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## **Standing Committee on Finance**

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**EVIDENCE**

**Wednesday, February 28, 2018**

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**Chair**

**The Honourable Wayne Easter**



## Standing Committee on Finance

Wednesday, February 28, 2018

• (1555)

[English]

**The Chair (Hon. Wayne Easter (Malpeque, Lib.)):** I call the meeting to order.

My apologies to the witnesses for a considerably late start. We had votes in the House, as you probably know.

Pursuant to the order of reference of Monday, January 29, we'll continue with the statutory review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

We'll start first with the witnesses from the Canada Revenue Agency: Mr. Manconi, Mr. Bland, and Mr. Bonin.

Go ahead. The floor is yours.

**Mr. Tony Manconi (Director General, Charities Directorate, Legislative Policy and Regulatory Affairs Branch, Canada Revenue Agency):** Good afternoon, Mr. Chairperson.

Thank you very much for the invitation to appear before you today. My name is Tony Manconi, and I'm the director general of the charities directorate within the Canada Revenue Agency.

[Translation]

With me is Alastair Bland, Director of the Review and Analysis Division, which is the area responsible for carrying out the charities directorate's national security mandate.

Also from the Canada Revenue Agency, or CRA, is Stéphane Bonin, Director of the Criminal Investigations Division. I will be sharing my time with him.

[English]

We are pleased to be here today to answer any questions you may have regarding CRA's involvement with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, PCMLTFA, as FINTRAC discloses information to two distinct areas within the CRA.

When FINTRAC has reasonable grounds to suspect that information would be relevant to money laundering and also to tax evasion, it discloses that information to the CRA's criminal investigations division. My colleague, Mr. Bonin, will speak more about that role in a moment.

In addition, when FINTRAC has reasonable grounds to suspect that information would be relevant to the risk of terrorist abuse of the

charitable sector, it discloses that information to the CRA's charities directorate.

[Translation]

I would now like to provide an overview of the charities directorate's general mandate, as well as its role as a national security partner in Canada's anti-money laundering and counterterrorism financing regime.

[English]

Under the Constitution, the provinces have jurisdiction over the establishment, maintenance, and management of charities. However, registered charities are afforded certain privileges under the Income Tax Act, including exemption from paying tax on income and the ability to issue tax receipts for donations they receive. It's because of these privileges that the CRA has been overseeing the conduct of charities since 1967.

The charities directorate is responsible for ensuring that registered charities meet the legal requirements for registration under the Income Tax Act. This includes ensuring that charitable registration benefits only those organizations that are exclusively charitable at law, and that charitable donations reach intended legitimate beneficiaries. We achieve this through a balanced program of education, service, and reasonable enforcement.

[Translation]

In the course of its work, the charities directorate has been determining whether the registration system was being abused by individuals or groups having links to terrorist organizations. Various administrative processes have assisted in this endeavour.

[English]

The Charities Registration (Security Information) Act, the public security and anti-terrorism initiative, the PCMLTFA, and the Security of Canada Information Sharing Act, as well as consequential amendments to the Income Tax Act, have provided the CRA with the mandate and the ability to staff a dedicated team within the charities directorate, called the review and analysis division, focused on protecting the charitable sector from the risk of terrorist abuse. These statutory developments also permit the use of classified information for determining whether charities should be registered under the Income Tax Act, and have increased the CRA's ability to share relevant information with government partners, including FINTRAC.

While the Income Tax Act remains the primary authority for administrative decisions made by the review and analysis division about charitable status, disclosures received from FINTRAC under the PCMLTFA contribute valuable intelligence required to make informed decisions.

I now turn to my colleague, Stéphane Bonin, who will speak about the criminal investigations division of the CRA.

[Translation]

**Mr. Stéphane Bonin (Director, Criminal Investigations Division, Criminal Investigations Directorate, International, Large Business and Investigations Branch, Canada Revenue Agency):** Good afternoon, Mr. Chair.

I am Stéphane Bonin, director of the criminal investigations division of the Canada Revenue Agency.

Thank you for the opportunity to speak to you today about our participation in Canada's anti-money laundering and anti-terrorist financing regime.

[English]

The criminal investigations program's mandate is to ensure that significant cases of tax evasion are investigated and, where appropriate, referred to the Public Prosecution Service of Canada for criminal prosecution. We use a risk-based approach for file selection focusing on significant cases of tax evasion with an international element; promoters of sophisticated and well-organized tax schemes aimed at defrauding the government; joint financial crime cases with other law enforcement agencies, including cases involving money laundering and terrorist financing; and significant or material cases involving income tax or GST evasion, including the underground economy.

From a broader perspective, offshore tax evasion, which also may lead to money laundering charges, has become more complex, global, and aggressive, thereby presenting increased challenges to tax administrations around the world. To address these new challenges, the criminal investigations program went through a complete business transformation in 2013-14, going from 32 small offices across Canada to six large offices. The objective of that transformation was to strategically position its 600 resources in larger units across the country, with offices in Halifax, Montreal, Ottawa, Toronto, Calgary, and Vancouver. Now with a greater critical mass of investigators in larger centres being closer with our primary partners, such as the PPSC and the RCMP, CRA criminal

investigations divisions are now well positioned to meet current and future challenges.

[Translation]

As an example, the CRA criminal investigations division recently executed three search warrants, during the course of an offshore tax evasion criminal investigation related to the data leak from the Panamanian law firm Mossack Fonseca, made public in the Panama Papers.

Approximately 30 CRA criminal investigators, assisted by members of the RCMP, took part in the operation that unfolded in Calgary, west Vancouver, and the greater Toronto area. The CRA's investigation identified a series of transactions involving foreign corporations and several transfers through offshore bank accounts used allegedly to evade taxes.

In our media release, the CRA publicly acknowledged the significant contribution of the Financial Transactions and Reports Analysis Centre of Canada, or FINTRAC, to this criminal investigation.

This example demonstrates the effectiveness of various regime partners working together. Domestically, the CRA collaborates with FINTRAC and law enforcement agencies to ensure the effective use of financial intelligence in its criminal investigations. As my colleague Mr. Manconi mentioned earlier, the CRA receives disclosures from FINTRAC when it suspects that information would be relevant to money laundering and also to tax evasion.

• (1600)

[English]

To conclude, tackling this global problem of tax evasion and money laundering takes a firm commitment and the effective use of tools and partnerships to identify and bring into compliance those who try to cheat and misuse the system, which is why the CRA's criminal investigations program remains a committed partner in the anti-money laundering regime and will continue to investigate those taxpayers who participate in money laundering related to tax evasion.

I look forward to your questions.

**The Chair:** Thank you, Mr. Bonin.

Thank you, then, to the representatives of the CRA.

Turning to the Office of the Privacy Commissioner of Canada, we have Mr. Therrien, Ms. Wilson, and Ms. Ives. Welcome.

[Translation]

**Mr. Daniel Therrien (Privacy Commissioner of Canada, Office of the Privacy Commissioner of Canada):** Thank you, Mr. Chair.

I'd like to thank the members of the committee for the opportunity to appear before you today as part of your statutory review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, or PCMLTFA.

We, of course, support Canada's efforts to combat money laundering and terrorist financing. However, the manner in which these efforts are undertaken must strike an appropriate balance between the need to combat such activities and respecting privacy rights of Canadians.

The most apparent privacy implication with this regime is that it casts a wide net capturing a great deal of information about law-abiding Canadians conducting financial transactions, with a view to uncovering threats to national security or incidents of money laundering.

In our previous parliamentary briefs on Bill C-51 and Bill C-59, we signalled concerns around information collection and sharing regimes in the context of national security.

Specifically, we have highlighted the need for rigorous legal standards around the collection and sharing of personal information, effective oversight, and minimization of risks to the privacy of law-abiding Canadians, in part through prudent retention and destruction practices.

As you are aware, subsection 72(2) of the PCMLTFA provides my office with a mandate to conduct biennial reviews of how FINTRAC protects information it receives or collects under this act. We can also conduct reviews under section 37 of the Privacy Act.

All of our audits have identified issues with FINTRAC receiving and retaining reports that do not meet legislative thresholds for reporting.

In 2014, the PCMLTFA was amended by Bill C-31 to add subsection 54(2), which requires that FINTRAC destroy information in its holdings that was not required to be reported.

Although FINTRAC has implemented measures to validate incoming reports, a significant improvement, we continue to identify information in FINTRAC databases that did not meet thresholds and should not have been retained.

Also, we have generally found FINTRAC to have a comprehensive approach to security, including controls to safeguard personal information. Our most recent audit did identify governance issues between FINTRAC and Shared Services Canada, which FINTRAC has committed to addressing.

Beyond these issues, which we are mandated to review under the PCMLTFA, our principal concern, based on our experience reviewing FINTRAC over the past 10 years, relates to the lack of proportionality of the regime. Disclosures to law enforcement and other investigative agencies made in a given fiscal year represent a very small number when compared with the information received during that same time frame. For every 10,000 reports received, one disclosure is made.

Information received is also retained for long periods. FINTRAC's retention of undisclosed reports increased from five to 10 years in 2007.

Even if one accepts that sharing financial transaction data related to law-abiding citizens may lead to the identification of threats of money laundering or terrorist financing activities, once that information is analyzed and leads to the conclusion that someone is not a threat, it should no longer be retained.

More broadly, we have noted a trend to broaden the regime over the years, and we note the Department of Finance Canada's vision of moving towards a holistic information collection scheme, which would create an environment supporting increased analytics and information sharing. We have already seen discussion about lowering existing thresholds for reporting, which could be done through regulations without parliamentary approval. In the consultation paper, the Department of Finance Canada also suggests increasing the number of reporting agencies and establishing a new model for engagement of the private sector.

● (1605)

[English]

While I appreciate that a holistic approach to the collection and sharing of information might be useful to identify threats, what is proposed, unless appropriate privacy safeguards are adopted, would further exacerbate our concerns with proportionality.

Instead, I would suggest that a risk-based approach be adopted in order to minimize the risk of over-collecting and retaining the financial and personal information of law-abiding citizens. Under such an approach, FINTRAC, based on a thorough risk-based analysis of its data, would develop criteria to limit collection, sharing, and retention to only situations likely to represent potential manifestations of terrorist financing or money laundering.

We realize this may be challenging, but as privacy experts, we at the OPC believe we can play a role in the assessment of these factors, which leads me to this: currently our review mandate, under the PCMLTFA and the Privacy Act, is limited to ensuring that these statutes and regulations, as enacted, including monetary thresholds for collection, are respected.

We think a more useful contribution would be to provide advice, after review, on amendments that could be made, to either the statutes or the regulations or the practices of FINTRAC, to ensure greater proportionality, including the assessment of risk factors that might govern information collection, sharing, and retention.

The government is recommending that the PCMLTFA be amended to provide that the reviews we currently undertake every two years under section 72 now occur every four years. We agree in part, but we would recommend a change of purpose for these reviews.

First, we would recommend that the purpose of our reviews under the act be modified to include advice or recommendations on proportionality, as just mentioned.

Second, they would begin at least one year before every anticipated five-year review that Parliament must undertake. The OPC would continue to conduct compliance reviews under section 37 of the Privacy Act, which would not need to be amended. As it relates to proportionality, the committee may wish to consider part 4 of Bill C-59, currently before Parliament, concerning CSIS datasets and their retention, which might be instructive.

Under that model, CSIS must clean data promptly—that is, within 90 days—and can retain Canadian datasets only if the Federal Court is satisfied that doing so is likely to assist in the performance of CSIS's mandate, including the detection of threats to the national security of Canada. In addition, with respect to any contemplated changes to reduce existing thresholds through regulations, which would also affect proportionality, I would reiterate my recommendation in the context of Privacy Act reform, that government institutions should be legally required to consult with my office on draft legislation and regulations with privacy implications before they are tabled.

My written statement now goes into questions of oversight. Do I have time?

• (1610)

**The Chair:** Yes, go ahead.

**Mr. Daniel Therrien:** In terms of review and oversight of this regime, there are some review mechanisms in place and others proposed in Bill C-59, but I would argue that there are still some gaps in terms of comprehensive oversight.

While some decisions are subject to statutory or judicial review by the federal courts, which is one form of oversight, by the courts, a decision by FINTRAC to disclose information is more likely to be challenged in the context of a proceeding involving a disclosure to an investigative body such as a law enforcement agency. In many cases, however, an individual whose information is disclosed by FINTRAC might never know the disclosure took place.

Bill C-59, if passed, would create a new expert review body, the national security and intelligence review agency, with broad jurisdiction to examine the activities of all departments and agencies involved in national security, which includes FINTRAC. In addition, the new National Security and Intelligence Committee of Parliamentarians will also have a role to produce well-informed and comprehensive reviews of the work of these agencies.

However, the NSIRA will not review all of FINTRAC's activities, given the latter's mandate to identify criminality related to money laundering, and the NSIRA's national security mandate. Its national security review might also be limited given that not all of FINTRAC's disclosures are within the federal family.

The OPC is another oversight mechanism. We have an important mandated role, as already examined, and insight on the privacy aspects, including 10 years of audit experience in this area. However, as we've said in the context of Bill C-59, we currently would not have the legal authority to work with other national security review

bodies, such as the NSIRA, to co-operate and provide effective oversight in this area.

To summarize, I would recommend the following: one, that the purpose of our reviews under the PCMLTFA be modified to include advice or recommendations on proportionality; two, that they begin at least one year before every anticipated five-year review that Parliament must undertake; and three, with respect to any contemplated changes to the regulations, Finance Canada should be legally required to consult with my office on draft legislation and regulations with privacy implications, before they are tabled.

Thank you very much, and I look forward to your questions.

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

I'll turn, then, to the Department of Public Works and Government Services: Mr. Trudel and Ms. Tomson.

**Ms. Lynne Tomson (Director General, Integrity and Forensic Accounting Management Group, Integrity Branch, Department of Public Works and Government Services):** Thank you.

[*Translation*]

Good afternoon, Mr. Chair.

My name is Lynne Tomson, and I am the Director General of the Integrity Regime and Financial Accounting Management Group of Public Services and Procurement Canada, or PSPC.

Accompanying me is Nicholas Trudel, Director General with the department's Specialized Service Sector.

[*English*]

For those of you who might not know, Public Services and Procurement Canada acts as the Government of Canada's central purchasing agent and real property manager on behalf of all government departments and agencies. PSPC also provides specialized services to other departments and agencies. It is in the second context that the department directly supports Canada's anti-money laundering and anti-terrorist financing regime.

PSPC provides two services that are directly linked to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

The first of these services is forensic accounting, which is delivered through the forensic accounting management group of the integrity regime renewal branch within PSPC.

The second service is the disposal of seized property. This is managed through the seized property management directorate of the integrated services branch, which Nicholas will speak to briefly.

I'd like to share with you now a bit of background on the forensic accounting management group, FAMG. It was created in 1998 following the implementation of the Proceeds of Crime Act to support both the Royal Canadian Mounted Police and the prosecution service in relation to proceeds of crime or money laundering investigations, and through a 2002 order in council:

the provision of forensic accounting services...by the Minister of Public Works and Government Services Canada to provincial, territorial, municipal, and aboriginal governments and their police forces, and foreign governments, upon request by these governments for such services.

Across Canada, approximately 40 forensic accountants are co-located with the RCMP in 11 of their offices. They play an active support role in the detection and disruption of money laundering and terrorist financing by collecting and assembling financial evidence to support or refute allegations.

Their analysis of financial transactions helps lead to the identification of wrongdoers, provides evidence for the elements of the crime, and allows law enforcement to trace and seize any ill-gotten gains. These accountants also provide advice on various financial and accounting aspects of the investigation, including analysis of corporate documents, banking data, tax information, financial statements, and FINTRAC disclosures.

•(1615)

[Translation]

To give you a sense of the vast scope of this work, in the past five years, the group has been involved in approximately 100 RCMP money laundering and terrorist financing investigations, and has testified in nearly 30 criminal trials. The combined value of seized assets and court-imposed fines in these files totalled nearly \$10 million.

Money laundering and terrorist financing investigations have become increasingly complex and almost always include an international component. To share our knowledge in finance and accounting, we also work with the RCMP in order to provide specialized training to the investigators working on these files.

In order to combat these crimes, it is important to remove the financial incentive. The analysis of financial transactions is a key part of that work. Therefore, the impact that forensic accounting services can have in money laundering and terrorist financing criminal investigations is significant, and has been proven in Canada as well as internationally.

[English]

Finally, I'd like to note that PSPC indirectly supports the objectives of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, as it is responsible for administering the Government of Canada's integrity regime. This regime ensures that the government does business with ethical suppliers and that suppliers who have been convicted of listed offences are rendered ineligible to be awarded a government contract. In line with the duties of my group, one of the listed offences is for convictions of laundering proceeds of crime.

I will now turn to my colleague, who will speak to you about the management of seized property.

**Mr. Nicholas Trudel (Director General, Specialized Services Sector, Integrated Services Branch, Department of Public Works and Government Services):** Thank you. *Bonjour, monsieur le président.*

My name is Nicholas Trudel. I'm the Director General of the specialized services sector within Public Services and Procurement Canada. I've been responsible for the seized property management directorate, which I will refer to as SPMD, since 2014. My intention today is to give you a brief overview of the organization and the extent of our involvement, with regard to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

SPMD was created in 1993 to support law enforcement agencies across Canada and abroad with the management of seized and restrained assets.

SPMD provides several critical services to stakeholders. The directorate provides consultative advice at the pre-seizure, post-seizure, and post-forfeiture stages. At the pre-seizure stage, this involves providing financial, logistical, and risk analysis to stakeholders, which includes consideration of the overall financial viability of seizing an asset. At the post-seizure stage, sound asset stewardship practices are applied to protect, maintain, and report on seized assets. During the post-forfeiture stage, when directed by the courts, the disposal of the assets occurs by either public sale, donation, recycling, destruction, or return of the assets to the accused.

SPMD also administers the sharing of net proceeds with stakeholders. Proceeds are generated by disposing of seized assets or collecting fines ordered by the courts, in lieu of forfeiture. The sharing occurs with jurisdictions that have had a law enforcement agency participating in the investigations of offences. From 1993 to 2017, SPMD shared a total of \$337 million in net proceeds, which includes \$243 million with the Receiver General of Canada, \$89 million transferred to provinces and territories, and \$5 million shared with foreign governments.

The legislative authority governing SPMD includes the Seized Property Management Act and its regulations, the Controlled Drugs and Substances Act, and the Criminal Code of Canada, as well as the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

SPMD's authority under the PCMLTFA relates primarily to sections 18 and 22 of the act. Section 18(1) authorizes seizures of currency or monetary instruments by law enforcement agents with reasonable grounds. Section 18(2) requires the return of seized currency or monetary instruments where a penalty has been paid, unless the assets are suspected to be proceeds of crime under the Criminal Code or funds for use in financing terrorism. Section 22(1) requires that forfeited currency or monetary instruments be sent to the Minister of Public Services and Procurement, and section 22(2) requires that seized currency, monetary instruments, and penalties be sent to the Minister of Public Services and Procurement.

I'm happy to answer any questions you may have about SPMD's role.

•(1620)

**The Chair:** Thank you.

Thank you to all the witnesses. It seems that the more witnesses we have, then the more complicated we can see that this review is.

We'll turn to Mr. Fergus. We'll go to our first round of seven-minute questions.

Greg, the floor is yours.

[Translation]

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

I'd also like to thank all the witnesses for being here. I think that every Canadian watching today's meeting will find the subject matter very interesting and realize that we may be able to pinpoint weaknesses in the regime we are studying today.

My first question is for Mr. Therrien.

I'd like to thank you and your team, Mr. Therrien, for the work you're doing.

You said, in your opening statement, that your office had identified certain problems. I have your opening statement here, but unfortunately, it's the English version.

[English]

You identified that you are concerned about the level of information that is retained by FINTRAC.

[Translation]

Furthermore, Ms. Tomson, of PSPC, talked about the importance of forensic accounting in detecting money laundering and terrorist financing activities. A review of the data requires access to information that has been collected over a fairly long period of time. If something arises, PSPC has to go back over old documents or previous findings showing that nothing was problematic and no money laundering had occurred. When new information becomes available, however, the data needs to be reviewed once again.

With that in mind, do you think it's a good idea for FINTRAC to destroy the information as soon as it determines that the activities of such and such a person or corporation were not suspicious?

**Mr. Daniel Therrien:** We aren't necessarily suggesting that the documents be destroyed within a short time frame. We are recommending a risk-based approach. A great deal of information is collected on a huge number of transactions, the vast majority of which relates to the financial transactions of law-abiding Canadians. That is the basis of the approach used to detect criminals or terrorists and is very similar to the procedure proposed in Bill C-51 and Bill C-59. It has merit, but the information has to be screened using numerous pieces of data to uncover threats and individuals who are security threats or criminals.

I am not calling the process into question, but it's helpful to keep some figures in mind. Over the past few years, the ratio of actionable disclosures to law enforcement or other organizations has been one for every 10,000 reports received. For every 10,000 reports received, only one disclosure is made to police, the Canada Revenue Agency, or security agencies. We found that a significant amount of information is collected but that people pose a security threat in a very small number of cases.

I'm not saying that the information should no longer be collected, but I am recommending that a risk-based approach be adopted, as the Canada Revenue Agency officials more or less suggested. A considerable amount of information can be gathered initially, but a risk-based approach—one that takes into account the usefulness of the information for forensic evidence purposes—can be applied. That could be one of the factors given consideration. However, a risk analysis should be conducted fairly early on to determine whether the information needs to be retained or not. It is possible that, for a variety of reasons, a certain number of reports would need to be retained for a long period of time. On the flip side, I think many other reports would need to be destroyed rather quickly, as proposed in Bill C-59.

Personally, I see similarities between the approach set out in Bill C-59, which proposes extensive data collection in order to identify the small number of people who pose a threat, and the collection of financial transaction information under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, in order to identify a small number of criminals who are laundering money or contributing to terrorist financing.

● (1625)

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

Ms. Tomson, do you think PSPC needs to hold on to the information for a certain period of time so that your staff can work with FINTRAC to make sure nothing illicit is going on?

**Ms. Lynne Tomson:** We are asked by the RCMP to assist in specific criminal investigations, and the need to retain information depends on the period during which the activities transpired. In forensic accounting, it's preferable to have access to as much financial information as possible in order to build a financial picture of the individual or company, establish the source and use of funds, and track their movement and the manner in which they flow from one account to another.

**Mr. Greg Fergus:** Would you say there are any weaknesses in the information you receive? Do you think the current privacy restrictions are preventing you from accessing certain information that would be of benefit to you?

**Ms. Lynne Tomson:** What we actually need is the capacity to identify who the money or assets genuinely belong to.

[English]

**Mr. Greg Fergus:** Beneficial ownership.

[Translation]

**Ms. Lynne Tomson:** Yes, we need to be able to determine

[English]

who the true owners are

[Translation]

and have access to national and especially international information. If the money is sitting in a foreign bank account, we have to work with the RCMP to identify where and then submit an application to Justice Canada in an effort to access the information.



[English]

**The Chair:** Sorry, Greg, is it a supplementary?

**Mr. Greg Ferguson:** No.

**The Chair:** You may get another round.

Mr. Albas.

**Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC):** I want to thank all our witnesses for the work you do for Canadians. I appreciate your expertise and your presence at the table today.

I would like to start first with Mr. Therrien. Thank you very much for your presentation. I'm going to be asking a couple of questions on what you've offered, but also, being from British Columbia, I have some specific cases. I'd also like to talk about...because these reviews happen every five years, and technology changes and whatnot.

First of all, you've made the suggestion that right now FINTRAC collects information on every financial transaction that it can possibly get a hold of, that it's allowed to under law, but perhaps there should be some proportionality applied.

Does technology, for example algorithms, allow for the risk-based assessments that you're talking about, or are you just talking about taking the current system and slowly scoping it into a different framework vis-à-vis Bill C-59?

**Mr. Daniel Therrien:** Technology may well help to bring greater proportionality.

**Mr. Dan Albas:** Is there a technology—for example, algorithms, AI, or whatnot—that would be able to supplement right now? It seems that they capture a tremendous amount of information—if there's a complaint made by someone that they follow up on, if there seems to be suspicious activity over a period of time—but they're retaining all of that information. I think that's the concern you've placed.

Could an algorithm be utilized to move off from collecting and holding all information, or should it be similar to an airport scanner, where everyone is scanned, but then different tools are used when there are concerns raised?

• (1630)

**Mr. Daniel Therrien:** I think it would likely be an iterative process. I can't say to you today, without having looked at the risk factors, what they would be, but we would like to sit down with FINTRAC, discuss with them whether they think there are certain risk factors that are more indicative of the activities that they must identify, and I'm sure there are. We would work with them to identify these risk factors and potentially not collect information that would not lead to these risks.

In other words, we want to work with FINTRAC to get to the right place.

**Mr. Dan Albas:** I certainly appreciate that recommendation, and I'm glad you're here to explain it in full detail.

In regard to British Columbia, an obvious area that is under a lot of question is real estate transactions. One of the questions is whether someone should be able to purchase property without

actually disclosing their ownership in it, or beneficial ownership. Do you have any issues with privacy concerns when someone purchases a piece of property but does not disclose their information?

**Mr. Daniel Therrien:** In principle, we don't have a problem with rules that would provide greater public information about beneficial ownership in principle. Of course, the data that would be made available to others, particularly the public, should be only limited to what is necessary to achieve the purpose of informing another potential contractual party to know with whom they are dealing, for instance. In principle, we don't have a problem with that.

**Mr. Dan Albas:** Okay, thank you.

In regard to FINTRAC, obviously a great amount of money goes into making sure the system runs well, a lot of compliance costs as well, but it does create an overall, overriding societal benefit, I believe.

On the flip side, they're collecting a lot of information that could be aggregated in a way that does not compromise anyone's individual privacy and may help decision-makers, for example CMHC, OSFI, or even the Minister of Finance. For example, Mr. Grewal raised an issue in our housing study about cash purchases.

Do you think there's any risk in the government's looking to aggregate that data so that we have a better picture of some particular markets vis-à-vis real estate transactions?

**Mr. Daniel Therrien:** If you're talking about information that would be aggregated and intelligence derived from that information would then be provided to others presumably on an anonymous basis, not on a personal information basis, that again is possible in principle. There may be problems with anonymizing information. Often when you anonymize information you can reidentify the individuals so care would obviously need to be taken to do that rigorously. But in principle, yes, I think it's doable.

**Mr. Dan Albas:** This goes back to your recommendation that being consulted as part of any upgrades to regulations would be helpful.

**Mr. Daniel Therrien:** Yes.

**Mr. Dan Albas:** Okay. That's very good to know.

The Minister of Finance has recently started discussing the concept of open banking. Open banking can be a variety of different things. For example, in the United States there's a service called mint.com, which allows people at no charge to be able to directly link up to their financial data through their financial institution and be able to draw everything from low-cost loans that are available based on their credit score or based on their income, as well as suggestions on potential vehicles for them to save for retirement as well as to save or to manage their expenses. That's all done free.

Obviously, that technology exists. It's being used in the U.K. as well as the European Union. We haven't seen that level of offering here, although I've met with Intuit, and they said that while they have some similarities, they are operating off a very old technology.

The question would be first of all privacy. Obviously, banks and financial institutions owe their clients privacy and protection. On the flip side, do you think therefore Canadians who would utilize such services, because it is their information, would then own that information and use it for their own purposes? Do you think there are any questions for your office in the question of open banking and ongoing retaining of that information by financial institutions, or that someone should be able to say they own that information, and it shouldn't be shared without their permission?

• (1635)

**Mr. Daniel Therrien:** I will start by saying that I don't think my office has looked at the question of open banking with any details. I think we're outside the scope of the PCMLTFA here. We're probably dealing with the interactions between consumers and an organization subject to PIPEDA, the federal private sector privacy legislation. There is a relationship, of course, between the individual whose personal information is collected by the bank, an organization... and the data, if it is personal information, needs to be handled according to PIPEDA.

**Mr. Dan Albas:** I would suggest, though, that there is again a public purpose in FINTRAC monitoring those accounts. I would also say there is a personal interest because that is that person's information. If a bank or third party was to utilize their information for purposes other than what maybe they have allowed, or perhaps they leave that financial institution, should they have a right to basically pull that information because it is their data and their financial transactions?

I think actually it does relate to the study we're talking about right now. I wanted to make sure we're identifying that there is a government need, obviously, to provide protection, but there is also an individual... Privacy is not just in terms of disclosure of information, but retaining the information, and what's done with it.

**Mr. Daniel Therrien:** If I understand the premise correctly, then the bank and the system would provide or would somehow facilitate FINTRAC or a government agency to have access to that information. If that is the premise, then I think we need to look at the question of proportionality. What harm are we trying to address by having the government have access to that information? It may be that there is an important harm, but I would want to look at the question of the harm quite seriously.

**Mr. Dan Albas:** In your opinion, you would own that information.

**The Chair:** Dan, we're well over unless it's finishing this line of thought.

**Mr. Dan Albas:** I'm just getting his opinion. There's a difference between someone's disclosure of their identity, let's say, under FINTRAC, or of their financial transactions. The actual data itself, the transaction itself, is it owned by the financial institution, in your opinion, or is it owned by the consumer?

**Mr. Daniel Therrien:** I think we're talking about personal information of the individual consumer, but that does not mean you cannot create a system whereby the state would have access to some of that for important public policy reasons.

**The Chair:** Thank you.

Mr. Dusseault.

[*Translation*]

**Mr. Pierre-Luc Dusseault (Sherbrooke, NDP):** Thank you, Mr. Chair.

Thank you all for being here today. This may surprise my fellow members, but most of my questions, which I think are important ones, will be for the Canada Revenue Agency officials. My intentions are good, so I want to try to find solutions that will help you.

I don't agree with your assessment that the criminal investigations into tax evasion are effective and going well. Allow me to refer to an article published not that long ago, just before Christmas, in fact. According to the article, of the 78 convictions handed down in the past two years—one of the Minister of National Revenue's talking points—none, or at least very few, involved offshore tax evasion. I don't think that's exactly a stellar result.

Would you say not having a national public registry of individuals who are company owners, in other words, beneficial owners, hinders the work of investigators at the criminal investigations directorate? Would you like Parliament to fix the problem tied to beneficial owners so that your organization and others can quickly access information on individuals who own a company in Canada?

**Mr. Stéphane Bonin:** Thank you for the question.

The absence of public registries listing ultimate beneficiaries or real owners does hinder our investigations, of course. However, I believe the provincial ministers of Finance have agreed on the development of a framework likely to lead to solutions. This may take the form of a national registry to be created in July 2019. I think that the Canada Revenue Agency would view such a public registry favourably. For the time being, we are working with existing legislation.

I will now talk about the 78 convictions you just mentioned. The CRA Criminal Investigations Program is conducting 42 ongoing investigations involving foreign transactions. Changes to the program can take a certain time, naturally, but we are conducting 42 offshore investigations. The searches which occurred in the past two weeks show that we are headed in the right direction. I also want to mention that we are also conducting 23 tax investigations into the laundering of the products of crime.

Our objectives are really aligned with the goals of the program's initial transformation.

• (1640)

**Mr. Pierre-Luc Dusseault:** Thank you for those answers. I hope that the registry of final owners will be ready by the end of July 2019. I also hope that the committee will join me in asking that the government act in this file.

You stated that the 42 ongoing investigations are related to offshore tax evasion cases, but we are still far from seeing results; you are still at the investigational stage. At this stage, your department often does a cost-benefit analysis, and in some cases decides not to go forward with prosecution and to settle cases outside of court. Consequently, the case does not go before a judge, and yet these are often tax evasion cases.

In the KPMG affair, a settlement was reached involving large amounts, albeit, but the case was not taken as far as it could have gone, which would have sent a signal to Canadians that offshore tax evasion is not acceptable and that it has consequences. This sends a contradictory message. Are you reviewing your practices?

**Mr. Stéphane Bonin:** First, it would be helpful to distinguish between CRA audits and investigations. Today, I am here to talk about investigations.

According to the guidelines we received, myself as director of criminal investigations included, we have to conclude our investigations and send them to the Public Prosecution Service of Canada, the PPSC, so that it can eventually launch suits. There are no settlements in connection with the criminal nature of tax evasion cases we investigate. It may happen that when cases are brought before the courts, there are negotiations between the PPSC prosecutors and the lawyers, as can happen in any criminal investigation brought before the courts. I am not here to talk about the civil cases processed by the agency.

**Mr. Pierre-Luc Dusseault:** I see. Thank you for the clarification.

You referred to the Panama Papers. We know that several countries have managed to recover funds in that dossier. You are still at the criminal investigation phase.

Can you give me some estimate of the time it will take for the Panama Papers case to be handed over to the Public Prosecution Service of Canada, and for penalties to finally be imposed by the court?

**Mr. Stéphane Bonin:** If I understood correctly, there are currently 990 ongoing audits of Canadian taxpayers who have money abroad. For the cases specifically linked to the Panama Papers, there were 150 audits ongoing as of December 31. We also carried out several criminal investigations, some of which led to searches a few weeks ago.

To answer your question, I would say that the Canada Revenue Agency has adopted a global approach, both for civil cases and for criminal investigations. As for the criminal investigations, I am sure that this will lead to some legal proceedings. Our investigations always take a certain time. I cannot discuss the amounts we may be able to recover following the audits. In addition, different countries use different methods in that regard.

• (1645)

**Mr. Pierre-Luc Dusseault:** I'd like to ask a brief question to see how we could help you.

Sometimes a very opaque secrecy surrounds banking transactions when it comes to the very existence of these tax havens, which we could say spring from legislation of convenience. Does this represent a major challenge for your investigators? How do you find solutions to penetrate the opacity that characterizes these tax havens?

**Mr. Stéphane Bonin:** This lack of transparency is a real problem, I can't deny it. Over the years, however, Canada has, together with various countries, concluded 93 tax treaties. In addition, we concluded 23 agreements on the sharing of tax information with various countries, some of which are known tax havens.

I would also like to mention the role of FINTRAC. When we began to examine the Panama Papers in the context of our investigations, one point became obvious; it is not illegal for taxpayers to have some connection with the Panama Papers. The CRA then developed its investigative approach. When we believe that a Canadian taxpayer is connected to the Panama Papers, we check certain things. For instance, did the person submit the T1135 form, the Foreign Income Verification Statement? If someone is mentioned in the Panama Papers but did not disclose the fact that he has over \$100,000 in a foreign account, we check to see whether an investigation is being carried out. We have a structured approach: we do internal audits, and then we submit the results to FINTRAC, which provides us with the information on the transactions. At that point, we can have a good idea as to the nature of the transactions, that is to say whether this is tax evasion. If that is the case, we continue our investigations. The opacity surrounding these transactions causes problems, but it is not insurmountable.

[English]

**The Chair:** We'll have to cut it there. We're substantially over.

Mr. Sorbara, go ahead, please.

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

Good afternoon and welcome.

First of all, to CRA, I want to say congratulations on your announcement a few weeks ago, which you referenced in your remarks today. I think it gives our committee and Canadians confidence that resources are being put to use to make sure all Canadians and Canadian organizations or foreign organizations are paying their share of taxes and that tax evasion is being rooted out.

My first question is with regard to your comments. In terms of the business transformation that took place in 2013-14, we all know the issues that can occur, whether in the private or public sector, when there is a sort of reorganization that occurs within a company or a government agency. How is that reorganization going? What do you think are the outcomes? How are CRA and the teams and individuals there working better within the organization and between the agencies?

**Mr. Stéphane Bonin:** First, the business transformation was essential. I was looking yesterday, and almost six years ago to the day there was a committee appearance to review the PCMLTFA, and a former colleague, who has since retired, was here, and I think at that point it was made clear that CRA had to renew its criminal investigations program, and this is what we did.

We had 32 small offices conducting mostly small cases of tax evasion. The desire at that point was to be closer to our partners, the RCMP, the securities commissions, the Public Prosecution Service of Canada, and others to tackle the most egregious cases of tax evasion. That was the driver behind it: how to get a greater critical mass of investigators and greater teams put together to tackle those large files that we are now doing.

In realigning 32 offices into six offices, we lost some expertise. We knew we would lose some expertise, but at the same time, it was an opportunity for us to get new blood—new auditors—and external talent at the same time. That was also at the same time that tax evasion became a predicate offence to money laundering.

We trained all of our folks on money laundering components to sensitize them, and I think we are doing very well. There are still a lot of things that we can do better, but I think we are on the right track to conduct the types of investigations that Canadians expect of us on the most egregious cases.

• (1650)

**Mr. Francesco Sorbara:** In the first two budgets, our government invested nearly \$1 billion in CRA. When I think about that, it's giving CRA the tools and giving the people the tools and the systems needed to go after very complex—I think that was the term I read—forms of tax evasion and tax avoidance.

Have those investments allowed these teams specifically in this area within the CRA to effectively go after individuals or organizations undertaking tax evasion or tax avoidance?

**Mr. Stéphane Bonin:** There was a lot of investment put into CRA systems and business intelligence. Considering that almost 89% of Canadians now file electronically, CRA had to step up and organize its system to ensure that what we have in our system can generate more cases or more indicators of tax evasion that will make their way eventually to the criminal investigations program.

**Mr. Francesco Sorbara:** Okay.

I could ask CRA several more questions, but I do want to spread the wealth around, if I can use that term.

To the Office of the Privacy Commissioner of Canada, I believe that, in September of 2017, the OPC released its audit report on FINTRAC. It concluded there were “significant efforts to enhance... personal information handling practices.”

I think there's a bigger issue. We live in a society where data sharing, data collection, and data storage are very valuable to organizations. What I want to hear from you is, over the last several years, have there been improvements on FINTRAC's side in terms of how they handle personal information from Canadians?

**Mr. Daniel Therrien:** The short answer is yes, although we still see some difficulties. Our mandate at the OPC is in part to verify whether FINTRAC's security measures to protect the information they collect are appropriate and sound. Generally, we find they are sound.

We've had concerns over the years with the fact that some financial institutions over-report to FINTRAC, and that FINTRAC over-collects and over-retains information. This led to the amendment to the legislation that I referred to in my remarks, which was an

improvement. The situation has improved in that regard, but we still see, including in our most recent review, instances of over-retention.

**Mr. Francesco Sorbara:** Can you give me an example? Is it the length of time that they're holding the information, or is it just—

**Mr. Daniel Therrien:** It's the type of information.

I'll ask Ms. Ives to give you an example.

**Ms. Lara Ives (Acting Director General, Audit and Review, Office of the Privacy Commissioner of Canada):** It's a combination of things. We found reports that don't meet thresholds, so they were underneath the financial thresholds, or which didn't meet thresholds about suspicion—that type of threshold as well.

The point is that if institutions are over-reporting to FINTRAC, then they should not be retaining that data. They have implemented measures to screen reports with validation rules, but there's still information getting into its databases that doesn't meet the threshold. We would hope that it would not get into the databases in the first place.

The provision that the commissioner is referring to only imposes an obligation for them to dispose of information that they come across in their normal course of business. We're suggesting something more proactive than that.

• (1655)

**Mr. Francesco Sorbara:** Thank you.

**The Chair:** Before I turn to Mr. Kelly, you mentioned in your remarks, Mr. Therrien, Bill C-59. I took it that you might have thought there needed to be amendments to Bill C-59.

Is what you're talking about there related to issues relative to money laundering and terrorism financing, or was that other issues related to privacy with the new security agency?

**Mr. Daniel Therrien:** There are two things I'm saying about Bill C-59. First, there are a number of oversight bodies overseeing FINTRAC. We, as one of the bodies, cannot legally share information that we collect in the course of our review with other review bodies. We're saying that it would be very helpful to having fully informed reviews by us and other review bodies if we were able to share our work and come up with more informed conclusions. That's one point.

The other point is the analogy with collection and retention rules by CSIS, which are in part 4 of Bill C-59. There is some analogy to FINTRAC and the PCMLTFA. Under part 4 of Bill C-59, CSIS can collect considerable information, much of which is about law-abiding citizens, as FINTRAC collects a lot of financial transaction information about law-abiding citizens. However, under part 4 of Bill C-59, there are mechanisms to ensure that the collected data is reviewed fairly promptly to determine whether it is of probative or investigative value, and that if it is not of investigative value, it must be discarded.

I think that's an interesting compromise. You have broad collection but screen it fairly promptly, leading to not unduly long retention of information regarding law-abiding citizens.

**The Chair:** Thank you.

What I'm trying to get at is that if things that are being done via Bill C-59 are important to moving ahead on money laundering and terrorism financing, which is our review, then they need to be done fairly quickly, because that committee will be starting clause-by-clause on that bill. If there are areas that you think we can deal with in our review, then drop us a note on the specifics and we'll have a look at it.

**Mr. Daniel Therrien:** We can do that.

However, as a practical matter, if you let Bill C-59 pursue its course—and perhaps, I would suggest, be inspired by some of what is found in part 4—and then translate it to any recommendations you would make to amend the act you are reviewing. I think that would be good.

**The Chair:** Okay, thank you.

Mr. Kelly.

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

I have some questions that come to me based on the lengthy career I had in the mortgage business. Through many seminars, for years and years, and including course material when I was a precicensing instructor, it comes from a general assumption in that industry that there is a tremendous amount of money that is laundered through real estate transactions. I'd like both PWGSC and the CRA to comment on this.

We know that large, complicated, international money-laundering schemes gather a lot of attention. Government agencies are right to be concerned about these broad, complicated schemes, but what about the simpler, ground-level transactions that seem to occur every day? What about the lower-level criminal who deposits money in smaller transactions that don't meet the FINTRAC threshold, and eventually buys property where they launder more cash in the form of exaggerated rental incomes? With these kinds of things happening every day, how do our institutions catch this type of criminal activity?

I'll maybe ask PWGSC to comment first, and then CRA.

• (1700)

**Ms. Lynne Tomson:** I may not be the best person to answer that question in the sense that I'm mandated by the RCMP to help them in their money-laundering cases. In terms of what's happening at a more local level, our services may not necessarily be called upon.

**Mr. Stéphane Bonin:** For CRA, similarly we get engaged only when there's a suspicion of tax evasion. I think it's the role of the local police, law enforcement, to make a determination if there is mortgage fraud going on, and whether they initiate a criminal investigation. At that point, maybe they would like to call in the CRA to say, "Would you like to have a joint investigation?"

**Mr. Pat Kelly:** How often does that happen?

**Mr. Stéphane Bonin:** That happens pretty frequently. Currently, we have, I would say, 13 joint investigations that we have with law

enforcement, and that would be the RCMP and others, but it would not be specifically on real estate, but joint investigations on large-scale money laundering and tax evasion cases.

**Mr. Pat Kelly:** That actually sounds like a shockingly low number to me of investigations, given the assumptions that many have about the scale of offences that go on.

**Mr. Stéphane Bonin:** Those are joint investigations that we have with law enforcement or security commissions. CRA criminal investigations always have around 300 investigations of tax evasion on the books, of which some could be in the real estate sector.

**Mr. Pat Kelly:** I'm going to go back to PWGSC again. Are you saying, then, that you are not typically called upon by the RCMP or other law enforcement agencies for assistance with these types of investigations?

**Ms. Lynne Tomson:** I'd have to come back to you with more specifics in terms of whether we're helping at the very local level. We help provincial police forces, but in terms of whether it's related to those specific cases that you're mentioning, I'll have to come back to the committee on that.

**Mr. Pat Kelly:** This really gets to the reason often given for why prosecution for mortgage fraud—prosecution for money laundering through real estate—seems to happen so seldom. The enforcement agencies don't have the expertise to prosecute, and when other investigative authorities on the professional conduct side hand over a professional investigation to law enforcement, there's still no prosecution.

I am interested to know how frequently you are called upon on real estate fraud.

With the few moments that I have left, Mr. Therrien, you talked about the over-reporting to FINTRAC. What causes over-reporting? Is it staff in financial institutions who are being trained to be too assertive and too aggressive? What leads to the over-reporting that you've identified?

**Mr. Daniel Therrien:** I don't know if my colleague will have an opinion because she is responsible for the group doing the reviews. I'm not imputing bad faith. It may be a question of wanting to do the right thing, acting in good faith, and informing a government institution of what they believe is suspicious. Training may be part of it. Are financial institutions properly training? I know there is training, but what we see objectively on the ground is some level of over-reporting by the financial institutions.

Do you have anything else?

**Ms. Lara Ives:** I wouldn't add much other than I think it's a combination of factors. I would agree that there's no malintent, but it's probably a combination of, maybe, a misunderstanding of the exact rules and then some reporting with a narrative or subjective component as well. So they opt to report in certain cases.

**The Chair:** Thank you all.

Mr. McLeod.

**Mr. Michael McLeod (Northwest Territories, Lib.):** Thank you, Mr. Chair.

I'm listening with interest to the presentations today. I have to agree with your opening comments that this is a very complex issue and we've heard from a number of organizations now. I'm really trying to get a handle on how everything fits together. There are many different departments and organizations. We have the Department of Finance, the Department of Justice, Global Affairs, FINTRAC, the Public Prosecution Service of Canada, Canada Border Services Agency, Canada Revenue Agency, Royal Canadian Mounted Police, Canadian Security Intelligence Service, Public Safety Canada, and Office of the Superintendent of Financial Institutions all involved.

I've spent a good part of my life as a politician working with governments, and I know that they don't always have the best flow of information or communication links.

I wanted to ask, and maybe you all could give me a little bit of an answer, about how well the information sharing takes place. Is it something you're happy with? If there is an area that needs improvement tell us what that is.

• (1705)

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

CRA looks anxious on information sharing.

**Mr. Stéphane Bonin:** CRA always starts with the confidentiality provision of the Income Tax Act. We always see section 241 of the Income Tax Act as some kind of bubble that every employee who gets into CRA defers to. The briefing they have is don't share information, but there are always ways whereby we can share information.

There are five or six ways when we can share information with the law enforcement community, and also with FINTRAC. The examples I shared earlier in my appearance relate to the Panama papers. We were almost at a loss there as to how we could generate a good, solid investigation when we only had business structures overseas. By having met our threshold to initiate an investigation and then sharing information accordingly—because it was in the best interest of the administration of the Income Tax Act—with FINTRAC, FINTRAC then provided us with the financial transaction. That relationship is key for the criminal investigation division.

If I just look over the last few years we had 125 disclosures from FINTRAC in 2013-14 and in 2016-17 we had 209 disclosures, and for just the first three quarters of 2017-18 we're almost at 213. So we receive more information from FINTRAC than ever, but at the same time we also contribute information to FINTRAC when we have active investigations. As it relates to information sharing with law enforcement, there are also provisions there for the CRA to share information with law enforcement when law enforcement comes to us with either a tax order or when they are investigating serious crimes. There are provisions in the Income Tax Act to share information.

Then when we have a joint investigation with law enforcement, there are provisions there so that we can share information. Although CRA is always perceived to be a taker of information, we are becoming more of a partner in the fight against money laundering and tax evasion.

**The Chair:** Does the Department of Public Works and Government Services have any thoughts, or the Office of Privacy Commissioner? You usually don't share too much.

Public Works.

**Ms. Lynne Tomson:** I can maybe start, and then you can chime in.

Yes, there are many partners. We're mandated, as I mentioned, by the RCMP, so they're our main conduit. They will get the information from CRA. You've heard how they share from CBSA and FINTRAC. We analyze that information, and if there's information that's missing, we go back to the RCMP, and then they get the information. We're not directly asking for any of the information.

**Mr. Michael McLeod:** My question is whether it is working well for you, for your organization.

**Ms. Lynne Tomson:** We're getting the information when it's available. We've talked a little bit about some of the difficulties in being able to trace money and getting information if it's in overseas accounts. Then it's a matter of getting a production order and getting that information, which takes a lot more time, and there are other considerations.

**The Chair:** Mr. Therrien.

**Mr. Daniel Therrien:** Mr. Chair, I think you won't be surprised by the answer.

What I would like to do is to remind the committee of how exceptional this regime is. Yes, the Privacy Commissioner will usually ask for prudence in terms of information-sharing. We see the need for this exceptional regime, given the importance of the harms of money laundering with organized crime and terrorism, but I would guard against—what will not surprise you—over-broadening information-sharing because this is a special regime.

You have the financial transactions of people who have done nothing wrong—they're just doing a financial transaction over a certain financial threshold—and their financial transactions are being collected. This may be okay for the purpose of tackling the harms that the legislation is meant to tackle, but be prudent not to extend this too much.

• (1710)

**The Chair:** I'll have to move on to Mr. Albas. We're substantially overtime.

**Mr. Dan Albas:** Thank you, Mr. Chair.

I just want to thank Mr. Therrien for that comment because there's a tremendous amount of power that is given to these different agencies to act under the law, so it's just a helpful reminder. Again, there's always a balance to be found, so I appreciate you raising that point of view.

I'd just like to talk to CRA in regard to some statements that have come out of British Columbia again.

B.C.'s attorney general, David Eby, stated that he's been made aware of serious, large-scale, transnational laundering of the proceeds of crime in British Columbia's casinos. To the best of your knowledge, is this true? Has CRA been part of any investigations with the authorities in British Columbia?

**Mr. Stéphane Bonin:** Yes, we are working in several joint investigations, whether it be money laundering or when there is a tax-evasion element. I think it has already been confirmed in the media in British Columbia that CRA is part of an RCMP investigation that was made public, so, yes, we are indeed aware and we are working collaboratively with the RCMP on those cases.

**Mr. Dan Albas:** I'm very happy to hear that. Is this a B.C. problem, or is this something that is happening in other jurisdictions in this country?

**Mr. Stéphane Bonin:** I would say that money laundering has no boundaries.

**Mr. Dan Albas:** We see this type that has been raised specifically, because, again, the attorney general has stated that it's happening. I want to know, is this phenomenon specific to B.C., or are there other cases that CRA is aware of where these kinds of transactions are happening?

**Mr. Stéphane Bonin:** The CRA is involved in several criminal investigations that relate to money laundering on that scale across the country.

**Mr. Dan Albas:** Okay.

I'd like to ask Public Services and Procurement Canada whether there is a particular region of the country where you are seizing more assets involved in money laundering or other activities. Where are the hot spots for the work that you do?

**Mr. Nicholas Trudel:** Our collaboration is primarily in Ontario. We work very closely with the OPP in the province of Ontario. I believe B.C. is the second most active jurisdiction for case volumes.

**Mr. Dan Albas:** Okay. Now, I recognize that sometimes there's a case of being left with the bag, so to speak, where no one wants to say who owns a particular asset, but the courts, I guess, will say, "something needs to be done with them. They need to be disposed of."

Are there quite a few cases like that? Do you do a lot of investigative work to find out where these are? It's a practical function, and I'm sure you're given quite a bit of authority by the court, but I'd just like a little more explanation on exactly how you do what you do.

**Mr. Nicholas Trudel:** Generally, our services are provided to law enforcement where there is a criminal accusation, so they've got an accused. There are provisions under the Criminal Code—I'm not an expert in them—for abandoned property or property without an identifiable owner. That generally would be a minority of the cases we deal with. Mostly, there is an accused. They go through the legal process, and then we deal with the decisions handed down by the court.

**Mr. Dan Albas:** Yes, but, again, these are all court ordered processes, right? There's a chance for someone to make sure.... Again, my comment is there is a lot of authority that is given to government agencies in these regards.

I would like to go back to the Privacy Commissioner one more time, because this is an issue that's been bothering me. For example, I have one of those smart watches, so I can't tell if the information about my heart rate is mine or Apple's. I think we need to have a very good discussion in this country about the use of data and who retains and who actually owns that information. I would say that data was generated from my activities from my purchase.

Are these issues that your office is seized with: who actually owns that personal and private information versus.... Have you been discussing these with some of the banks or the Department of Finance when we're talking about these things?

• (1715)

**Mr. Daniel Therrien:** We start from the premise that if the information relates to you and you produced it and you sent it to a company, it is your personal information. Of course, you may or may not want to look at the contract that you have with the company that sent you the watch. It may tell you differently. However, we work from the premise that it is your information.

**Mr. Dan Albas:** Whatever the agreement says, obviously, if Parliament has said this is the law, then statute law would then overwhelm a privately construed contract.

**Mr. Daniel Therrien:** To go back to your question whether this is something we're seized of, this is exactly the kind of issue for which we have recommended changes to PIPEDA and it deals with the issue of meaningful consent, consent that you may have given to that organization to handle and manage that information.

This is our bread and butter and we have made recommendations to Parliament to amend PIPEDA to give us more enforcement authority to deal with these issues.

**Mr. Dan Albas:** Yes, thank you.

**The Chair:** We've never seen your heart rate go up around here, Dan, because you're always so calm.

Ms. O'Connell.

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

I want to start with the Privacy Commissioner as well, except it's a little bit of a different angle. The other day when we had more of the security agencies and officials before us—specifically, people from CSIS, RCMP, and whatnot—one of the questions I had was similar to what Mr. McLeod was talking about, on information sharing. For example, CSIS receives some information that it would then send to the RCMP that deals with money laundering, because CSIS doesn't really deal with the further investigation. It sends the tip, or it might send it to FINTRAC, or the RCMP might send something to FINTRAC.

What oversight is there if a piece of intelligence or information has been sent to the appropriate agency, and how do we know it's investigated? Are there any statistics on whether it was looked at, whether a decision was made not to pursue or to pursue, and where that information then goes? The answer I got was kind of twofold: one, that's what the Office of the Privacy Commissioner could do every two years; and the other was the potential for the new committee with parliamentary oversight.

However, after hearing the presentation and understanding your office's role, it sounds as if that has nothing to do with what your oversight is, or I could be wrong, but your oversight is really mainly on ensuring that privacy is protected and that this information is not overused. My original question about ensuring that information or tips are being sent to the right place and not just falling into a black hole somewhere, that's not what your office looks at, or is it?

**Mr. Daniel Therrien:** It is not what our office is doing. You're perfectly right. Our role is to look at the sharing or disclosure of information and whether it was done lawfully. I think the new review agencies created under Bill C-59 will help, because they will look not only at questions of legality but at effectiveness of the programs. Your question as to whether tips are acted upon or information is acted upon has more to do with the effectiveness of the way in which the various agencies perform their mandates, so that may be.... I would need to look at the mandate of NSIRA. That may be part of its job, but the committee of parliamentarians, certainly, would have a mandate to look at questions of effectiveness of the agencies.

**Ms. Jennifer O'Connell:** Thank you. I'm glad you cleared that up. Perhaps my question wasn't clear originally in terms of the other agencies, but your office was specifically cited as having that potential oversight ability, and it doesn't sound as if that's within your mandate.

• (1720)

**Mr. Daniel Therrien:** It's oversight but with a view to looking at privacy.

**Ms. Jennifer O'Connell:** Right. It's not within your mandate even if you felt there was—

**Mr. Daniel Therrien:** No, it is not.

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

With regard to PWGSC, and specifically on the seizure side, the chair asked a question early in our study about local law enforcement agencies—whether municipal, regional, provincial—and the issue of seizures. Some of the fines are coming to the federal government, and yet the local agencies are putting in a lot of the work in investigations in a lot of cases...and partnership. There is this idea—and I'm curious if you think it's real or overstated—that the local law enforcement agencies would go after or investigate.... Because usually money laundering or criminal activity is not one thing, and they may pursue a drug charge or some other charge that, one, may be easier to prove, and two, the proceeds or any fines would then go to those agencies, whether provincial, municipal, etc.

Have you heard of this? Obviously they wouldn't necessarily tell the federal government they're not going to pursue it this way because they get to keep the funds that keep it going. Are there rumblings that this is an issue on the enforcement side and where the

proceeds of crime end up going in terms of bottom lines and budgets for police forces across the country?

**Mr. Nicholas Trudel:** There is a sharing regime in the regulations of the Seized Property Management Act that allows for sharing with provinces. If a local police force does the majority of the work, they get the lion's share of the proceeds. Many provinces, particularly in the west from Ontario to the Pacific, have introduced civil remedies for criminal actions, so other avenues can be used.

We have seen a trend in our business volumes from 1993, when the group was formed with a single case, through to peak volumes around 2009 under the Controlled Drugs and Substances Act, one of the acts we serve. Then we had decreasing volumes through 2015, and then more stabilization lately. There's an ebb and flow, and there's a lot of variation within a given jurisdiction in a given year. This is a normal part of the business.

Most of the discussions we've had with law enforcement about predicting business volumes—predicting makes them easier to serve—have related to the competing priorities that law enforcement has to deal with. These are things like national security, which has emerged as a big priority lately, and a shifting view, through the FATF evaluation of Canada, that money laundering is a threat to national security and therefore should be given increased weight. Those kinds of thinking have seen ebbs and flows in our business volumes.

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

**The Chair:** Mr. Dusseault, you have three minutes.

[*Translation*]

**Mr. Pierre-Luc Dusseault:** I am going to try to not take up too much time.

I'd like to go back to the process you described, which begins with audits, is followed by investigations and eventually leads to the Public Prosecution Service of Canada. In your opinion, is the system effective enough? At this time, the files are passed from one person to another. Do you see any way of improving that process?

**Mr. Stéphane Bonin:** I think the process works very well.



As for the civil cases processed by the Canada Revenue Agency, internal auditors will sometimes send on dossiers to those who are responsible for investigations. When there are a sufficient number of offence indicators in a case, the auditors submit the case to the Criminal Investigation Program personnel, who accept it and conduct an in-depth investigation before sending it to the Public Prosecution Service of Canada.

The process is the same for the other law enforcement organizations; after having conducted their investigation, they send the file to the Public Prosecution Service of Canada, or to the province concerned if they are provincial or municipal organizations.

I have no recommendation to make to change the system. The Criminal Investigation Program receives the majority of tax evasion reports from internal investigators. We can also decide to launch an investigation ourselves after having received information from FINTRAC, or following research conducted in our databases.

• (1725)

**Mr. Pierre-Luc Dusseault:** You seem quite proud of the 93 tax treaties and 23 tax information sharing agreements which were mentioned. Not everyone shares that pride in the public sector.

My questions are about the tax information sharing agreements. Do they really work? Are your investigators satisfied with the co-operation of the signatory countries? Are the Criminal Investigation Program people satisfied with the quality of the information they receive from these countries, given the difference in standards and the fact that those countries do not necessarily collect the same information? As you know, in some of the countries with which we have concluded agreements, taxpayers are not even required to produce income tax returns.

Does that situation sometimes cause problems, in your opinion? Is it an obstacle to your investigations?

**Mr. Stéphane Bonin:** I do not think that the tax information sharing agreements hinder our work. On the contrary, I think that there is a lot to be gained in signing new agreements with as many countries as possible.

In 2018-19, a new Common Reporting Standard for the automatic exchange of financial account information will come into effect. I think that this will really increase tax information sharing and that the CRA will benefit from this a great deal in its audits and investigations.

[English]

**The Chair:** Thank you both.

We have time for one question from you, Mr. Fergus.

[Translation]

**Mr. Greg Fergus:** Mr. Therrien, I would like to better understand Canada's ranking in the list of countries that protect the confidentiality of their citizens' private information. Can we be compared to other countries, such as the United States or the United Kingdom?

**Mr. Daniel Therrien:** In your specific area or in a more general way?

**Mr. Greg Fergus:** In a more general way. Could you compare the system in those countries and the level of personal information protection there with what is done in Canada?

**Mr. Daniel Therrien:** The systems are certainly comparable in part, since the Canadian system is derived from the recommendations of the Financial Action Task Force, an international organization that sets international standards or quasi-standards. In this specific area, the Canadian system thus resembles the others.

More generally, I would add that the Privacy Act, which applies to the federal public sector, has not seen any changes since the 1980s, and Canada is a bit behind in that regard.

**Mr. Greg Fergus:** Mr. Chair, do I have some time left?

[English]

**The Chair:** No, we're pretty well right down to the time.

Thank you all.

We have the discussion paper from the Department of Finance, which I think most of the agencies or departments have been involved in, and that is leading in certain directions. If any of you have information you think would be helpful to the committee beyond that discussion paper, we're open to it, so don't be afraid to either drop the clerk a note or give one of us a call if you have a suggestion for something that we maybe should be considering but we're not.

With that, thank you again for your testimony and your work.

We shall adjourn until tomorrow morning.

The meeting is adjourned.





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