

**Commission on Security & Cooperation in Europe:
U.S. Helsinki Commission**

“Combating Kleptocracy with Incorporation Transparency”

Committee Members Present:

**Senator Sheldon Whitehouse (D-RI);
Senator Benjamin Cardin, Ranking Member (D-MD);
Senator John Boozman (R-AR);
Senator Jeanne Shaheen (D-NH);
Representative Gwen Moore (D-WI)**

Witnesses:

**Charles Davidson, Executive Director, Kleptocracy Initiative, Hudson
Institute;
Caroline Vicini, Deputy Head of Delegation, Delegation of the European
Union to the United States;
Gary Kalman, Executive Director, FACT Coalition;
Patrick P. O’Carroll, Executive Director, Federal Law Enforcement Officers
Association (FLEOA)**

**The Hearing Was Held From 2:36 p.m. To 4:02 p.m. in Room 562, Dirksen
Senate Office Building, Washington, D.C., Senator Sheldon Whitehouse (D-
RI), Member, Commission for Security and Cooperation in Europe, presiding**

Date: Tuesday, October 3, 2017

WHITEHOUSE: Thank you, everyone. My apologies for being a little bit late. I am very, very grateful to the panel for being here and to Chairman Wicker for working with me to hold this hearing on combatting crime and corruption through increased transparency.

From 2012 to 2015, the Azerbaijani government reportedly funneled 2.5 billion euros from four U.K.-based shell companies, though an Estonian branch of a Danish bank, to bribe European politicians and Azerbaijani elites in a scheme dubbed the Azerbaijani laundromat. According to report from the Organized Crime and Corruption Project, the money bought silence during a time when the Azerbaijani government, and I quote, “Threw more than 90 human rights activists, opposition politicians, and journalists into prison on politically motivated charges.”

The Azerbaijani laundromat is not a unique scheme. In 2015, the Panama Papers exposed what many in the law enforcement and anticorruption world already knew, that corrupt officials, tax cheats, drug traffickers, terrorists and criminals from around the world routinely use shell companies to hide assets and obscure illegal activities. America’s lax corporation laws have made the United States a favorite destination for money laundering. Make no mistake, we are now a facilitator as well as a target in this racket.

With every passing day, we learn more about how Russian and Russian kleptocrats exploit opaque business laws to hide the ill-gotten riches, bribe corrupt officials, and undermine the world economy and democratic institutions. Heather Conley at the Center for Strategic and International Studies wrote in her report, “The Kremlin Playbook,” that corruption is the, quote, “lubricant” with which the Russians operate. CSIS warns that to fight the corruption that gives Russia this channel of influence, and I quote them, enhancing transparency and the effectiveness of the Western democratic tools, instruments and institutions is critical.

Russian kleptocrats, foreign drug dealers, and international tax cheats all use the same tool to launder their ill-gotten gains and evade law enforcement: the shell corporation. A shell corporation serves no economic purpose and conducts no real business. Instead, these entities exist to hold legal title to bank accounts, real estate, or other assets hiding the true owners. America’s a haven now for those doing mischief through shell corporations. It fact, starting a shell corporation in this country can be easier than getting a library card.

Currently, no state requires the disclosure of beneficial owners, the real human beings who own the companies. Instead, corporate records can identify the owner as just another shell corporation or a professional agent who was paid to sign the needed forms and never speak of them again, or a lawyer who refuses to disclose a client citing attorney-client privilege. We have seen over and over how foreign governments and criminal organizations have abused our lax incorporation laws.

The Iranian government used a string of generic businesses to obscure its ownership of a 5th Avenue skyscraper. A Mexican drug cartel used an Oklahoma corporation to launder money through a horse farm. A crime syndicate set up a web of corporations in eight states as part of a \$100 million Medicaid fraud scheme. A human trafficking ring based in Moldova hid its crimes

behind anonymous corporations in Kansas, Missouri and Ohio. Then, there are the Panama Papers, over 11 million documents leaked from a Panamanian law firm.

They reveal mischief conducted through shell corporations like the 2011 purchase of a \$3 million oceanfront condo in Miami by a Brazilian politician facing corruption charges. And in 2015, after a lengthy investigation, The New York Times uncovered that a Russian banker, suspected of ties to organized crime, purchased a nearly \$16 million condo in Manhattan's Time Warner Center. FinCEN, the Financial Crimes Enforcement Network, a division of the U.S. Treasury Department, found that 30 percent of the cash purchases of high-end real estate by shell companies in six major cities involved in a suspicious buyer – 30 percent. With so many properties serving essentially as lavish safe deposit boxes, the housing supply tightens, raising costs for American families.

The crimes being hidden may be complex and the assets they conceal may be elaborate, but the answer to the problem of shell corporations is simple: Require private corporations to report and update their beneficial ownership information. I've introduced legislation with Senators Grassley and Feinstein that does just that. Senators Rubio and Wyden have also teamed up on related legislation. Transparency into shell corporations is not a novel idea. As we will hear from the panel, every member of the European Union has committed to ensuring such transparency. The United Kingdom has already implemented its own transparency law.

The light of transparency is about to shine on criminal assets hidden in European shell companies, which means that lots of money will be looking for new, dark homes. We cannot let America become that new, dark home for corruption and crime. In the year 1630, John Winthrop told his fellow early settlers that we must always consider that we shall be as a city upon a hill. The eyes of all people are upon us, he said. If we become the new, dark home, I fear we will risk losing our place as that city on the hill, as a beacon of justice. In the global battle of ideas, chaining our American reputation to international crime and corruption is a self-inflicted stain that we do not need.

So I'm delighted to have this hearing today. I look forward to hearing from our distinguished witnesses. And I'm delighted that Senator Shaheen and Senator Boozman have joined us. Please proceed, Mr. Davidson.

DAVIDSON: Well, thank you, Acting –

WHITEHOUSE: Everybody's full statement will be made a matter of the record. So if you can leave your spoken remarks to less than five minutes, then we'll have more time for back and forth.

DAVIDSON: Certainly. Thank you.

So, Acting Chairman Whitehouse, Cochairman Smith, and members of the Helsinki Commission, thank you for inviting me to testify today. I would also like to thank Paul Massaro, staff of the Commission, for helping to arrange this important discussion. My name is Charles Davidson and I am the executive director of the Hudson Institute's Kleptocracy Initiative, which

researches how authoritarian regimes and globalized corruption threaten democracy, capitalism, and security.

Kleptocracy, the business model of 21st century authoritarianism. Today, the most dangerous threat to our national security is the aggression of authoritarian regimes that actively seek to undermine our freedom and democracy, and to export authoritarianism into the OSCE region and around the globe. And let us not be mistaken: What is at stake is the survival of our civilization. These regimes have already upended the post-World War II international order via invasion and violation of treaties, perverted a rules-based global system of relatively fair economic exchange via intellectual property theft and corrosive business practices, and attacked our government's computer systems. And these regimes are sharing best practices and increasingly behaving like an axis of evil.

The most important thing I want to bring to our attention today: It is essential to understand that these authoritarian regimes have all adopted the business model of 21st century authoritarianism, a model whereby those who govern – usually a very small group, family, or even individual – loot their own country and store the proceeds in free and democratic nations such as ours, whose rule of law and reliable institutions serve to protect their ill-gotten gains. That business model equals kleptocracy. So 21st century authoritarianism, and all the threats that it poses, cannot be dissociated from kleptocracy. They have tied the knot. Where we find one, we find the other. And the situation is serious. Authoritarian kleptocracy has been growing, while freedom and democracy has been in recession.

But the authoritarian/kleptocratic model has an obvious vulnerability. Given that kleptocratic loot is stored within our shores, we have huge leverage over this business model. The problem is, we often don't know where they've stored their loot, due to the ease with which one can establish anonymity of ownership. And we, the United States of America, are the easiest and safest place to establish anonymity of ownership. For a superb summary of this disgraceful situation, I recommend Kara Scannell and Vanessa Houlder's piece in the Financial Times published May 8th, 2016, "U.S. tax havens: The new Switzerland". As a general proposition, as an overarching challenge our society faces, as a fundamental existential issue for our civilization as we know it, it should be obvious that we cannot push back and reverse the authoritarian surge while being the bankers, lawyers, yacht builders, luxury lifestyle purveyors, to those who seek the destruction of freedom and democracy.

Kleptocracy, a vector of political decay. How is kleptocracy undermining our freedom and democracy, promoting political decay? When the kleptocrats come here, they bring along their values, which are not ours. We were naïve. We thought their offspring would go to school here and become freedom and democracy lovers. That hasn't happened. Instead, the kleptocratic life-juice of only valuing money and power has perverted our system. Kleptocratic regimes have become increasingly adept at purchasing many of the less morally vigilant members of our elites. In Europe, this is often referred to as schroederization. And this pimping is often done surreptitiously, via obscure ownership structures where beneficial ownership is not known, providing among other things plausible deniability. Does that sound familiar?

Kleptocracy, we incentivize it. As I said in testimony last December to the House's Subcommittee on Europe, Eurasia, and Emerging Threats, "Providing a safe haven for the proceeds of corruption establishes an incentive for corrupt practices. In my view this question of incentivization has been neglected, and is key to understanding the overall political challenge faced in terms of reform." Anonymous companies, the asset protection they provide assured by our rule of law and reliable institutions, incentivizes kleptocracy. We must take away the punch bowl. And we must be aware of the struggles of those trying to escape a kleptocratic past, and the role played by our European allies.

Ben Judah, in "How Offshore Finance Sank Western Soft Power," that appeared in *The American Interest* May 8th, 2014, quotes Daria Kaleniuk, head of Kiev's Anti-Corruption Action Centre. She still is head of this. "What we found was that the money stolen in Ukraine was heading into British and European tax havens and hidden using shell companies inside the European Union. This was very uncomfortable to find out. What we felt is the Western elites were being hypocritical to us – preaching anti-corruption but allowing this."

Judah quotes Mustafa Nayem, one of the leaders of the Maidan revolution. "Why do they only now investigate the hidden fortunes that were stolen and hidden in Austria and in Switzerland? We told the Europeans and we told their embassies a hundred times this money was stolen and hidden in their countries. And nothing happened. Now that the regime has fallen, they suddenly – in a matter of days – can reveal the stolen money. But why did they not do this before? They are guilty – guilty of leaving us alone with these thieves. They are guilty of allowing them to plunder us."

As per my above referenced congressional testimony, "As Western diplomats struggled to impress on Kyiv's politicians the value of the rule of law, Ukrainian elites," and elites really should be in quotes, pardon me, "were stashing wealth in the West. This happens across Eurasia, where authoritarian elites now treat London, New York, and other Western jurisdictions as corruption services centers."

And what of the demand for better government and democracy in such a situation? As Francis Fukuyama said introducing Senator Carl Levin at a conference organized by Global Financial Integrity in 2008, "There can be no demand for democracy if all the rich people, if all the elites in the country, can manage to protect their own private fortunes. They have no reason to work with other people to resist the government, to demand democracy, to demand accountable government. There's no demand for less corrupt government because everybody has taken care of themselves as an individual and it delegitimizes democracy...anything that can be done to reduce the ability of people to transfer assets and to avoid the sovereignty of the state, it seems to me, is very important."

As we know from the difficulties of asset recovery efforts, including our Department of Justice's Kleptocracy Asset Recovery Initiative, it is often very difficult to find assets hidden via anonymous companies. We must stop incentivizing corrupt and kleptocratic practices.

Kleptocracy: reform, or submit to tyranny. As described, the anonymous ownership of assets is a dirty secret behind the rise of authoritarianism. We must dramatically curtail secrecy

in the ownership of assets: abolish the anonymous ownership of assets in the United States of America and, further, pressure other jurisdictions to do the same. We have the power to do it, and if we clean up our act here it will lay the groundwork for improving what is a global cancer.

Thank you.

WHITEHOUSE: Thank you, Mr. Davidson.

Mr. O'Carroll, thank you for bringing the perspective of the Federal Law Enforcement Officers Association. You may proceed.

O'CARROLL: Good afternoon, Acting Chairman Whitehouse, Senator Shaheen, Senator Boozman, and Representative Moore. I am the executive director of the Federal Law Enforcement Officers Association, or FLEOA, which is a not-for-profit, nonpartisan, professional association which represents more than 26,000 federal law enforcement officers and agents from 65 federal agencies.

FLEOA applauds your Commission's focus on incorporation transparency, the prevention of money laundering, and the financing of criminal enterprises and terrorism. FLEOA agrees with the report of the Financial Fraud Task Force and its findings that the United States has many laudable anti-money-laundering efforts, but also has serious gaps in law enforcement's ability to identify the owners of companies, leaving our financial system vulnerable to dirty money.

Recently, one of our New York Secret Service agent members began a routine check forgery investigation into a stolen check being deposited into a bank account. The agent examined the available bank information and found that the account was for a Florida business with a single owner, no business plan filed, and no apparent product or service. Further investigation utilizing court orders and subpoenas revealed multinational wires and transfers involving millions of dollars passing through this account. The agent enlisted the assistance of the Treasury Department, and identified 80 sub-companies and accounts transferring about \$1 billion dollars between them.

This is a classic example of money laundering with ties to financial crime, narcotics trafficking and terrorism. Yet, because of the insidious protections afforded by shell corporations, only one person was arrested and the proceeds of one account was seized.

The Financial Crimes Enforcement Network, or FinCEN, is a U.S. Treasury bureau whose mission is to safeguard the financial system from illicit use, combat money laundering, and promote national security. FinCEN has found that shell companies – which are business entities without active business or significant assets – are an attractive vehicle for those seeking to launder money or conduct illicit activities, both domestically and internationally. FinCEN also believes that all these shell companies have been used domestically as vehicles for financial crimes with credit cards, purchasing fraud and fraudulent loans. In addition, FinCEN cautions that international wire transfers allow for the movement of billions of dollars by unknown owners, which can facilitate money laundering and terrorist activities.

New York Representatives Carolyn Maloney and Peter King, along with nine cosponsors, have introduced House Bill 3089, The Corporate Transparency Act of 2017. In introducing the bill, Congresswoman Maloney stated, “Anonymous and shell companies have become the preferred vehicle for money launderers, criminal organizations, and terrorist groups because they can’t be traced back to their real owners and the U.S. is one of the easiest places in the world to set up anonymous shell companies.” Congressman King also said: “The Act targets this problem by requiring a company that has the characteristics of a shell corporation to disclose” whose benefits from – “who benefits from the company’s operations and make that information available to law enforcement.” The Corporate Transparency Act of 2017 has subsequently been introduced in the Senate by Senators Wyden and Rubio. FLEOA strongly endorses this bill.

We are also supportive of the TITLE Act, introduced by you, Senator Whitehouse, and Senators Grassley and Feinstein. FLEOA strongly believes that legislation requiring companies to disclose their purpose, actual ownership, and appropriate contact information would assist law enforcement in identifying the criminal and terrorist organizations that are exploiting this weakness. Only with full transparency can we prevent the scourge of illicit funding provided by the anonymity of shell corporations.

Thank you for this opportunity to testify today and I’ll be happy to answer any of your questions.

WHITEHOUSE: Thank you very much, Mr. O’Carroll.

We are very honored to have Ms. Vicini here as the deputy head of the Delegation of the European Union to the United States. We thank you for taking the trouble to join us and welcome your remarks.

VICINI: Thank you, Chairman Whitehouse, Senators Boozman and Shaheen, and Representative Moore.

Allow me to start this with presenting our condolences for the horrible shooting in Las Vegas. We are terribly sorry for you all, and hope that you have not family and friends that have been touched by this. And our thoughts are going to all the victims and their families.

So this is my privilege to have this opportunity to present to you today. I’m here to exchange views and provide an overview of the European Union’s response to money laundering, in particular in terms of transparency of beneficial ownership information.

We live in a world where terrorist groups and organized crime organizations expand the scope and complexity of their illicit activities. Their corruption exploits the freedoms and benefits offered by globalization and the huge number of financial transactions processed every day by a diverse number of financial actors. Across the globe, open-service shell companies, trusts, private foundation(s), and other entities serve as vehicles through which money flows. These complex structures are composed of companies with unknown owners and beneficiaries,

serviced by multiple bank accounts housed in numerous banks situated in jurisdictions with strong bank-secrecy legislation that are unlikely to cooperate with foreign authorities.

The European Union is at the forefront of global efforts to make corporate transparency effective to combat global financial crime, including corruption. Europe's response is centered around three key elements: the current EU rules in force, proposals to reinforce these rules, and international cooperation.

The current EU rules in force, the so-called Fourth Anti-Money Laundering Directive. The EU has accomplished much in terms of the traceability of financial transactions through a series of money-laundering directives. The landmark Four(th) Anti-Money Laundering Directive entered into force on the 26th of June this year, some 20 years after the first such directive. Banks should, of course, possess information about a customer – if it is Mr. or Mrs. Smith – before they open a bank account. However, the situation is much more difficult when the bank does not deal with the customer directly, but rather with company A or trust B. In these cases, if the bank is not able to identify who is behind a company or trust, the ability to collect relevant information such as the source of funds or the reason why the account is opened is severely compromised. The bank needs to be sure that the company or the trust is not a shell for disguising illicit activities.

That is why the Fourth Directive forces identifying the beneficial owners of a company or a trust mandatory at the start of every new business relationship. But that is not all. The directive requires this information to be recorded centrally on a register or data-retrieval system in the EU member states.

The purpose is fundamental: To allow swift and efficient access to important information by banks that will also allow them to fulfill their legal obligations, but also access by all national competent authorities that play a role in preventing money laundering and terrorism financing. This includes the Financial Intelligence Units, which are equivalent to the member states – in the member states to the U.S. FinCEN. The EU member states are currently setting up their registers.

But the EU has also proposed to reinforce these rules. The EU has faced heinous terrorist attacks in recent years. While less dramatic but equally telling, there was a strong public reaction to the Panama Papers scandal. In these circumstances, the European Commission took further steps in July 2016 with a new proposal to present targeted measures to strengthen the Fourth Directive. The European Commission proposed the interconnection of these central registers of beneficial ownership information. Given the increasing number of cross-border financial transactions, authorities would be able to consult registers and access information across member states much more easily.

Public access to the beneficial ownership information for for-profit companies and trusts. Corporate structures would be incentivized to provide that they're run as clean businesses. We are not talking about unfettered access to information, rather granted in a full respect to the right of privacy. Sensitive information such as family-trust structures would be excluded from public access.

And, finally, the international context. The promotion of reforms, good governance, democracy, the rule of law and human rights, and public administration reform is integral to the European Union's approach to both the Western Balkans and the east European Union's approach – and to the Eastern Partnership countries. Countering corruption and organized crime are significant elements in our approach. Considerable direct assistance is provided at the national and regional level. We have seen major reforms in Georgia and Ukraine on the back of EU support. And in the Western Balkans, as potential members of the European Union, our policy is one of fundamentals first.

But the European Union is not alone. We share responsibility with the United States, complementing each other as key players in this joint fight. We recognize the commitment of the United States, underpinned by strong enforcement capabilities. Furthermore, the European Commission, some of the EU member states, and the United States are vocal members of the Financial Action Task Force.

Honorable members, to conclude, I would like to reiterate that the success of a policy to fight against money laundering and terrorist financing is based on complementary policies, both preventive and enforcement. Strong beneficial ownership requirements are not a panacea, but a key element if we want to address both money laundering and terrorism financing risks.

The United States and the European Union must continue to support the successes we have achieved together on the international stage, driving up the standards. We must continue to speak with the same voice to convince our partners that there is still room for improvement.

Thank you very much.

WHITEHOUSE: Thank you very much.

And our final witness, Mr. Kalman from the FACT Coalition.

KALMAN: Senator Whitehouse, Senators Boozman, Shaheen, and Representative Moore, thank you for holding this important hearing. On behalf of the Financial Accountability and Corporate Transparency Coalition, or the FACT Coalition, I appreciate the opportunity to talk about a foundational reform in the global anticorruption movement.

The coalition is a nonpartisan alliance of more than 100 state, national, and international organizations working to combat the harmful impacts of corrupt financial practices. The coalition formed in 2011, but I joined just last year one week after the release of the Panama Papers. It was an interesting start.

The incident exposed the direct connection between corrupt and criminal practices and the secrecy that affords kleptocrats and others a vehicle to hide the money, fund illicit activity, and move those funds around the globe with impunity. This hearing is an important opportunity to further explore the link.

Traffickers in counterfeit – traffickers in counterfeit and other illicit goods and services hide behind secret corporate entities and make it more costly for legitimate businesses to engage in global commerce. This cost is the reason that CEOs of Dow Chemical and several other multinational corporations have written in support of transparency. In a recent letter to Congress, they wrote that “When the true owners of companies put their own names on corporate formation papers, it increases the integrity of the system and provides a higher level of confidence when managing risk, developing supply chains, and allocating capital.”

These CEOs are not alone. According to Ernst and Young’s 2016 Global Fraud Survey, 91 percent – 91 percent – of senior executives believe it is important to know the ultimate owner of the entities with which you do business.

Despite the importance, we are not winning this battle. In a report written by former U.S. Treasury Special Agent John Casarra for our coalition, he noted that in efforts to reclaim laundered money we are currently, quote, “a decimal point away from total failure.” His analysis is based on estimates that globally we catch only about 0.1 percent of laundered money.

While kleptocrats and other criminal enterprises have updated their tools for the 21st century by utilizing anonymous companies, we have not updated our laws to catch them. And in 2016, the Financial Action Task Force, as has been mentioned, reported that the “lack of timely access to accurate and current beneficial ownership information remains one of the fundamental gaps in the U.S. context.”

That said, there is some meaningful progress being made. You’ve just heard that there’s progress in the European Union. In the Ukraine, a nation compromised by secrecy and kleptocracy, a new generation of public officials has identified incorporation transparency as a critical first step in lifting the veil of secrecy. The country has begun collecting beneficial ownership information and posting it online.

Here in the U.S., bills have been introduced in this Congress. And I want to thank Senators Whitehouse and Rubio, Representatives Smith and Moore for sponsoring the legislation. The TITLE Act and the Corporate Transparency Act would each directly address the problem we are discussing today. While slightly different, each bill includes critical provisions needed to identify corporate owners. The definition of beneficial owner, with its focus on natural persons, is important to prevent the shell games in which one company owns another or the naming of nominee directors in lieu of the true owners. Mossack Fonseca, the now-infamous Panamanian law firm, employed a woman who was named as the director for approximately 20,000 companies. The value in collecting this information is one of the reasons that multiple trade groups, representing large and small banks and credit unions, have indicated their support.

In a separate but related effort to combat anonymous corporations active in U.S. real estate markets, the Financial Crimes Enforcement Network, or FinCEN, recently extended and expanded an initiative known as Geographic Targeting Orders, or GTOs. The GTOs require the collection of beneficial ownership information for certain cash-financed, high-end real estate transactions. In renewing the GTOs in August, FinCEN noted – as Senator Whitehouse also said

– that in 30 percent of the real estate transactions covered by the rule the purchaser was someone who had a suspicious activity report filed on them.

We are seeing progress globally, in Congress, in the administration, and in the private sector, and continued support from a wide range of anticorruption, human rights, and other organizations. We now have an opportunity to lift the veil of secrecy. We must end the use and abuse of anonymous companies. And I thank you for this opportunity and look forward to answering any questions.

WHITEHOUSE: Thank you, Mr. Kalman.

I will turn first to Senator Boozman for any questions or comments he may have.

BOOZMAN: Thank you, Senator Whitehouse. And, again, thank you so much for having this very interesting and timely hearing.

I'd like to ask you a little bit about how this works in the sense that – can you talk about a little bit – perhaps you, Mr. O'Carroll – about the specific methods that are used to laundering money through anonymous shell companies and real estate? Talk to us a little bit about the specifics of how that exactly works.

O'CARROLL: Yes, Senator. I guess going back to the investigation that I spoke about in my testimony, what happens is that when an individual wants to open up a shell company, they go into a bank and they basically are just asked for some very superficial information to open up the account, which doesn't necessarily mean – you don't have to explain what your business does. You don't have to show anything about the ownership of it. You don't have to show anything about the beneficiaries of it. It's really just a very simple transaction, probably with even less paperwork than opening up a savings account.

Anyway, once that happens, what will happen then is that you will start doing the sub-accounts, which is what happened in this case here. And each of the, I guess, people trying to launder their money will then put money into one sub-account and then transfer it into another. And as they transfer the money back and forth, it's going internationally in many cases, and it gets pretty much washed. So by the time, you know, we start our investigation on it, we'll be able to see transactions of large amounts going back and forth, but we really don't know from who to who. And then again, as one of my colleagues there at the table said, is that oftentimes the U.S. government's incapable then of being able to target that account and do anything to, you know, grab the assets in it, or anything else. I think it was, like, 0.1 percent is recovered.

BOOZMAN: Right. So we have pretty strict laws about individuals going in and depositing money. And, you know, that triggers certain things, or, you know, withdrawals – cash withdrawals and things. So this allows, through that, to essentially counter that?

O'CARROLL: Agreed. The example is, is that if, you know, someone who's doing more than \$10,000 in a personal account, that information would be provided to the government. In this case, it isn't.

BOOZMAN: Right. We've talked about the bills that have been introduced and things. Is there anything else that we could do to help law enforcement to identify shell corporations conducting money laundering? And you can jump in – and the rest of you all can jump in if you'd like.

O'CARROLL: I'll just take the first crack at it, if you don't mind.

BOOZMAN: Sure.

O'CARROLL: In terms of that. One of the things that we're interested in with it is that if the banking community would cooperate with law enforcement, it would help a lot. In terms of that if somebody comes in and says that they have a pretty simplistic corporation doing, you know, whatever type of business or service it is. And for – let's say for months, years, whatever, small transactions are going back and forth on a, you know, very normal, looks like a normal business. But then all of a sudden, when millions of dollars start going back and forth into that account, what we'd like is for the banking community to do due diligence and either go in and ask the – you know, the account holder, is this accurate? Is this, you know, part of your business on it? And put them at ease. Or, probably the best part, would be notify law enforcement that this account now is becoming very active. So that would be one of the of the requests we'd have.

BOOZMAN: Anybody else?

Are we cooperating with Interpol and Europol and those agencies to any extent with this? The international? Just, it doesn't matter, whoever wants to.

O'CARROLL: As an example on it, is that, you know, the Financial Crimes Network in the United States, FinCEN, does deal with – you know, very closely with the European agencies and international agencies on sharing that information.

KALMAN: I would just also add this, that we've talked with a number of Treasury special agents and folks involved in trying to combat financial crimes. And one of the things we heard was when they go overseas and do trainings, our State Department will provide trainings for other law enforcement agencies in other countries, I have to say, one of them said, you know, almost every time he goes somebody in the audience will raise their hand and say: You know, we have this issue in our country. And we've been following this case. And it goes back to someplace called Delaware. And could you help us? And he said, I'm embarrassed to say that here I am preaching the virtues of anticorruption, here I am telling them that they need to do better, and yet we're the ones that actually have limited opportunity to help them.

BOOZMAN: Right. No, it's a good point.

Thank you, Senator Whitehouse.

WHITEHOUSE: Thank you very much, Senator.

We'll turn to Senator Shaheen, and then I want to also recognize that Representative Moore has joined us. She is one of the authors of the principal legislation. I'm delighted that she has joined us. And we will turn to her after Senator Shaheen.

SHAHEEN: So I think this is for Mr. Davidson and Mr. Kalman. And my perception is that the public does not seem to be outraged about this. So can you speculate about why there's not more outrage about what's going on?

DAVIDSON: With pleasure. Well, my first reflex to that is that it's hard to be outraged by what is secret. And I almost added a little section in my talk about secrecy and just that, because this is a huge, huge problem and it's really part of a global problem of financial secrecy and how much money or how much value in assets is held via offshore secrecy jurisdictions that we just don't know. But it's something like at least \$32 trillion, maybe as much as 60. But of course, nobody knows. And so this whole anonymous company issue is – the secrecy element makes it very, very difficult to explain it to the – to the citizen voter.

But on that, I mean, I think if we look at what the secrecy is doing and what anonymous companies are permitting politically, and recent events in our country have underscored some of this problem a little bit – without mentioning any names. I think if we look at, in particular, authoritarianism – and there we have lot of evidence that's in the newspapers, that's evident that people see. They can see how this is corrosive politically. And that can uncork a, perhaps, broader understanding of the issue. Obviously the fourth estate has a huge role to play in this. And I think they've been playing that role increasingly.

One of the things we very much try to do in our work at Hudson's kleptocracy initiative is feed stuff to the fourth estate. And they've very eager for it. And I think we're far ahead of where we were a few years ago. And current events may help goose that. But authoritarianism, I think, is a real key. And when we look at that and what's going on – and not just Russia. Everybody's obsessed with Russia. But if we look at China, and all sorts of surreptitious ways in which they are influencing with a sort of new kind of soft power, events here and all over the world, we'll find that anonymity is absolutely key, because it's how you can disguise what you're doing.

And we find this time and time again. We're seeing this with a lot of the website that have been used, increasingly. I mean, there's the Facebook business, but there are all these websites and operations that have been owned by LLCs or anonymous companies. A lot of this has started coming to light. So I think we will – that's actually a big dossier, potentially, in terms of the public becoming much more attuned to this problem.

SHAHEEN: Mr. Kalman, did you want to add anything?

KALMAN: Sure, just briefly. You know, I think that where the public is outraged – I think – I would agree that you can't be outraged about what you don't know, so that is a problem. But when you look at the opioid crisis, and we actually produced a report, or one of our coalition partners did, talking about that connection between anonymous companies and

opioids, that that is an issue that people are outraged. Now, they may not know that anonymous companies are facilitating the money, it's not that the drug dealers are actually doing it because they care about drugs. It's that they want money. And so they have to launder the money. And so these vehicles are used.

Same thing is true. I think there's a lot of outrage and work going on on anti-human trafficking. We just had an anti-human trafficking group, Polaris, join our coalition because law enforcement would shut down a massage parlor – illicit massage parlor in one part of the neighborhood, and then another one would pop up. Same owners, different location, and the cops are playing whack-a-mole. So I do think that the crimes that they facilitate are the kinds of things that actually are eliciting the outrage. They just don't know that what's behind it and what makes it all possible is the topic we're talking about today.

SHAHEEN: Thank you. Do you want me to continue?

WHITEHOUSE: Go ahead.

SHAHEEN: So before the scandal broke about Russian interference in our elections, I introduced legislation to beef up the Foreign Agents Registration Act, which really doesn't have much in the way of teeth to enforce, whether anything that's being advertised in the U.S. is a requirement that people know who's paying for that. I just wonder if you have any thoughts about whether we need to increase the ability of the Department of Justice to put more teeth into that act. Anyone? Yes, Mr. Davidson.

DAVIDSON: I'd be happy to address that. We've looked at FARA a great deal, published a few things about that, and met with the FARA – the lady who runs FARA. And it needs more teeth and all of that, but it also – I think we've sort of gone beyond that. I mean, we need a very, very reinforced FARA. And, I think, speaking of public outrage, actually, link FARA to public outrage and where we should be. I mean, I don't see why anyone should be lobbying for a hostile foreign government. I think that that actually is an issue that a lot of people can get behind. And FARA could be more than beefed up. But we want to talk about the swamp and doing something about it, FARA and what it is supposed to control would be a good place to start.

SHAHEEN: Well, I certainly agree with that. I would suggest that one of the challenges has been the perception that – in the public, that attacks around Russian interference in our elections are partisan, and therefore it's become a partisan issue which has prevented strong – a strong response to address the underlying legislation. I'll just throw that out as speculation.

And thank you, Mr. Chairman.

WHITEHOUSE: Thank you. If I could – I'm going to turn to Representative Moore, but because it's directly on point to Senator Shaheen's question, could I ask Mr. Davidson just to fill in how getting around FARA might be facilitated by the use of shell corporations.

DAVIDSON: Oh. (Laughter.) Well, we've got a lot of examples of that, actually. (Laughs.)

WHITEHOUSE: Would "easily" be a simple – an accurate response?

DAVIDSON: Sorry?

WHITEHOUSE: Would "easily" be correct?

DAVIDSON: Yes. Easily – (laughs) – well, certainly – yes, easily would be a correct response. I mean, the fact of the matter is if you want somebody to do some work for you without having to be registered with FARA, it's very easy to pay people via U.S. shell companies. But they don't need to be U.S. I mean, we've seen all of this evidence and a lot of publicity about certain individuals who may have been paid abroad very significant sums for actions that they've taken in the United States. But if we just look at U.S. shell companies, I mean, you can disguise basically anything by paying someone via an anonymously owned vehicle. And this would include not only political lobbying and interference but pretty much anything. I mean, that's why when I say it's a threat to our civilization as we know it, it really is.

And actually, if I might add, soon after I co-founded Global Financial Integrity in 2006, in 2008 I met with Jack Blum and Raymond Baker, the author of "Capitalism Achilles Heel" and the co-founder of Global Financial Integrity, and Senator John Kerry. And Senator Kerry had done a lot on the subject with the BCCI scandal, helping to break that, with Jack Blum, early in his career, and all of that. And Senator Kerry, very sadly – it was just the four or five of us in the room – said: Well, yes, absolutely it is a threat to our civilization. And that was many, many year ago. And we haven't done anything about this problem, and it's gotten worse. So we really need to wake up. And, Senator Whitehouse, I commend you for your efforts in this area, and the occasionally vulgarity in your language, which I thoroughly approve of. (Laughter.)

WHITEHOUSE: (Laughs.) Thank you.

Representative Moore.

MOORE: Thank you so much, Senator Whitehouse. And just want to thank this distinguished panel for taking the time to give us this testimony. I appreciate, Senator Whitehouse, your cosponsoring this legislation over here in the Senate. And I have been a cosponsor of Representative Maloney's legislation since she first introduced it.

Now, you would think, to listen to you all here, that this would just be a slam dunk here in the United States. So I have a couple of questions. And, well, first of all, just want to comment on Senator Shaheen's question, I mean, why aren't people outraged? Because people had thought we had fixed this. You know, with stuff like the Bank Secrecy Act, you know, when people walk into a bank they know they can't bring their \$10,000 worth of cocaine sales, money into the bank. And so they thought – they thought they had fixed this. They didn't know that. Human trafficking, we didn't know how that could be financed.

So you would think that with all of the research, the release of the Panama Papers, that this would just be a slam dunk. I'm just wondering if you all could describe to us – and then I'm going to ask you a question too, Ms. Caroline. Don't feel left out here in the EU. What do you think are the barriers to getting this legislation passed here in the United States?

KALMAN: So let me start off by saying that I think we are actually making progress after all this time. So I think some of the barriers are lifting. And I think some of the opponents are engaging. You know, there are, and have been, historic concerns from the state secretary's estate over this legislation. And people have been engaging with them. And we hope that there's a pathway forward that they will no longer oppose these bills. You know, we've made some changes to the bills to try and accommodate reasonable concerns from the business community.

MOORE: Like?

KALMAN: Years ago, when the bill was first introduced there weren't exemptions in the bill. So for example, today your bills exempt publicly traded companies because they already report this information to the SEC. You exempt companies that have 20 employees, \$5 million in sales, and a brick and mortar presence because law enforcement tells us that, you know what, that's big enough that we'll find the real guy or real gal. And so those are the kinds of things that we've tried to iron out, where reasonable requests have been made. And we said, oh, actually, these bills can be implemented with those changes.

So there are still some hurdles and some questions, I know. But the business community has come on board – or, I should say, portions of the business community, not the entire business community. The Chamber of Commerce still has concerns, as you all know. But with multinational companies saying, hey, this is about supply chains. The global nature of their operations and the places where they are running into problems is getting worse and worse. And so this kind of information is more and more valuable.

When we saw the banks saying, hey – the banks – here's a thing I will say about the banks. Is, you know, you probably know this better than I, but years ago they said, hey, don't make us do any anti-money laundering responsibilities. This is a law enforcement thing. We don't want to get involved. Today, if you go and talk to them – and we've talked to the clearinghouse and major banks – and they say, look, we understand we're going to have a role in these. The bad guys use our banks and we don't want them to use our banks. We just want it to be the most efficient that it can be, and so you all have discussions about that. But on this issue, is they believe that this will help them do their due diligence. It will help them ferret out bad guys that are trying to use money – use their banks to launder money. And so you now have a situation where large sections of the business community now support this legislation. And so we hope that we can make progress in this Congress.

MOORE: So there was the conversation here among the panelists about, you know, the United States perhaps being – taking some leadership and affecting the entire financial community. I'm wondering what – if this legislation were passed, what would prevent our passage of these laws from driving this business into the – into Europe and/or solidifying these

crimes in Russia or China or other places. What parallel sort of legislation do we have to prevent it just from moving to some other jurisdiction?

Ms. Vicini.

VICINI: Well, I – thank you for the question. First of all, I want to come back to the outrage, question of Senator Shaheen. Actually, there was a kind of an outrage in Europe after the Panama Papers. And that drove the Commission to – the fourth anti-money laundering directive had just been signed in May. And then in the fall, there was a decision to amend it. So very quickly, although this was a big piece of legislation, very quickly it was realized that this could be improved.

And there was a number of issues that were discovered through the Panama Papers that this will – this new, improved fourth directive, or the amended one, will also take into account the new technologies that we have for financial transactions. It will strengthen and harmonize checks on financial flows from high-risk third countries. It will increase the transparency, also make it easier for investigative journalists and NGOs and other organizations that are working on this to get access to this information. And it will confer also more power to the national finance intelligence units that will also be bound together by a stronger network.

So the work is continuing. And hopefully, therefore if the U.S. is strengthening its own legislation, the money will not come to Europe. That's what we hope, that we have already in place – or putting in place right now registers, and also this directive talks about much more than actually the beneficial owners' registry. It's also a question of due diligence, of what sectors are covered. I mean, there's much more sectors than the pure financial organizations and banks. It's also notaries, lawyers, real-estate brokers, high-value luxury item vendors, et cetera.

So it's a very wide net where people are – actually have to perform due diligence at quite low numbers, and repeated transactions of smaller transactions. So hopefully we are able in that sense to prevent it from coming to Europe. And then we work, as I said before, in the Financial Action Taskforce, to try to lift up the standards in the rest of the world and keep an eye on those countries that are subject to hide – where people can hide money, or where these institutions are not functioning as they should.

MOORE: So, thank you. So I was very concerned about – I'm concerned about money laundering, but other activities like human trafficking, which you all have mentioned. And I – and I am concerned about the exemptions. What would prevent me from saying that I'm an LLC, sole proprietor, have my lawyer go set up my company and still have these 50 massage parlors engaging in human trafficking? You know, if I keep my employee size down to the, you know, the – what the exemptions are?

OK, first of all, let me start with saying I don't know exactly what the number is that would be exempt, but say if you got under 20 employees you're exempt. Explain the exemptions a little bit better and how – what kind of language or legislation we should craft to make sure that no matter how big or how small you are, you can't do things like human trafficking.

KALMAN: No, thank you for that question. Two things I would say: One is, the exemptions are largely – so when we say publicly traded companies, for example, are exempt, because they already report beneficial ownership information – or, to the extent, above 5 percent of a company's ownership, to the Securities and Exchange Commission. So you already know that. We don't need to duplicate that.

MOORE: Right.

KALMAN: The exemption that we hear from our law enforcement folks is the opposite of what you are suggesting, precisely because of the point you're getting at. In other words, it's if you are big enough, not if you're small enough. The idea is we're trying to get at the shell companies, the actual entities that are being used as passthroughs for money. But there's no – as Senator Whitehouse said – there's no economic activity that's actually being – you know, productive economic activity that's being used. So the exemption is at the lower level.

Let me also say this, that if in fact you had a trafficking operation going on, then – but the beneficial ownership information is collected on the company, one of two things would happen. Either you wouldn't create the company and you'd have to find some other way to do it, or law enforcement would be able to get access to that and shut – not just shut down the individual facility but in fact the entire operation.

We see this as – the bills that you all are proposing we believe are a foundational first step. Without it, you can't do any – you can strengthen laws, you can share information. But unless you have this information, then the rest of those laws are going to ring hollow. This is a first step. It is not the end of the line. There's going to be more bills and legislation and proposals we're going to need to consider. But without this, we cannot make the kind of progress you're looking to make.

MOORE: OK. And Senator Whitehouse, thank you for your indulgence. I just have one more question, and this is a crazy question. I don't know whether you guys can answer it or not. But our Supreme Court has weighed in about First Amendment rights and free speech and so forth, and corporations are people and so on. And I just wonder how our – any legislation would square with Supreme Court findings, or won't that matter? Have those been the – you know, Chamber of Commerce, are they objecting on the basis of corporations having rights and so on?

KALMAN: I have not seen that as an objection.

MOORE: Good.

KALMAN: I am not a lawyer, so I don't –

MOORE: Right. I don't want to offer them the excuse. (Laughter.) Thank you. I yield back.

WHITEHOUSE: Let me recognize Senator Cardin, who I'm particularly pleased is here as the ranking member of the Helsinki Commission and also as the ranking member of the Senator Committee on Foreign Relations. Thank you for being here, Ben.

CARDIN: Well, thank you, Chairman Whitehouse.

I came by for a couple purposes. First, I wanted to thank Senator Whitehouse for the inspiration of this hearing under the banner of the Helsinki Commission, because I think it's critically important. But I also want to thank him for his leadership in the United States Senate on transparency in so many different areas, and dealing with the danger of what we see here in shell companies.

Let me first share with you that a little over a year ago I was in the Situation Room with the National Security Council, and this was the theme. This was the theme concerning our national security, and the need to improve our transparency laws on corporations because we can't track what is happening. We were very concerned at that time that it was being used for many different purposes – one of which is to avoid the sanctions in the United States that are very important to our foreign policy. Another was financing corrupt activities, including trafficking, including illegal drugs, including illegal guns. Some of it we thought was being used to finance terrorism. And that was the – one of the main focuses that we we're looking at, trying to trace money that ends up supporting terrorism. And these shell companies were operating in a way that compromised our national security.

So this is an extremely important subject. It's not easy to get a handle on what we need to do in the United States. But the weakness of our domestic laws are clearly very much in the forefront. So it should be no surprise that the World Bank has found that when it comes to corruption on a grand scale, American shell companies move more illegal money than any other country. That's a leadership that we do not want to have. So we need to act. And, Mr. Chairman, it's more complicated because many of these laws fall within the domains of our states, so that when look at how corporations are structured, the federal government can play a role. But absence of a federal role, the states are the controlling regulatory structure, which can – and illegal entities can find the easiest state in which to operate.

So what the United States needs to do is be a leader in fighting the use of shell companies globally to hide monies that are going to terrorists and for other illegal purposes. But we can't do that unless we first get our own house in order. And that's what Senator Whitehouse has been arguing and pressing for here in the United States. I have been working on the Senate Foreign Relations Committee with my colleagues on both sides of the aisle to get an indicator on how well countries are doing in fighting corruption. To me, corruption's one of the great challenges we have on good governance globally. It's the fuel for corruption. All you have to do is look at Russia and how it uses corruption in order to finance its system and terrorist – and its funding of different operations around the world.

And one of those indicators is transparency, how well know you know what's going on in that country. That should be one of the major ways to judge how well a country is fighting corruption by how well it promotes transparency. And although we don't have this index in

place today – we do for trafficking in persons and every country in rated including the United States – we don't have that for corruption. There are outside groups that do corruption indexes, but we don't. I hope that we will, with this legislation passing. It's passed our committee. It just hasn't passed the Senate yet. I'm afraid the United States may not get a great grade, because we're not doing what we need to do on transparency.

So from the point of view of our own self-interest, but also in the point of view of global leadership, we're behind. And we got to do a much more effective job. And it's not going to be easy because of the jurisdictional differences here, and the fact that they – that illegal entities always try to stay one step ahead of what we're doing. So I would just – wanted to make those observations. If any of the panelists want to respond, I'm more than happy to do that. But what would you think is the most important thing for the United States to do to show leadership to the global community that we need to work together to end this type of lack of transparency in financial operations globally? What's the one thing that America needs to do? Who's the volunteer?

KALMAN: Can I just offer which – let me just say, I would like us to see that we could pass either Mr. Whitehouse's bill or Ms. Moore's bill.

CARDIN: That was an easy answer. I was hoping – they were hoping you would say that. OK, you took that one. Now, the next – you can't take that same answer. Yes.

DAVIDSON: Well, I'll take something totally different, which is that we need to get out the pillory and put it back on the village green. We can't continue to enable this system and to treat the professionals in our society who cater to all of this as respectable members of our society. And I think that's an area that could have huge leverage. And it's a deep, cultural problem that we have also, because we don't censure our fellow citizens when they engage in money laundering for kleptocrats or criminals.

CARDIN: I've heard that a long time, that, you know, corruption has a cultural background. You can't accept that. You can't accept that. Lack of transparency, there is no justification for that. And there's no justification for corruption. You can't say, well, that's how we do business.

DAVIDSON: Indeed.

CARDIN: Yes, sir.

O'CARROLL: Just to follow up on that thought process there of the transparency. Probably the biggest issue with law enforcement is just follow the money. And that's the whole reason for this thing, is to shade the area so that we can't do that. And I think if we do pass these bills and get some transparency, that's the way we can start enforcing it and start making examples of the people that are abusing our system.

DAVIDSON: May I just add one thing to that, Senator?

CARDIN: Sure.

DAVIDSON: Which I – and I was going to put this in my brief talk initially, but I think that passing this bill, just like the Magnitsky Act, that had a cultural affect also, because it was saying to everyone: This is not OK. We pass the anonymous – the abolishing of anonymous companies, it's going to have ancillary effects or, what economists like to call, externalities, because no longer will it be possible to say, well, look, this is perfectly OK and the U.S. law allows it. So that will – and then one can go on to the next step.

CARDIN: I agree. And just by way of – as a sidebar on this, Congress passed the transparency in extractive industries provision. And we showed international leadership. Other countries followed. They enacted the law. And then this Congress repealed the rule, so the United States fell behind. Yes.

VICINI: Well, Senator, it's not my place really to give any advice to the United States Congress –

CARDIN: We advise other countries all the time. (Laughter.)

VICINI: (Laughs.) But in our view, maybe what is what is good is to try to act preventively. And that's what the EU is trying to do with this register of beneficiary owners, for example. To try to prevent these companies from being shaped, or these companies from making any business because if they are not in the register they will not be able to make any business. And just – we haven't seen if it works yet, because the directive has just been transposed into national legislation. We have 28 nations, as you know, so it takes a little while. The machinery grinds slowly.

But just as an example, as we say in the EU, from the country that I know best, is it's a country of 9 million people. And they have estimated that 800,000 economic entities will be registered there, in this register, just to give you a feeling for that there are not many that will be able to escape, because you have cooperatives for buildings, you have a number of economic entities that will fall under this register.

CARDIN: So let me just conclude by also thanking Congresswoman Moore. We've been together for a long time on the Helsinki Commission and I thank you very much for your leadership on this issue. It's also great to have Senator Shaheen here as well, has been a great member of this Commission, and also a member of the Senator Foreign Relations Committee. So this has our attention. It's time for us to act. Thank you all very much.

WHITEHOUSE: Thank you very much, Senator Cardin.

Let me start by asking Ms. Vicini, have you seen any effects – I know that the amendments to the fourth directive only went into effect in June. So it may not be that you've seen any observed consequences, either out of your law enforcement community or anywhere else. Are people actually closing accounts and fleeing elsewhere once they have to disclose? Is

law enforcement finding new tools that they didn't have? What has been the consequence of the directive, if you can describe any?

VICINI: No, as you point out yourself, Senator, it's quite early to see if there are any effects from this particular directive. I find, though, that the due diligence that so many of the not only financial institutions have to do but also many other areas of the economy, there it has started earlier. Banks and others have started to take it on, and it's become spread. So we see in the network of the financial intelligence unit – the FIU.net, they have secure network where they exchange information on suspicious transaction reports. And there is an enormous amount of reports coming in there.

That poses then another problem, how do you handle all these reports, and how much can you follow up? And how – so that you have law enforcement issue at the other end. But certainly, I mean, this has – this has put the light on this area. So I think there is no economic operator today who is not aware of this, and particularly those who are advising people, tax consultants and lawyers and notaries and banks and those who service companies for trust, et cetera. They are very vigilant. And we see that they do their due diligence and sort of bring this information into the system.

WHITEHOUSE: Mr. Davidson, could I ask you to speak a little bit more about what you touched on in your testimony, I think in a very eloquent way, which is the damage that America's role in supporting this kleptocratic effort – the damage that that does to our standing and to our reputation? You described the frustration of the Ukrainian official who was being lectured at about good government and honesty at the same time that it was Western banks, Western lawyers who were facilitating the thievery and the looting of that country by allowing those individuals to cash their assets overseas. Both in terms of enabling foreign corruption, very often enabling great wealth and power to people who are our enemies, and in terms of hypocrisy to our reputation, how does this play into America's soft power around the world?

DAVIDSON: Well, obviously it's not good for our soft power. And I think what we see, and what I tried to show with the Ukrainian examples – and I see a lot of young Ukrainians. And they are very, very distraught about all of this. So I think what we need to be concerned about is that this really spreads, that this duplicity becomes a commonplace perception, at which point we are no longer perceived as a place with good governance and something to aspire to. And therefore, authoritarianism becomes much more attractive to people in the other countries.

Now, when I started the kleptocracy initiative at Hudson 3 ½ years ago, the front was definitely not on our shores. And cut me off, please, if I'm going too far in answering your question. But the front was – had an ocean between the offices of Hudson Institute and what we were trying to oppose. And then the front moved across the street, basically. So I think a very –

WHITEHOUSE: Thanks to the actions of the European Union and the United Kingdom in cleaning up their own transparency issues, so that it jumped them to come to the United States.

DAVIDSON: Yeah. Yeah, well, that's part of it, actually. I mean, I was at a conference – there's a yearly conference called Offshore Alert where all of – the cops and the robbers all

congregate. But a Swiss lawyer – I don't know if he was Swiss, but a guy with five addresses on his card from all over the world got up to be very upset about the fact that business was leaving Switzerland and coming to the United States. And this wasn't good for his particular business in question, but we've become – yeah, we've – it's ironic that we have become the leading haven at a time when, in all sorts of other ways, we've been trying to push back against this rise of authoritarianism.

But I think we really need to focus – I mean, America's soft power is in so much trouble right now that I think we need to focus on this really as a national security threat. It's not about soft, soft power. We need new words for these things, because they aren't the same – what they were 10 or 20 years ago. If we look at China, for instance, and what they're doing, or Russia, this isn't soft power. It's something else. And we're not very effective at resisting it.

WHITEHOUSE: Moving over to harder power, let's say, if we are enabling kleptocracy and corruption by providing safe haven and refuge for the proceeds of kleptocracy and corruption, what is the relationship between, let's say, in a given country on another continent, a high level of kleptocracy and corruption and security and stability in that country? Is there an established correlation of any kind?

DAVIDSON: Well, right now the correlation might be that the kleptocratic, authoritarian government, since it doesn't have to deal with any accountability vis-à-vis the people, it can have much more concentrated wealth, not only for itself but to build up the military. And we see this happening actually in, say, Russia, where there's less and less revenue. Oil prices are down. The sanctions have actually – do a lot more damage than some people might think. I mean, why are they so upset about the sanctions? Why are they so upset about Magnitsky? Why do they care? And yet, they've been able to divert increasing sums to their military. The same has been true in a lot of other countries.

WHITEHOUSE: So in some cases it might actually keep the oligarchs more secure. Presumably in other cases the wholesale looting of the country creates resentments that eventually create instability. Would that also not be a scenario?

DAVIDSON: Yeah, it would be – it would be nice if we had more evidence of that.

WHITEHOUSE: Last question for Mr. O'Carroll. We've been talking about this at the national and international level. When I announced this bill, I announced it in Rhode Island. And among the folks present were Steve O'Donnell, who was then the superintendent of the Rhode Island State Police and Hugh Clements, who was then the chief of police – still is the chief of police of our capitol city, the city of Providence. And they were there not because they were concerned about these international issues.

They were concerned because they kept bumping up in local criminal investigations against shell corporations that were really hard for them to penetrate. So whether they were chasing assets to try to restore stolen money to people or trying to figure out who was behind a drug trafficking network, they were constantly bumping up – right in Rhode Island – against these schemes. And I'm wondering what your view is, from the Federal Law Enforcement

Officers Association, about how prevalent this is as a local problem for local police officers trying to deal with local crimes.

O'CARROLL: It's a very good question, Senator, because, as you're finding out how, we're finding it works best with our federal law enforcement is cooperation with local and state law enforcement. So we've been, you know, I guess trying to increase our resources by partnering with the states and locals. As an example, when I was the inspector general of Social Security we worked very closely with the two gentlemen that you spoke about in Rhode Island in terms of disability fraud, because the local know what's going on in that community. They know who the bad players are. And what we try to do is to bring – by bringing in the federal law enforcement is we've got a little bit more of the global issue on it. We've also got more resources that we can put towards it, using the FinCEN and those type of information.

WHITEHOUSE: But you see local law enforcement bumping into this problem all the time and needing – and needing your help.

O'CARROLL: Oh, absolutely. And what you're finding – and I think what we've talked about here – is that it's so insidious, in that every major crime now is somehow being tied in with the money laundering. You know, be it drugs, be it financial crimes, be it any of the – any of the other issues, all on local levels that just seem to be, you know, multiplying and getting bigger. So, yes, it's at a local level and the federal government's job is to help.

WHITEHOUSE: Mr. Kalman, I've called on everybody but you. Do you have anything you'd care to add that I haven't asked, or that has been provoked by the hearing? I don't want to leave you silenced here.

KALMAN: I just quickly, to follow up on that last point, is one of the things that we want to thank you for you and encourage you on your bill is that you do make the information available to local law enforcement. There's two, in our minds, critical pieces that are common in both bills that we – whichever one passes – but we want to make sure stands strong. One is the definition. You have a very strong definition in your bill. You cannot use – put in a manager or nominee or any stand-in. That definition –

WHITEHOUSE: Kind of defeats the purpose, doesn't it?

KALMAN: Exactly. If it's – you know, garbage in, garbage out. So that is critical. And the other is access to the information. And you give access to law enforcement up and down. So international cooperation all the way down to the local level with law enforcement. And you give it to the financial institutions that we ask to help us with anti-money laundering. Those are critical, critical pieces. And we urge you, as this process moves forward, please hang tough and keep those provisions strong.

WHITEHOUSE: Yeah, we will. And I appreciate it. It was – it was significant to me. I've been the U.S. attorney and the attorney general of my state. And attorney general in a state where all the criminal jurisdiction resides in the attorney general. We don't have DAs. So I've got a really good relationship with our law enforcement community. And they were deadly

serious about, look, this is not international crime. This is local crime. This is affecting our cases day in and day out right here at home. So I appreciate that.

Senator Shaheen, any closing questions or remarks?

SHAHEEN: I actually have one more question that I'd like to direct to Ms. Vicini, because in your testimony you talked about the major reforms in Georgia and Ukraine that you've seen. And the western Balkans, which have been challenged with corruption issues, and that your policy is one of fundamentals first. Can you explain what you mean by fundamentals first?

VICINI: Well, for countries that aspire to become members of the European Union, we have a very thorough process of negotiation where they must, first of all, foremost adhere to what we call the Copenhagen criteria on human rights and good governance and democracy, et cetera. But then also, they have to live up to that key of the European Union, and that is the collective European Union legislation. So, to say, they must be, the day they enter, be able to meet all those criteria. And that is, of course, a big leap for many countries. So what we do is that there is a process of negotiation, but there is also a process of support to try to help, to build that capacity. And it's a very thorough and sort of built-up process where we support the justice system, where we support good governance practice, where we – in different ways. So that's what I mean.

SHAHEEN: I appreciate that, especially the support piece. I noticed a piece this week in one of the news reports about Serbia, and that the support for joining the EU has decreased in Serbia pretty significantly, as has their favorability towards the United States. And support for Russia has increased pretty dramatically. So certainly, I think that support piece is really critical as we look at trying to keep the western Balkans moving towards EU integration.

VICINI: That is, of course, the other part in the middle is that it's a very long and difficult and laborious process. And it requires a lot from the politicians to be able to see this through. And it's easy to lose the population on the way. But, yes, Serbia, there are also other reasons.

SHAHEEN: Thank you. Thank you, Mr. Chairman.

WHITEHOUSE: Well, let me thank all of the panel for testifying, and thank the Helsinki Commission for giving us this forum. Whether you're a cop on the beat in a local neighborhood concerned about the ability of the criminals you're going after to obscure their activity from you, or whether you are an American concerned that the reputation of our great country is being smeared by our participation in enabling the world's kleptocrats, drug dealers, thieves, and other global miscreants through our own system, one thing that we do know is that if you're coming up in a corrupt country you always have to worry.

You can steal as much as you can from everybody around you, but you've always got to worry about the bigger fish that's coming to come and steal everything that you stole. So at some point, they – why the Magnitsky Act was so infuriating to the Russians – at some point if

you're going to play out your kleptocratic role, you're going to have got to jump the fence and move your ill-gotten gains into a country that honors the rule of law. And that way, you can hang onto what you stole against that next big fish coming to steal it back from you. And in that way, the countries that enjoy and espouse rule of law are now inexcusably and constantly facilitating the worst of our enemies by providing them shelter and providing them, to some degree, respectability. And we have got to put an end to it.

And the testimony was terrific today. We look forward to working with you to drive this process forward. Thank you all very much. The hearing is concluded.

[Whereupon, at 4:02 p.m., the hearing ended.]