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## **Standing Committee on Finance**

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**EVIDENCE**

**Monday, February 26, 2018**

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**Chair**

**The Honourable Wayne Easter**



## Standing Committee on Finance

Monday, February 26, 2018

• (1535)

[English]

**The Chair (Hon. Wayne Easter (Malpeque, Lib.)):** I call the meeting to order. The committee will continue its five-year statutory review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

We have our witnesses, who I think want to go in a different order than what is on our agenda.

Mr. Kmiec, you had a point of order first? Go ahead.

**Mr. Tom Kmiec (Calgary Shepard, CPC):** Thank you, Mr. Chair.

Just before we continue this study, I want to give notice that I am tabling the following motion, and I have it here in both French and English.

May I continue, Mr. Chair? I'm just giving notice.

**The Chair:** You can't table a motion on a point of order, but if you want to give notice of the tabling, that's fine.

**Mr. Tom Kmiec:** That's fine?

Actually, I do have a separate point of order related to a previous meeting, the past meeting, so if you would let me get there. My motion reads:

That pursuant to Standing Order 108(2), the Committee undertake a study of the new mortgage rules introduced January 1, 2018, by the Office of the Superintendent of Financial Institutions, and report to the House on:

- (a) The impact of these new mortgage rules on first-time home buyers, young families, single-parent families, new Canadians, and segments of the population who are traditionally under-represented in the real estate market;
- (b) The impact of these new mortgage rules on Canadians holding high-ratio mortgages and unconventional mortgages;
- (c) The anticipated regional economic effects of these new mortgage rules, acknowledging the disparities between the various real estate markets in Canada;
- (d) The impact of these new mortgage rules on homeowners at the time of mortgage renewal or requalification;
- (e) The overall effectiveness of utilizing federal financial regulatory mechanisms to address housing affordability when provincial and municipal policy tools are considered.

That the Committee begin this study of the new mortgage rules as soon as the current Statutory Review of the Proceeds of Crime and Terrorist Financing Act study is completed and its report is tabled in the House;

And that the Committee report to the House no later than June 18, 2018, providing in its report, the impacts, effectiveness, and scope of the said new mortgage rules and shall include recommendations regarding the effectiveness of federal mortgage-related policies to be considered by the Office of the Superintendent of Financial Institutions and the federal government-at-large.

**The Chair:** This will be considered as 48 hours' notice, Mr. Kmiec. It will be distributed to committee and it can be moved after the 48 hours is up.

Okay.

**Mr. Tom Kmiec:** Now to my point of order on something that happened in a previous meeting....

**The Chair:** I can't deny you a point of order, so the floor is yours.

**Mr. Tom Kmiec:** Thank you, Mr. Chair. You're so kind.

At meeting number 133 on February 14, I asked two questions of Jamie Bell, executive director, international crime and terrorism from the Department of Foreign Affairs, Trade and Development. I remember his being given notice that by this Wednesday we should receive an answer to my questions.

I'm just wondering whether the committee has received an answer. If not, has notice been given that the committee should receive an answer by Wednesday?

**The Chair:** Yes, I think I remember the intervention, and I think I told Global Affairs it was a fair question. I'm told we'll receive the answer on Wednesday.

**Mr. Tom Kmiec:** Thank you, Mr. Chair.

**The Chair:** Mr. Dusseault.

**Mr. Pierre-Luc Dusseault (Sherbrooke, NDP):** On the same point, can you just also check with the Minister of Finance? His department should also be giving the committee some information about the tax treaty with Barbados. He also committed a while ago to doing this, before Christmas, so perhaps you could follow up with the minister.

**The Chair:** Okay, we'll follow up with him on that as well.

We'll go back to our witnesses.

We will start with the Department of Public Safety and Emergency Preparedness. We have Mr. Bhupsingh, the director general of the law enforcement and border strategies directorate.

The floor is yours, Trevor.

**Mr. Trevor Bhupsingh (Director General, Law Enforcement and Border Strategies Directorate, Department of Public Safety and Emergency Preparedness):** Thank you, Mr. Chair. It's a pleasure to appear before the committee as you review the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

My name is Trevor Bhupsingh, and I'm the director general of law enforcement and borders at Public Safety Canada.

With me today is my colleague, John Davies, the director general of the national security policy directorate.

[Translation]

I want to thank the committee for inviting the Department of Public Safety and Emergency Preparedness, the Royal Canadian Mounted Police, or RCMP, the Canadian Security Intelligence Service, or CSIS, and the Canada Border Services Agency, or CBSA, today. Each has an important role to play in Canada's anti-money laundering and terrorist financing regime.

You will recall that a few weeks ago, representatives from the Department of Finance provided this committee with an overview of the regime and the balance it tries to achieve between protecting privacy rights, minimizing the administrative burden, and combating money laundering and terrorist financing. The committee has already noted the information and intelligence essential to the country's national security.

[English]

The RCMP, CSIS, and CBSA are key to the enforcement of the regime. Effective portfolio coordination means working together to ensure that common priorities are established and addressed, and that the regime integrates the perspectives of our portfolio organizations, because they are on the front lines of detecting, deterring, and disrupting money laundering and terrorist financing in Canada. The Royal Canadian Mounted Police is responsible for investigating money laundering and terrorist financing cases, laying charges, making arrests, and seizing funds or confiscating assets. The Canada Border Services Agency is responsible for the administration and enforcement of the cross-border movement of currency or monetary instruments valued at \$10,000 or more. The Canadian Security Intelligence Service has a mandate to collect, analyze, and report to the Government of Canada information and intelligence concerning threats to Canada's national security.

The department and each organization contribute to the advisory committee on money laundering and terrorist financing. The proposals brought forward by the portfolio are summarized in the position paper made public by the Department of Finance last February 7 in support of the work of this committee and toward the improvement of Canada's regime.

• (1540)

[Translation]

The second role played by Public Safety Canada in the regime is to contribute to the policy development efforts led by the Department of Finance. This takes many forms and is integrated in the department's core mandate. It is where we would leverage information, research, and analysis to provide evidence-based advice that will assist the Department of Finance in its lead role.

[English]

In addition, Public Safety supports the Minister of Public Safety's statutory responsibilities to recommend terrorist entities to be listed, pursuant to the Criminal Code. The listing regime is an important element of Canada's efforts to combat terrorist financing, as it allows

for the freezing and possible seizure, restraint, and forfeiture of assets of a listed entity. It also sets out severe penalties for persons and organizations that deal in the property or finances of a listed entity.

Mr. Chair, thank you for the opportunity to address the committee. We're happy to answer your questions.

**The Chair:** Thank you, Trevor.

We'll turn to the Canadian Security Intelligence Service, and Ms. Henderson, director general, policy and foreign relations.

The floor is yours.

**Ms. Cherie Henderson (Director General, Policy and Foreign Relations, Canadian Security Intelligence Service):** Good afternoon.

First, I'd like to thank the committee for inviting me to appear before you today. It is an honour to be here representing the 3,000 women and men of the Canadian Security Intelligence Service, who work diligently every day to keep Canada safe. I want to take this opportunity to thank the committee for taking an interest in what we do.

I am the director general of policy and foreign relations at CSIS, and I am responsible for the strategic policy issues that impact our organization, our corporate policy framework, and our foreign partnerships. It is my pleasure to speak to you about CSIS's role in the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, in which we are named as the recipient of threat-related information.

The service's mandate is clear. We collect information and intelligence and analyze it, and provide advice to the Government of Canada on threats to national security. These threats include espionage, foreign interference, and terrorism and, by extension, terrorist financing.

When CSIS investigates terrorist activity, financial intelligence can play a role in establishing an individual's capability and intent, as well as providing leads for further investigation. Financial intelligence can also aid in detecting domestic attack planning, or plans for overseas travel in support of terrorism. Current CSIS research on mobilization to violence has identified that financial preparations can be a key indicator that an individual is on the path to violence. Unusual spending patterns related to travel, in conjunction with other intelligence, can provide critical leads in an investigation.

Investigating terrorist financing is very much a collaborative effort. Our intelligence assessments are shared with appropriate partners within the Government of Canada as part of the work to keep Canadians safe. CSIS shares information with partners, including FINTRAC, the RCMP, and CBSA. We share information in support of our partners' investigations and mandated activities.

In the area of financial intelligence, FINTRAC is a key partner for CSIS. FINTRAC proactively provides the service with raw financial intelligence when it has reasonable grounds to suspect that the intelligence relates to our mandate. We are also able to request information in support of specific investigations.

Privacy and the protection of information is something we take very seriously. CSIS is bound by Canadian law, including the Privacy Act, ministerial directives, and a robust set of internal policies. At CSIS, we recognize the important responsibility that we have in keeping Canadians safe. The men and women of CSIS do so proudly every day.

With that, I'll conclude my remarks, and I welcome any questions.

**The Chair:** Thank you very much.

We turn now to the RCMP and Joanne Crampton, assistant commissioner, federal policing criminal operations.

• (1545)

**Assistant Commissioner Joanne Crampton (Assistant Commissioner, Federal Policing Criminal Operations, Royal Canadian Mounted Police):** Thank you, Mr. Chair.

It's my pleasure to appear before the committee as part of its review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

As part of our mandate to protect Canada's economic integrity, financial crime has long been a federal policing priority for the RCMP. As such, the RCMP, working in close collaboration with its Government of Canada partners, plays a fundamental role in Canada's anti-money laundering, anti-terrorist financing regime.

In support of its strategic priority on economic integrity, the RCMP works within the regime to prevent, detect, and disrupt crimes that threaten Canada's economy and security, including those involving money laundering and terrorist financing in Canada. In addition, the RCMP works with law enforcement agencies in an international capacity pursuing these types of investigations.

As a funded partner in Canada's anti-money laundering and anti-terrorist financing regime, which is a horizontal initiative led by Finance Canada, the RCMP receives funding to support its mandate within the regime. The planned spending under the horizontal initiative for fiscal year 2016-17 was \$11,219,387, all of which was spent in support of the stated objectives of the regime.

The initiatives the RCMP undertakes with respect to money laundering and terrorist financing are dynamic. They are multi-jurisdictional and multi-faceted in nature, and the complexity leads to investigations that can take several months or even years to complete. For example, in 2014, a coordinated effort by the RCMP and Government of Canada partners led to the successful listing of the International Relief Fund for the Afflicted and Needy, or IRFAN, as a terrorist entity, pursuant to section 83.05 of the Criminal Code. By the time it was listed, IRFAN had transferred funds and resources valued at approximately \$14.6 million to a number of organizations with links to Hamas, another listed terrorist entity. Listing IRFAN put an immediate stop to these transfers and empowered the RCMP to seize and restrain associated property, including vehicles, trailers, and office equipment.

Further to terrorist financing, over the past several years the RCMP has taken on a number of money laundering and proceeds of crime investigations in which a common theme has been revealed from the gathering of evidence for complex offences. Project FERODE was an investigation into an alleged fraud, drug offences, and associations to organized crime. The suspect had received up to \$15 million from 20 investors and had attempted to secure an additional \$10 million from Nexus Investments in Vancouver. On January 15, 2014, an individual was arrested on 15 charges, including fraud over \$5,000, identity theft, forgery, possession of property attained by crime, and laundering the proceeds of crime. However, only \$20,000 of assets was restrained and forfeited, and only an additional \$8,000 was forfeited through the provinces' civil forfeiture programs.

The RCMP has had a great deal of success investigating criminal activity linked to organized crime. However, for a myriad of reasons, the RCMP has been hindered by challenges stemming from Canada's anti-money laundering, anti-terrorism finance regime. In other words, while the predicate offence can be straightforward in terms of its investigation and prosecution, due to time constraints, resource limitations, and the efficacy of prosecuting certain charges over others in these dynamic and complex cases, following through on proceeds of crime or money laundering charges is often not tenable.

These concluded cases demonstrate the particular challenges the RCMP continues to encounter when investigating proceeds of crime, money laundering, and terrorist financing. These challenges have led to somewhat inconsistent results, such as successful investigations on the predicate offence, but a limited capacity to effectively and thoroughly investigate and prosecute the related money laundering and proceeds of crime offences.

Based in part on these types of cases and the inherent obstacles, the challenges have been captured in more detail in the consultation paper published on Finance Canada's web page. Specifically, these challenges include finding effective means of sharing vital money laundering information while respecting the privacy rights of Canadians; the exclusion of lawyers and Quebec public notaries from the Proceeds of Crime (Money Laundering) and Terrorist Financing Act; a lack of transparency around beneficial ownership information; the increased use by criminal organizations of professional money launderers who have a tenuous link to any predicate offence; and a lack of specialized resources and training for investigators to undertake money laundering cases, which are often very complex in nature.

• (1550)

Addressing these challenges as part of the parliamentary review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act could assist the RCMP in achieving greater results.

I'd be happy to respond to any questions you may have on the role the RCMP has within this regime.

Thank you.

**The Chair:** Thank you very much, Joanne.

Turning now to the Canada Border Services Agency, Mr. Aubertin-Giguère is the director general of the traveller program directorate.

[Translation]

**Mr. Sébastien Aubertin-Giguère (Director General, Traveller Program Directorate, Canada Border Services Agency):** Good afternoon, Mr. Chair and members of the committee.

Similar to the other witnesses, I would like to begin my remarks by outlining the role and responsibilities of the Canada Border Services Agency under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, or PCMLTFA for short.

[English]

As you are aware, the act was introduced to remedy shortcomings in Canada's anti-money laundering legislation. It put in place specific measures to combat money laundering, including the requirement to report to FINTRAC cross-border movements of currency and monetary instruments equal to or greater than the prescribed amounts. The scope of the act was later extended, in 2001, to include new measures under Bill C-36.

The CBSA is responsible for the administration and enforcement of part 2 of the act, which requires every person or entity to report to a CBSA officer the importation or exportation of currency and monetary instruments valued at \$10,000 Canadian or greater. These reporting requirements encompass all inbound and outbound modes of travel, including air, highway, postal, and marine, in both the traveller and commercial processing streams.

The agency has a two-pronged mandate. The first one is to facilitate the voluntary compliance of currency and monetary instruments reporting. The second one is to identify and carry out enforcement on potential money laundering or terrorist financing-related funds at border crossings.

The CBSA collects cross-border currency reports on behalf of FINTRAC from travellers and commercial entities based on reporting that occurs at all ports of entry. Officers may help travellers and businesses comply with the reporting requirements of the act and the associated regulations. The completed reports are sent to FINTRAC.

The CBSA also has the authority to search and seize non-reported currency and monetary instruments greater than \$10,000 Canadian or equivalent. We continue to seize a significant amount of suspect currency and monetary instruments from travellers and entities. Information related to currency seizures is also transmitted to FINTRAC, which is responsible for the analysis of the reports.

[Translation]

The act also requires the CBSA to disclose information to the appropriate police force, usually the RCMP, when there are reasonable grounds to suspect that the seizure information would be relevant to investigating or prosecuting a money laundering or terrorist financing offence. In situations where the CBSA has seized currency under the PCMLTFA, but it is deemed required for use in criminal proceedings, custody of the evidence is transferred from the CBSA to the RCMP. When the seized funds are no longer required for the criminal process, the currency or monetary instruments are returned to the CBSA to be remitted to the Receiver General of Canada.

However, in most cases, where seized currency is not suspected to be from the proceeds of crime or financing for terrorist activities, the currency is returned to the person from whom it was seized once the penalty is paid. Penalties range from \$250 to \$5,000. All seizures are subject to appeal to the Minister of Public Safety and Emergency Preparedness and, ultimately, to the Federal Court of Canada.

[English]

The CBSA employs a range of detection tools to find currency. We use X-ray mobile units; fibrescopes, or flexible cameras; density meters; and detector dogs. We also have at our disposal a wide range of other technologies and training to assist in the non-intrusive examination of travellers at the border. Since the start of the cross-border currency reporting program in 2003, we've made about a half-million import and export reports that have been received by the CBSA and then forwarded to FINTRAC. Enforcement of the legislation by the agency to date has resulted in over 26,000 enforcement actions involving more than \$530 million.

• (1555)

[Translation]

In closing Mr. Chair, we believe that the implementation of the cross-border currency program has successfully contributed to the international fight against transborder crime, specifically money laundering and terrorist financing. As a direct result of the program, more than \$80 million in suspect proceeds of crime were forfeited and thus taken out of circulation.

I would be happy to answer any questions the committee may have.

Thank you.

[English]

**The Chair:** Thank you, all.

Starting our first round, we have Mr. Grewal.

**Mr. Raj Grewal (Brampton East, Lib.):** Thank you, Mr. Chair.

Thank you to the witnesses for coming today. It is much appreciated.

My first question is for the RCMP. You spoke about the hindrances to getting convictions on anti-money laundering and anti-terrorism charges. Can you speak a little bit more to that?

**A/Commr Joanne Crampton:** It is not as much hindrances to convictions, but hindrances to the investigations themselves. They're very complex and multi-layered, and as I mentioned, there is a list of different items that hinder our investigations, such as a lack of beneficial ownership. I can certainly go through that if that would be helpful. There is also the problem of professional money launderers, who make things very difficult when they try to separate themselves from the predicate offence. It creates complexities for the investigation.

**Mr. Raj Grewal:** How many convictions a year do we have on money laundering and anti-terrorism funding charges?

**A/Commr Joanne Crampton:** I wouldn't have an answer for that overall. Obviously it would change from year to year.

Currently we have 53 investigations outstanding, either in the court system or in the process of being investigated, but I wouldn't be able to say how many are concluded each year.

**Mr. Raj Grewal:** But is that data kept somewhere?

**A/Commr Joanne Crampton:** It would be. Recognizing that an investigation may take many years, it might start in one year, but it wouldn't conclude until two or three years later. That's possible, or it could also conclude the same year.

**Mr. Raj Grewal:** I read in the paper today that the U.S. Treasury Department is looking into a regulation on cryptocurrencies. Cryptocurrencies are very, very popular across the world, and they're known for money laundering.

Do any of the witnesses have any expertise on Canada's position on cryptocurrencies and recommendations for the government?

**Mr. John Davies (Director General, National Security Policy, Department of Public Safety and Emergency Preparedness):** I think in their background paper, the Department of Finance refers to cryptocurrency as a potential issue for the future. I think the department also mentioned that it is working on regulations in that regard, but that question would be best directed to the Department of Finance.

**Mr. Raj Grewal:** So there are no ongoing investigations by any of your departments that would involve cryptocurrencies.

**Mr. John Davies:** I would say, just from Public Safety's point of view, no, we don't do investigations, anyway. As a policy issue, obviously, it's an interesting issue—not just cryptocurrencies, but the underlying technology, like blockchain technology. What that means in this world is absolutely something of interest.

**Mr. Raj Grewal:** To CBSA, the \$10,000 limit was set decades ago. What is the rationale for keeping it at that? Why not increase it; why not decrease it? Cash is in short circulation these days. What is your thought process on why it's still there?

**Mr. Sébastien Aubertin-Giguère:** This announcement is set by the Department of Finance. We only enforce this prescribed amount, so we don't have a clear position on this one. It would be up to the Department of Finance to respond to that.

**Mr. Raj Grewal:** You mentioned that \$85 million is collected by the CBSA each year. Is that correct?

**Mr. Sébastien Aubertin-Giguère:** No, I said that the overall amount of money that we took out of circulation as identified as proceeds of crime over the entire life of the program is \$80 million.

**Mr. Raj Grewal:** Sorry, over the entire life of the program it was \$80 million?

**Mr. Sébastien Aubertin-Giguère:** Yes.

**Mr. Raj Grewal:** How much is that on a year-to-year basis?

**Mr. Sébastien Aubertin-Giguère:** Year to year, level 4, for example, if you take this fiscal year, there were 89 seizures, and that would be \$2.7 million.

**Mr. Raj Grewal:** That is \$2.7 million.

**Mr. Sébastien Aubertin-Giguère:** On average we're talking about \$2.7 million, yes.

• (1600)

**Mr. Raj Grewal:** I'm assuming that all of you guys in all your departments deal with FINTRAC quite a bit. How is the data collection by FINTRAC? Is it easily accessible when they're submitting data to you guys? Can you guys slice and dice it the way you need to, or are there shortcomings that we could improve on the FINTRAC side?

**Mr. Sébastien Aubertin-Giguère:** We don't receive much information from FINTRAC. That's not the mandate. Our mandate is to collect and give that information to FINTRAC, which analyzes it and sends it to the other agencies, such as the RCMP. We're not a consumer.

We do receive some disclosures on particular cases, and that's a new process, but overall, we're not a user of the intelligence.

**The Chair:** If anyone else wants to add to that answer, just raise your hand, and I'll catch you.

Joanne.

**A/Commr Joanne Crampton:** Certainly with regard to FINTRAC, we do receive a significant amount of information from them, and we have no issues with the type of information we're receiving. If we ever need clarification, we have a very good partnership with FINTRAC.

**The Chair:** Cherie.

**Ms. Cherie Henderson:** We also have a very good partnership with FINTRAC. We do work with them very closely so that they understand the type of information we need and they can provide what will help us further our investigations. It's a very positive relationship.

**Mr. Raj Grewal:** Are there scenarios in which CSIS would pass on information to the RCMP and charges would not be laid?

**Ms. Cherie Henderson:** Well, we would certainly pass on any lead information we have to the RCMP, to help them facilitate their investigations.

**The Chair:** Go ahead.

**A/Commr Joanne Crampton:** Mr. Chair, if I may, it's certainly possible that there would be cases in which we would receive information and charges would not be laid. That's correct.

**Mr. Raj Grewal:** Joanne, in your professional opinion, how big is money laundering and terrorism financing in Canada? Is it a problem?

**A/Commr Joanne Crampton:** Money laundering is certainly a significant issue. It's a risk to our economy. It's a risk internally across Canada for investors, as well as externally. When we look at foreign partners and foreign investment in Canada, money laundering is certainly a risk, in that it's taking away from legitimate business.

**Mr. Raj Grewal:** Trevor, as background I watched a documentary on Netflix called *Dirty Money*, in which HSBC was a big player. It's well documented that they were seen as a safe haven by criminals all around the world to launder their money.

In terms of the regulatory system in Canada, how do we ensure that the big five at least, or schedule I banks in this country, have accurate regulations to make sure that we know they're not partaking in these kinds of initiatives?

**Mr. Trevor Bhupsingh:** Unfortunately, it's out of my realm of professionalism to answer that. It's really a question for the Department of Finance to answer about the regulatory system and the management of the banking system.

**Mr. Raj Grewal:** Thank you.

**The Chair:** I can see one difficulty we're going to have as a committee on this issue.

We have the discussion paper. You folks have had experience in the field. If you have any recommendations—and I know the whole group got together and put your points in a discussion paper—if you have anything specific you think we should be looking at to make the system better, then lay it on the table.

Whether we can do it or not, given privacy concerns and all the other angles, we don't know. We are looking for specifics on what we can do to better deal with money laundering and terrorism financing.

Mr. Kelly.

**Mr. Pat Kelly (Calgary Rocky Ridge, CPC):** Thank you, Mr. Chair.

To Ms. Crampton, in your presentation you said a number of things that sounded quite disappointingly familiar to me from my career in the mortgage industry, where in cases of fraud, the difficulty of prosecution, the lack of resources—these kinds of things—have been cited by law enforcement, prosecution offices, and indeed industry as reasons that fraud is not prosecuted in Canada in many cases. I would like you to perhaps carry on and give us a little bit more detail about the barriers to being able to investigate and obtain convictions in fraud.

To Mr. Grewal's question, 53 sounds like a shockingly low number of active, open fraud investigations for a country the size of Canada, where I understand that perhaps as much as 50% or more of all the proceeds of crime is laundered through real estate transactions. That figure is from a perhaps dated study, but it is information that I had learned in my career. Could you expand on the barriers to getting prosecutions and being able to obtain convictions?

• (1605)

**A/Commr Joanne Crampton:** Certainly.

With regard to my comment on the number of files, I should have prefaced my remarks by saying that the number I cited is strictly within federal policing by the RCMP. It doesn't include investigations that have started outside of federal policing, with a municipal agency or any other area. Those are very high-level files as well. They are tier 1 and tier 2 files, as we call them, which is a ranking system we have within the RCMP for the complexity and level of sophistication of the file. Although it sounds low, that's likely a small piece of what is actually being investigated across Canada.

I would say the point we see as most important would be the exclusion of lawyers and Quebec notaries from the act. It's a gap that we see within the system. Certainly professional money launderers, as I mentioned, have to be linked to the predicate offence, and that's what a professional money launderer will try their best not to be. They will try to be separate from that predicate offence, which makes it very difficult to investigate and difficult to prove.

**Mr. Pat Kelly:** Is there a specific legislative change you can recommend to address that?

**A/Commr Joanne Crampton:** It would be adding a provision for recklessness, for example, that shows that someone knowingly was investing without asking questions, without finding out why they were doing the investing, where they were moving the money to, so that it doesn't have to be linked to that predicate offence. There is other legislation in the U.K. and in the United States that models that type of legislation where you're not linked to the predicate.

**Mr. Pat Kelly:** Enforcement agencies probably try not to have to say it publicly too loudly, but certainly privately can say they have difficulty obtaining the co-operation of financial institutions. Is that part of your experience at the RCMP?

**A/Commr Joanne Crampton:** I can't say I would necessarily agree with that comment. We have a very good working relationship with the banks. We have a very strong partnership with them. We have working groups that involve the major banks. No, I wouldn't say that's an issue.

**Mr. Pat Kelly:** It's perhaps not so much that they wouldn't co-operate with you if you initiated an investigation, but being reluctant to be forthcoming to report when they, themselves, have been victims of fraud or participation in a money laundering transaction.

**A/Commr Joanne Crampton:** They certainly have their own investigative teams. I'm not aware of what the threshold would be for them to report to the police based on what their own investigative teams would be looking at. I'm guessing they do have a threshold, but I wouldn't know.

**Mr. Pat Kelly:** You mention in your remarks a lack of specialized skill and dedication of resources. How will that be addressed? The specialization and the skills are things I've heard about for many years as a complaint from law enforcement. Can we not get to the point where correct training and correct expertise is obtained?

**A/Commr Joanne Crampton:** I think we're doing very well in that area. Working with our partners over the last year, in particular in reviewing the regime and the act, we've been looking at what we could be doing better. It's been a strong focus of our training right across the board, not just within law enforcement but right across the regime. I'm very optimistic that we are moving towards much better training. Given the complexities, though, recognizing that it's an ever-changing world and that money laundering and terrorist financing is ever-changing, it's very difficult to keep up with.

**Mr. Pat Kelly:** Do you have any current data you could perhaps share with the committee on the scope and scale of money laundering activity? It's hard to quantify these things, I understand, but do you have studies you can point to that would suggest how much money is laundered in Canada and how much of that would be perhaps through bank accounts, real estate, through securities transactions? Do you have any way to quantify the problem with money laundering?

• (1610)

**A/Commr Joanne Crampton:** I would refer to the paper that was produced by the Department of Finance. I believe there are some quotes in there with regard to estimations. I certainly do not have any estimations of that from within the RCMP that we could say have any accuracy.

**Mr. Pat Kelly:** Okay.

**A/Commr Joanne Crampton:** When criminal organizations are trying to gain money, some of the ways they will do it is through money laundering, through the financing of various types of crime. So it's very difficult to say, because most crimes are related to money and, subsequently, often money laundering.

**The Chair:** You have time for one short one.

**Mr. Pat Kelly:** The part of it that I'm most familiar with is real estate. I was wondering if you knew how much money continues to be filtered through real estate transactions.

**A/Commr Joanne Crampton:** No. I'm sorry, but I don't.

**The Chair:** Go ahead, Mr. Dusseault.

[Translation]

**Mr. Pierre-Luc Dusseault:** Thank you, Mr. Chair.

Thank you all for being here today.

My first question is for the CSIS and RCMP officials. It has to do with data collection.

Again today, we are hearing about how difficult it is to track beneficial owners, which are often corporations. In recent meetings, we have also heard about the problem posed by complacency laws in tax haven jurisdictions.

When CSIS or the RCMP wants information about people who may be laundering money or financing terrorism, to what extent are tax havens problematic? We are talking about countries that uphold banking secrecy, that are complacent and somewhat complicit in these crimes. How problematic are complacency laws in other jurisdictions for your investigations?

[English]

**The Chair:** Who wants to respond?

**A/Commr Joanne Crampton:** I can answer, Mr. Chair.

On tax havens, I would refer to the Canada Revenue Agency. Unfortunately, I'm not able to answer that part.

When we're looking at beneficial ownership, it's an issue and a concern of ours.

There was a recent article with regard to real estate. It talked about the difficulty of private companies and numbered companies. When we're not able to see who exactly owns the company, it's an issue. It creates difficulties for investigations and I'm sure with my partners, as well.

**The Chair:** We'll have the CRA here on Wednesday, Pierre.

[Translation]

**Mr. Pierre-Luc Dusseault:** So it's not a problem your investigators come up against in their day-to-day activities. Clearly, in Canada, despite certain barriers, it's still easier to gain access to information about companies and their beneficial owners. Is the use of certain structures in other jurisdictions, by fraudsters, a barrier for you in your investigations? Is it a problem you deal with on a daily basis?

[English]

**A/Commr Joanne Crampton:** It certainly is within Canada. Absolutely. It is an issue when we're not able to determine who the exact owner is. It hinders investigations.

When going from province to province, there is a difference, too. It's not standardized right across the country. That would be another issue of concern.

[Translation]

**Mr. Pierre-Luc Dusseault:** Thank you.

I'd like to pick up on a subject that was raised earlier, crypto currencies.

The CBSA said that the money crossing the border, in a variety of ways, was cash, real money. Conventional electronic funds, international bank transfers and such, are easier to track because financial institutions automatically send FINTRAC information on those kinds of transactions. In the case of crypto currencies, who monitors transfers exceeding \$10,000? The money is somewhat in limbo and can't be traced. Does one of your organizations look into crypto currency transfers outside the country?

• (1615)

**Mr. Sébastien Aubertin-Giguère:** Under the act, crypto currency is not considered a monetary instrument. Our responsibility does not include the cross-border movement of crypto currency.

**Mr. Pierre-Luc Dusseault:** Is one of the other organizations here today responsible for that?

[English]

**A/Commr Joanne Crampton:** We have ongoing investigations involving cryptocurrency. It's a perennial issue and something that's very difficult to investigate. It's very complex. It's used in all sorts of transactions and is becoming more and more common. Absolutely. It's not something that we're tracking predominantly, but it is part of our investigations.

[Translation]

**Mr. Pierre-Luc Dusseault:** It's not something anyone seems to be paying attention to. We are not talking about cash. Crypto currency transactions don't have to be handled by a financial institution, so transfers happen outside the conventional system.

I'd like to use my remaining time to discuss prosecutions with the RCMP official. As the committee chair briefly pointed out, provincial and municipal authorities are the ones enforcing the act. In some cases, they prosecute criminals for a variety of Criminal Code offences, which may include money laundering.

When money laundering is involved, do provincial and municipal authorities pass that information along to the RCMP? Do they share that information with you, since you are the ones responsible for handling those types of offences?

[English]

**A/Commr Joanne Crampton:** Yes, we have a great working relationship right across the country. We have various municipal agencies. We have federal policing positions that investigate financial crime right across the country, and we work in collaboration with not only our federal partners but also our municipal and provincial policing partners. In certain cases we would provide expertise, but in other cases we may step in and assist with the file. If they would like to transfer a file over, we would certainly investigate it either at a provincial level or a federal level.

[Translation]

**Mr. Pierre-Luc Dusseault:** You have strong co-operation, then, and I think that's one of the points the chair made.

I see my time is up.

[English]

**The Chair:** Yes. That will come up at another time, I'm sure, when we talk to provincial attorneys general.

Mr. Fergus.

[Translation]

**Mr. Greg Fergus (Hull—Aylmer, Lib.):** Thank you, Mr. Chair.

Thank you all for being here. Feel free to answer my questions in the language of your choice.

As witnesses, you are all here of good faith. You may not know this, but the members around the table have finally realized that something needs to be done about this. We aren't here just to approve a report without discussing it. We are here to get something done and fix the problem on our hands. With that in mind, I'd like you to speak honestly and set aside the habit people tend to have here, in Ottawa, of sticking to their own area of expertise and refusing to comment on something they do not know inside and out.

I'd like to commend you, Ms. Crampton, for pointing out that serious challenges stand in the way of fixing the problem.

[English]

You said in your opening statement that there are some challenges, and that one of them is sharing vital money laundering information while respecting the privacy rights of Canadians.

If you could imagine that we didn't have privacy concerns, what type of information would you be looking for? Could you respond quickly?

• (1620)

**A/Commr Joanne Crampton:** We would be looking for information with regard to transactions, with more transparency to be able to find the information we need to investigate. That would include banking information, beneficial ownership, and who is moving the money, so to speak, if we were to have no laws or legislation—all of those investigative pieces that we would look for.

**Mr. Greg Fergus:** Are there international examples that you can turn to that we could look toward?

**A/Commr Joanne Crampton:** I was just thinking about that as I was answering. At an international level, certainly the MLAT process is very cumbersome. In terms of time and turnaround, it sometimes isn't efficient for the information we need, especially when we're looking at electronic data that can disappear quickly. That's across several types of investigations, not just money laundering and terrorism financing. Also in terms of receiving information that's useful in our court system here, so recognizing what we need in the system here....

**Mr. Greg Fergus:** I guess what I'm trying to say is let's just put away the court system, because you're not the first witness to raise this issue. I'm just trying to imagine what it would look like if we didn't have the charter implications to consider.

**A/Commr Joanne Crampton:** Okay.

**Mr. Greg Fergus:** Is there particular information or are there particular jurisdictions abroad that we can turn to, to try to approximate as closely as possible, that would make your life a lot easier?

**A/Commr Joanne Crampton:** I would have to check, but I believe the U.K. is an example. Let me just double-check my notes and I can get back to you on that.

**Mr. Greg Fergus:** I'm sorry to be focusing on you, Assistant Commissioner, but you also made reference in your answer to the lack of transparency around beneficial ownership information. That gets back, and might also be related a bit, to the exclusion of lawyers and public notaries in Quebec. Again, what type of information or what other jurisdiction can we point to? If it's the U.K., that's great. Or is there another jurisdiction that avoids these problems, where we're able to get that type of information while still respecting that client-solicitor privilege relationship that lawyers and public notaries may have?

**A/Commr Joanne Crampton:** My understanding is that it's the United States and the U.K. for beneficial ownership.

**Mr. Greg Fergus:** All right.

Maybe I should just move on to CSIS.

Ms. Henderson, thank you very much. If there were any information, informal or formal, that you could have that could be helpful for you to be able to have more interaction with FINTRAC, could you please take this opportunity to tell us what it is? Go far afield.

**Ms. Cherie Henderson:** I find that our relationship with FINTRAC is very good. Because of all the information they receive from the various government departments that share with them, they're very responsive to any requests we have.

**Mr. Greg Fergus:** I'm glad that you guys are working together. Is there additional information that would make your life easier, to be able to stop money laundering or proceeds that are going to finance terrorism?

**Ms. Cherie Henderson:** We of course don't look at money laundering per se. We focus on terrorist financing, and we're using FINTRAC to look for leads to determine who might be getting the funds and where they might be disbursing them. At this point, no, everything that FINTRAC gives us supports our investigations.

**Mr. Greg Fergus:** Great. Is there any additional information that FINTRAC could provide you that would enhance the investigations you're having? Are there things that you know you don't know, that you would like to have?

**Ms. Cherie Henderson:** Do you mean the unknown?

No, from what I see right now, FINTRAC does supply everything we need to push our investigations forward. We can go to them on a case-by-case basis. If we have a question to ask, we can go back to them and ask for that information. From my experience, they've always been able to come forward with it. Sometimes it's just being able to find the first lead information and then you go from there.

**Mr. Greg Fergus:** Great. Thank you.

Mr. Bhupsingh, if I could go back to your testimony, you also identified the problem in a very general sense of trying to protect privacy. You have an obligation to protect privacy rights, and you also want to minimize the administrative burden. Imagine that those two conditions did not apply. What type of information would you be looking for again? What type of information would you like to have that you don't have because of those concerns?

• (1625)

**Mr. Trevor Bhupsingh:** As my colleague from the RCMP said, this is a world where money is very mobile, where crimes are changing dramatically and technology is enabling criminals to move money around. Just more generally speaking, if those two conditions were somehow eradicated, if we didn't have to worry about things such as privacy or the balance between privacy and disclosure, we would want better intelligence on how criminals are moving their money, maybe not through our financial systems now but via things such as cryptocurrencies. People have mentioned in a number of questions that particular area is growing.

We have a general sense of where the areas are that—

**Mr. Greg Fergus:** Would you be so kind to give us, from that general sense, something a little more specific? I want you to take advantage of this opportunity, this open window that we have to review this legislation, to try to make some changes to make your lives easier in that regard. We'd really appreciate it if you could give us some specifics.

**Mr. Trevor Bhupsingh:** My colleague John Davies, in the national security area, is probably fairly up to speed on some of the specifics.

**The Chair:** Mr. Davies, go ahead.

**Mr. John Davies:** The obvious one is the \$10,000 limit. If you get rid of the limit, you can have a lot more information. However, there would be a serious effect on privacy from doing to that, and a serious question over whether doing that would actually lead to more intelligence on threats. There is already so much information.

**Mr. Greg Fergus:** You get a lot of information, and if you were to remove that limit or lower that limit, you'd get even more. What type of information would be helpful to you? What kinds of transactions would you want to put your hands on?

**Mr. John Davies:** This feeds into the following issue—and maybe it's a red herring, the \$10,000. The issue is what is a suspicious transaction and how the financial system is equipped to identify, on its own, these suspicious transactions and report them FINTRAC, which can in turn report them to intelligence agencies or law enforcement. We need much more engagement with the private sector to help them to identify suspicious transactions, and so on, in their finances. The 2015 paper on the national risk assessment is a good step in that regard.

Other countries have more partnerships with financial systems. They're noted in the Department of Finance paper for the study of the act. That's probably a lot more meaningful than worrying about the threshold.

**The Chair:** We'll have to leave it there.

Mr. Poilievre.

**Hon. Pierre Poilievre (Carleton, CPC):** Thank you.

We're hearing a lot about blockchain technology. Some suggest this technology is a solution for the problems of corruption, money laundering, etc. I understand that some foreign governments, for example, are putting land registries on blockchain systems so they can protect those registries from corrupt officials who may alter ownership records and to ensure that people can have security of title. On the other side, blockchain technology is used for cryptocurrencies, and we hear continuing suggestions that cryptocurrencies are tools of money laundering, illicit drug dealing, etc.

Can any of you discuss your evaluation of whether blockchain technology is a friend of transparency or an ally of corruption?

**Mr. John Davies:** I'm not an expert on this. I don't think the department is an expert. I think the community is still struggling with what blockchain is, but we would agree with everything you said. There are threats here and there are opportunities. There is a real plus side on cybersecurity, on protecting information, but there are also threats that we're not clear on in terms of how this technology could be exploited for money laundering and terrorist financing.

This is an emerging issue. I think Finance flags it in its paper. It's something that deserves more study.

**Hon. Pierre Poilievre:** Thank you.

That's all I have. Does anybody else want to jump in?

• (1630)

**Mr. Tom Kmiec:** I'll jump in on something that was said earlier.

Assistant Commissioner Crampton, you talked about training for officers. Can you describe the type of officer you were speaking of and that the RCMP needs more of? I ask because with a lot of the securities investigations that have a fraud or a money laundering component, a lot of the evidence-gathering process is done by provincial securities commissions. They do their best job. They know the actors in the field. It's a small community, so they know who they are.

What type of training do RCMP officers need to convert that knowledge gained on the ground to successfully prosecute a case?

**A/Commr Joanne Crampton:** The training I referred to is not just with law enforcement; it's also with our regime partners. It looks at anyone involved in money laundering investigations or receiving information. That would include all of our partners at the table here as well as FINTRAC, Department of Finance, any of those areas. It's not from an investigative angle only. It looks at the whole regime, the complexities of money laundering, understanding how the offence works in terms of professional money launderers—who we see more and more of—as opposed to someone just laundering money, which is a fairly straightforward investigation. It's very complex when it's a professional money launderer who has nothing to do with the predicate offence.

The training would look at the complexities and address some of the issues that have been mentioned here, such as cryptocurrencies and the ever-evolving areas of money laundering and terrorism financing.

**Mr. Tom Kmiec:** I was talking more about the type of training an RCMP officer needs. You have RCMP officers doing community policing in Alberta, for example, in remote communities. What type of training do RCMP officers need to be an asset in the fight against money laundering? This is separate from the legislation. What is the type of training they need? I know it's a resourcing problem. I consistently heard from the finance department in Alberta that they gather all this evidence and pass it on higher up but nothing ever happens with it. They say that the RCMP involved in the investigations don't have the skill set to understand the problem, whereas we need to have people with masters degrees in finance and people who actually do deals on a regular basis who can recognize money laundering, fraud, and illegal dealings. What is it that RCMP officers need to know? Do they need more degrees, or more training? What is it?

**A/Commr Joanne Crampton:** Sorry, I misunderstood your question.

The investigation of financial crime falls to our federal policing sections across the country. These are specialized investigators who work specifically on financial crime, drug investigations, national security, and other areas that fall under federal policing.

In the last few years, we've been working more and more with private partnerships and public partnerships to gain the expertise we need rather than creating it all from within. We're recognizing the value of working with partners, working with the banking industry. We've been hiring people from external areas to work with our financial crime units to provide the expertise we need to move forward, in addition to the training I've mentioned.

**The Chair:** Thank you.

We'll be coming back to you later, Tom.

Ms. O'Connell.

**Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.):** Thank you all for your presentations.

I'm going to start with CSIS. You mentioned your partnerships and your notifications, such as of FINTRAC and others of any suspicious activity, money laundering, or things like that. What are the statistics on how often you're reporting these cases? Is there any follow-up or mechanism to determine if it actually goes anywhere?

**Ms. Cherie Henderson:** When we go to FINTRAC, it's more to make them aware of the things that we're actually looking for so that they can push more information to us. On a regular basis, as we come across information we feel would be of benefit to our partners, we write short reports and send them out to pass on that information. I don't have a statistic that I can give you right now, but if you like, I can certainly look into that and get back to you.

**Ms. Jennifer O'Connell:** I would appreciate having that information, if you can send it to the clerk.

If you're sharing information amongst departments, is there any process or body overseeing that? If CSIS writes a report to the RCMP or to FINTRAC and says they should look into this and nobody looks into it, is there any mechanism to see how often that's happening, to find out the reasons why, or if there is any type of communication on why something moves forward in an investigation or why it doesn't?

• (1635)

**Mr. John Davies:** The Office of the Privacy Commissioner looks at FINTRAC every two years. That's one.

The big issue for the Privacy Commissioner is whether the information FINTRAC is collecting is relevant. There is commentary on that.

I would look to the new national security intelligence committee of parliamentarians proposed in C-59, the integrated review body. It will get more into efficacy reviews on the impact of that kind of sharing. That's probably something more downstream.

**Ms. Jennifer O'Connell:** It sounds as though the ability to review it is there but that there is no systematic review to make sure the intelligence that's collected is actually going places, or being investigated or not. It's only if the Privacy Commissioner does a review every two years, and maybe the new committee as well. That might be a recommendation that this committee could look into.

Going back to the CBSA, cash is something we've talked about a little bit as committee members. There seem to be a lot of cash transactions happening in Canada, especially in the housing market in Vancouver and in the GTA. I have a question, and maybe it's naive. At some point that cash is coming from somewhere and going somewhere, or at some point it's going into the bank somewhere. The suggestion to me was that no, it's sitting locked up in places, essentially. I'm assuming this is coming from overseas in a lot of instances.

If I heard you correctly, you talked about almost half a million seizures. or at least investigations.... It was 26,000 investigations, but I guess there were over half a million reports of cash. Do you have any idea how much is being missed? Are we collecting more, or are we tracking more than we're missing? Are we missing more than we're getting?

**Mr. Sébastien Aubertin-Giguère:** Obviously it's very difficult to know what we're not seeing. There are two things I could say. One is that there's no limit on the amount of money that you can bring into or out of the country; you just have to report it. Our concern is, first, to take that declaration, and second, to find cases of non-declaration. Our cases of non-declaration have been fairly stable over the years, so we don't have clear signals to indicate that the problem is changing. However, I don't have full visibility on what we're missing and the amount of money that goes in and out illegally—which is not reported, obviously—because that's the specific concern of the CBSA.

**Ms. Jennifer O'Connell:** Of course, the reason it wouldn't be declared is that they wouldn't want the \$10,000 limit to then be tracked and the information to go to FINTRAC and all the other places. There would be a reason why you wouldn't declare.

Obviously I understand that you can't know what you can't see, but that then tells me that you are not receiving information on the other side from banks, real estate agents, and so on regarding cash transactions. This cash is coming from somewhere, and if it's not coming out of a Canadian bank, then it's coming from somewhere via a person from somewhere else. That tells me that you don't have the data on the other side regarding how much cash is entering into our system, especially in the real estate market. Then you would be able to somewhat understand what's being missed. Obviously there would be nothing precise, but you would have some ability to understand that there is a lot being missed if it's coming in over the border, essentially.

You don't get that information from banks, do you? Banks don't tip off CBSA and say, "We just had this large cash transaction."

• (1640)

**Mr. Sébastien Aubertin-Giguère:** No, we don't receive specific information from banks. Usually the intelligence we receive is from other law enforcement agencies and FINTRAC.

**The Chair:** However, anything over \$10,000 coming through a bank has to be reported to FINTRAC by a bank. Is that correct?

**Mr. Sébastien Aubertin-Giguère:** Yes.

**The Chair:** It even happens in P.E.I. I know some people who were offered \$300,000 cash for a house. If you look at the B.C. market and elsewhere, the attorney general in B.C. is complaining big time about money laundering out there at the moment.

How do you get at that? I guess you don't know how you get at the unknown.

**Mr. Sébastien Aubertin-Giguère:** I'm sorry. I missed the last part of your question. I couldn't hear you.

**The Chair:** I think Mr. Davies made an earlier point about how the issue is with a suspicious action and how we could better find those suspicious actions than we are now. What tools does FINTRAC or do any of your agencies need to be better able to find a suspicious action beyond the limit? The limit of \$10,000 or \$12,000 is just a fixed limit in time. How do you try to get at a suspicious action?

Earlier, Joanne mentioned a professional money launderer. I'm sitting here and thinking, what does a professional money launderer look like? Are there any answers to that, anyone? How do we get at suspicious actions better? What is a professional money launderer? I mean, how do they operate? Does anybody have any answers?

John?

**Mr. John Davies:** On the issue of bulk cash, in the Department of Finance paper there's a whole page and a half dedicated to potential solutions for dealing with the issue of bulk cash and the problems it creates in other jurisdictions—in Europe in particular. The committee could look at that. Other than that, I'm not sure if any of us are expert enough on the issue.

**The Chair:** Joanne.

**A/Commr Joanne Crampton:** A professional money launderer is someone who literally launders money for a living. They employ people who will accept the money. They have ways of moving the money through either legitimate or illegitimate investments, through numbered companies, and through private companies. There are many different ways you can move money, but the issue with the act is that you need to be linked to an offence.

Generally in a drug transaction, say, where we're investigating someone accused of trafficking drugs, there could be money laundering attached to that, but if they use the services of a professional money launderer, it's very difficult to find those transactions. They're not linked to the person who's actually doing the drug transactions. Currently the act states that you need to be linked to that predicate offence, and so you could take it to someone who does this for a living professionally and have the money laundered, which makes it very difficult to investigate.

**The Chair:** We are going to be visiting the U.K. and the U.S. on this issue if we get the money.

Mr. Kmiec?

Ms. O'Connell, do you have one quick last one? I didn't take any of your time. You were already over, but we'll let you go with one more.

**Ms. Jennifer O'Connell:** I just wanted to ask broadly about what no one has mentioned yet. Obviously, it is in the finance discussion paper, but I always forget the term. I wanted to ask about the "politically exposed person".

Would anybody, maybe even the RCMP, like to respond on how often this is being investigated? How often is this an issue? I know that there are discussions of areas that we need to look at, but for the work that all of you are doing in your departments, how big an issue is this and what are some of those fixes, outside of the finance department's recommendations, or the areas of further expansion we should be looking at?

• (1645)

**A/Commr Joanne Crampton:** In terms of recommendations, I have none beyond what the document states and Finance recommends. I don't have any exact cases or statistics for you, but from an RCMP perspective, it certainly is an area of concern for us. People in high positions are vulnerable or even susceptible to issues such as this. It's certainly a concern, one that we would flag, and it's one that we think is important to change.

**The Chair:** Mr. Kmiec.

**Mr. Tom Kmiec:** I have a broad question to ask, because we've talked about cryptocurrencies, the sexy thing that everybody wants to talk about. For cryptocurrency versus cash, which is the more important one when it comes to money laundering and fraud operations? I lean towards saying that cash is still the issue. Am I correct? Or is cryptocurrency actually the emerging problem for law enforcement agencies?

**A/Commr Joanne Crampton:** I would say that cryptocurrency is certainly emerging. It's still evolving. It's ever-changing as well, so we hear of bitcoin, but there are many others that are taking its place, so it's something that's going to continue to evolve. We see it extensively in all sorts of crimes, not just money laundering obviously, but all sorts of crimes.

In terms of criminal investigations it's very significant for us. However, I would say the majority of our files are still involving cash.

**Mr. Tom Kmiec:** Mr. Davies.

**Mr. John Davies:** I would agree. The cryptocurrency issue is a growing one, potentially exponentially. It's hard to quantify it right now, so it's the issue of the future, for sure.

**Mr. Tom Kmiec:** Assistant Commissioner, in my previous question, you had talked about private partnerships and the use of external sources to fill areas of expertise at the RCMP. What did you mean by that? Are you using private investigators to supplement the RCMP's force?

**A/Commr Joanne Crampton:** No.

**Mr. Tom Kmiec:** Are you hiring, then, from banks and from other financial institutions for the expertise that the RCMP needs? Is there no way for the RCMP internally to train officers to perhaps solely do these types of investigations?

**A/Commr Joanne Crampton:** Thank you, Mr. Chair.

Certainly there is. We can certainly train from within, but we would also be remiss if we weren't looking externally to hire in the civilian area for investigations. We're continually evolving in terms of our workforce, looking at positions we can "civilianize" and bring in that expertise. If we can bring someone in fully trained who has terrific expertise behind them, I think we'd be wise in doing so.

**Mr. Tom Kmiec:** You said "civilianize", so are you then converting positions that used to be manned by an RCMP officer into civilian positions to do the investigating?

**A/Commr Joanne Crampton:** I'm sorry, I mean in terms of investigations and having more civilian contributions within investigations.

**Mr. Tom Kmiec:** Okay.

FINTRAC has been mentioned a bunch of times and I know that it's one of the key components to all of this. I think it was Madam Henderson who said it was a key partner, but what else is used? What else is out there outside of just FINTRAC that serves as a method of identifying money laundering operations? Is it just FINTRAC? Is that really the only means of identifying financial fraud and financial transactions that could be leads in money laundering cases?

**Ms. Cherie Henderson:** Thank you for the question.

Yes, FINTRAC is very important for us, but we only look at terrorist financing. We're not engaged in money laundering and it's one lead. When we're out, there are numerous tools that we would use in our tool box to try to gather information when we're looking at a terrorism case. Definitely terrorist financing is one aspect of that, and FINTRAC is an important partner there.

**Mr. Tom Kmiec:** Right.

What are those other tools?

**Ms. Cherie Henderson:** Sorry, for operational reasons I don't want to get into that, but I will tell you that FINTRAC is very important to us.

**Mr. Tom Kmiec:** Okay.

**The Chair:** Mr. Sorbara, and then Mr. Dusseault.

**Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.):** Thank you, Mr. Chair.

Welcome, everybody, and thank you for your comments thus far.

I'm trying to think about where I want to start. At our last session, I referenced *The Globe and Mail* and will do it again today because they seem to be doing all the work. This time it's with regard to the sale of fentanyl and its proceeds being recycled into the B.C. real estate market, which has obviously gotten the attention of the attorney general. They lay out the steps in doing it.

I'm assuming that everybody is aware of that issue. It may not impact, say, CBSA directly. But what tools are we lacking that would stop these individuals selling something that we know kills people in Canada, and putting those proceeds back into the Canadian real estate market, which is obviously not a good thing for middle-class Canadians trying to buy their own home? I can't think of one good thing about it, actually.

What tools are we lacking in order to stop this?

Could we have just a few seconds each, please?

• (1650)

**The Chair:** Joanne, would you start, and then we'll go to Mr. Aubertin-Giguère.

**A/Commr Joanne Crampton:** With regard to fentanyl, I think that applies to all sorts of crimes, whether it's any other type of drug, or human trafficking. Any crime someone is going to make money from, which accounts for the vast majority of crimes, is susceptible to money laundering.

The real estate market is certainly an area where money can be laundered, so I think it doesn't just apply to fentanyl. I believe it applies to all sorts of crimes.

**Mr. Francesco Sorbara:** Would beneficial ownership information be helpful in this case?

**A/Commr Joanne Crampton:** It would be.

**Mr. Francesco Sorbara:** Okay.

Is there anything specific? I don't want the long answer. I want the specific answer, and from anyone else, please.

**The Chair:** Sébastien.

**Mr. Sébastien Aubertin-Giguère:** Our main concern is stopping the flow of fentanyl into Canada. We have a comprehensive strategy for this, but once these proceeds come into another domain, that falls outside of our responsibility.

**Mr. Francesco Sorbara:** I have a follow-up question. In reviewing all the documents we've been provided, Canada underwent an FATF peer review in 2015, which was published in September 2016. Some of the recommendations about strengthening our AML/ATF framework are as follows—if I can just read them, it might be easiest:

...could be strengthened by expanding the scope of the legislation to cover finance and leasing companies as well as unregulated mortgage lenders, and to apply new obligations to the designated non-financial businesses and professions sector in relation to politically exposed persons (PEPs), heads of international organizations and beneficial ownership information requirements.

Now we know the Minister of Finance, along with his provincial counterparts, in December of 2017 came up with a framework to look at beneficial ownership, so we are working on that.

The other comment they had was, “The regulation of bulk cash transfers and of certain activities of lawyers and accountants and enhanced access to beneficial ownership information would assist in this pursuit.”

I'll put this as a general question. Out of these recommendations that were reported from the FATF peer review process - which we are obviously a core member of - what would you recommend as the most important or most effective aspect we could look at as soon as possible that would make a dent in money laundering and any associated terrorist financing activities in Canada?

**The Chair:** John.

**Mr. John Davies:** I'm not sure why my light went on.

**Voices:** Oh, oh!

**The Chair:** Joanne.

**A/Commr Joanne Crampton:** I'm sorry, I wouldn't be able to rank order them. They're all of significance and all important recommendations.

**The Chair:** If I could just come in here for a second, Francesco.... If you look at the FATF recommendations—and you folks are saying

we need to look at the U.K. and the U.S.—do we have greater difficulties doing some things for some reason in Canada, either because of our privacy laws or the charter or whatever? How do we find a balance, or does nobody dare answer that question?

Francesco.

**Mr. Francesco Sorbara:** Those are my two main questions for the day. Obviously, Chair, there's an issue with money laundering when it comes to the real estate market, and there seem to be some tools lacking. From my humble understanding thus far, the beneficial ownership disclosure—without impinging on any rights of lawyers—would be one big first step on that avenue. Is that a correct understanding?

**The Chair:** I see heads shaking.

I think the answer is yes.

Go ahead, Trevor.

**Mr. Trevor Bhupsingh:** Beneficial ownership is really the number one issue. There's lots of other good stuff going on globally. My colleague mentioned some of the other jurisdictions you're going to be visiting, Chair, as I understand it. There are lots of global efforts and international norms there for Canada to take a look at. They appear to be doing quite well with it. It's probably something where we need to look at it in terms of stopping actors from hiding behind corporate structures in order to move their money, and we need to ensure there no gaps in the regime.

In terms of the exclusion of lawyers, it's a point of exploration. It is being explored. They set up corporations, and they also notarize important transactions with lots of money, and that's worth some exploration.

• (1655)

**The Chair:** Thank you.

Mr. Dusseault.

[*Translation*]

**Mr. Pierre-Luc Dusseault:** I'd like to ask a related question, quickly, if I may.

Ms. Crampton, I want to pick up on your recommendation about the exclusion of lawyers and Quebec public notaries from the act. I'm from Quebec, so it's of interest to me. I wonder how lawyers and notaries would react to new obligations under the act, if such amendments were made. I'd like you to tell me what they would be required to do under the act. Would they have to report any transactions over \$10,000, or would they have to demonstrate vigilance and flag any suspicious transactions?

As you know, notaries and lawyers, notaries in particular, handle numerous real estate and corporate transactions. Further to your recommendation, what would be required of them?

[*English*]

**A/Commr Joanne Crampton:** Thank you, Mr. Chair.

I'd say simply what Mr. Bhupsingh has mentioned. Because they have such involvement in those types of transactions, I think it's really important they be included within the act as other agencies and organizations are.

We did an audit from July 2013 to June 2017 looking at 51 financial crime cases that were of that higher level I mentioned before that federal policing was looking at, and over 75% involved lawyers as either a direct suspect or someone identified during the investigation, but they were not pursued in terms of a subject of interest.

Lawyers are certainly a significant part of those investigations, whether at a suspect level or certainly engaged in activities that are surrounding it, and wittingly or unwittingly engaged within these types of investigations and files.

[Translation]

**Mr. Pierre-Luc Dusseault:** Are you suggesting they be required to submit reports to FINTRAC, in the same way that real estate agents do? Are you recommending they have reporting requirements?

[English]

**A/Commr Joanne Crampton:** I wouldn't be able to recommend an exact type of reporting, but I certainly believe they should be within the act with a certain level of reporting. Yes.

[Translation]

**Mr. Pierre-Luc Dusseault:** My other question is a very important one, but I'm not sure which of you is best-suited to answer.

We hear a lot about real estate transactions in Canada. However, many of the documented money laundering cases involve the purchase of property abroad, sometimes—if not often—in jurisdictions with more lax laws. Fraudsters buy hotels, casinos, and big-ticket properties.

Do you run into problems when it comes to accessing information related to foreign real estate transactions?

As a follow-up, I'd like to know what kind of co-operation you get from foreign countries in your efforts to collect information on money laundering committed using this strategy?

[English]

**A/Commr Joanne Crampton:** With regard to international investigations, I mentioned previously the MLAP process, the mutual legal assistance process. It can be very cumbersome. It's an area that the RCMP feels needs further exploration and further streamlining. I think there are some changes that can be made to that process where information could be more timely.

Our partners internationally are very willing to share information, but we need to go through the proper legal means in order to obtain that. We have liaison officers right around the world who work with our international partners, so we do have a great working relationship right cross the world, but the legal processes can certainly slow down that share of information and the availability of it.

• (1700)

**The Chair:** Mr. Fergus, you have the last couple of questions, and we will let it go to the next panel.

**Mr. Greg Fergus:** We know this is a problem. Previous Senate reports have estimated the size of money laundering and ATF issues might represent somewhere between \$5 billion and \$15 billion of

activity in Canada alone. FATF has saluted the efforts we've been making and also pointed out some places where we could improve.

It seems that beneficial ownership is a big issue as well as the legal profession, privacy concerns, and others. Is Canada a haven for this? Are we the bad boy internationally compared to our international partners?

**The Chair:** Does anyone want to answer that question? I don't know if the witnesses are in a position where they can answer that type of question.

**Mr. Greg Fergus:** Okay, I will make it a little bit less leading. Five to 15 billion dollars is a pretty significant amount, and that was in the previous parliamentary reports on this. Has the problem gotten worse since 2013?

**The Chair:** There are a lot of puzzled people. If it's not worse, it is a problem, though, and that's why we're trying to deal with it with this review.

**Mr. Greg Fergus:** Okay.

Has it gotten better?

**The Chair:** I think that's unknown, probably.

**Mr. Greg Fergus:** It seems that we have some obstacles that our partners don't seem to have, which are causing some serious concerns and which I'm really grateful have been identified.

Thank you especially, Assistant Commissioner, for identifying these issues so clearly.

We can't let the status quo continue. We have to address it. Are there discussions going on currently with the legal profession to try to figure out ways that we can assure solicitor-client privilege, yet be able to make sure, as I think you pointed out, that there's no recklessness involved in their transactions?

**The Chair:** I think, Greg, it's fair to say that maybe that question may be better put to the Department of Justice.

**Mr. Greg Fergus:** Well, I think someone—

**The Chair:** They're next on the list, unless somebody here wants to answer.

**Mr. Greg Fergus:** —was about to answer.

**The Chair:** Does anybody want to answer? The floor is open.

I think they talk in their discussion paper about the discussions that are already going on with the legal community.

With that, we'll have to go to the next panel, which is the Department of Justice and the Office of the Director of Public Prosecutions.

Thank you all. I would say that if any of you have further information that you think may be valuable to the committee, send it to the clerk or give one of us a call. I think, as you can note, we're trying at the moment to find a way through the fog of this issue as well.

With that, we'll adjourn for three minutes and bring up the next panel.

Thank you very much.

• (1700) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1720)

**The Chair:** We'll reconvene.

Welcome to our guests.

We will continue dealing with the statutory review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

With us are witnesses from the Department of Justice and the Office of the Director of Public Prosecutions.

Before we start, I'll point out we will have a vote in the House. Bells are at 6:15. We have two motions that we need to deal with in camera before we go to that vote so that we have the financing in place to deal with this issue. I'm suggesting we do a hard stop at about 10 after six, or thereabouts.

With that, I'll turn it over to our witness from the Department of Justice, Mr. Saint-Denis, senior counsel, criminal law policy section. I understand you don't have an opening statement.

**Mr. Paul Saint-Denis (Senior Counsel, Criminal Law Policy Section, Department of Justice):** No, Mr. Chairman, I don't.

**The Chair:** You can answer questions.

Next is Mr. George Dolhai, deputy director of public prosecutions with the Office of the Director of Public Prosecutions.

You have a short statement, George. Go ahead.

Thank you both.

**Mr. George Dolhai (Deputy Director of Public Prosecutions, Office of the Director of Public Prosecutions):** Thank you, Mr. Chair.

I'll be very brief, owing to the time. I know the committee wants to get to questions.

[*Translation*]

I am pleased to appear before the committee today.

The Public Prosecution Service of Canada has two roles: to provide law enforcement agencies with legal advice to ensure that evidence is gathered in accordance with the rule of law and, as such, is admissible for the purposes of subsequent prosecution;

• (1725)

[*English*]

and to prosecute fairly and impartially so the cases can be decided based on the admissible evidence. We apply the common law and the statutes when we're advising the police at the investigative stage.

Our test for prosecutions has two parts.

The first part is a reasonable prospect of conviction. Every prosecution service in the country has basically the same test. There's a slight variation in British Columbia.

The second part of the test is common among all prosecution services as well, and that's the public interest: is there a public interest in undertaking the prosecution?

We're evidence driven. The police use intelligence to help guide their investigation. By the time we are involved our focus concerns evidence and evidence gathering.

Our considerations are not political nor are they contingent on whether a law is appropriate. We apply the public interest to the second part of the test, and if there's sufficient evidence, the ordinary rule is that you go ahead with the prosecution. When you get to a point of public interest, the public interest criteria are spelled out in our deskbook: what you can and can't consider.

[*Translation*]

We are not investigators. Law enforcement agencies independently select the individuals they investigate and determine the scope of that investigation. At the investigation stage, our role is to provide advice, so our communications with law enforcement are subject to solicitor-client privilege.

We also assist them in obtaining judicial authorizations, including search warrants, restraint orders, special search warrants, production orders, and wiretap applications.

What does that mean in relation to the proceeds of crime and money laundering? We have no control over the types or number of cases under investigation or referred to us for prosecution.

[*English*]

We're independent of the police throughout the whole process, just as they are of us. They're both important constitutional principles. At the prosecution stage we'll consult them, but at the end of the day, the decision is ours to make independently.

The DPP and the prosecution service have no reporting relationship with the Minister of Justice. Our role, as I said, is on the prosecution side. We're often consulted about policy matters and will offer our operational view on the implications. But the wisdom of a law, whether it should or shouldn't be made, is not our domain. Our domain is to assist with the operational impacts and to provide that advice.

Finally, we're one of 11 prosecuting services in the country. Parliament has given that responsibility to the provinces and to us. There is some limited overlap in areas like organized crime—we deal with organized crime touching on drugs—and market fraud. We also have joint jurisdiction on terrorism, although to date all terrorism prosecutions have been undertaken by the PPSC. There's considerable co-operation on an operational level among all the jurisdictions, but we are distinct. We prosecute all the federal statutes, including the Criminal Code as it relates to organized crime and terrorism. The provinces will prosecute the Criminal Code on such offences as fraud, as I said already. In the northern territories, the PPSC prosecutes all criminal offences, both the drug offences and the Criminal Code offences that you would normally think of.

[Translation]

The Public Prosecution Service of Canada is responsible for prosecuting money laundering and possession of proceeds of crime when the offence is under federal jurisdiction, as well as terrorist financing offences. The service is also responsible for prosecutions under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

I would now be happy to answer your questions.

Thank you.

[English]

**The Chair:** Thank you both.

We'll go to five-minute rounds, and that way we'll be able to get about eight people on.

Ms. O'Connell.

**Ms. Jennifer O'Connell:** Thank you.

I'm going to start with the Department of Justice, but if either of you wants to jump in, please go ahead.

Certainly, one of the biggest issues we've heard about already involves the legal profession and reporting based on the Supreme Court decision in 2015, I think it was. In a lot of the reporting that's been done since then, the Department of Justice is working on how, basically, to reframe or rephrase some of the legal definitions to comply with the Supreme Court, and to allow reporting to FINTRAC, for example, or some of these other agencies.

What is the department doing? Where are you in terms of complying with the Supreme Court decision and in trying to close this massive gap, which almost everyone we've heard from has acknowledged, in terms of the legal profession essentially being exempt from a lot of the reporting standards?

● (1730)

**Mr. Paul Saint-Denis:** The Federation case, which is what you're referring to, set out a clarified and formalized principle of fundamental justice, which is the solicitor-client relationship. It's not just the solicitor-client privilege but also the relationship. The client has to believe and know that the lawyer is four-square in his corner, and that he will not be acting indirectly or directly as an agent for the state.

That makes it difficult for the PCMLA reporting requirements to apply to lawyers, because if a lawyer is taking information from his client and then reporting some of that to a federal agency, the client would be right to think that maybe there were some things that they shouldn't be telling their lawyer because those might get back to the state in which case it might hamper the lawyer's ability to properly defend his client.

We're certainly aware of the bind, if you wish, that puts the PCMLA in, in the context of fighting money laundering. Obviously, lawyers play a key role in a number of areas relating to transactions, to setting up corporations, and so on. The Department of Justice, along with the Department of Finance and FINTRAC and other departments are looking at potential avenues of trying to set up a system whereby if the lawyers cannot report, at least the lawyers

would maintain certain types of records which then might be available to FINTRAC by way of a compliance mechanism. I don't want to prejudge the final results, so I can't say that we will or we will not come up with a regime or a method by which lawyers will be able to report on their clients. We are looking at all of the possible avenues, and I'm afraid I can't go into any further details at this time.

**Ms. Jennifer O'Connell:** Thanks.

That's somewhat contradictory to some of the reports, and the media reports, in the sense that the idea was that after that court decision, I think the response from Justice was that it would of course review the decision, and then a look at how best to either reword or rework the act to satisfy the Supreme Court decision in regard to privacy issues and client-solicitor privilege, while upholding the intent of this legislation. It sounds like, based on your response, you're not looking at new wording or new recommendations for the legislation to work with the Supreme Court decision. You're looking at different mechanisms after the fact, but that's certainly very different.

One of the areas of concern that I think we've heard is that other jurisdictions, and jurisdictions that have a rule of law not that different from Canada's, are able to have the legal profession, within balance of privacy rights, part of the system to try to prevent money laundering and terrorism financing. So I guess the answer to my question just isn't there. We don't see a legal reframing coming from the justice department, which might now be something this committee has to recommend, or direct the department to do, to ensure some level of compliance with the Supreme Court decision and the intention of this legislation.

The same goes for beneficial ownership. Is the Department of Justice doing anything on drafting language or regulations that it is consulting with all the provinces and territories about? Obviously, they have jurisdiction in some of these areas as well. Is there a legal framework being drafted by the federal government, by the Department of Justice, to deal with beneficial ownership and to have a consistent kind of process across the country?

● (1735)

**Mr. Paul Saint-Denis:** Let me just clarify the initial response I gave you with respect to the Federation case. We are looking at ways to allow for the Proceeds of Crime (Money Laundering) and Terrorist Financing Act to operate within the context of what the Supreme Court will give us by way of wiggle room. Based on that case, there just is not a lot of wiggle room, but we are exploring all the different avenues. Plus, we will be speaking with the Federation society, as well as the various provincial law societies, to see what's available for us there.

In terms of the beneficial ownership, the Department of Justice is working with the Department of Finance in looking at setting up in the immediate term a method by which corporations would provide for information dealing with beneficial owners. I think in the longer term there's some thought to creating a registry. This obviously involves the provinces. I think at the last federal-provincial finance ministers meeting, as I recall, I think the provinces and the federal government agreed that there should be action taken on that front. In light of the fact that several provinces have legislation allowing for the incorporation of organizations, it's important for us to work with them so that we can come up with a scheme that will allow us to obtain that kind of information—that is to say, who is ultimately the beneficial owner of a corporation that's being set up.

To your immediate question on whether we're drafting something, no, we're not. We are in the process of developing an approach that will then result in our going to drafting.

**The Chair:** Thank you.

Mr. Kmiec.

**Mr. Tom Kmiec:** Thank you both for being here.

We were told by previous witnesses that these are typically very complex cases. They're difficult to prosecute. They have multiple agencies involved. Can you give me an estimate on the typical length of a case, the prosecution and hopefully a conviction?

**Mr. George Dolhai:** There's no typical length. It very much depends on the nature of the case. I can give you a recent example that I think is at the extreme end, but is illustrative. It's the case of Chun. Chun was a case that began in 2002 when Mr. Chun was stopped at Pierre Elliott Trudeau International Airport with \$600,000 U.S. From there, the investigation wound through to Israel, to Cuba, to Cambodia. A witness who was in custody in the United States was made available for trial. The matter went on, and eventually it was also determined that he had two currency exchange companies in Canada. Then in Cambodia the link was a bank that had been created specifically to launder the money in Cambodia.

The matter concluded in 2015 I believe...let's get the exact dates here. Thereafter, there was a forfeiture of the bank, of the \$600,000, two properties that were located in Canada, and he and his wife—they were both in the matter together—were sentenced to eight years. March 2015 was the date, so 2002 to March 2015. Again, that's at the very outside range, and there were a number of factors that fed into it.

• (1740)

**Mr. Tom Kmiec:** Can I just ask you, then, the Supreme Court decision, the Jordan decision, which provides for time lengths between the moment you're charged to the moment you're before court to have your case heard, how has that affected the prosecution of these types of cases?

**Mr. George Dolhai:** I took a look to see our statistics in terms of cases where there were money laundering or proceeds of crime alone, as opposed to being tied to a drug offence, and were any of those Jordan stayed, and, no, they haven't been. Mind you, we're still in early days in Jordan. Jordan came in, in July 2016.

I can tell you that overall in our caseload we've had 382 cases implicated in respect of Jordan. Out of those, the court has granted a

stay in 21%; the court has refused in 37%; and there are applications pending as of January—our current stats are just coming in, but January this year—16%; and we stayed 26%.

As between the court's and our stays, that was 48% of the cases, but the total is 382 cases, so that represents in our total holding less than half a per cent of our total cases.

**Mr. Tom Kmiec:** How is that affecting your decisions to proceed with a case? How is that affecting your decisions on prioritization of cases?

**Mr. George Dolhai:** We don't have a system whereby we have an automatic cut-off. We look at each particular case to see whether or not this is a case where the time limit, even if it's over 30 months.... We have cases that are over 40, 45 months even, but where some of the delay is institutional and some of it is defence, where we will argue it, and we have argued it, and have argued it successfully where in fact those factors are made out. We don't have an artificial cut-off, but we'll assess. That's definitely part of our assessment, because we have to be able to apply the case law and say, will the court find that in fact this is out of time or not?

What I'm referring to there in particular, though, is from the time of charge, because the time before that, the test is entirely different. It isn't covered by Jordan. One of the things we work very closely with the police on is to make sure that when it's ready to go, it's ready to go, so we've got disclosure in place. We can show up to the court essentially and say, we're ready, we can move this forward.

We instituted a very proactive case management process with respect to our major cases, our high-complexity cases, because they're only 2% of our cases, our drug cases for example, but they take up 30% of our time, so we have to measure them well. We've instituted that in order to make sure that we can get through there, but a significant part of that is making sure you're ready when the thing is going, when the charge is laid.

I hope I've been able to answer your question.

**The Chair:** You have time for a quick one, Tom.

**Mr. Tom Kmiec:** You mentioned that was for money laundering cases, excluding when there's a drug charge. Is that the case when there is a drug charge associated with it as well?

**Mr. George Dolhai:** The 382 figure represents all of our cases. Those are all that have been affected, and the actual number of those that have been stayed since Jordan is 182, in our total. As I said, that represents less than 0.4% of the cases that we deal with in a year. We deal with roughly 70,000 cases, and we close out about 30,000 to 35,000 of them. It depends on the year.

**The Chair:** Mr. Dusseault.

[Translation]

**Mr. Pierre-Luc Dusseault:** Thank you, Mr. Chair.

I'd like to pick up quickly on an earlier discussion regarding provincial prosecutors. Many offences in the Criminal Code fall under the responsibility of provincial prosecutors. In cases where numerous offences were committed, such as stealing a car, it is possible that police and provincial prosecutors may uncover money laundering and, in rare instances, terrorist financing.

How involved are you in cases that are tied to federal jurisdiction?

**Mr. George Dolhai:** There is significant co-operation between prosecution services. When provincial or federal charges are laid, a decision has to be made as to which level of government should handle the prosecution. We rely on the major/minor concept. We establish who has the most significant evidence to decide who will lead the prosecution. That means that we work together a lot. Sometimes, it may be necessary to undertake two prosecutions at the same time because they have evidence in common. However, they are two different prosecutions.

• (1745)

**Mr. Paul Saint-Denis:** I'd like to add something, if I may.

Prosecutions of money laundering offences are not exclusively under federal jurisdiction. Provinces have full authority to prosecute such offences, since they are Criminal Code offences. Primary responsibility for prosecution of these offences falls on the provinces.

**Mr. Pierre-Luc Dusseault:** I'd like to ask you about the quantity of evidence that must be gathered and the burden associated with that. Should we explore improvements in that area as part of our study? Do you think gathering evidence is too complex of a process? Is there anything we can do to make your job easier so that charges can be laid sooner?

**Mr. George Dolhai:** I think that's a policy question. There's no way to avoid evidence-related issues. There are always people, whether they are police officers or members of the public, who look for the magic bullet, but there isn't one. It always comes down to what you can prove. The prosecution in the Chun case is a good example.

Having studied different cases, I can say that, even with the latest technology, it always comes down to evidence. You have to prove who the person is using the money or assets that you want to seize or freeze.

[English]

There are some recent cases, for example, that I was looking at involving bitcoin. It's a new and emerging technology. However, at the end of the day, it's still a question of who the person is on the other end using the computer. How do we establish that?

Some of that is going to be done the old fashioned way. In the cases I'm thinking of, it's about surveillance, for example, so that when the person communicates or does something, we can prove that they did something. Those are the connections that we still have to make. Does the technology pose extra challenges? For sure, it does.

Dark web, bitcoin, and cryptography all pose extra challenges. At the end of the day you have to get the evidence. Intelligence can help. I'm sure the police would tell you that it can help direct them where to investigate, but at the end of the day, you have to have a means to get admissible evidence.

[Translation]

**Mr. Pierre-Luc Dusseault:** You said that crypto currency transactions had resulted in convictions. Do you have a case in mind?

**Mr. George Dolhai:** Yes, there is a case involving crypto currency, but I will keep my remarks general, so as not to comment on a particular case.

Currently, transactions are made using bitcoin, but there has to be another way for the parties to communicate, other than bitcoin. To traffic in drugs, for instance, you can use bitcoin, but bitcoin alone won't cut it.

• (1750)

[English]

There is cash as well. There was a question earlier in the previous session about cash. Cash is a huge amount. Mr. Chun had \$600,000.

**The Chair:** Thank you.

Mr. Sorbara.

**Mr. Francesco Sorbara:** Thank you, Mr. Chair. Welcome gentlemen.

How is the co-operation amongst the various agencies? I think there are 13 in Canada. There were three pages of acronyms in the book that we were given. How is the co-operation these days amongst all the agencies?

**Mr. Paul Saint-Denis:** Are we talking about prosecution agencies, or prosecution and law enforcement?

**Mr. Francesco Sorbara:** Prosecution and law enforcement, the collection of information, and the sharing of information where appropriate.

**Mr. George Dolhai:** When we provide advice to the police, our goal is to make sure that when that sharing happens, it happens in a manner that is going to lead to admissible evidence. Our concern is with respect to the statutory framework being relied on, and what the charter implications are for privacy.

In my experience, people are very co-operative with respect to the common goal. I can certainly speak in terms of prosecutions services. We have a meeting twice a year of all the heads of prosecution. I can tell you, it's tremendous. I'm sure it's the same with the police in some of the police meetings I've attended among the various police forces. People park the politics at the door, and they just get down to brass tacks.

**Mr. Francesco Sorbara:** Is there any way that we as a committee can get a list of cases in which there was a conviction for money laundering, or cases that would help us better understand the process over the last three to five years?

**Mr. George Dolhai:** If you give me an indication, Mr. Chair, of what types of statistics are sought, I can tell you, for example, that in the last five years, we've had 163 money laundering proceeds of crime prosecutions. Those are prosecutions that have drugs in them as well. In terms of standalone money laundering and proceeds of crime, the classic, we've had 46 during that five-year period.

In Canada, the structure that exists is one where one doesn't have to even have a charge of proceeds of crime or money laundering with respect to the money that is generated through drugs, for example. The conviction itself, on the drugs, will be the avenue for purposes of forfeiture. On those we have thousands.

I can indicate, for example, that with regard to proceeds of crime cases during the last five years, we've had a total of over 20,000 files. Of those, there have been findings of guilt for the proceeds of crime or drugs, because that can also lead to the forfeiture, in 11,000 on those files. That accounts for approximately 63%.

If one were to take out of the picture those cases where there was insufficient evidence or a determination was made that it was not going to proceed to a prosecution in terms of a withdrawal or stay, then the convictions are approximately 84% on average during those five years.

It's a complex mix in Canada, because of the arrangement with respect to the substantive offence. I focus on drugs, because drugs are a significant part of our area. I'm sure if the provincial attorneys general were speaking to you, they would talk about other matters, for example, like ordinary frauds.

**Mr. Francesco Sorbara:** I'm sure I'll have to go back and read over the blues to get the numbers, but if we could get some of that data from you that would be great, Chair.

**The Chair:** Well, then, any other questions?

**Mr. Francesco Sorbara:** One last follow-up, and I don't know if you can answer this. I forget the name of the outgoing RCMP assistant commissioner, but it was in the paper a while ago about the focus within the RCMP, where resources were being put. The comment was made that a lot of the focus was on terrorism, that a lot of resources were put there, and a lot less of the focus was on organized crime and its relationship to money laundering. Resources were shifted from one area to the other. They referenced the Hells Angels organization, which, from my understanding, has reappeared in Ontario quite vigorously. Is this review something where the tools are in place to combat that, if in fact resources were redirected, whether it was under the prior government's watch or our government's watch, in that vein?

● (1755)

**Mr. Paul Saint-Denis:** Mr. Chairman, the allocation of resources by the RCMP is of course strictly the RCMP's concern. I believe it is correct that they have over the past few years focused more on national security and anti-terrorism initiatives or efforts and may have shifted some of their resources from criminal investigations to those areas. But if you want additional information, I'm sure you'll be able to ask the RCMP for that kind of information.

**The Chair:** Okay, we'll have to leave it there.

Mr. Kelly.

**Mr. Pat Kelly:** Thank you.

My questions were in the same vein and similar to what Mr. Sorbara had asked, so maybe I'll just ask for clarity on this.

The conviction rate on money laundering you said was 84%. What did that refer to? You also mentioned the number of 163 present cases. What was that 84%? What did that represent?

**Mr. George Dolhai:** That 84% represented the cases that had either proceeds of crime or money laundering in them, and other offences as well—drugs. That represents that. When you take out of that figure the withdrawals and stays by the crown, putting aside judicial stays, because those are a different concern or matter, that's

what that referred to. If you left them in, it's approximately 63%. That's for that.

With respect to the stand-alone—I didn't give this figure—money laundering and proceeds of crime cases, there were 46 of those. If you take out the stays or withdrawals, the conviction rate is 78%. Again, each case is on its own evidence. As the crown, our responsibility is to fairly and vigorously put forward the evidence that we have before the courts and to get a determination on the merits. In that context that's what occurred. The 46 are stand alone. The ones that are money laundering and proceeds of crime, with some other charges, those are the 163.

I can provide those statistics for the committee so that you're not having to write them down.

**Mr. Pat Kelly:** Sure.

**Mr. George Dolhai:** I'm certainly happy to answer any questions about them, too.

**Mr. Pat Kelly:** Okay.

This may be difficult for you to answer because you only make decisions on cases that you reasonably believe you can win and that are in the public interest. How widespread is the crime of money laundering where winning cases cannot be put together, and thus justice cannot be done in these cases? We've been told by the last panel of the complexity and the difficulty and a litany of challenges that are faced when putting together a case that can go from investigation to a charge laid to a conviction. How are we doing in the broader realm of actually punishing this crime?

● (1800)

**Mr. George Dolhai:** Unfortunately, I can't really comment on what is not in a position to be presented for purposes of a charge. Our folks are regularly consulted by the police on a whole host of investigations in this area, as in other areas where decisions are made, and they are in the best position to make those decisions as to how much further they are going to be able to get in an investigation. I'm not able to comment on that part of it.

**Mr. Pat Kelly:** Okay.

Can you tell the committee anything about your provincial counterparts and about how the prosecution of money laundering is handled at the provincial level?

In my past business life, we repeatedly were made aware of complaints from prosecution about lack of resources to be able to prosecute fraud, and money laundering is a type of fraud. How are we doing at the provincial level, in your opinion?

**Mr. George Dolhai:** Again, I'm not able to comment on the provincial statistics because I do not have the provincial statistics. What I can indicate is that in the provinces, there are two different regimes. There is the Criminal Code regime. I think virtually every province has a civil forfeiture regime as well, which we don't have federally.

**The Chair:** Do you need points of clarification?

**Mr. Pat Kelly:** No.

**The Chair:** I'm coming to Greg, but are there any case studies of an actual case that the committee could see on money laundering? If we were to go to the case record, we would have a volume of stuff. Are there any case studies of an actual case on money laundering that could be made available to us?

In order to get our heads around all the issues relating to a case in court—and actually, it would include investigators' investigation or some of the things on the record—is there any such thing available?

**Mr. George Dolhai:** I mentioned the Chun case. I think that perhaps the reasons for the judgment in that case might be of assistance to the committee, because with respect to when you get to a closed case and there's a determination made by the judge, you have to have reasons. The judge synthesizes all the evidence and indicates, essentially, what had to come together to have that finding by the court. That might be a case that I could supply that might be of assistance.

**The Chair:** You can supply that to us, and people at their leisure could have a look at it. I think it would kind of get our heads around it.

**Mr. George Dolhai:** Sure.

**The Chair:** Mr. Fergus.

**Mr. Greg Fergus:** Thank you very much, Mr. Chair.

As a matter of fact, again, to follow up on what the chair said, it would be great to have that example of a money laundering case. It would also be very helpful to get back to Mr. Sorbara's point that if we had a list of all the successful prosecutions of money laundering cases—notwithstanding the distinction you made, but just money laundering cases, if it were at all possible over the last five years—that would be very helpful as well to understand the flow there.

I would like to come back to a couple of reports ago. The Senate banking and commerce committee did the first study on the 2000 legislation that started to include the anti-terrorism financing act. Also, in the review in 2013, the same committee pointed out the gap that exists in what happens with the legal profession and whether or not we can identify an official ownership or understand what is going on in those transactions.

For the last 15 years now, we've been talking about the same issue.  
[Translation]

Mr. Saint-Denis, you said that you were discussing the issue but had not come up with any solutions. When will the discussion with the members of Canada's legal profession and Quebec's notaries finally come to an end?

**Mr. Paul Saint-Denis:** I don't think I can say precisely when.

We'll have to figure out what is possible in light of the Supreme Court's decision in the federation's case, and that isn't easy. If you read the decision, you'll know that it leaves very little leeway for requiring information from lawyers or compelling them to provide information on their clients. We have to explore the limited possibilities available to us, in consultation with our charter experts, to determine whether the options we are considering are indeed possible or, conversely, whether we would still face a constitutional challenge, one that we would lose. The goal is to find something that will work, after all.

That said, we do a lot of work with the Department of Finance and FINTRAC. As I said earlier, we hope to work with the various provincial bar associations to figure out whether they can obtain certain information that we, at the federal level, cannot. The bar associations are governed by provincial legislation, but with their co-operation, we may be able to obtain information that could be useful to us later.

As for when that will be done, I would say as early as possible, but I can't give you an exact date.

• (1805)

**Mr. Greg Fergus:** You're absolutely right. I apologize for asking you to give an exact date. I just wanted to make sure that the discussions were under way and that the time frame for a decision was reasonable.

My second question has to do with this problem.

In terms of hearing arguments in support of keeping the current system as well as the case for changing it, who would be the best-suited legal minds in Canada for the committee to meet with? I'm trying to figure out how we can study the issue. Can you give us any names of individuals the committee could invite at some point?

**Mr. Paul Saint-Denis:** Unfortunately, not off the top of my head.

**Mr. Greg Fergus:** You can take a few days to think about it and, then, get back to the clerk with a few suggestions.

**Mr. Paul Saint-Denis:** I can certainly ask around and check with my colleagues at the justice department, as well as those at the Department of Finance. The finance people have been grappling with the issue for some time now, so they've had an opportunity to look at it more closely. I could do a brief survey and send you the names of some experts, if you like.

[English]

**Mr. Greg Fergus:** I would appreciate it, Mr. Saint-Denis.

**The Chair:** At a later date, if you've got suggestions for a couple of names, Mr. Saint-Denis, that would be helpful because we're trying to find the parameters of where we can go in this study, as well.

**Mr. Greg Fergus:** Could we get that, maybe within 10 days, when we come back from the next break?

**The Chair:** Yes. We would want that before we come back after the two-week constituency time.

Mr. McLeod, you can have a last question.

**Mr. Paul Saint-Denis:** Mr. Chair, I have one small piece of information. I want to make sure that you're looking for individuals who would be able to testify, in respect of the solicitor-client privilege in the context of the PCMLA. Is that correct?

**The Chair:** Yes.

Go ahead, Mr. McLeod.

**Mr. Michael McLeod (Northwest Territories, Lib.):** Yes, Mr. Chair. Regarding the PPSC and their presence across the country, with 11 regional offices and I think 900 employees, I just wanted to ask what their track record is like, maybe covering the last five years or so. How many prosecutions for money laundering and terrorist financing resulted in a conviction? How many of these were settled prior to the conclusion of a trial?

•(1810)

**Mr. George Dolhai:** With respect to money laundering, I can indicate that where it has been stand-alone money-laundering, proceeds of crime, there have been 46 files during the last five years. Of those 46 files, 25 were stayed or withdrawn by the crown, and 21 were adjudicated. Eighteen 18 were convicted, through a guilty plea or after trial, and five were acquitted. There were no judicial stays. Those are with respect to the stand-alone money-laundering, proceeds of crime cases.

With respect to the offences that include other charges beyond those, the number is 163, and I can provide you with the breakdown if you'd like with respect to findings of guilt, stays, and withdrawals.

**Mr. Michael McLeod:** Thank you for the response.

I'm curious. You have 11 different regional offices. I have to ask you, because I represent the Northwest Territories. I'm not sure you have a presence regarding this issue in the Northwest Territories—maybe you could tell me if you do or not—but what are some of the challenges that are out there, that all 11 offices are facing, that are fairly consistent across the board?

**Mr. George Dolhai:** First of all, we do have a presence, of course, in the Northwest Territories. My part of the organization is actually responsible for our offices in the three territories. We do not have

and we have not had significant money-laundering proceeds of crime cases there. Part of the reason for that is that even the drug portion is not the primary portion of what is occurring there, although there is definitely an increase happening. There's an increase in terms of both the quantity and the severity of what is occurring, including such things as fentanyl, a scourge that everyone has mentioned a number of times.

With respect to the other offices across the country, the issues are, again, how to get the evidence and, from our perspective, how we advise the police in order to assist them, so that investigatory decisions they're making will help them to get admissible evidence. The challenge, whether with respect to technology, cryptography, or privacy issues with respect to computers and hand-held devices, is getting information and meeting the threshold for production orders, which is the reasonable grounds threshold, like a search warrant. It's getting the evidence from all of those various pieces.

**Mr. Michael McLeod:** Thank you.

**The Chair:** We have to go in camera to deal with a couple of items.

Thank you both for appearing. There may come an opportunity for us to invite you back—I'm not sure—as we go through the process on this particular review on the proceeds of crime.

With that, thank you very much.

**Mr. George Dolhai:** Thank you, Mr. Chairman.

**Mr. Paul Saint-Denis:** Thank you, Mr. Chair.

**The Chair:** We will suspend and go in camera.

*[Proceedings continue in camera]*

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