your question. It's an awfully broad
32 one.

33

34 Q It's intentionally broad. So I guess what I'm
35 asking is, I understand that there are many, many
36 limitations in the data that's available, both
37 because many issues haven't been researched and
38 because much of the data is not available
39 publicly, and perhaps also not available because
40 money laundering is by its nature underground.
41 So, I was inviting comment on that and if you are
42 aware of data sources that would advance research
43 that you know are available, to identify that as
44 well.

45

46 PROF. REUTER: So, I mean, I think I'm bridling a bit
47 at focusing just on organized crime origin money
48 laundering because the problems are generic and
49 there's nothing specific, I think, to the fact
50 that the crime may come from what we associate
51 with money laundering. So, let's just assume
52 we're talking about what's the problem of getting
53 data about money laundering. And you know, both
54 Mike and I talk about this at great length, so

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1 you should stop us when we've said more than
2 enough -- when we've said enough.

3 So, it's -- I mean, if you think about how
4 we find out about money laundering. And the
5 answer is we find out about it only through
6 enforcement actions or reports by financial
7 institutions, using that term broadly. And no
8 one would claim other than that a small fraction
9 of money laundering transactions are detected
10 either directly by enforcement agencies or by
11 financial institutions. And that would not be a
12 problem if we knew what that small fraction was.
13 But there isn't any systematic way of assessing -
14 - at the moment, of assessing how -- what
15 fraction is picked up by the -- by the network.
16 You could think about developing an estimate in a
17 fairly aggressive way with what's called mystery
18 shopping, which is you simulate the process of
19 laundering money.

20 And Mike and I have met an Australian
21 investigator who's very good at this. So as part
22 of an evaluation for I think for a national risk
23 assessment in some unnamed jurisdiction, he
24 walked into a bank with a backpack full of cash,
25 answered a set of questions about you know, where
26 he wanted to send this cash and how he'd gotten
27 it that gave every red flag possible that this
28 was drug money going off to some dodgy place, and
29 then scurried back to headquarters to find out,
30 well, was there a suspicious activity report
31 filed. And I can't remember how many of these
32 things he did, and not a single suspicious
33 activity report was filed. So, at the moment, it
34 would seem that there's -- if you divide by zero,
35 there's an infinite number of money laundering
36 transactions -- granted, that's not the right
37 number, but it does point to a method for finding
38 out how good this system is. And yeah, there's a
39 real understandable reluctance on the part of
40 enforcement agencies to do anything as aggressive
41 as that, but if you say, we really want to know
42 this number, that's certainly a method which
43 would generate lots of useful data on this.

44 Absent that, we are in the realm of making
45 up numbers, and I'm sure, eventually when you
46 question me, I'll go through exactly the sort of
47 various magical formulae that have been developed

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Peter Reuter (for the Commission)

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1 for doing this, but I'm not unsympathetic with
2 the problem. It is not clear how, with the
3 existing data, you get to estimate how much money
4 is laundered. If you wanted to restrict it to
5 specific -- some specific activities, there are
6 indirect ways of doing it. I mean, much of my
7 work deals with drug markets, and you can
8 estimate the size of drug markets through a
9 combination of different kinds of surveys and
10 indicators, and from that with some price data
11 you can estimate how much revenue there is, and
12 then with some other data you can work out how
13 much might need to be laundered as opposed to
14 just plain money that low level retailers, you
15 know, spend on staying alive, and you might be
16 able to come up with some numbers then -- some
17 estimate of how much money potentially is being
18 laundered from drug markets.

19 But drug markets are in some sense
20 particularly easy to measure relative to other
21 things. Estimating the level of fraud and how
22 much money is generated by fraud, which is much
23 more Mike Levi's expertise than mine, but I -- I
24 know enough to say that the figures in the U.S.
25 are -- have no credible basis. They're just some
26 numbers that are useful to refer to, decorations
27 on the sort of Christmas cake of, you know,
28 things that they probably would like to know and
29 here's a number that meets that need.

30 So, I -- I mean, in a way I'm using a lot
31 too many words to say something very simple,
32 which is if all we know is what's reported by
33 enforcement agencies and financial institutions,
34 we cannot credibly estimate the amount of money
35 that's laundered. And maybe Mike can say
36 something more sophisticated than that.

37 PROF. LEVI: Well, I'm not sure about that. But
38 the -- I think one of the things that we might
39 say is that if we want to know something about
40 some more specific subcomponents of the total
41 problem -- I mean, one of the issues about money
42 laundering and crime is that it covers such a
43 wide range of activity. Even fraud varies between
44 payment card fraud, which we know quite a lot
45 about, and romance fraud, which we know a bit
46 about but not a whole lot about, fraud against --
47 identity fraud we know quite a bit about. So it

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1 depends on the state of guardianship and how
2 these things are known about. So we know quite a
3 lot about losses in some aspects of fraud.
4 Canada's not as good in its data as the UK, in
5 fact almost nowhere is as good as -- nowhere in
6 Europe is as good as in the UK, and I've been
7 involved in this since 1990 area.

8 But the payment card fraud is quite well
9 understood. What happens to the money from
10 payment card fraud is not very well understood.
11 So we've got -- so measuring the cost of crime is
12 a different kind of problem from measuring the
13 amount of money laundering, partly because a lot
14 of the money is just spent on having a good time
15 or the costs of criminal business, rather than
16 being saved and integrated, depending on what it
17 is you think you're trying to measure. Or the --
18 but at least we've got a grasp on how much that
19 is. And much of the tax gap have got a large
20 range, and there Canada's probably as good as
21 anywhere. But that includes avoidance and
22 evasion as well as outright fraud -- outright
23 crime.

24 So, we have to look at different bits of --
25 of the system and the different levels of
26 offenders. We know very little about what their
27 different money laundering profiles are.

28 Banks -- you know, if one can talk -- it's a
29 mistake to think of the banks as an
30 anthropomorphic entity. They're very complex
31 organizations. So, when people say "banks know,"
32 that is not a simple thing. But the better
33 bankers know quite a lot about patterns of
34 behaviour and a small percentage of those things
35 that they report are followed up into criminal
36 investigations. So, we can learn more, if we can
37 get access to it, from what the banks know. But
38 clearly the investigations that the law
39 enforcement authorities undertake are typically
40 more far-reaching, and if they could be analyzed
41 better, we would learn a lot more about the
42 process of money laundering than we currently do.
43 But it would only be, as Peter started off by
44 saying, a small percentage of the -- of the
45 total. And we have to understand that whatever
46 we do -- I mean, even using the example of the
47 mystery shopping approach, the UK's Financial

Michael Levi (for the Commission)

Peter Reuter (for the Commission)

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1 Conduct Authority, as it now is, did an
2 investigation into what the banks were recording
3 about PEPs, about politically exposed persons;
4 that is people in political office around the
5 world. British banks were back in -- they
6 published a report on this in 2011. No other
7 country has been enthusiastically adopting this
8 intensive approach to seeing how well the system
9 was recording. What that would tell you about
10 the total volume, however, of grand corruption is
11 a different question.

12 So, we have to be clear about what question
13 it is that we're asking of the data. It's easier
14 to learn more about the efficiency of regulated
15 bodies than it is about the -- the impact on
16 money laundering and crime.

17 PROF. REUTER: I just want to go back and say
18 something. I sound as though we know how to
19 measure drug markets. And yes, we know how to
20 measure drug markets: very weakly. That is to
21 say, in the U.S., which has the best data and
22 certainly the most consistent effort to come out
23 with measurement, I can confidently say the
24 number is something between 50 billion and 200
25 billion. I can't be much more confident than
26 that. Then, I've been involved -- I wasn't
27 involved in the last one, but there's been a
28 series of studies which use a whole stream of
29 different data sets, and each data set has itself
30 substantial sampling variability and non-sampling
31 variability, and when you put them all together,
32 there's just a huge range of potential estimates.
33 And that's why I -- I mean, I have a view, which
34 you know, that you have to work out how to do --
35 make policy here without numbers because the
36 numbers are going to be so crude you couldn't
37 possibly tell whether things have gotten better
38 or worse, just with a set of numbers.

39 PROF. LEVI: And that applies to fraud as well. I
40 mean, I'm fairly confident we've got a reasonable
41 grasp of the amount of payment card fraud, and
42 the British have done studies of the proportion
43 of the population who are victims of identity
44 fraud and cyber-enabled scams.

45 Whether that -- whether that gets you close
46 -- but the amount of corporate fraud is a much
47 harder figure to estimate. And things that look

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Peter Reuter (for the Commission)

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1 more rigorous by anti-fraud organizations often
2 contain very low response rates and quite high
3 margins of error. So, it -- whichever way you
4 look, it's not an easy process. So, we should be
5 cautious about what we're likely to yield about
6 the totality of the problem. Sorry,
7 [indiscernible]

8 PROF. REUTER: I think you are being euphemistic
9 here. It's not that it's not easy. I think it's
10 not doable.

11 Q And when you talk about estimating fraud markets
12 or estimating drug markets, I take it you're
13 talking about estimating the proceeds of crime.

14 PROF. REUTER: Correct.

15 Q And I'm wondering if -- is that a good proxy for
16 estimating the volume of money laundering?

17 PROF. REUTER: No. It is a starting point. So -- I
18 mean, the back of the -- I mean -- all this is
19 very crude. And you see it in one component of
20 the Walker Model. So, you'd come up with some
21 estimate of total revenues generated by drug
22 sales, and then you ask what share of this needs
23 to be -- what of this needs to be laundered. And
24 there -- there isn't any empirical foundation.
25 You can make an observation that retailers earn
26 about -- I'm making up a number -- 25 percent, 30
27 percent of the total, and they have no need to
28 launder money because they don't make enough.
29 You know, you can do this kind of adjustment, but
30 I mean, what you'd really like to have are at
31 least a series of case studies in which drug
32 dealers talk about how they handle their money,
33 and I've never seen any such database. So, it's
34 just a series -- you work with weak data and then
35 a series of assumptions and approximations, and
36 that is the foundation for these estimates.

37 Q One of the reports that's before this Commission
38 by virtue of our Terms of Reference uses a model
39 called the gravity model. And I wanted to ask --
40 I know you're familiar with that model, whether
41 you have a view on its validity.

42 PROF. REUTER: Yes. I mean so -- I mean, validity is
43 a term of art. I mean, I don't -- the gravity
44 model -- and I actually went and looked at it to
45 remind myself. You have a very nice summary of
46 how it -- how the gravity model is put together,
47 in seven steps, and I had -- I was nervous at

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1 each and every one of those steps. So, one of
2 the -- I mean, one of the starting points is an
3 estimate of Australia's drug -- you know, the
4 proceeds of crime with the specific offences in
5 Australia. And I remember looking at these, and
6 there are two sets of estimates. One comes from
7 some survey data and analysis. Another one comes
8 from expert interviews. And they're an order of
9 magnitude apart. And do I trust experts? No.
10 Do I trust surveys? Not much more. I mean, you
11 know, they both have their frailties. I trust
12 surveys more than I trust experts.

13 But, you know, that's just -- you know,
14 that's a starting point, and then you have to
15 adjust Australia -- and so the notion is start
16 with the Australian estimates and then try to
17 figure out how they could be applied in other
18 countries, and you take into account the GNP
19 level and the level of corruption and -- I mean,
20 the list of shaky assumptions, you know, if you
21 put it together, is sort of the errors -- I'm
22 making gestures with my hands -- the errors just
23 keep getting larger and larger. And you know,
24 are they valid? Yes. Are they useful? No.
25 Because the range of plausible estimates is just
26 so large that they're not going to give you any
27 guidance.

28 And in particular, what you care about
29 primarily is whether the number is getting larger
30 or smaller. And with these error bands, you
31 can't tell that. And so that's why I'm -- I do
32 not think these are useful. I do not think the
33 gravity model is useful. It has too many shaky
34 assumptions in it. Economists are used --
35 commonly refer to heroic assumptions. There are
36 some assumptions that should be called hubristic.
37 And these are assumptions of hubris. I don't
38 think that they are useful.

39 PROF. LEVI: So as Butch Cassidy and the Sundance Kid
40 put it, this is no time for heroes. But the --
41 the -- I agree with that critique. I mean, some
42 -- the process of doing -- the process of
43 thinking about an issue can sometimes produce
44 heuristic benefits in getting you to think more
45 broadly or more analytically. It's not obvious
46 that that's the case with the Walker Model -- the
47 gravity model. But it's certainly not the case

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1 that it's useful in terms of the numbers. So,
2 thinking about the process of where money goes,
3 what is an attractive jurisdiction for money
4 laundering? It's a good idea to think about the
5 stickiness of jurisdictions from what we know
6 about criminal behaviour. You know, this notion
7 that, for example, even in Europe people just --
8 you know, you have controls in one country so
9 people move to another country to set up criminal
10 operations. You need to ask yourself, how easy
11 is it to move to a different jurisdiction and set
12 up criminal operations? It can be a disaster.
13 And in a way, if it's been a disaster -- I mean,
14 the southern Italians are used to moving around
15 the world a bit. But if they assume that
16 everybody is as corruptible as southern Italy
17 once was, they might get into serious problems
18 because some law enforcement are not as corrupt -
19 - in fact many law enforcement areas are not as
20 corrupt as that was.

21 So, the idea that you just kind of move
22 jurisdictions, whether that applies to the money
23 is also an issue. It depends how easy or hard
24 that is. So every -- in that sense, every
25 jurisdiction may be different. The criminals'
26 skills, their diasporas, their relationships with
27 cross-border groups may be different in different
28 jurisdictions. Nigerians -- I'm not stigmatizing
29 -- Nigerian criminals do not represent the
30 totality of Nigerians. But there are Nigerian
31 diasporas in many parts of the world, and to the
32 extent that they are from the same tribal groups
33 or national -- yes, state groups, and they trust
34 each other, they can cooperate better or worse.
35 That doesn't help you, however, to produce a
36 national estimate of money laundering.

37 Q I wanted to turn back to your -- this article we
38 started to discuss, which is about understanding
39 the laundering of organized crime money in
40 particular. And this article constructs a
41 conceptual framework of factors that affect the
42 need for the use of money laundering schemes.
43 And I'm wondering, first of all, if you could
44 describe the methodology that underlies this
45 conceptual framework.

46 PROF. LEVI: I'm not sure I'd grace it with the term
47 methodol -- I mean, we've thought about what

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1 would be the best way of characterizing the
2 issues. I'm not sure I'd describe that as a
3 methodology. But the -- we thought about, well,
4 what are the offenders' goals? I mean, coming
5 back to the point Peter made earlier briefly.
6 You know, do they really want -- what do we know
7 about whether they want to save and integrate
8 into the economy? Would they be allowed to
9 integrate into the economy? I think people are
10 more relaxed about where your money came from
11 than they were 50 years ago or certainly, you
12 know, if you read 19th century novels, you know,
13 whether you were trade or aristocracy.

14 But if your goals are primarily to have a
15 good time, then you have no particular need of
16 laundering, though you may need a mechanism for
17 storage, if you call storage -- or if all storage
18 is money laundering, then you can say that
19 determines a certain aspect of your money
20 laundering behaviour. What are their
21 preferences? You know, how willing are they to
22 save and delay any access?

23 Some people are in a situation of what
24 economists would call forced saving, where they
25 have so much money they can't really deal with -
26 with it. Do they really want to move abroad? Do
27 they want to expand their criminal or their -- or
28 just their wealth abroad? If they don't want to
29 move their criminal operations and just want to
30 move their wealth, how are they going to do that?
31 Through the professions? Through gaming tokens
32 perhaps? In a way, the mechanism needs to be
33 conceptual, so what -- you might want a company
34 or a set of companies so that you can transfer
35 what appear to be legitimate funds between them
36 which would be more suspicious if it came from an
37 individual. But you may want to set those up in
38 more respectable jurisdictions because one of the
39 things the financial institutions and lawyers are
40 focused on are high risk jurisdictions, in FATF
41 terms. They might give you too great scrutiny.
42 So, we thought about that -- do you want your
43 investments close to home? What are the levels
44 of scrutiny that you're expecting? Are those
45 levels of scrutiny accurate or not?

46 Well, you can try -- I mean, if you find
47 that your colleagues get busted for doing stuff,

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1 then that's normally the way people realize this
2 is a risky way to transact. So, criminals are
3 often quite fine-tuned in their awareness of what
4 the technologies of control are. But it's harder
5 for them in one sense because something may be
6 picked up as suspicious by a financial
7 institution or a casino and reported, but if
8 nothing is done about it, then they may think,
9 ah, well, this is something nobody is watching.

10 So, it depends on their skill levels, their
11 social networks -- their -- and their contacts,
12 and what level of offending we are talking about.
13 So that was our basic methodology. We looked at
14 not just at conviction data but at whatever data,
15 including undealt-with cases that we had access
16 to as part of building this model. But I
17 wouldn't claim that it was -- it's not a model as
18 the kind of epidemiological models that
19 coronavirus is based on.

20 Q You raise the concept in this article of
21 responsibilization, a shifting of the burden of
22 crime control on the private sector and reporting
23 entities. You review some figures in there about
24 suspicious transaction reporting in the U.S. and
25 Europe and the UK. And I guess this is a
26 question for both of you and it maybe touches on
27 the quantification question, but also on the
28 effectiveness question, which is: what can we
29 learn, if anything, about the effectiveness of
30 anti-money laundering controls by comparing
31 volumes of suspicious transaction reporting?

32 PROF. REUTER: Okay. Well, I mean, the answer is, it
33 is totally inappropriate to make such
34 comparisons. I went back and read the article
35 that Mike and I wrote with Terry Halliday about
36 the you know -- making -- the role of data in
37 assessing money laundering controls, and referred
38 back to the mutual evaluation report for Germany
39 10 years ago. And Germany only had 7,000
40 suspicious activity reports whereas back in those
41 days, already the UK had 200,000, something like
42 that. And the FATF assessment team said, yeah,
43 they're not doing -- sending in enough suspicious
44 activity reports, to which the Germans correctly
45 said, we have a different process. That is, the
46 bank does some preliminary investigation before
47 sending this off, whereas in the UK system, which

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1 is what the FATF prefers, everything is sent to
2 the Financial Investigative Unit and it's up to
3 the FIU to sort through this very noisy set of
4 reports. And you can say, well, why exactly
5 would you want the public sector to take on this
6 responsibility for the preliminary investigation?
7 It could be done at private expense by the bank
8 itself.

9 There actually are two answers to that but
10 I'm not sure they're very convincing. One is
11 that the FIU can bring in more other sources of
12 data to check any specific suspicious activity
13 report, and so they could do a better job of
14 scrutinizing. And the second one is that the
15 SARs provides a database, so even if the SAR
16 turns out not to lead to -- itself to lead to an
17 investigation, you have a piece of information
18 which is in a database that investigators can
19 access. So that's sort of the trade-off, but you
20 can talk intelligently about why you would prefer
21 one system rather than the other. In fact, the
22 mutual evaluation report, pay no attention to
23 that. The Swiss are very proud of the fact that
24 the banks must do very extensive investigation
25 before they pass on a suspicious activity report,
26 and they have a much higher prosecution of
27 suspicious activity reports precisely because the
28 banks have invested a lot in the investigation.
29 I've literally seen the files for a suspicious
30 activity report in Switzerland, and they are huge
31 because the bank has done a lot of work.

32 So, you have to know what a SAR means in a
33 particular country, and then you say, well, which
34 is the better system? Do you want one in which
35 the bank can report anything or which banks have
36 to provide some credible basis for something?
37 And say, there are clear trade-offs but there's
38 an unwillingness to talk about -- and Mike
39 probably knows much better than I do, to talk
40 about you know, which of these is likely to be
41 more effective as an AML regime.

42 PROF. LEVI: I mean, I think there's historically been
43 a lack of realism or a lack of willingness to
44 confront the scarcity of resource to follow
45 through suspicious activity reports. And this
46 has led to a kind of more is good approach, which
47 at a global level, I would say, is a bad idea.

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1 The -- it's certainly true that the more things
2 that you have registered on your system, it's
3 easier to pick up. And at some stage, not
4 necessarily at a pre-investigation stage, but
5 perhaps for asset confiscation you can pick up
6 where accounts are, where assets are. That might
7 be easier, the more you have.

8 On the other hand, you can say, well, if you
9 have a system where people are expected to report
10 lots and lots of things, why is the -- I mean,
11 somebody pays for reporting, either the customers
12 or the shareholders or the taxpayer. How do you
13 decide who should be paying for that and where
14 it's most effectively investigated? It's
15 certainly true that many banks turn a blind
16 eye -- not all. It's not possible to say what
17 percentage or how many turn a blind eye or are
18 just not very good at picking up, if one were
19 kinder, complex transactions, or even going back
20 to some of the earlier Nigerian corruption cases,
21 you have people opening accounts in the name --
22 in the name of dictators and somehow the bank
23 just didn't realize that there was an
24 association. So, there is that [indiscernible].

25 So, a lot of people say, oh well, it's
26 therefore important that the banks tell us
27 everything. But if you're not going to do
28 anything with that, then the banks and lawyers
29 and accountants and gambling firms may be telling
30 you a lot stuff that you're never going to
31 pursue. That's a cost to somebody. And so we
32 haven't really worked out what is cost-efficient
33 or cost-effective. But I can tell you, the
34 result of the -- what happened in Germany was
35 they got more reports, but then they complained
36 the reports weren't as useful. And to follow
37 Peter's remark up, it depends what the Financial
38 Intelligence Unit has access to. If it's a
39 police intelligence unit, then it has access to
40 quite a lot of criminal intelligence information.
41 But if it's a civilian unit, it may not have
42 access to any criminal intelligence at all. It
43 may have some commercial data better access to.
44 So, there are trade-offs in the systems.

45 And so, I think you have to think in quite a
46 subtle way about whether more is better and what
47 is the yield. I mean, coming back to the

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1 Canadian example -- I'm sure we'll get into this
2 later in questions -- the -- you know, before the
3 German reports, you knew less formerly about some
4 of these money laundering behaviours than people
5 did before. Did that mean that people weren't
6 doing their job? Well, that's for you to think
7 about. It might mean that. But would anything
8 more have been done about it if they had got
9 those reports in from the private sector? That's
10 a separate question.

11 PROF. REUTER: I still remember talking to someone
12 from the FIU in Australia, which has a sort of
13 well regarded FIU, and their frustration that
14 they had all these data and they couldn't get
15 police agencies to start investigations. And the
16 police agencies said, we don't lack business. I
17 mean, the FIU is not itself an investigative
18 agency. And it -- the question is, is there any
19 capacity or appetite for substituting what the
20 FIU -- what is generated from SARs for other
21 things that police agencies do? And there's not
22 a simple answer to that, but that is the right
23 question to ask. And it may be that quite a
24 modest flow of better targeted SARs would
25 increase the willingness of the police agencies
26 to prioritize SARs as the basis for launching
27 investigations.

28 [overlapping speakers]

29 Q I wanted just to move on to the next article and
30 I hope to cover some quicker questions just as we
31 have about 45 minutes left before we break today.

32 MS. LATIMER: So, Madam Registrar, if I could ask,
33 please, that document 32 from the list of
34 documents be displayed.

35 Q This is the article that you jointly authored
36 together with Terence Halliday. And do you
37 recognize this as that 2018 article entitled "Can
38 the AML system be evaluated without better data?"

39 PROF. LEVI: Yes.

40 PROF. REUTER: I do.

41 PROF. LEVI: I do.

42 MS. LATIMER: I ask -- [indiscernible - overlapping
43 speakers] -- Mr. Commissioner, I ask that this be
44 marked as the next exhibit.

45 THE COMMISSIONER: Very well. That will be Exhibit
46 26.

47 THE REGISTRAR: Exhibit 26.

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EXHIBIT 26: Article entitled "Can the AML
system be evaluated without better data?"

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THE COMMISSIONER: Thank you.

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MS. LATIMAR: Madam Registrar, I don't need that
displayed any more.

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Q I'm just reading from your article. At page 310,
you say:

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Evaluation is the touchstone of contemporary
policy making; good policy requires
systematic and transparent evaluation and
AML is just the kind of broad policy
intervention that requires evaluation to
improve its design and operation, if not to
justify its existence.

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And I was going to invite you to just unpack
those observations a little bit.

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PROF. REUTER: Well, I teach in a public policy school
so I should be the one to do the unpacking.

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So -- I mean, look. In an earlier era, a
good story was enough for policy makers, and you
could say, you know, this program helped this
person, and that was fine. Now, we have a more
educated electorate and we have more complex
programs, more competition for resources in the
public sector, and so we need some sort of
unified metric for making comparisons of
programs. So, AML competes with other kinds of
law enforcement for resources. And one of the
ways in which resources are allocated across
different programs is according to their
effectiveness. So, then you set out measuring
effectiveness.

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Now, I -- you know, this is sort of the
textbook version. Real life and textbooks are
different. But it's still -- it's certainly true
that there are many areas in which cost
effectiveness -- program effectiveness and cost
effectiveness are important measures. Law
enforcement is not particularly like that. And
it's not as though we know how effective
different kinds of law enforcement are, but the
notion that you have this very substantial and
intrusive program, without any notion as to

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1 whether it is accomplishing its goals or any
2 other worthwhile goals or what adverse
3 consequences may come from it -- negative
4 consequences may come from it -- makes it
5 somewhat unusual. Typically, there are
6 assessments -- I won't say measurements --
7 assessments of effectiveness, and AML has none.
8 I mean, I think I know this field reasonably well
9 and I cannot think of anything, any study that
10 has claimed to show that as a result of AML in
11 Canada or AML in Australia, crime has been
12 reduced by X or that it has generated a thousand
13 additional convictions or that the banks are now
14 cleaner than they -- I mean, you can just -- you
15 can think of a bunch of objectives related to AML
16 and say, do we know how much AML has contributed
17 to the accomplishment of those objectives? And
18 the answer is there are no such studies.

19 Now, difficult to do. It's not as though
20 I -- you know, if you handed me the money, then I
21 would know immediately how to do it. But what's
22 sort of striking -- and that article about
23 transnational legal orders is very much concerned
24 with it -- is why isn't there even a demand for
25 this? It's not as though there's a constant cry
26 that AML is -- needs to be evaluated. It just
27 sort of -- sits there. It's kind of an accepted
28 part of modern life, another one of those
29 irritants that they all suffer for reasons of
30 some general public good. But it doesn't mean
31 that -- it's very hard to talk about, is AML
32 doing its job, whatever that job is?

33 And perhaps I might say something about --
34 in that respect. AML -- anti-money laundering is
35 actually a very misleading term, because it
36 immediately suggests that the goal of these
37 interventions is to reduce money laundering. But
38 you can think about it as being like conspiracy
39 laws. Conspiracy laws are not aimed at reducing
40 conspiracy. Conspiracy laws are useful laws for
41 reducing crime, particular kinds of crime. AML
42 is useful, not because it could reduce money
43 laundering, but it could reduce the activities
44 that generate money laundering, money to be
45 laundered. And so, the outcome -- you don't --
46 you know, measuring the volume of money
47 laundering doesn't serve as a useful measure of

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1 effectiveness because money laundering itself
2 does not cause harm. And that's a controversial
3 statement -- which I'm happy to go into if
4 someone wants to. But money laundering is a part
5 of the activity of a set of criminal activities
6 that we do care about, and if we -- we can use
7 AML to reduce those activities, whether they be
8 crime or terrorism.

9 And so, if you talk about the effectiveness
10 of money laundering, what you're really talking
11 about is how does it contribute to reduction in
12 predicate crimes and terrorism?

13 I hope that is responsive.

14 PROF. LEVI: I'll just perhaps add on there. I mean,
15 there's also subsets of this, coming back to the
16 previous article, which, you know, people talk
17 about the importance of dealing with money
18 laundering facilitators and professional
19 facilitators. Even that is quite a difficult
20 thing to evaluate the effects of. I mean, if
21 Canada -- if Canadian lawyers were required
22 legally to report all their suspicions, would the
23 business just flow to the U.S.? That would be a
24 tricky [indiscernible]. Yeah. Even if it did,
25 would it be ethically a good or a bad thing for
26 Canadian lawyers to take their ethical
27 responsibilities of identifying and reporting
28 suspicions seriously, even if it -- even if some
29 of that business did merely cross borders? I
30 mean, these are almost impossible issues to
31 evaluate except by mystery shopping or covert
32 investigation techniques. But I agree that it's
33 not enough just to look at evaluating money
34 laundering. We need -- part of evaluating money
35 laundering is evaluating the effects on predicate
36 crimes. And the interventions that we make may
37 have different effects on different crimes. And
38 those different crimes may be easier or harder to
39 evaluate.

40 There's nothing wrong with thinking, well,
41 we want to evaluate the impact of anti-money
42 laundering measures on drugs or ransom or some
43 particular -- or illicit drugs -- yeah, illicit
44 drugs, taking this in the Canadian context.

45 Yeah, there's nothing wrong with thinking
46 about those things, but you need to be much
47 clearer about what questions you want to see

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1 answered by the system, and that's a hard thing
2 to do.

3 Q And one of the difficulties that you talk about
4 in this article is the difficulty of cross-
5 national comparison. And we've already touched a
6 little bit on the difficulty of cross-national
7 comparison in terms of suspicious transaction
8 reporting, but I was wondering if you could speak
9 about that a little more broadly.

10 PROF. REUTER: I don't know what question you -- I
11 think I need more specification of the question.
12 [overlapping speakers] What kind of comparison
13 would you like us to address?

14 Q Sure. This article highlights a few different
15 kinds of difficulties, and they flow from
16 differences in indicators, differences in sources
17 of data and statistical measures, and also --

18 PROF. REUTER: Okay. Okay. Sorry. Now I understand.
19 Okay. So, let me take crime. The definitions of
20 crime vary in important ways across countries.
21 And if you talk about proceeds of crime and want
22 to compare robbery in Germany and robbery --
23 proceeds of robbery in Spain -- randomly selected
24 countries. I don't know that they do have
25 different definitions -- you may find that the
26 robbery definition in Germany is much broader,
27 and so the comparison is not valid. And you have
28 comparisons -- one of the things that irked me
29 was comparisons of crime statistics in a
30 different sense. So, in the mutual evaluation
31 reports, there is a sort of -- in the third
32 round, which is what we were talking about then.
33 For the Commissioner, the mutual -- the -- FATF
34 has had four rounds of evaluations. We are in
35 the midst of the fourth round, which started in
36 2014 and will end in 2022. The work that Mike
37 and I did with Terry Halliday was based on the
38 third round of evaluations, which were done
39 between about 2004 and 2012. And for many
40 countries, it's the case that the third-round
41 evaluation is the only evaluation available, or
42 the most recent one available.

43 So, in these third-round evaluations, there
44 will be an effort to describe sort of the crime
45 context. And because money laundering is
46 generated by a set of predicate crimes, so you'd
47 say, well, surely, they'd want to sort of compare

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1 countries in terms of the predicate crimes. And
2 the answer was no, they were completely
3 inconsistent about that. They would take
4 whatever data were readily available. So, in
5 some country they might have a homicide rate; in
6 another one they might have the number of
7 cannabis growing offences. I mean, those are
8 extremes, but it really was just a mishmash of
9 indicators of the crime situation. And the
10 comparisons that they offered were similarly
11 untethered from any analytic frame. They can --
12 Germany has, I think, a slightly higher crime
13 rate than average, and average was some global
14 figure. Well, the Germans do a much better job
15 of recording crime than a lot of developing
16 countries, so on a per capita basis they look as
17 though they have a high crime rate. That has
18 nothing to do with the reality of crime. It has
19 a lot to do with the recording.

20 And just -- you know, these are reports done
21 by people whose expertise is not in crime
22 statistics, and so they use crime statistics very
23 inexpertly. They compare arrests -- they
24 compared the number of drug offences with the
25 number of let's say robbery offences. Well,
26 robbery offences are reported offences, and
27 there's every incentive for the victim to report
28 robbery, particularly if they're insured - well
29 there's substantial incentive. Drug offences --
30 nobody reports a drug offence. Those are drug
31 arrests. So that's exactly what [indiscernible].
32 And -- so, these are comparisons across countries
33 that do not provide useful information about
34 differences across countries. They mostly just
35 represent some amateurs, you know, struggling to
36 make sense of what's readily available to them.
37 And so that's one aspect of the way in which
38 international comparisons in these mutual
39 evaluation reports were quite misleading. And
40 I'm sure Mike has at least three to add to that.

41 PROF. LEVI: Yeah. Well, I have the misfortune of
42 being a member of the Crime Statistics Advisory
43 Committee in the UK.

44 But the -- Yes, I mean, there are plenty of
45 problems. There's a handbook of European crime
46 statistics which was never consulted by -- which
47 I don't have anything to do with. I'm not

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Peter Reuter (for the Commission)

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1 advertising myself -- which has never been
2 consulted as part of these processes. But it's
3 very difficult even within Europe. I mean, the
4 classic thing -- I mean, even the U.S., for
5 example, fraud is not part of the Uniform Crime
6 Reports, and so it's not a core part of what
7 every police force is required to report. And
8 the U.S. has been relatively slow in -- compared
9 to the UK and Canada -- in looking at the amount
10 of fraud, even in police statistics. And you
11 really have to look in some detail across --
12 across countries.

13 It's difficult to say how far things have
14 got better under the fourth round in this
15 respect. Our hopes and perhaps even expectations
16 were that people would be -- that the reports
17 would contain a lot more serious analysis of
18 crime patterns, at least domestically if not
19 comparisons. But that has happened quite
20 variably so far.

21 In Canada some of that data should be
22 available more readily, but I wouldn't be happy
23 about comparing Canadian stuff across. You might
24 think, well, why don't we just compare proceeds
25 of crime confiscated? That would appear to be an
26 interesting bit of data for anti-money
27 laundering. I think it's interesting, but
28 without understanding something about the civil
29 and administrative options and what tax
30 authorities do, that's an incomplete bit of data.
31 So, it's a bit of a patchwork.

32 Q In terms of the cross-national comparison then,
33 Dr. Reuter, you mentioned that we're still in the
34 third round and that's what's being looked at.
35 You mention in the article that it's the third
36 round that -- or it's the mutual evaluation
37 reports that are used in the Basel Index, which I
38 understand does a ranking of -- could one or both
39 of you comment on the utility of the Basel
40 Index rankings.

41 PROF. REUTER: Mike, you probably know it better than
42 I.

43 PROF. LEVI: I don't think they now only use the third
44 round. I've not been --

45 PROF. REUTER: No, I think they use the most recent
46 one, but for many countries the most recent one
47 is -- I mean, for example --

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Peter Reuter (for the Commission)

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1 PROF. LEVI: [indiscernible - overlapping speakers and
2 break in recording] Germany.

3 PROF. REUTER: Yeah.

4 PROF. LEVI: Germany is awaiting its fourth round,
5 being a classic example. Sorry, Peter. I cut
6 you off.

7 PROF. REUTER: I just -- I mean, exactly. I mean,
8 they'll use the fourth round when fourth-round
9 data becomes available, and the mutual evaluation
10 reports are a very important contributor of data
11 to the Basel Index. But then there are those
12 countries, like Germany, which -- they're still
13 only on the third round, which could be eight --
14 I mean, I think eight years old for Germany.

15 So, yeah, unless you believe that money
16 laundering is pretty stable, which would be an
17 odd assumption, that's not a persuasive way to
18 construct an index.

19 PROF. LEVI: Yeah. I mean, there are update reports
20 before different anti-money laundering bodies
21 where, for example, under the ICRG process,
22 countries, which Professor Gilmore may have
23 spoken about yesterday or the day before -- the -
24 - there are report-back mechanisms in all of --
25 not just for the FATF but for the FATF-style
26 bodies, which, if publicly -- yeah, if they ask
27 for an upgrade of public data. But I don't think
28 the Canadian data are public in that way. So, we
29 have patchy update data on different countries.
30 The Basel Index and the private bodies like
31 Refinitiv and LexisNexis, yeah, basically look at
32 the risk warnings, look at what everybody else is
33 risk rating. But you can easily get to a
34 situation where you have just a consensus of
35 raters without them necessarily looking
36 independently or rigorously at the fundamentals.
37 Some of the private bodies do have quite good
38 databases, their own internal databases, of cases
39 et cetera which they try and develop for risk
40 ratings. But there's quite a lot of conformity
41 in inter-rater reliability, which may or may not
42 be a good thing between the different raters.

43 Q Okay. I'd like to turn now, if we could, to
44 talking about the risk-based approach to money
45 laundering. And Dr. Reuter, this is heading
46 towards the National Risk Assessment, which I
47 think we won't get too far into before we break

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Peter Reuter (for the Commission)

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1 today. But perhaps just to begin, can you
2 describe what this approach entails and what are
3 its benefits and its shortcomings?
4 PROF. REUTER: Okay. So, to understand the risk-based
5 approach, you have to understand what the
6 alternative is, and the alternative is a rules-
7 based approach, not ever presented as RBA. But
8 the notion is that in the rules-based approach,
9 the regulator says, this is how you will assess
10 transactions and individuals for money laundering
11 risk. And so, it's a prescription of how you do
12 the AML.

13 Risk-based analysis -- a risk-based approach
14 says, we leave it to you, the financial
15 institution, to establish what is the best way of
16 implementing our desired goals. And so, it has
17 an air of treating financial institutions as
18 adults. It encourages innovation, because if you
19 have the rules-based approach, then these are the
20 rules. The risk-based approach allows banks to
21 experiment and see if there are better ways of
22 figuring out how to assess the risk associated
23 with an individual or a transaction.

24 So, the risk-based approach has a lot of
25 attractions. It has an interesting -- and the
26 risk-based approach is used in lots of other
27 aspects of bank regulation, prudential
28 regulation.

29 The thing that concerns me in particular
30 about the risk-based approach here is that the
31 bank -- the individual financial institution and
32 the regulator don't have the same incentives. If
33 you're talking about fraud, then a risk-based
34 approach is fine in that the -- both the bank and
35 the regulator want to minimize the extent of
36 fraud. And so, the bank is trying to accomplish
37 exactly what the regulator wants to accomplish.

38 With money laundering, it's hard to tell a
39 story in which the bank is injured by laundered
40 money. It can be injured if it is caught
41 laundering money. That's different. That
42 suggests that what they want to minimize is not
43 money laundering but the risk of being detected
44 at money laundering, which is not the same thing.
45 And we clearly know that there are many -- that
46 there have been a number -- perhaps one could
47 even say many -- major banks which have indeed

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Peter Reuter (for the Commission)

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1 chosen to launder knowingly, substantial amounts
2 of money.

3 So, the risk-based approach rests on an
4 assumption which I think -- and again, I'd ask
5 Mike to comment on this -- is never really made
6 explicit, that there's an alignment between the
7 goals of the bank and the goals of the regulator.
8 And this is, to me, a fundamental weakness in it.
9 And the risk-based approach has been part of the
10 FATF guidance since maybe 2004, 2003, something
11 like that. And the National Risk Assessments,
12 which we'll talk about on Monday, were really an
13 effort to sort of push countries to start taking
14 a risk-based approach seriously. And one of the
15 things that's fascinating is, this doesn't start
16 'til 2014. And so, the risk-based approach, I
17 think -- and again, for these purposes I'm not
18 enormously expert -- I think the risk-based
19 approach has not been much implemented, at least
20 until quite recently.

21 Does that -- does that answer your question?

22 PROF. LEVI: I think nobody has ever clarified
23 adequately what risk -- what the denominator of
24 risk is. If you -- basically, people found the
25 rules-based approach too inflexible, so they
26 thought that moving towards a risk-based approach
27 would mean they could focus on what was more
28 important. But you still got variations. For
29 example, the risk tolerance of terrorist finance
30 is zero, in practice. Yeah. Any bank knows that
31 if they are caught having helped to finance a
32 terror attack, then the risk-based approach would
33 just not be applied. It's actually an outcome-
34 based approach because there's very little
35 tolerance. Those things that are regarded as
36 particularly grievous, the appetite for risk is
37 much less. Maybe that's as it should be, but
38 it's not really that explicit. And so, an
39 overall risk-based approach to money laundering
40 as a whole is a bit of a puzzling averaging out
41 of lots of different components. But we don't
42 really know what the risk probabilities are in
43 the areas -- in some areas that I work in -- for
44 example, bankruptcy, payment card fraud -- we
45 know what -- the data are quite good so you could
46 work out what a risk-based approach would look
47 like. It's harder to work out a risk-based

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Peter Reuter (for the Commission)

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1 approach to bankruptcy fraud, but it is a bad
2 debt, because you've got to make an extra
3 determination of intent or recklessness in the
4 behaviour, and there has to be quite a lot of
5 financial investigation into what caused the
6 loss. But in many areas -- for example, drugs,
7 human -- modern slavery, human trafficking, et
8 cetera -- those kinds of questions are not really
9 answerable in a statistical way very easily, so
10 it's not clear what a risk-based approach -- or
11 at least it shouldn't be clear what a risk-based
12 approach should be aiming at and what data you'd
13 need, because we just don't have enough good data
14 on the social bads and the relationship of those
15 to finance, to be able to do that properly.

16 Q You mention in the article that one of the costs
17 of a risk-based approach is that you need to
18 spend resources to determine what the risks are,
19 and I guess the point you're making here, if I
20 paraphrase, is that even if you spend the
21 resources, you might not be able to determine the
22 risks. Is that what you're saying?

23 PROF. REUTER: I mean -- I think actually we weren't
24 clear enough about that. But yes, I --

25 PROF. LEVI: Yeah.

26 PROF. REUTER: I mean, since writing that article,
27 I've spent a fair amount of time thinking about
28 the risk assessment and have thought myself into
29 a total muddle. I just don't see how you can do
30 this in a systematic -- how a financial
31 institution can in a systematic way truly assess
32 the risks of specific predicate offence -- I
33 can't think of a way in which they can
34 systematically assess the risk that a transaction
35 is a money laundering transaction.

36 Q And maybe it's that -- well, you'll tell me, but
37 I take it from your article that the guidance of
38 the FATF has provided is -- it's lengthy, was my
39 sense, but not prescriptive.

40 PROF. LEVI: That's right.

41 PROF. REUTER: That's right. So, I mean, what's
42 interesting about that is, FATF is usually very
43 prescriptive. I mean, it tells you for the
44 mutual evaluation reports -- there are pages of
45 exactly how you're supposed to do this and so on.
46 And with the National Risk Assessments, the
47 methodology document in some ways -- I mean, I

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Peter Reuter (for the Commission)

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1 think it's very sensible in that it does not try
2 to prescribe, because risk assessment is so hard
3 to do. But then you know, -- to preview what
4 I'll say on Monday, what that means is every
5 country sort of goes about it its own way, and
6 there isn't good guidance. It's not clear --
7 it's not clear what is the right -- the best way
8 of doing this. [indiscernible] it's good that
9 lots of countries have tried different ways --
10 and I'll get back to why that isn't the right way
11 of thinking about the experience we've had. But
12 you are correct that FATF has not tried to lay
13 out, in the way it does with so much else, what
14 the risk-based approach -- how the risk-based
15 approach should be implemented.

16 PROF. LEVI: Yeah. And to add to what was said, some
17 banks do a lot of really sophisticated work to
18 try and work out what behaviours are risky and
19 what others, but -- I'll leave some of the
20 comments for Monday. But it's just a very, very
21 difficult thing to do because the bank doesn't
22 really know -- and very often what the predicate
23 crime is or what -- whether the money was really
24 going to be used for crime. So, there's a limit,
25 even if you put a lot effort into it, to what you
26 can -- to what you can learn. And there are, you
27 know, big differences between financial
28 institutions. And it's also hard for a -- if we
29 move to the professions, for the lawyers and for
30 others to work out, what kind of crime are we
31 dealing with here? What is the probability that
32 this -- if we take this money or if we allow this
33 transaction, that it will lead to crime? And
34 very often, the way that is worked out is, well,
35 you might ask the police or the Financial
36 Intelligence Unit for a view about whether you
37 should allow this transaction to happen or not.
38 And what they may do is just to run this across
39 their other databases if there's nothing there,
40 and they may say, well, we don't have any reason
41 to stop it. But that too depends on the
42 jurisdiction. The UK has changed in that respect
43 in 2017. But I won't trouble you with those
44 details today.

45 Q In this article you look at the published
46 National Risk Assessments of five countries, and
47 those were Canada and Japan and Singapore, the UK

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Peter Reuter (for the Commission)

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1 and the U.S. And more recently, Professor
2 Reuter, you've analyzed the National Risk
3 Assessments of eight countries, that includes
4 those original five and also Italy, -- also
5 Italy, the Netherlands and Switzerland. And I'm
6 wondering how it was that you determined those
7 were the countries to study.

8 PROF. REUTER: Oh, quite arbitrary. I mean, these are
9 eight systemically important countries for which
10 English language National Risk Assessments were
11 available. I don't know if the French have
12 published -- but being French, they've no doubt
13 published in French as a matter of Gallic pride.

14 And I'm not sure that we had a lot of other
15 systemically -- I'm not sure there were a lot of
16 other published National Risk Assessments from
17 systemically important countries. Many countries
18 have done National Risk Assessments under the
19 auspices of the World Bank. They don't publish
20 them. And other countries have not -- other
21 countries have not done an NRA yet, et cetera.

22 So, it was -- these seemed like eight -- we
23 chose eight that we thought would be the leading
24 edge. In fact, I think Serbia, oddly enough, has
25 done something quite innovative. They hired a
26 consulting company and used more sophisticated
27 methods, but Serbia didn't seem as though it
28 would be useful in terms of providing a model for
29 other rich countries, and that was what we were
30 primarily interested in since money laundering is
31 primarily a rich country issue.

32 MS. LATIMER: Maybe just with my last five minutes
33 here, what I'm going to do, Mr. Commissioner, is
34 I'm going to read the titles of the other
35 National Risk Assessments. There are nine of
36 them. And then I'm going to ask Professor Reuter
37 if these are indeed the National Risk Assessments
38 that underlie his article. And assuming I get a
39 positive response to that, I will be seeking to
40 have those made exhibits.

41 Q So first it's the 2014 "Italy - Financial
42 Security Committee - National Analysis of the
43 Risks of Money Laundering and Terrorist
44 Financing."

45 Second, the 2014 "Japan - National Risk
46 Assessment of Money Laundering and Terrorist
47 Financing."

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Peter Reuter (for the Commission)

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1 Third, it's the 2017 "Japan - National Risk
2 Assessment of Money Laundering and Terrorist
3 Financing."

4 Fourth, it's the 2017 "Netherlands -
5 National Risk Assessment of Money Laundering for
6 the Netherlands."

7 Next is the 2013 "Singapore National Money
8 Laundering and Terrorist Financing Risk
9 Assessment Report."

10 Next is the 2015 "Report on the National
11 Evaluation of Risks of Money Laundering and
12 Terrorist Financing in Switzerland."

13 Also, the 2015 "UK National Risk Assessment
14 of Money Laundering and Terrorist Financing."

15 And then the 2015 "United States National
16 Money Laundering Risk Assessment."

17 And then the 2018 "United States National
18 Money Laundering Risk Assessment."

19 And Professor Reuter, those are the National
20 Risk Assessments, as well as Canada's, that
21 underlie your more recent research; is that
22 correct?

23 PROF. REUTER: Yes. I'm trying to remember -- so you
24 have two for the --

25 PROF. LEVI: Only one for the UK.

26 PROF. REUTER: Yeah. You had two for the UK, right?

27 Q One for the UK --

28 PROF. LEVI: No, I think she --

29 Q -- two for the U.S., two for Japan --

30 PROF. REUTER: There should be two for the UK as well,
31 2015 and 2017? Is that right, or was it 2017 and
32 '19? Mike, do you remember?

33 PROF. LEVI: It wasn't '19. 2018? Yeah. 2017.

34 [indiscernible - overlapping speakers]

35 PROF. LEVI: -- for the FATF.

36 PROF. REUTER: Right. Could I suggest, I will look to
37 see if -- I will check -- I will look at your --
38 I'll look at this online, and if there are any
39 others, I will email you their titles. There may
40 be one or two others -- other countries which had
41 a second risk assessment that might be missing
42 off that list.

43 MS. LATIMER:

44 Q Okay. I'm going to ask, if these are nine of the
45 National Risk Assessments --

46 PROF. REUTER: They certainly -- they are nine of the
47 National Risk Assessments we used.

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Peter Reuter (for the Commission)

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1 MS. LATIMER: Okay. I'll ask, then, for today, for
2 right now, Mr. Commissioner, if we could have
3 those marked as the next nine exhibits, and with
4 an asterisk that there might be one more coming
5 tomorrow.

6 THE COMMISSIONER: Right. So, Exhibit 27 will be
7 Italy.

8 MS. LATIMER: Yes.

9

10 EXHIBIT 27: Italy - Financial Security
11 Committee - National Analysis of the risks
12 of money laundering and terrorist financing
13 (2014)
14

15 THE COMMISSIONER: Exhibit 28 will be Japan, the first
16 of the two Japan National Risk Assessments.

17

18 EXHIBIT 28: Japan - National Risk
19 Assessment of Money Laundering and Terrorist
20 Financing (2014)
21

22 THE COMMISSIONER: Twenty-nine will be the 2017 Japan
23 National Risk Assessment.

24

25 EXHIBIT 29: Japan - National Risk
26 Assessment of Money Laundering and Terrorist
27 Financing (2017)
28

29 THE COMMISSIONER: Thirty will be the Netherlands.

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31 EXHIBIT 30: Netherlands National Risk
32 Assessment of Money Laundering for the
33 Netherlands (2017)
34

35 THE COMMISSIONER: Thirty-one will be Singapore.

36

37 EXHIBIT 31: Singapore National Money
38 Laundering and Terrorist Financing Risk
39 Assessment Report (2013)
40

41 THE COMMISSIONER: Thirty-two will be Switzerland.

42

43 EXHIBIT 32: Report on the National
44 Evaluation of Risks of Money Laundering and
45 Terrorist Financing in Switzerland (2015)
46

47 THE COMMISSIONER: Thirty-three will be the United

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1 Kingdom.

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EXHIBIT 33: UK National Risk Assessment of
Money Laundering and Terrorist Financing
(2015)

THE COMMISSIONER: Thirty-four will be the first U.S.
National Risk Assessment.

EXHIBIT 34: United States National Money
Laundering Risk Assessment (2015)

THE COMMISSIONER: And 35 will be the second.

EXHIBIT 35: United States National Money
Laundering Risk Assessment (2018)

MS. LATIMER: Yes.

THE REGISTRAR: So, Exhibit 27 to 35.

THE COMMISSIONER: Yes.

THE REGISTRAR: Thank you.

PROF. LEVI: Can I just add, I'm sure the UK's ones
were 2015 and 2017.

THE COMMISSIONER: Thank you. So, we're missing, I
think, the one from 2017.

PROF. REUTER: Okay. That may be the one that's
missing. I'll check.

THE COMMISSIONER: All right. Thank you, then. I
think that takes us to the conclusion of today's
proceedings. So, thank you both, Dr. Reuter and
Dr. Levi. We will adjourn now until Monday
morning at 9:30 a.m. to resume with your
evidence. Is there anything further that needs
to be dealt with, either Ms. Latimer or Mr.
Martland?

MS. LATIMER: No, thank you.

THE COMMISSIONER: All right, thank you. We will
adjourn, then.

(WITNESSES STOOD DOWN)

THE REGISTRAR: The hearing is now adjourned for the
day and will recommence at 9:30 a.m. on June 8th,
2020. Thank you.

(PROCEEDINGS ADJOURNED TO JUNE 8, 2020, AT
9:30 A.M.)