WHITE-COLLAR CRIME IN SOUTH AFRICA

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CHAPTER 1. BACKGROUND AND MOTIVATION OF STUDY

1.1 INTRODUCTION

White-collar crime is becoming an increasing scourge in organisations around South Africa with more and more employees becoming involved in fraudulent schemes and activities (Powell, 2005:5). Very few will appreciate the full extent to which the incidence of economic crime has escalated in South Africa over the last ten years. A staggering ninety one percent of fraud committed by employees was repeat crimes and one in out of every six cases, other employees were aware of what was taking place, this was revealed in an analysis of fraud in South Africa investigated by KPMG Forensics Division (De Vynck, 2005:7).

Fraud is rife worldwide, but South Africa stands out with more than four out of five South African companies falling victim to fraud during the past two years (PriceWaterhouseCoopers, 2005:1). Fraud at South African companies increased by 17 percent to 83 percent from 71 percent in 2003 with 15 percent losing between US$1m and $10m (PriceWaterhouseCoopers, 2005:1). The global economic crime survey (PriceWaterhouseCoopers, 2005:1) also reveals that South African companies experienced a startling average of 11 incidents each since 2003, compared with the eight of their international counterparts. A third of the local incidents was detected by chance, with members of senior and middle management the perpetrators of up to 53 percent of the detected crimes (PricewaterhouseCoopers, 2005:1).
While the 83 percent reflected in respect of South African companies represents a minimum benchmark in economic crime, the increase may be attributable to a decrease in the reluctance to divulge fraud and a greater sense of transparency with regard to fraud transgressions (PricewaterhouseCoopers, 2005:2).

Other interesting, locally relevant facts that were revealed by the survey included a significant increase in companies affected by financial misrepresentation, bribery and corruption, despite perceptions among the participating companies that these crimes were not particularly prevalent (PriceWaterhouseCoopers, 2005:2). Financial misrepresentation, for example, grew by 800 percent, from 5 percent to 45 percent, during this period, of the South African companies that experienced fraud, most suffered what is described as asset misappropriation (72 percent) and false pretences (61 percent) (PricewaterhouseCoopers, 2005:2). A bitter pill to swallow for half of the companies was that the perpetrators of the fraud were their own staff members (PricewaterhouseCoopers, 2005:3).

Malcolm Campbell (PriceWaterhouseCoopers, 2005:3) a partner in the Forensic Services division of PriceWaterhouseCoopers says “The threat of economic crime continues to be underestimated worldwide”. It is clear that fraud is a major concern for businesses all over the world. Companies with lesser degrees of control and other precautionary measures are still not fully aware of their risks. It would thus appear that South Africa is following the same trend as most developed countries as far as fraud is concerned despite
many economic indicators pointing towards a third world economy (PriceWaterhouseCoopers, 2005:3).

1.2 MOTIVATION OF THE STUDY

The general purpose of the research is to investigate and identify the different trends of white-collar crime currently being experienced by South African companies. It is imperative that corporate South Africa understands what are the underlying causes of fraud, how frequently fraud occurs in the organisation, what types of fraud occurred, what amounts are involved, who usually detects the fraud and what necessary measures are taken by companies to prevent fraud. By compiling a profile of white-collar crime and criminals in South African organisations, there would be an increased awareness around fraudulent activity in the workplace.

Given that fraud in South Africa has grown in epic proportions this study aims to heighten the importance of rooting out fraud at all levels in South Africa. The fraud questionnaire would provide useful guidelines as to what the current trends are in respect of economic crime in the country and how we go about mitigating the risk of these frauds from reappearing.

The other purpose of the study is to provide external auditors, internal auditors and all employees across the organisation with an adequate understanding of what exactly is white-collar crime is all about. Research has shown that most white-collar crime detected is through internal controls, specific investigation by senior management and internal
auditors (Ernst & Young, 2005:5). External auditors are not adequately equipped to uncover a potential irregularity/fraud when going about an external audit. All stakeholders, including external auditors, internal auditors, employees, directors and shareholders should be provided with the necessary early warning signs that may assist them to identify, detect and prevent a potential fraud from arising. These role players need to know what ‘red flags’ to look for if they suspect that there is an element of economic crime in that organisation and in doing so create a culture of rooting out fraud in the workplace.

White-collar crime losses are serious problems to organisations that need to be managed, controlled and monitored. Technology, fraudsters and law enforcements are continuously leapfrogging each other, as the race continues to build better tools, commit bigger crimes and develop more effective law enforcement. Fraud detection is an examination of the facts to identify the indicators of fraud. Reviewing and improving the internal control system in an organization is the primary defence against fraud and abuse. Hence the aim of this effort is to raise the level of security awareness for organizations to plan and facilitate a concerted effort to fight white-collar crime, as prevention is better than cure.

The motivation behind the research lends itself from the fact that a study of this magnitude needs to be undertaken regularly to empower corporate South Africa to reduce the amount of funds swindled through fraudulent activities and schemes. It has been my fervent passion to uncover and understand what new white-collar crime trends are doing
it’s rounds in South Africa and also create an awareness that there is no place in society for fraudulent activities and behaviour.

1.3 OBJECTIVES OF THE STUDY

Primary Objective:
The primary purpose of the study is to investigate and understand the current levels of white-collar crime doing its rounds in South African organisations, both in the public and private sector. Special attention would be given to the current trends of white-collar crime being experienced in South Africa. This special focus would involve understanding the causes of white collar crime, the types of fraud that occur, how many frauds occur in an organisation, who usually detects the white-collar crime and what necessary measures are taken by companies to prevent white-collar crime.

Secondary Objective:
The secondary objective is to provide the relevant stakeholders, including internal auditors, external auditors, directors, employees and shareholders with an adequate understanding of white-collar crime. By providing the relevant stakeholders with a basic understanding of fraud, it will help these stakeholders make more informed decisions thereby reducing the quantity of white-collar crime experienced in an organisation and thereby readdressing the fraud culture in South Africa.
1.4 PROBLEM STATEMENT

The difficulty in quantifying white-collar crime costs doesn't give companies a licence for complacency. Fraud deterrence is perceived as a costly and often unnecessary capital expenditure by many South African small, micro and medium enterprise sized businesses (SMMEs) and big businesses as well (Ernst & Young, 2005a:7). This is borne by the fact that many businesses have grown secure in the conviction that they are invincible to fraud and therefore do not need to invest in fraud deterrence. (Ernst & Young, 2005a:7). This aura of invincibility becomes reinforced when the company has not experienced any incidence of white-collar crime.

Reality, however, dictates otherwise. Many studies locally and abroad do state that companies lose on average 6 percent of annual turnover due to white-collar crime and fraud (Ernst & Young, 2005a:8). This loss of revenue due to white-collar crime is conservatively estimated to cost the South African economy an estimated R80-billion annually (Ernst & Young, 2005a:8). Though no company can openly broadcast its vulnerability to fraud, this malpractice has become intrinsically interwoven in the ethos of business in the 21st century, so much so that business regards white-collar crime as a cost of doing business (Ernst & Young, 2005a:8).

Failure by companies to encourage fraud awareness and deterrence into their culture can cause corporations much pain and expense, including damage to their reputation which is difficult to regain. The challenge facing anti-fraud practitioners is that it’s success is hard to quantify, executives want evidence. They want to know what the fraud investigation saved and if the amount saved exceed the cost to save it. It is extremely difficult to
quantify the results of an anti-fraud awareness programme especially if no loss is suffered.

The community of white-collar criminal’s perpetrators is large. The fraudsters remain in constant communication with each other and constantly exchange their stories and share notes on vulnerable targets for fraud (Ernst & Young, 2005a:9). Once the word gets out in the underworld that ‘Company X and Y’ are difficult to defraud, fraudsters go somewhere else (Ernst & Young, 2005a:9). It is therefore incumbent upon company executives who are responsible for the execution of corporate governance to ensure that their organizations become less appealing to fraudsters, this is possible through the thorough development, implementation and ongoing review of a sustainable fraud deterrence plan.

According to Wells (2004:1) “Most accountants and auditors think that internal control is the answer to fraud, yet organizations with controls still have fraud so we therefore need to de-programme ourselves and look for a different, more effective, approach to fighting fraud”.

In addition “fraud prevention and internal controls is not the same thing” (Wells, 2004:1). Every organization has internal controls yet most, if not all of these, have fraud, so obviously controls by themselves are not the solution to fraud – they are important but they are not the whole answer. Management needs to know more about fraud prevention, which seems to be the ‘missing link’ in most organizations (Wells, 2004:1)
Wells (2004:2) suggested that organizations implement a model organizational fraud deterrence strategic plan. This plan should include fraud prevention, fraud detection and fraud reaction strategies. These ‘best practice’ strategies, which have emerged as the benchmark of an effective anti-fraud compliance programme, are based on suggestions/requirements from the King II report on Corporate Governance, the Sarbanes-Oxley Act, the Australian Institute of Criminology, the ACFE and the United States Sentencing Commission. (Wells, 2004:2).

The auditing profession has been criticized for both failing to detect fraud and failing to report fraud once discovered. It has been reported that external auditors only detect 5 percent of fraud (Zeune, 1997:30). Most accounting practitioners realize and acknowledge that external auditors are often not positioned and trained to detect the occurrence of fraud. External auditors lack the continuous presence necessary for the establishment and implementation of fraud prevention and deterrence programs. Unlike other crimes, which may be witnessed, fraud by its very nature typically entails concealment by its perpetrators (Hillison, Pacini & Sinason, 1999:351).

By the same token as indicated above there is common belief that internal auditors have a better chance of detecting fraud in the workplace given the fact they have much more of a presence in the workplace than the external auditors. Although internal auditors are better positioned to be alert to situations and circumstances that raise the likelihood of fraud, it is strongly believed that all employees (lower, middle and senior management) should be wary of what’s happening around them (Hillison et al., 1999:361). The potential for white-collar crime in the workplace demands a sharpened focus by all employees and the
use of effective commonsense steps, to help reduce the occurrence of fraud and its attendant losses.

It is quite clear and apparent from the above that white-collar crime in South Africa can be seen as a huge problem with the potential to escalate astronomically if not addressed timeously. Both the private and public sector need to be proactive in ensuring that the necessary gaps are plugged thereby keeping fraud levels to the minimum. The reality is that it would be absolutely difficult to root out all fraud in the workplace so by having the necessary fraud deterrence and prevention plan is a start in reducing the amount of fraud that occurs. By highlighting and increasing fraud awareness amongst employees and employers in both the private and public sector, this should create a climate for a reduction of fraud as well as improving the white-collar crime culture in South Africa.

1.5 RESEARCH METHODOLOGY

The research methodology undertaken is to fulfil the objectives of the research study, which incorporates the following aspects:

- A literature study (understand and gain a theoretical knowledge of the subject matter)
- An empirical study (gain experiential and practical field based knowledge on the subject)
- A combination of both the literature and empirical results to obtain an informed view on the subject matter.
A brief outline of the above aspects will be discussed in detail.

1.5.1 Literature Study

To understand and become more familiar with the context of the research problem, a literature study on “White Collar Crime in South Africa” will be performed.

Special attention in the literature study will be given to the following:

- The background and the different theories that underpin white-collar crime.
- What are the causes of white-collar crime?
- Fraud culture in South Africa and internationally.
- The different types of white-collar crime experienced in South Africa.
- The tools used by white-collar criminals in plying their trade.
- The “early warning signs” or ‘red flags’ of fraud in the workplace.
- The different prevention and detection methodologies for combating white-collar crime in the workplace.

1.5.2 Empirical Study

Specific empirical objectives that would follow from the theoretical knowledge include:

- The previous fraud climate as experienced by South Africa organisations.
- The previous fraud climate as experienced in the international community.
Current trends in white-collar crime both locally and abroad and the comparisons thereof.

Current methodologies to combat fraudulent behaviour in the workplace.

The following aspects regarding the empirical study are highlighted:

The empirical objectives, as described above are to be achieved by the collation and analysis of a fraud questionnaire that is expected to be sent out to over 100 South African companies. As a result this study will be based on a questionnaire (refer to Appendix 1) that would be sent to an official of the company that is responsible for answering questions on fraud within the company. This “fraud survey” will be a joint venture between the Large Business Centre (SARS) and the writer whereby the questionnaire will be sent to over 100 JSE listed clients/taxpaying entities.

The questionnaire will ask the organization some of the following questions:

- The company’s overall fraud awareness.
- Has the company experienced fraud in the last twelve months?
- What type of fraud was experienced in the last twelve months?
- What was the cause of the fraud?
- What has the company done to combat fraud in the organization?
- How susceptible is the company to international fraud?
A time period of two and half months would be allocated for the distribution, completion and analysis of the survey. Once all the questionnaires have been returned, the necessary analysis and tabulation of the responses will be made available as part of chapter four.

1.5.2.1 Preparation of Questionnaire

A draft fraud questionnaire was designed, which was then forwarded to forensic and fraud specialists in the industry for finality. On designing the draft questionnaire it was decided that similar surveys that were previously distributed by the big four audit firms in their Global Fraud Survey were reviewed for completeness. Once consensus is reached by all parties concerned on the individual questions the final format would be presented for distribution.

1.5.2.2 Distribution of Questionnaire

The senior management of the Large Business Centre (LBC) which is part of the South African Revenue Services (SARS) was approached, to assist with the fraud questionnaire. It was clearly explained to senior management that part of the dissertation involved an empirical study, which required a fraud questionnaire to be sent to South African Companies for completion. Senior management agreed that the questionnaire could be distributed to one hundred South African Companies via their Taxpayer Relationship Managers (TRM) within the different sectors of the LBC. The reason for this was to ensure that the companies under review understood that the questionnaire was part of a Masters Research study and not one of SARS initiatives. The criterion that was used to
identify the sample of one hundred companies was based on the top fifteen tax paying companies per the eight sectors within the LBC.

The taxpayer relationship managers for each of the sectors would be given the responsibility of distributing and collecting the questionnaires per their list of companies. It was mentioned to the TRM that the questionnaire needed to be handed to the responsible person in the company that addresses fraud issues, such as the Fraud/Forensics Manager, Internal Audit Manager or the Financial Director. The TRM was informed that a special mention to the companies should include, that the information received will be treated with absolute confidentiality and also explained the benefits of completing the questionnaire.

It was a firm belief that had the writer undertaken a survey of this magnitude on his own name the response rate would have been very low. The fact that the survey was done in conjunction with SARS made the respondents associate the survey much more seriously.

1.5.2.3 Collection of Questionnaires

The TRM will be responsible for the collection of the questionnaire once completed by the individual companies. One hundred and twenty questionnaires would be sent out to South African Companies. Once the completed questionnaires have been returned, detailed commentary and analysis would be formulated which would form a significant part of this research study.
1.6 LIMITATIONS OF STUDY

- The sample size of the empirical study is too small, there is a belief that there needs to be a larger number of respondents to the fraud questionnaire in order to get a better understanding of the white-collar crime climate in South Africa.

- The person that should be completing the fraud questionnaire has to be a designated official who handles and deals with issues surrounding fraud, is most often too busy with managerial tasks thereby making the prompt completion of the questionnaire all the more difficult.

- If the questionnaire is not completed by the designated official who handles fraud issues in the organisation, then the responses to the questions may not be answered correctly thereby distorting the accuracy of the questionnaire.

1.7 DIVISION OF THE STUDY

Following chapter one the research will be broken into four other chapters and this includes:

- **Chapter 2** will provide the reader with a fresh perspective on white-collar crime. The intention of this chapter is to provide the reader with a holistic picture and understanding of what, white-collar crime is all about and the problem that it poses. The reader should be at ease with the concept, its meaning, implications and behavioural aspects associated with white-collar crime. It would also include a review of the more common types of white-collar crimes and schemes being
perpetrated. This chapter will provide a background on the white-collar crime culture experienced in South Africa. It would also include a review of the punishment being given to white-collar criminals as well as identifying the barriers to detection and prosecution of white-collar crimes. This chapter will also provide the reader with an understanding of how the white-collar crime crisis is managed.

- **Chapter 3** will look at the empirical research, both the design and methodology of the empirical study together with the analysis and results of the fraud questionnaire will be discussed in detail. Graphical and tabulated analysis will form the backbone of this analysis.

- **Chapter 4** will identify all areas concerned with fraud prevention and detection methodologies. It will review fraud detection tools, the auditor’s role in fraud prevention and detection, internal controls in fraud prevention and detection. Lastly it will also cover best practises in fraud detection and prevention methodologies for organisations.

- **Chapter 5** will provide a summary of the entire research, which will be followed by the conclusions and recommendations, which would be based on the results gained through integration of both the empirical and theoretical study.
2.1 INTRODUCTION

This chapter will look at the origin of white-collar crime and how this phrase came into existence. The main features of white-collar crime will be highlighted along with the nature of white-collar crime. Furthermore special attention would be given to the motives for white-collar criminal activity as well as some of the different types and schemes of white-collar crime currently being perpetrated by criminals.

This chapter will then focus on white-collar crime culture experienced in South Africa. It would include a review of the punishment being given to white-collar criminals as well as identifying the barriers to detection and prosecution of white-collar crimes. The research will then provide the reader with an understanding of how the white-collar crime crisis in South Africa is managed.

The overall intention of this chapter is to give the reader a wide perspective and understanding of what, white-collar crime is all about, and the problem that it poses around the world. The reader should then be at ease with the concept, its meaning, implications and behavioural aspects of white-collar crime. Finally a summary of all aspects covered in this chapter will conclude this part of the research.
2.2 THE ORIGIN OF WHITE-COLLAR CRIME

The American criminologist, Sutherland (1983:7) coined the term “White Collar Crime” in 1939, he argued that white-collar crime is:

- Crime, which involves a betrayal of trust implied in the holding of an office or other position of trust.
- Committed by persons of respectability and high social status in the course of their occupation.
- A greater threat to society than street crime because the former promotes cynicism and distrust of basic social institutions.

Sutherland (1983:7) coined the term "white-collar crime" in order to point out weaknesses in typical crime theory that considered social pathology as the primary explanation behind criminal behavior. White-collar crime casts doubt on the notion that poverty breeds crime. Sutherland (1983:7) argued that members of society occupying positions of privilege and status were just as likely to commit crimes as those from the lower classes.

In this study the terms white-collar crime and fraud will be used interchangeably, because fraud is defined by KPMG (2004:1) as a “deliberate deceit planned and executed with the intent to deprive another of property or rights directly or indirectly, regardless of whether the perpetrator benefits from his/her actions”. The reason the terms are interchangeable
is because fraud which displays intent as defined above is often committed by white collar criminals.

After identifying the origin of the term “white-collar crime” it is imperative that the reader understands what constitutes white-collar crime. The main features of this criminal activity will be discussed to allow the reader to become more acquainted with the subject matter.

2.3 THE MAIN FEATURES OF WHITE-COLLAR CRIME

It is crucial to understand what are the key components of white-collar crime, therefore listed below are some of the main features of white-collar crime (Anon, 2005).

- Victims often suffer the effects of white-collar crime without ever meeting the perpetrators.

- Croall (1992:56) examined the characteristics of "white collar crime" and contended that the low visibility of essential features often occurs under occupational cover.

- It is in essence an indirect form of theft. Perpetrators often rationalize that because it is indirect, it is victimless and therefore ‘acceptable’.
Defendants are at work, which is the scene of the crime, while victims are present and unaware of an offence in progress.

The low visibility is combined with complexities. It was found that even juries necessarily found a fraud trial incomprehensible.

The diffusion of responsibility and elimination of blame for actions are lost in large corporate structures. The diffuseness of white-collar crime may put us at greater risk for longer periods of time than other crimes such as ordinary bank robbery.

Perhaps a better way to look at white-collar crime is to focus on the ways that fraud practitioner and magistrates distinguish white-collar crime from common street crime. According to Strader (2002:2) a “white-collar” prosecutor or defense lawyer would more likely define white-collar crime as crime that does not:

- Necessarily involve force against a person or property.
- Directly relate to the possession, sale, or distribution of narcotics.
- Directly relate to organized crime activities.
- Directly relate to such national policies as immigration, civil rights and national security.
- Directly involve “vice crimes” or the common theft of property.
2.4 KEY MOTIVES FOR WHITE-COLLAR CRIME

The usual theories of crime are not very helpful to explanations of white-collar crime. In brief, white-collar criminals don't socialize with known criminals, don't get a surplus of definitions favorable to crime, aren't in deviant peers groups, and aren't poor. They live well-ordered lives for the most part; are well respected at work and in community, therefore listed below are some of the reasons or motives for white-collar criminal activity (Anon, 2005);

- Life style: Much in the way of white collar crime can be attributed to efforts of white-collar criminals to attain and maintain a middle class life style.

- Existential Anger: Bureaucracies are iron cages into which clients and staff alike are trapped. Embezzlement, fraud, theft and sale of company secrets provide some small measure of revenge against the system.

- Corporate Modeling: Many major corporations require their employees to lie, cheat, steal and betray customers, competitors, inspectors and other employees. If the company steals from customers; if the company violates pollution laws; if the company converts pension plans to corporate purpose, the moral base is lost and, being lost, renders the company fair game to the disenchanted employee.

Having an understanding of the key motives for white-collar crime is crucial in the broader scheme of things however equally important is that the reader needs to understand the unique nature of white-collar crime as compared to the other traditional or conventional forms of criminal activity.
2.5 THE NATURE OF WHITE-COLLAR CRIME

Closely related to defining 'white-collar crime' is the question of disclosing its unique nature. In this respect, it is useful to examine ways in which these crimes differ from traditional offences. It has been argued that these crimes are costlier, and affect more individuals. They rely on deceit and concealment rather than force and violence, although it is generally agreed that personal pathology plays no significant role in the genesis of white-collar crime (Spencer, 2002:202). Whereas the traditional felon uses brute force and crude tools, the white collar criminal often employs sophisticated technology, and successfully plays on people's ignorance and greed.

All criminal behaviour requires a motive and opportunity, which must coincide before a crime can occur (Spencer, 2002:202). When it comes to motive, it is difficult to understand why trusted and well-paid employees would jeopardise their position by stealing from their employers. While primary motivations may include the desire for financial gain, others may be financial difficulties, low loyalty, revenge and boredom. (KPMG, 1995:1)

In South Africa “the desire to 'protect what one already has' bodes ill for the future of such crimes, where employees threatened by uncertainty may seek to 'feather their own nest', albeit through illegal means” (Camerer, 1996:4). Indeed, when weighed up against the actual fear of being detected, the urge to commit a commercial offence to protect what one has may prove stronger.
Unlike 'mugging', white-collar crimes such as commercial fraud are not 'equal opportunity crimes' (Camerer, 1996:4). Rather, the opportunity to commit various types of white-collar crimes is unevenly distributed according to occupational structure. For example, pilfering may be commonplace among certain employees, whereas crimes such as price fixing and insider training might occur at different levels in the company and are largely related to the degree of trust placed in those occupying different positions. Therefore, to the extent that there is disadvantage or discrimination by class, gender, ethnicity or religion in occupying certain roles, the opportunities for particular types of crimes are correspondingly restricted (Levi, 1987:2).

“It is not because they are morally superior that there are so few female and/or black management fraudsters in Britain, the United States or South Africa, for that matter” (Camerer, 1996: 5). To date, very little research has been conducted on the gender and race aspects of white-collar crime, areas of particular relevance to South Africa as affirmative action policies seek to make private and public institutions representative.

Added to motive and opportunity, 'techniques of neutralisation' enable individuals to violate important normative and ethical standards while neutralising any definition of them as deviant or criminal (Coleman, 2002:211).

For instance, at an individual level, the neutralisation of ethical restraints may justify theft as 'borrowing'. At an organisational level, criminal activities are defined in such a way as to make them appear routine, unproblematic and necessary. Offenders may justify their behaviour by claiming that they are not really hurting anyone; that the law itself is
unnecessary or unjust; that while something may be illegal, it is not criminal (in that it
doesn't harm anyone); that 'everyone else is doing it', for example, cheating on tax
returns; that they were merely continuing a pattern of behaviour accepted among their
peers, or in the industry; and that the activities at issue were a necessary part of the
business (Camerer, 1996:5). Many of these claims relate to an argument to be touched on
later: that the structural demands of certain positions virtually force their occupants to
violate the law.

Once the concept of white-collar crime is discussed then differentiating this particular
criminal behaviour with other traditional forms of crime would not be so easily
understood without a review of the different types and schemes of white-collar crime
currently being perpetrated.

2.6 TYPES OF WHITE-COLLAR CRIME AND SCHEMES

2.6.1 Types of white-collar crime

There are many different types of white-collar crime that are practiced by white-collar
criminals and these include (Anon, 2000);

- **Bank Fraud**: To engage in an act or pattern of activity where the purpose is to
defraud a bank of funds.
- **Blackmail**: A demand for money or other consideration under threat to do bodily
  harm, to injure property, to accuse of a crime, or to expose secrets.
- **Bribery**: When money, goods, services, information or anything else of value is offered with intent to influence the actions, opinions, or decisions of the taker. You may be charged with bribery whether you offer the bribe or accept it.

- **Cellular Phone Fraud**: The unauthorized use, tampering, or manipulation of a cellular phone or service. This can be accomplished by either use of a stolen phone, or where an actor signs up for service under false identification or where the actor clones a valid electronic serial number (ESN) by using an ESN reader and reprograms another cellular phone with a valid ESN number.

- **Computer fraud**: Where computer hackers steal information sources contained on computers such as: bank information, credit cards, and proprietary information.

- **Counterfeiting**: Occurs when someone copies or imitates an item without having been authorized to do so and passes the copy off for the genuine or original item. Counterfeiting is most often associated with money however can also be associated with designer clothing, handbags and watches.

- **Credit Card Fraud**: The unauthorized use of a credit card to obtain goods of value.

- **Currency Schemes**: The practice of speculating on the future value of currencies.

- **Embezzlement**: When a person who has been entrusted with money or property appropriates it for his or her own use and benefit.

- **Environmental Schemes**: The over billing and fraudulent practices exercised by corporations which purport to clean up the environment.
- **Extortion**: Occurs when one person illegally obtains property from another by actual or threatened force, fear, or violence, or under cover of official right.
- **Forgery**: When a person passes a false or worthless instrument such as a check or counterfeit security with the intent to defraud or injure the recipient.
- **Health Care Fraud**: Where an unlicensed health care provider provides services under the guise of being licensed and obtains monetary benefit for the service.
- **Insider Trading**: When a person uses inside, confidential, or advance information to trade in shares of publicly held corporations.
- **Insurance Fraud**: To engage in an act or pattern of activity wherein one obtains proceeds from an insurance company through deception.
- **Investment Schemes**: Where an unsuspecting victim is contacted by the actor who promises to provide a large return on a small investment.
- **Kickback**: Occurs when a person who sells an item pays back a portion of the purchase price to the buyer.
- **Theft**: When a person wrongfully takes another person's money or property with the intent to appropriate, convert or steal it.
- **Money Laundering**: The investment or transfer of money from racketeering, drug transactions or other embezzlement schemes so that it appears that its original source either cannot be traced or is legitimate.
- **Racketeering**: The operation of an illegal business for personal profit.
- **Securities Fraud**: The act of artificially inflating the price of stocks by brokers so that buyers can purchase a stock on the rise.
- **Tax Evasion**: When a person commits fraud in filing or paying taxes.
- **Telemarketing Fraud**: Actors operate out of boiler rooms and place telephone calls to residences and corporations where the actor requests a donation to an alleged charitable organization or where the actor requests money up front or a credit card number up front, and does not use the donation for the stated purpose.

- **Welfare Fraud**: To engage in an act or acts where the purpose is to obtain benefits (i.e. Public Assistance, Food Stamps, or Medicaid) from the State or Federal Government.

### 2.6.2 Types of white-collar schemes

There are many different types of white-collar crime schemes that are being perpetrated by white-collar criminals across the world and these include (Anon, 2000);

- **Advanced Fee Schemes**: Fraudster induces victim to give him some type of advanced fee in return for a future benefit. The future benefit never occurs and victim never receives the advanced fee back.

- **Airport Scam**: Fraudster approaches victim in an airport stating that the newspaper stand cannot change his one hundred dollar bill and asks the victim for change. Victim provides fraudster with the change, fraudster returns to the store to get the one hundred dollar bill back, however, never returns to victim.

- **Auto Repair**: Fraudster hangs out around an auto repair shop and approaches victims who leave after getting estimates. Fraudster claims to do work off duty at a very low cost. Once fraudster has the car, inferior work is completed and victim cannot get the return of the car until the very high bill is paid.
➢ **Check Kiting**: A bank account is opened with good funds and a rapport is developed with the bank. Fraudster then deposits a series of bad cheques but prior to their discovery, withdraws funds from the bank.

➢ **Coupon Redemption**: Grocery stores amass large amounts of coupons and redeem them to manufacturers when in fact merchandise was never sold.

➢ **Directory Advertising**: Fraudster either impersonates sales person from a directory company like the yellow pages or fraudulently sells advertising, which the victim never receives.

➢ **Fortune Telling**: Fraudster advises victim that victim is cursed. Fraudster advises victim that the curse must be removed. Fraudster advises that she must meditate to the spirits and will require payment. Over a period of time, victim pays fortune teller thousands of dollars to remove curse.

➢ **Gypsies**: Fraudster states that victim money is cursed. In order to remove the curse, the money must be placed into a bag or box that the fraudster provides. The bag or box is switched. Fraudster advises victim to perform certain rituals over the money and the curse will be removed. The bag or box cannot be opened for a period of time when it is opened, the money is gone.

➢ **Jamaican Switch**: Fraudster #1 approaches a victim looking for the address of a prostitute. Fraudster #1 shows a large sum of money to the victim. Fraudster #2 arrives and tells Fraudster #1 where he can find the prostitute but cautions on taking all the money as the prostitute might rob him. Fraudster #1 asks the victim to hold the money for him. Fraudster #1 puts his money into a handkerchief with the victim’s money. Fraudster #1 shows the victim how to hide the money under
his arm, inside his shirt while switching handkerchiefs. Victim takes the handkerchief and the parties split up, however, Fraudster #1 leaves with victim’s money.

- **Land Fraud**: Fraudster induces victim to purchase tracks of land in some type of retirement development, which does not exist.

- **Odometer Fraud**: Unscrupulous used car salesman purchased used cars and turns back the odometers. The used car is sold at a higher price due to its low mileage.

- **Pigeon Drop**: Fraudster #1 befriends the victim. Fraudster #2 shows both Fraudster #1 and victim a "found" package containing a large amount of cash. Fraudster #1 insists that the found money be divided equally but only after each person puts up his own money to demonstrate good faith. All the money is put in one package and the package is later switched.

- **Police Impersonation**: Fraudster tells victim that his bank is being operated by fraudulent bank officers. Fraudster instructs victim to take money out of bank and place it into a good bank. After the money is withdrawn, the fraudster allegedly takes the money to the police station for safekeeping. The victim never sees the money again.

- **Ponzi**: An investment scheme where the fraudster solicits investors in a business venture, promising extremely high financial returns or dividends in a very short period of time. The fraudster never invests the money, however, does pay dividends. The dividends consist of the newest investors funds. The first investors, pleased to receive dividends, encourage new investors to invest. This scheme falls apart when the fraudster no longer has sufficient new investors to
distribute dividends to the old investors or the fraudster simply takes all the funds and leaves the area.

- **Pyramid**: An investment fraud in which an individual is offered a distributorship or franchise to market a particular product. The promoter of the pyramid represents that although marketing of the product will result in profits, larger profits will be earned by the sale of franchises. For example, if a franchise price is R10 000.00, the seller receives R3 500.00 for every franchise sold. Each new franchise purchaser is presented with the same proposal so that each franchise owner is attempting to sell franchises. Once the supply of potential investors is exhausted, the pyramid collapses. Many times, there are no products involved in the franchise, simply just the exchange of money.

- **West African Investment Scams**: Target businesses and obtain business' bank account information from which all funds are later withdrawn.

### 2.7 WHITE-COLLAR CRIME CULTURE IN SOUTH AFRICA

In South Africa, motives, opportunities and the neutralisation of ethical concerns regarding white-collar crime have been exacerbated by historical circumstance. According to Camerer (1996:7) certain historical practices arguably provided an environment, which was structurally conducive for white collar crime for example;

- “Sanctions-busting mentality”, which encouraged legitimate businesses to seek alternative systems, whether legal or illegal, to maintain their profits. These systems and habits shrouded in secrecy, die-hard and have resulted in a lack of transparency which is advantageous to criminality.
The dual financial system, encouraged 'round tripping', that is sending funds out of South Africa in commercial rands, bringing them back via the financial unit, and making a profit on the discount between the two a practice which lost the country billions (Anon, 1993:4).

Tax evasion, the state loses millions of rands every year as a result of tax evasion but this was argued to be a rational response towards a government which the majority of citizens regarded as illegitimate. Some hold a genuine belief that this is no crime as the inequitable tax system is in itself immoral.

These secret systems and habits have resulted in a lack of transparency that is advantageous to criminals. It is this background, combined with increased opportunities, a 'get-rich-quick' social ethos, tolerance of expense fiddles and observation of large-scale malpractice escaping unpunished that has contributed to the growth of fraudulent activities in the economy (Levi, 1987: 56).

Looking towards the future and considering those risk factors South Africa is certainly at risk on the basis of political uncertainty, economic conditions, and the increased and sophisticated nature of organized white collar criminals (PriceWaterhouseCoopers, 2005). In South Africa the desire to protect “what one already has” no doubt will increase incidences of white collar crime, where uncertain employees fearing unemployment, or the loss of property may seek “feather their own nest” albeit through illegal means (Camerer, 1996:9).
The punishment that is handed out to white-collar criminals will always an issue for debate. The amount of resources that is available to the state is never enough to successfully hand down proper sentences to white-collar criminals.

2.8 PUNISHMENT OF WHITE-COLLAR CRIME

Worldwide, commercial fraud and offences related to industrial safety, for example, command a far smaller proportion of criminal justice resources than more conventional forms of crime. Even though there may be ample evidence and a clear-cut violation, the complexity of the issues and the volumes of evidence make it a difficult task to bring white-collar criminals to book (Camerer, 1996:11). Unfortunately, potential perpetrators of white-collar crimes are often well aware that the resources for doing so are hopelessly inadequate. Whereas the state potentially stigmatises those who violate its standards, which is especially repugnant to those typically involved in white-collar crime such a stigma is only a deterrent if the law is actively enforced. The issue then is how to prevent potential white-collar criminals from committing these crimes in the first place, since there is little likelihood that sufficient resources will be available in the near future to effectively police and prosecute these crimes once they have occurred (Camerer, 1996:11).

Besides these concerns, debate continues about whether commercial malpractice is in fact a proper subject for public law, the police and the courts, or whether it should be dealt with either in terms of private law and civil redress for those wronged, or by `self-regulatory' bodies of business people and professionals (Commercial crime unit, 2005).
White collar criminals are more likely to be scared off by jail sentences than common criminals, therefore the task of regulatory agencies and the courts are to make this threat real (Camerer, 1996:12). The regulatory bodies should demonstrate their intent by bringing the white-collar criminals to justice and handing down proper sentences. Fines and community service will not help, as that will merely be seen as input costs to make money in a fraudulent way (Camerer, 1996:12).

It is clear that there are many issues that contribute in providing a barrier to detection and successful prosecution of white-collar criminal activity in South Africa. These issues are discussed in more detail in the following paragraph.

2.9 BARRIERS TO DETECTION AND PROSECUTION

One reason, white-collar crime remains widespread is that it is often very difficult to detect (Strader, 2002:4). Unlike common street crime, white-collar crimes are usually committed in the privacy of an office or home, usually there is no eye-witness, and only occasionally is there a “smoking gun”. Instead the government’s proof is more likely to depend upon circumstantial evidence wrapped up in complex paper trail (Strader, 2002:4).

White-collar criminals often escape punishment because of the antiquated legal apparatus that is brought to bear against them, a system that has traditionally addressed the poorer, more visible criminal element. They have mostly been segregated from traditional
criminals, their crimes adjudicated by regulatory agencies and their offences handled administratively, thus shielding them from the traditional criminal justice apparatus (Bequai, 2002:4).

White-collar criminal referrals are rare and prosecutions almost non-existent, since the wealth and influence of these criminals allow them to avoid the full weight of the law (Camerer, 1996:12).

The belief that the courts favour the rich and influential, be it individuals or companies appears to be supported by the small number of convicted fraudsters. If one ignores the fact that tax fraud may invoke administrative penalties that are more severe than many meted out by the courts, it might seem as if there is ‘one law for the rich, and one for the poor’ (Levi, 1987: 56).

In terms of access to justice, the wealth and influence of many offenders enable them to employ the best legal resources to conceal their crimes often a complex web of economic interactions, requiring much investigative work to reconstruct. Since criminal justice agencies simply cannot match the salaries commanded by these kinds of professionals, young and inexperienced prosecutors come up against defence teams including some of the nation’s best lawyers (Levi, 1987: 284).

It has been suggested that complainant companies should be allowed to appoint and pay for their own prosecutors. This would have the following advantages: it would relieve the
state of a massive financial burden; make available to the state the investigative and
courtroom expertise it lacks at senior level; expedite prosecutions; and level the balance
between the accused, grown wealthy from ill-gotten gains and able to afford senior
counsel, and young and inexperienced state prosecution teams (Anon, 1995a:7).

Other factors that make it difficult to prosecute white-collar offenders include the fact
that the primary concern of the law has always been to regulate relations between persons
that is individuals, rather than 'corporate persons' or companies (Camerer, 1996:14).
Corporations can, however, also be held liable for criminal intent. When it comes to
sentencing, these cases raise questions such as whether conventional sentencing and
correctional standards can be applied to white-collar crimes, considering that most white-
collar criminals are usually first offenders (Edelhert & Overast, 1982: 5).

In terms of sentencing, judges have been accused of favouritism towards offenders of
high socio-economic status who may share their cultural background (Conklin,
1977:170). Because these people may provide employment, come from 'good homes',
give money to charity, or confer other social benefits such as letting friends have goods
cheaply, it is argued that they may be advantaged by the courts (Conklin, 1977:170).
However, in some cases, higher status defendants are more likely to receive longer prison
sentences if the judge feels that 'crimes of greed' by the wealthy are more blameworthy
than 'crimes of need' by others (Conklin, 1977:170). The rare cases where white-collar
criminals do receive jail sentences, but are often released early due to general amnesties,
does not help to deter potential criminals (Conklin, 1977:171).
Most often, however, offenders are fined rather than sent to prison. Often the criminal penalties handed down for white-collar crimes are much less severe than the civil liabilities such crimes generate, with corporate fines seldom equaling the profit made from the illegal actions (Conklin, 1977:171). In effect, such fines may constitute nothing more than the cost of doing business. Since financial penalties are not a sufficient deterrent, it has been suggested that convicted corporate offenders should automatically pay a penalty equal to their illegal activities, with violent offences liable for even stiffer penalties (Conklin, 1977:171).

Because the criminal justice system deals so ineffectively with white-collar criminals, it has been argued that a dual system of justice has come into being one for the masses who commit traditional offences and the other for a select group of white-collar felons (Bequai, 2002:4). When the majority of citizens come to view the legal system in this light, then democracy itself could be threatened, for a segregated system of justice is no less divisive and damaging than a society segregated on the basis of race (Bequai, 2002:4).

Based on the above chapter it’s evident that white-collar crime in South Africa is a huge problem and yet very little is done to address this scourge/crisis hitting the country. How the government reacts to this problem is crucial in both the long and short-term as desperate measures need to be in place to plug the gaps.
2.10 MANAGING THE WHITE-COLLAR CRIME CRISIS

Police efforts to combat white-collar crime lends credibility or otherwise to the state's avowed commitment to eradicate these crimes (Edelhert & Overast, 1982:5). For various reasons, the police have not regarded white-collar crime as a key priority, although this perception is changing (Edelhert & Overast, 1982:5).

In South Africa it is widely accepted, as well as openly admitted, that the Commercial Branch, which is responsible for policing all instances of fraud, numerous forms of theft, and offences under almost 60 acts of parliament, is unable to effectively police white-collar crimes in the business and broader consumer sector (Bequai, 2002:5). Its resources in terms of trained staff and equipment are wholly inadequate. If the perceived seriousness of a problem is measured by the extent of training offered, by this criteria fraud is not a problem, over the last 25 years only five training courses have been conducted for personnel of the commercial unit of the SAPS, and it is generally accepted that learning takes place on the job (Bequai, 2002:5).

Comparative research confirms that South Africa is not alone in terms of these problems: minimal resources are committed to fraud units worldwide (Bequai, 2002:5) and problems exist internationally with investigators who are under-educated, ill-trained and poorly equipped for the task of combating white-collar crimes.

Since the police cannot be relied on to police white-collar crime, policing partnerships appear to be the route out of the current crisis. In this respect, the state already relies on
numerous enforcement agencies and professional bodies to regulate violations in their spheres of activity. Therefore, consumers, and businesspeople and professionals such as accountants and corporate lawyers have come to play important roles as initiators of action via their decisions to report fraud or not, as well as in initiating the investigation process.

The point has been made that there is something incongruous about companies complaining of being defrauded of millions of rands being told that, because of pressure of work, the case cannot be investigated for 12 months, and their best option would be to conduct their own investigation and come back later (Levi, 1987:282). In South Africa, organised business has agreed to fund the multi-disciplinary teams needed to help investigate and prosecute white-collar crimes (Levi, 1987:282).

Because the police are unlikely to be familiar with the systems and issues concerned, many South African companies realise they have to put in the necessary legwork and expense and assemble the greater part of the investigation. Once a company has conducted a thorough internal investigation, involving auditors and legal advisers, and has enough evidence to establish a prima facie case, it might depend on corporate policy and the position of the suspect within the company call in the police. Internal company investigators do not replace police or make arrests, but rather assist as well as expedite a criminal investigation. Many commercial branch detectives are being drawn into the private sector as organisations are forced to appoint internal fraud teams. While this disadvantages the police force, which loses valuable personnel, since it is unable to
compete with private sector salaries, the advantage is that experienced detectives handle internal investigations and are able to compile complete dockets for prosecution (Anon. 1995b).

The complexity of many white-collar offences and the chronic shortage of resources for their investigation and prosecution require difficult decisions about which cases to pursue and which to ignore. Cuts in resources may force law enforcement agencies to prioritise cases on the basis of their estimated likelihood to yield a result.

In South Africa, priority is given to cases that are considered likely to result in a prosecution (Office for Serious Economic Offences, 1999:5). The Office for Serious Economic Offences (OSEO), established in 1991 to investigate serious economic offences which the police were failing to do, uses multi-disciplinary investigation teams, prioritising cases according to the amounts involved, the complexity of the offence, the public interest as well as their urgency (OSEO, 1999:5).

The table below includes the reported economic crime figures/dockets that have been registered with the Commercial Branch unit of the South African Police.
Table 1. Commercial Crime statistics in South Africa

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Ratio per 100 000 of the population

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<td>65.1</td>
<td>62.0</td>
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<td>259.7</td>
<td>260.8</td>
<td>266.8</td>
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<td>88.7</td>
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Percentage Increase / Decrease

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</tr>
<tr>
<td>KwaZulu- Natal</td>
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<tr>
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South African Police Services (2006:1)
One of the salient features of the table above is that the number of economic crimes reported to the Commercial crime branch of the South African Police Services (SAPS) seems to drop from year to year. This appears to reinforce the sentiment that only crimes which are expected to result in a conviction are reported. The question is whether this is an indication that economic crime is genuinely slowing down or an indication that complainants are reluctant to report these crimes because of the inefficenecy of the SAPS and prosecutors.

2.11 SUMMARY

It is important that all stakeholders, including internal auditors, external auditors, company officials, executives and government officials to name a few, understand all the facts and implications involved in white collar crime.

The chapter began by outlining where the phrase “White Collar Crime” had been coined. Edwin Sutherland an American Criminologist in 1939 developed the phrase where he argued that this type of crime involved a betrayal of trust implied in the holding of an office or a position of trust. He further went on say that this crime is committed by persons of high social status in the course of their occupation.

The Chapter then continued to look at some of the main features of white-collar crime as experienced by both victims and perpetrators. Some of the more common features included the fact that victims often suffer the effects of white-collar crime without ever meeting the perpetrators, it is an indirect form of theft therefore it is acceptable to
perpetrators, most often the defendants are at the scene while victims are present and unaware of the offence taking place.

Obviously there must be a motive for a white-collar criminal and this was discussed in detail. It included that white-collar criminals don’t socialize with normal criminals, and are not normally poor, they live well-ordered lives and are well respected in the community. Therefore some of the key motives behind white-collar criminal’s actions include, maintaining a type of lifestyle, a build up of anger due to red tape and bureaucracies whom the individual feels trapped in.

The chapter then proceeded to review the nature of white-collar crime. It looked at the unique nature of white-collar crime as opposed to other normal crimes. It argued that these crimes are costlier and affect more individuals. White-collar crime relies on deceit and concealment whereas other traditional crimes involve force and violence. The traditional criminal uses brute force and violent tools the white-collar criminal often employs sophisticated technology and plays on people’s ignorance and greed.

The chapter then reviewed the different types of white-collar crimes and schemes that are currently being conducted by criminals. The idea of discussing the different types and schemes in this chapter was to place the entire concept of white-collar crime in context, thereby allowing the reader to easily absorb the research material thus far.
Following this chapter it was imperative that after introducing the concept of white-collar crime, the reader should get a glimpse of the current white-collar climate in South Africa. This would include identifying all aspects of white-collar crime within the South African context especially the implication of white-collar criminal activity culture with regards to the judicial system within the country.

With that in mind the chapter focused on white-collar crime in South Africa, whereby it is apparent that the increase in this form of crime is attributed to the country’s historical past. Although no studies have been done on the profile of white-collar criminals in South Africa it can be deduced that a large part of white-collar criminal activity, is as a result of sanctions imposed on companies, the dual financial system and the low morality towards government policies and reforms.

The chapter then continued to look at the current and historical punishment being given to individuals involved in white-collar crime. It is clear that commercial fraud and related offences command a far smaller proportion of criminal justice resources than more conventional forms of crime. Even though there may be ample evidence and a clear-cut violation, the complexity of the issues and the volumes of evidence make it a difficult task to bring white-collar criminals to book. The issue that was described is how to prevent potential white-collar criminals from committing these crimes in the first place, since there is little likelihood that sufficient resources will be available in the near future to effectively police and prosecute these crimes once they have occurred.
The chapter then identified some of the barriers to detection and successful prosecution of white-collar criminals. It was clear from the research that white-collar crime remains widespread and is therefore often very difficult to detect. Unlike common street crime, white-collar crimes are usually committed in the privacy of an office or home, usually there is no eye-witness, and only occasionally is there a “smoking gun”. White-collar criminal prosecutions are rare and almost non-existent, since the wealth and influence of these criminals allow them to avoid the full weight of the law. Another reason for the difficulty in prosecuting white-collar offenders include the fact that the primary concern of the law has always been to regulate relations between persons, that is individuals, rather than ‘corporate persons’ or companies.

The chapter then concluded by looking at a crucial aspect of how the white-collar crime crisis is managed in the country. It was overwhelmingly evident that the government through it’s enforcement agencies have tackled this issue without any seriousness. It is clear that very little resources have been put in place by the state to address the issue of white-collar crime in the country. However this mindset has started to change on the part of government as they realise that something needs to be done to address these issues before it gets totally out of control. In this respect, the state already relies on numerous enforcement agencies and professional bodies to regulate violations in their spheres of activity. Therefore, consumers, and businesspeople and professionals such as accountants and corporate lawyers have come to play important roles as initiators of action via their decisions to report fraud or not, as well as in initiating the investigation process.
Having looked at the white-collar crime situation of South Africa holistically, the empirical study that follows, which consisted of a white collar crime survey, will provide the reader with an understanding of the actual facts involving white collar crime within South African individual companies. This would certainly provide a perspective on the issues involving white-collar crime within the top South African companies.
CHAPTER 3. – EMPIRICAL INVESTIGATION IN SOUTH AFRICA

3.1 INTRODUCTION

This chapter will provide an analytical review of the empirical investigation that was conducted in the form of the fraud survey. Both the detail findings and analytical review together with the methodology of the empirical study will be discussed in detail. Graphical and tabulated analysis, together with detailed commentary will form the backbone of this analysis.

It must be clearly noted that of the one hundred questionnaires (Refer to Appendix A) that were issued to companies across South Africa only twenty two responded. As a result of the poor response to the survey the author decided to provide factual findings on the responses that were received. No generalisations or opinions will be expressed by the author with regards to the results of the questionnaires that were received.

3.2 FACTUAL/DETAIL FINDINGS

Of the eight sectors/industries that were targeted as part of the empirical study, both financial and the construction sector had the highest respondents with six each where as the other sectors had either two or less responses. See below for a breakdown of the companies and industry that were part of the empirical investigation.
Each question as per the fraud questionnaire (Refer to Appendix A) will be graphically analysed and commentary will be provided.
It is evident from the first question that fraud/white collar-crime is not something new to South African companies and individuals. Over eighty percent of respondents have seen or heard of fraud in their organization. It seems that fraud is alive and well placed within the South African companies. Majority of the companies under review reported that those that experienced fraud in the last two years were significantly high in rand value.
I think that both fig 3.3 and fig 3.4. should be reviewed in context considering that both the questions are linked to each other. It is evident that the cost of fraud experienced by the companies under review is significantly into millions of rands. Over sixty three percent of the respondents indicated that fraud in the last two years was in excess of a million rand. The fact that a fraud has taken place in organization irrespective of the value of the fraud is an indication that white-collar crime poses a huge problem for South African companies. Trying to minimise the possibility of white collar-crime occurring in an organization will be one the greatest challenges facing South African companies.

It is estimated that some companies budget as much one percent of their turnover for white-collar criminal/fraudulent activities during the financial year. This can run into millions of rands of which the companies do understand that fraud and white-collar crime is a real problem for business in this day and age. Some companies are therefore prepared to invest in taking the necessary steps to curb the rate and quantum of white-collar crime in their organization, because the return on the investment is favourable to do so.
It seems that general fraud is the most common type of fraud perpetrated, followed by asset misappropriation, then financial misrepresentation and procurement fraud. Cheque fraud, together with corruption and bribery seems to be also high up on the common types of fraud committed.
It seems that fraudulent activity is mostly detected through a medium of whistle blowing whereas external audit on the other hand detect the least amount of fraud. This is not surprising considering that external auditors are not ideally equipped to uncover fraud during the external audit of a company. Internal audit, it seems are more susceptible to uncover a fraud than external auditors.
Majority of the companies under review believe that greed is the over-riding motivation factor that allows white-collar criminals to act in a manner that they do. Very interestingly companies under review also believe that poor internal controls within the company contribute to fraud taking place in the organisation. So it’s not just the fraudsters committing fraud because they need to satisfy their financial situation, lifestyle and greed, it’s also largely due to the opportunity that is created by the company through poor internal controls. If an employee identifies a weakness or a gap in the system, this makes the employee very vulnerable to exploit that weakness by committing fraud.

**Figure 8. Fraud reporting system.**

<table>
<thead>
<tr>
<th>Response</th>
<th>No. of Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>22</td>
</tr>
<tr>
<td>No</td>
<td>0</td>
</tr>
<tr>
<td>Not Sure</td>
<td>0</td>
</tr>
</tbody>
</table>

**Figure 9. Levels of fraud in the workplace.**

<table>
<thead>
<tr>
<th>Level of staff</th>
<th>No. of Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Mngt</td>
<td>6</td>
</tr>
<tr>
<td>Middle Mngt</td>
<td>15</td>
</tr>
<tr>
<td>Employees</td>
<td>10</td>
</tr>
<tr>
<td>Customers</td>
<td>6</td>
</tr>
<tr>
<td>Suppliers</td>
<td>1</td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
</tr>
</tbody>
</table>
It is evident that almost all companies under review do have a medium for reporting fraud or unethical behaviour. More interestingly as indicated in fig 3.9 employees and middle management are the ones most likely to commit fraud. This is very likely to happen considering that employees and middle management are more hands on at the workplace and therefore are more likely to spot an opportunity of committing and thereafter concealing the fraud.

Figure 10. Cause of fraud.

```
<table>
<thead>
<tr>
<th>Reason</th>
<th>No. of Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inadequate Int/ Controls</td>
<td>10</td>
</tr>
<tr>
<td>Collusion betw Employees &amp; Mngt</td>
<td>6</td>
</tr>
<tr>
<td>Management Overide of Controls</td>
<td>5</td>
</tr>
<tr>
<td>Poor Hiring Policies</td>
<td>5</td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
</tr>
</tbody>
</table>
```

Figure 11. ‘Red flags’ of fraud.

```
<table>
<thead>
<tr>
<th>Response</th>
<th>No. of Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>10</td>
</tr>
<tr>
<td>No</td>
<td>7</td>
</tr>
<tr>
<td>Not Sure</td>
<td>1</td>
</tr>
</tbody>
</table>
```
Majority of the respondents believe that a company’s poor internal controls allowed the fraud to take place. It’s becoming increasingly evident that companies need to do more in respect of ensuring that their companies are not targeted or come under attack from fraudsters. Fig 3.11 indicates that of the frauds that were committed there were sufficient red flags pointing in the direction of the alleged fraud. If there were footprints pointing in the direction of the alleged fraud then this would agree with the argument of a company having poor internal controls.

**Figure 12. Fraud action**

Historically companies were very reluctant to report fraud/white-collar crime that occurred within the organisation to external sources, simply because of the stigma attached to it and also the reputational damage that goes with the offence. However it is pleasing to note that companies are now adopting a zero tolerance approach to white-collar crime and thereby ensuring that fraudulent behaviour within the organisation is dealt with in the most serious manner. Companies have become much more transparent with regards to their approach and stance when it comes to white-collar crime.
As discussed in the earlier chapter, the commercial crime unit of South African Police Services are not adequately resourced to handle the demands or the spiralling rate of white-collar crime in the country. In South Africa it is often the Commercial Crime Branch (division of the SAPS), which is responsible for policing instances of fraud, numerous forms of theft, and offences under almost 60 acts of parliament. However it appears they are unable to singularly and effectively police white-collar crimes in the business and broader consumer sector.

This sentiment is echoed by the respondents in the above graph, whereby most companies do not have any confidence in the authorities in successfully addressing the white-collar crime situation in the country.
Almost ninety percent of all respondents have a formal fraud policy in place. This is indeed pleasing to note, however when one looks at the earlier graph, which indicates the value and quantity of frauds that occurred in the last two years by the same respondents, it’s shocking. It’s either the policy is not being properly implemented by the organization or the white-collar criminals have stepped up their game to the next level.

The other reason why the fraud levels are so high although there is a formal fraud policy in place, could be as a result of the policy residing in a cupboard and not being effectively rolled out or implemented to all the stakeholders concerned. It’s important that senior management take the initiative to drive a culture within the organization, which emphasizes zero tolerance with regards to white-collar crime.
Figure 15. Ethical standards communication.

Q10. Does your organisation communicate it's ethical standards to it's employees?

![Graph showing responses to Q10](image)

Once again it seems that organisations are communicating and enforcing their policy with regards to fraud to all the relevant stakeholders. However the level of fraud within these companies leads on to believe that the fraudsters are winning the race or battle to eradicate fraud or white-collar crime in the workplace.

Figure 16. Fraud /Ethics officer.

Q11. Is there a dedicated fraud/ethics officer in your organisation?

![Graph showing responses to Q11](image)

Over eighty percent of the respondents do have a dedicated officer that is responsible for handling these types of issues. Once again it reinforces the approach that large businesses have taken with regards to white-collar crime.
3.3 SUMMARY

The main aim of the empirical study was to give the reader an understanding of what South African companies are saying with regards to the current white-collar crime climate. The study had the function of identifying and reviewing the current white-collar crime culture being experienced by South African companies. It is evident from the responses that white-collar crime is in no way disappearing or being eradicated from the faces of South African organisations. It seems as though organisations are desperately trying to contain the levels of fraud experienced from year to year, however their efforts are not good enough as white collar criminals simply raise the level of the game by outsmarting organisations and systems.

Over sixty three percent of the respondents indicated that fraud in the last two years was in excess of a million rand. The fact that a fraud has taken place in organization irrespective of the value of the fraud is an indication that white-collar crime poses a huge problem for South African companies. Trying to minimise the possibility of white collar-crime occurring in an organization will be one the greatest challenges facing South Africa. It seems as though this has created a certain level of anxiety amongst senior management, however there are still others that are not taking this threat seriously. Companies fear fraud and white-collar crime but yet they fail to act.

The empirical investigation into South Africa organisations indicate that most of them do have a formal fraud policy or fraud procedures, however organisations do not provide their employees with formal training to help them understand and implement anti – fraud
policies. This could be one of the reasons why South African companies are still experiencing white-collar crime. This demonstrates the shortfall of corporate South Africa in combating the problem of loss through fraud and corruption.

It seems that fraudulent activity is mostly detected through a medium of whistle blowing whereas external audit on the other hand detect the least amount of fraud. This is not surprising considering that external auditors are not ideally equipped to uncover fraud. Majority of the companies under review believe that greed is the over-riding motivation factor that allows white-collar criminals to act in a manner that they do. Very interestingly companies under review also believe that poor internal controls within the company contribute to fraud taking place in the organization.

It is evident that almost all companies under review do have a medium for reporting fraud or unethical behaviour. More interestingly employees and middle management are the ones most likely to commit fraud. Respondents have indicated that of the frauds that were committed, there were sufficient red flags pointing in the direction of the alleged fraud. If there were footprints pointing in the direction of the alleged fraud then this would agree with the argument of a company having poor internal controls.

Over eighty percent of the respondents do have a dedicated officer that is responsible for handling these types of issues. Once again it reinforces the approach that large businesses have taken with regards to white-collar crime. However robust business ethics, backed
up by proper internal control processes, have to be ingrained into operations and not just an extension of head office culture.

After reviewing what corporate South Africa had to say in the form of the empirical investigation it is clear that more fraud prevention and detection policies need to be in place in order to minimise the levels of white-collar crime in the country. To this end, the next chapter will exclusively review fraud prevention and detection best practices.
CHAPTER 4. – FRAUD PREVENTION AND DETECTION BEST PRACTICES

4.1 INTRODUCTION

Fraud is increasing dramatically with the expansion of modern technology and the global highways of communication, resulting in the loss of billions of rands in South Africa and worldwide (Bolton & Hand, 2002:1). Although prevention technologies are the best way of reducing fraud, fraudsters are adaptive, and given time, will usually find ways to circumvent measures (Bolton & Hand, 2002:1). Methodologies for the detection of fraud are essential if we are to catch white-collar criminals once fraud prevention has failed. Statistics and machine learning provide effective technologies for fraud detection and have been applied successfully to detect fraudulent activities (Bolton & Hand, 2002:1).

Fraud prevention describes measures to stop fraud occurring in the first place, examples of these include watermarks, pins for bank cards and elaborate designs. Whereas fraud detection involves identifying fraud as quickly as possible once it has been perpetrated. Fraud detection comes into play once fraud prevention has failed. Fraud detection is a continuously evolving discipline. Once it is known that there is a detection method in place, criminals will adapt their strategies to try others (Bolton & Hand, 2002:3).

The body of this chapter would provide insight into the prevention and detection of white-collar crime in the workplace. It would include a review of some of the different fraud detection tools that are currently being used or applied. Also part of this chapter will include a review of the auditor’s role in prevention and detection of fraud. Internal
controls which were scored very highly in the empirical investigation as one of the best deterrents for white-collar crime will be discussed as well. Some of the best practices with regards to fraud prevention and detection will also be covered in this chapter. A summary of this chapter will conclude this part of the research and provide a backdrop for the recommendations and conclusions as part of chapter 5.

4.2 FRAUD DETECTION TOOLS

Fraud detection can be both supervised and unsupervised. Supervised methods use a database of known fraudulent or legitimate cases from which to construct a model, which yields a suspicion score for new cases. Traditional statistical classification methods such as linear discriminant analysis (Hand, 1997:523) and logistic discrimination have proved to be effective tools for many applications, but more powerful tools especially neural networks, have also been extensively applied. Rule based methods are supervised learning algorithms that produce classifiers using rules of the form. The following are some examples of algorithms;

According to Clarke and Niblett (1989:261) BAYES algorithms include:

- This is an example of a learning algorithm which is used for text categorisation
- This classifier is used to utilize the word counts in the bags of words in calculating it’s probability tables, should give it an advantage in classification over the RIPPER – (Repeated Incremental Pruning to Produce Error)
- The disadvantage of this algorithm is the difficulty of integration with existing mail reading software, because of the lack of rule based representation.
FOIL – (First Order Inductive Learner) (Quinlan, 1993:239)

- Another learning algorithm that belongs to the Inductive Logic Programming (ILP).
- It learns intentional concept definitions from relational tuples, it is best known amongst learning algorithms and the most successful empirical ILP system.

RIPPER - (Repeated Incremental Pruning to Produce Error)(Cohen, 2001:115).

- This involves a rule learning approach
- It is a propositional learner designed for efficient performance on large noisy data sets.
- It is designed to handle set and bag-valued attributes equivalently by using key word spotting rules.

Then we have tree-based algorithms such as:

CART (Classification and Regression Trees) (Brieman, Friedman, Olshen & Stone, 1994:39)

- A classification tree is used when the predicted outcome is the closest to which the data belongs.
- A regression tree is used when the predicted outcome can be considered a real number.

C4.5 (Quinlan, 1993:240)

- It handles data where there are missing attribute values.
- It handles attributes with different costs
- Both CART and C4.5 produce classifiers of a similar form.

Combinations of some or all of the above algorithms can be combined using meta-learning algorithms to improve prediction in fraud detection (Chan, Prodromidis & Stolfo, 1999:67).

Major considerations when building a supervised tool for fraud detection include those of uneven class sizes and different costs of different types of misclassification (Lachenbruch, 1974: 419). For example credit transactions may be labeled incorrectly, a fraudulent transaction may remain unobserved and thus labeled legitimate, or a legitimate transaction may be misreported as being fraudulent. Some work has addressed misclassification of training samples but not in the context of fraud detection Chhikara and McKeon (1984:899).

Link analysis relates known fraudsters to other individuals using record linkage and social network methods (Wasserman & Faust, 1994:27). An example from the telecom industry is that investigators have found that fraudsters seldom work in isolation from each other, also, after an account has been disconnected for fraud, the fraudster will often call the same numbers from another account (Cortes & Pregibon, 1998:174).

Unsupervised methods are used when there are no prior sets of legitimate and fraudulent observations (Bolton & Hand, 2002:10). Some of the techniques used here are usually a combination of profiling and outlier detection techniques (Bolton & Hand, 2002:10).
This involves modeling a baseline distribution that represents normal behaviour and then attempt to detect observations that show greatest deviations from this norm (Bolton & Hand, 2002:10). Digit analysis using Benford’s Law is an example of such a method. Benford’s law says that the distribution of the first significant digits of numbers drawn from a wide variety of random distributions will have a certain form (Hill, 1996:354). However Nigrini (1999:52) shows that Benford’s law can be used to detect fraud in accounting data.

Fraudsters adapt to new prevention and detection measures, so fraud detection needs to be adaptive and evolve over time. Models can be updated at fixed time points or continuously over time (Burger & Shaw-Taylor, 1997:9). The basic statistical models for fraud detection can be categorized as both supervised and un-supervised, the application areas for fraud detection can not be described so conveniently. Their diversity is reflected in their particular operational characteristics and the variety and quantity of data available, both features that drive the choice of a suitable fraud detection tool (Burger & Shaw-Taylor, 1997:10).

Another area, which forms an important link in fraud prevention and detection, is risk assessments. Risk assessments which are a crucial part of a company’s overall fraud prevention and detection policy will be discussed in detail below.
4.3 RISK ASSESSMENTS

Every organisation should have arrangements in place for the recognition of the symptoms of White Collar Crime, even where no prior suspicion or evidence of it exists (Business against Crime, 2004:10).

Mc-Namee (1999:1) emphasized that management had to take the responsibility to locate fraud. Although they have an extremely important role to play, organisations should guard against failing into the trap of leaving this entire function to internal auditors.

One of the most common methodologies to assess the possible risk to an organisation from white-collar crime is a Risk Assessment. A Risk Assessment is a method of balancing security controls against the possible loss that could occur in any organisation (Business against Crime, 2004:10).

In the following discussion attention is being given to the key elements and criteria for measuring risk.

4.3.1 Key Elements

Some of the key elements in any risk assessment methodology are that it must be (Business against Crime, 2004:10);

- capable of being consistently applied across the organisation's operations;
- capable of providing a risk rating for each type of fraud;
- amenable to fine tuning;
capable of being replicated;

able to look at risks as if there were no controls in place; and

able to measure the effectiveness of existing controls.

It is easier to measure inherent risks than to determine the effectiveness of controls. The latter requires not only a detailed understanding of the controls, their strengths and weaknesses, but also a factual assessment of how these controls are applied (Business against Crime, 2004:11). This can only be done by those with a detailed understanding of the operations of the organisation.

4.3.2 Criteria for measuring risk

It is obviously impossible to set down a definitive list of factors for assessing the risk of white-collar crime in organisation. However, the following factors are usually present (Business against Crime, 2004:10);

- the rand quantum of the operations;
- recognition of white collar crime aspects other than money (time, information, threat to safety, insider trading, conflict of interest, etc);
- recognition of vulnerability to other serious criminal activities, like the abuse of influence, corruption, secret commissions and dishonest advantage;
- tapping in on the management perspective;
- past history of white collar crime in the organisation;
- results of internal and external audits on the organisation.
The Business against Crime's Kwa Zulu Natal White Collar Crime Task Group has devised an extremely simple methodology which can be adapted to suit any sized organisation. This comprises of five distinctive steps (Business against Crime, 2004:12);

- The threat assessment.
- The production of a schedule of weaknesses.
- The production of an agreed list of vulnerable areas.
- The identification of the options available to close the vulnerable areas.
- The production of an action plan.

The following is a discussion on the five distinctive steps:

**Step 1: THREAT ASSESSMENT.**

A threat assessment involves listing all the functional areas of the organisation. For each area the activity is described and the critical activity identified. For each activity the relevant risk criteria are listed. The activity and risk criteria are then analysed to identify the possible areas of compromise. The protection in place is then examined to see if possible areas of compromise are closed and from this the areas of weakness identified (Business against Crime, 2004:13).

**Step 2: SCHEDULE OF WEAKNESSES**

The second step is the production of a schedule of weaknesses (Business against Crime, 2004:10);

- weakness in critical areas; and
- other weaknesses.
Step 3: LIST OF VULNERABLE AREAS

- In the third step the schedule of weaknesses is discussed with the CEO, Board and Audit Committee of the organisation and a prioritised list of vulnerable areas agreed upon. Depending on the size of the organisation and the number of weaknesses exposed, it may be necessary to produce (Business against Crime, 2004:14);
- a consequence profile (a scientific analysis of what effect the threats would have on the organisation should they materialise); and/or
- a probability profile (an assessment of what percentile chance the threats at each area of weakness have of occurring).

Step 4: OPTIONS OPEN TO CLOSE AREAS OF WEAKNESS

The fourth step is to identify the options available to close the prioritised areas of weakness. These should be costed and further prioritized (Business against Crime, 2004:14).

Step 5: ACTION PLAN

The final step is the production of an action plan by the Audit Committee, if one exists. However, the Managing Director or CEO of the organisation should always take ownership of the plan.

Although the methodology described is simple in concept, management should be aware that it is not so in execution. In medium to large sized organisations, it is recommended
that a team be formed to carry out the exercise. This team should include accountants, security experts, computer specialists and internal auditors. However, it is so designed that in a small organisation one person could do the job (Business against Crime, 2004:14).

4.4 AN AUDITORS ROLE IN PREVENTING AND DETECTING WHITE COLLAR CRIME

When fraud is discovered within a business, the initial response from management is, how that could have happened. If audited financial statements were issued, then everyone wants to know, why the auditors didn’t have a clue (Franco & Farrel, 1999:1). These two questions raise the question of whose responsibility it is to prevent and detect fraud.

Auditors have a steadily growing responsibility, not only to identify fraud risks and issues from an operational or management perspective and to speak out on them, but also to document their findings and deal with any potential civil or even criminal law proceedings (Turnbull, 2003:9)

As a result of the phenomenal losses in the savings and loan industry, a controversy has existed concerning the role of the external auditor and the public’s perception of that role (Knapp, 1997:57). According to the Statement of Auditing Standards (SAS) No. 53 (American Institute of Chartered Public Accountants, 1997:1), "The Auditors Responsibility to Detect and Report Errors and Irregularities," issued by the Accounting Standards Board (1988:1), was originally intended to address this problem. However, the
Public Oversight Board of the American Institute of Certified Public Accountants (AICPA) and Securities Exchange Commission (SEC) Practice Section concluded in 1993 that management believed that auditors had a greater responsibility for the detection of fraud than was currently being met (Franco & Farrel, 1999:5). Business owners, legislators, judges, juries, and the general public also share such beliefs. Most people do not realize what the responsibility of the auditor is (Franco & Farrel, 1999:5).

According to the Statement of Auditing Standards (SAS No. 1), Codification of Auditing Standards and Procedures (Franco & Farrel, 1999:5);

"The auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. Because of the nature of audit evidence and the characteristics of fraud, the auditor is able to obtain reasonable, but not absolute, assurance that material misstatements are detected. The auditor has no responsibility to plan and perform the audit to obtain reasonable assurance that misstatements, whether caused by error or fraud, that are not material to the financial statements are detected."

In an attempt to stifle criticism and appropriately respond to the public’s demand for improved auditor performance, the American Institute of Certified Public Accountants issued SAS No. 82 (Franco & Farrel, 1999:6). The new auditing standard details the auditor’s responsibility to detect and report material misstatement in financial statements due to fraud. This is the first time the AICPA has used the word fraud rather than the more discreet word irregularity. The two types of misstatement relevant to the auditor’s
consideration of fraud in a financial statement audit are those arising from fraudulent financial reporting and misappropriation of assets (Franco & Farrel, 1999:5).

Under SAS No. 82, the auditor has the responsibility to plan and perform an audit to obtain reasonable assurance about whether financial statements are free of material misstatement (Franco & Farrel, 1999:5). The auditor is required to consider forty-one risk factors relating to fraudulent financial reporting and misappropriation of assets when designing an audit plan. Furthermore, the plan needs to be continuously modified during the audit on the basis of information gathered concerning these factors. The SAS has provided examples of conditions that would require reconsideration of an initial risk assessment. However, auditors must still use subjective judgment in analyzing the many risk factors. For example, one risk factor to be assessed by the auditor is whether "management displays a significant disregard to regulatory authorities" (Franco & Farrel, 1999:8).

However, the auditor must use "professional judgment" in conducting an audit where risk factors such as this are present and must document these risk factors in the work papers (Franco & Farrel, 1999:9). Acknowledging that the difference between fraud and error is intent, the AICPA assigns the task of evaluating this difference to the auditor (Franco & Farrel, 1999:5).
Similarly, the Private Securities Litigation Reform Act of 1995 imposes some of the same requirements on public company auditors. The requirements are as follows (Franco & Farrel, 1999:10):

- Audits must include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on financial statement amounts.
- Each audit must include procedures to identify related-party transactions that are material.
- Each audit must include an evaluation of the ability of the issuer of financial statements to continue as a going concern.
- When the exposure draft for SAS No. 82 and the Private Securities Litigation Reform Act of 1995 was released, most Certified Public Accountants (CPAs) in the field had mixed feelings about them. This generally less-than-favorable reaction led us to conduct a survey to ascertain how members of the accounting profession view these recent changes, and to determine new trends that are developing in the field of public accounting.

4.5 INTERNAL CONTROLS IN FRAUD PREVENTION AND DETECTION.

The empirical investigation clearly indicated that internal controls are the most effective way of fraud prevention. Motivation behind the fraud that was committed in most organisations under review was largely due to poor internal controls, and internal audit were responsible for uncovering most fraud in an organization. Fraudsters generally
identify a weakness in controls and then assess whether the potential reward outweighs the penalties should they be caught (Commercial Angles, 2001). Hence the aim is to raise the level of security awareness for organisations in order to plan and facilitate a concerted effort to confront white-collar crime, as prevention is better than cure (Seetharam, Senthilvelmurugan & Periyanagam, 2004:1056).

(Colbert and Alderman 1995:38) introduced the approaches adopted by auditors in deriving an audit strategy, which is a procedure driven approach and a risk driven approach. In the procedure driven approach mostly used by external auditors the auditor determined the specific audit procedures to be performed without considering the objective of the related risk. Whereas, the risk driven approach used by internal auditors, was the approach that was planned after the full and specific consideration of the risk. Generally the risk driven approach was more effective and efficient than the procedures driven approach because the risk driven approach focused on the internal auditor’s effort areas with relatively more risk.

While professional internal auditors may not be the insurers against fraud, their responsibility for due professional care requires an increasingly high level of alertness to the indicators of fraud (Vanasco, 1998:17). An organization should take up a proactive approach to reduce costs related to fraud. Fraud prevention programs should be emphasized and not to reaction to fraud that has already been committed in an organization.
The value of internal control is apparent in both preventing and detecting fraud as prevention is better than cure. A weak internal control creates opportunity for fraud and most of all frauds occur in the financial area (Vanasco, 1998:29). Internal controls have four broad objectives, safeguard the assets of the firm, ensure accuracy and reliability of accounting records, and promote the efficiency in the firms operations and to measure compliance with managements prescribed policies and procedures (Haugen & Selin, 1999:343).

Reviewing and improving internal controls are often thought as the primary defence against fraud and abuse. A strong system of internal control is the most effective method of fraud prevention. Prevention of fraud starts with the identification of the weakness in the current systems of an organization. Then the organization must improve those systems with new or better. The introduction and enforcement of controls will reduce the opportunities of fraud. The control warns potential fraudsters that management is actively monitoring the business and that it in turn deters fraud (Commercial Angles, 2001).

Internal controls have dysfunctional effects because isolated solutions have been provided for specific problems. These ‘solutions’ tend to ignore other existing controls and their contexts. Thus, individual controls in each of the three categories, though being important, must complement each other. This necessitates an over-arching policy, which determines the nature of controls being implemented and therefore provides a comprehensive security to the organization (Dhillon, 1999:171).
Dhillon (1999:172) goes on to say that fraud prevention should have three realistic and measurable goals;

- Reduce losses resulting from fraud
- Deter fraud through proactive policies
- Increase the likelihood of early fraud detection.

4.6 FRAUD PREVENTION AND DETECTION BEST PRACTICES

An organization can increase it’s profitability by implementing a holistic Fraud Deterrence Strategic Plan (Ernst & Young, 2005b:1).
Figure 17. Fraud Deterrence Strategic Plan.

Ernst & Young (2005b:1)
The above Fraud Deterrence Strategic Plan which has emerged as an effective anti-fraud compliance program is partly based on suggestions/requirements of King II Report on Corporate Governance (Ernst & Young, 2005b:3). This plan as described by Ernst & Young (2005b:3) includes three strategies;

- Prevention strategy.
- Detection strategy.
- Investigation methodology.

4.6.1 Prevention Strategy

The prevention strategy will prevent fraud that cannot be deterred. Some criminals will not be deterred by the prospect of detection or fear of prosecution and will definitely make an attempt to commit fraud (Ernst & Young, 2005b:1), some of the areas covered in this strategy include;

Fraud health checks

- This involves identifying business areas that are risk – where controls have broken down, there will be a need to find practical solutions to limit these risks.
- The King II report urges all organizations to establish systems that identify risks early and continuously and then to establish internal controls to mitigate the risks.

Fraud ethics policy

- This involves ensuring that all staff knows what the organizations values are and the importance of good ethics.
- These policies must have compliance declarations that are signed by each employee.
- The King II report requests all organizations to adopt ethical codes in all business transactions thereby contributing to the development of a moral business culture in South Africa.

Fraud awareness training.
- General fraud training in the form of hotlines or ethics policy roll outs are crucial for a successful deterrence strategy.
- The King II report urges all organizations to have effective communication channels and training supporting their risk management efforts.

4.6.2 Detection Strategy

The detection strategy will detect fraud that cannot be prevented. If we accept that we are not going to be able to prevent all fraud attempts we need to detect these fraudulent activities as quickly as possible (Ernst & Young, 2005b:1), some of the areas covered in this strategy include;

Fraud hotline
- An independent and anonymous hotline would allow employees to report unethical behaviour and therefore root out fraud.
- King II report urges companies to facilitate whistle-blowing mechanisms to ensure that whistle blowers are praised for their efforts and not penalized.
Data analysis

- This involves specialised software and detection tools can proactively find ‘red flags’ of unexpected conflicts of interest that are normally hidden large sets of data.
- King II report urges organizations to establish systems that identify risk early and continuously.

Fraud response plan.

- This involves the prompt and appropriate action that needs to be taken when irregularities occur.
- This is a step by step process of the procedures that should be followed by management, should a fraud occur.

4.6.3 Investigation Methodology

The investigation of detected frauds is a challenging task, therefore investigations need to be conducted by professional investigators who have been formally trained in the techniques of investigation and who also have a full understanding of the legal requirements of an investigation so as to lead to a successful prosecution and recovery of defrauded assets (Ernst & Young, 2005b:1).

Best practices will vary from organization to organization. Certain practices may be detailed while others may be general to allow for flexibility in the implementation. Some organization may value certain practices higher than other organizations. It is up to each
organization to determine which practices are relevant to its operations and risks. However, all organizations must make it clear to employees that unethical or dishonest behavior will not be tolerated and companies must take steps to prevent and detect fraud. Listed below are further best practices, which are adopted by other companies in respect of their fight against white-collar crime in their organizations (AICPA, 2001)

4.6.4 Culture of Honesty and Ethics - Setting the Tone at the Top

According PriceWaterhouseCoopers (2001) best practices in this area include;

- Leaders, managers, and supervisors behave in the manner they expect their employees to behave.
- All employees are treated equally, regardless of their positions.
- Managers set achievable goals for their employees.

Each organisation should develop, and clearly communicate to all employees a code of conduct, an ethics policy, a statement of business principles, and any other concise summary of guiding principles. The code of conduct may include topics such as ethics, confidentiality, conflicts of interest, intellectual property, sexual harassment, and fraud. Some agencies may elect to develop a fraud policy separate from the ethics policy. Examples of topics in a fraud policy may include (PriceWaterhouseCoopers, 2001);

- Requirement to comply with all laws and regulations
- Guidance regarding payments to contractors
- Relationships with vendors
- Maintenance of accurate books and records
The above guiding principles should be included in an employee handbook, policy manual, or some other formal document or location, for example, the entity’s intranet, for easy accessibility. Guidelines should be approved by the board and should be reviewed periodically.

Due to the potential for conflicts of interest, the code of conduct should apply to anyone who has significant influence over relationships and dealings with suppliers, customers, creditors, insurers and auditors. It should articulate what constitutes fraudulent behavior, how accountability for the code is established, and the sanctions imposed for noncompliance. According to PriceWaterhouseCoopers (2001) the code should address;

- Conflicts of interest
- Confidentiality of information
- Fair dealing
- Protection and proper use of agency assets
- Related party transactions
- Illegal acts
- Compliance with laws, rules, and regulations
- The monitoring of the code by management.

To be effective, communication regarding the company’s anti-fraud policies and procedures must reach all levels of employees. All personnel must receive a clear message that the organisation is serious about its commitment to prevent and detect fraud. In addition, each employee must fully understand all relevant aspects of the company’s antifraud program and their role and responsibilities to follow and enforce the antifraud
policies. Every employee needs to know what behavior is expected and acceptable and what is unacceptable.

Implement ‘soft’ controls, such as a process to promote ethical behavior. Soft controls deter wrongdoing and facilitate communication on difficult issues to promote appropriate workplace behavior. Soft controls appear to be the best defense against fraud involving senior management. Such a process typically requires a fulltime equivalent position as an ethics or compliance officer.

**4.6.5 Hiring and Promoting Appropriate Employees**

Best practices in this area include (AICPA, 2001);

- Conduct criminal background investigation on individuals being considered for employment or promotion to a position of trust. Some company’s may consider follow up investigation on a periodic basis, particularly for employees in positions of trust.

- Thoroughly check a candidate’s education, employment history, and personal references.

- Incorporate into the regular performance reviews an evaluation of how each individual has contributed to creating an appropriate workplace environment in line with the company’s values and code of conduct.

- Incorporate ethics/compliance and fraud prevention goals into the performance measures against which managers are evaluated and which are used to determine performance-related compensation.
Implement a continuous objective evaluation process of compliance with agency’s values and code of conduct with violations being addressed immediately

4.6.6 Training Employees

Best practices in this area include (Price Waterhouse Coopers, 2001);

- New employees trained at the time of hiring about the entity’s values and its code of conduct. This training should cover (1) employees’ duty to communicate certain matters; (2) a list of the types of matters, including actual or suspected fraud, bribes, to be communicated along with specific examples; and (3) information on how to communicate those matters.

- All employees should receive refresher training periodically. All third party or long-term contractors should be made aware of the company’s fraud policy and code of conduct.

4.6.7 Notification and Confirmation of Compliance

Best practices in this area include (AICPA, 2001);

- Clearly articulate in the guidelines that all employees will be held accountable to act within the entity’s code of conduct.

- All employees should be required to sign a code of conduct statement annually, at a minimum. Such confirmation may include statements that the individual understands the entity's expectations, has complied with the code of conduct, and is not aware of any violations of the code of conduct other than those the individual lists in his or her response.
4.6.8 Discipline

Best practices in this area include (PriceWaterhouseCoopers, 2001);

- Develop standardized processes and procedures related to:
  - Rights of employees suspected of fraud
  - Disciplinary interviews
  - Circumstances of services termination
  - Dealing with complaints
  - Dealing with theft and threats
  - Rights and responsibilities of third parties related to agency’s fraud policy
  - Use of competent investigators
  - Protection of information sources
  - Charging investigative costs
  - Person responsible for making claims under insurance policies
  - Notifying the various legal authorities

- Perform thorough investigation of incidents of alleged or suspected fraud, abuse, or other criminal activities.

- Take appropriate and consistent actions against violators.

- Assess and improve relevant controls.

- If feasible, employ antifraud professionals, such as certified fraud examiners, who are responsible for resolving allegations of fraud within the agency and who assist in the detection and deterrence of fraud.
Assign a responsible person to maintain appropriate documentation of incidents and define appropriate guidelines for access and security of these documents.

Pursue all reasonable means of recovering any identified losses.

### 4.6.9 Antifraud Processes and Controls - Identifying and Measuring Fraud Risks

Best practices in this area include (AICPA, 2001);

- A fraud risk-assessment process should consider the vulnerability of the agency to fraudulent activity (fraudulent financial reporting, misappropriation of assets, and corruption) and if any of those exposures could result in a material misstatement of the financial statements or material loss to the organisation. The assessment should consider the various ways that fraud and misconduct can occur by and against the agency. Fraud risk assessment should also consider vulnerability to management override and potential schemes to circumvent existing control activities which may require additional compensating control activities. To be effective, management should perform fraud risk assessments on a comprehensive and recurring basis.

- The nature and extent of management’s risk assessment activities should be commensurate with the size of the company and complexity of its operations.

- Management should recognize that fraud can occur in organizations of any size or type, and that almost any employee may be capable of committing fraud given the right set of circumstances.
Management should develop a heightened “fraud awareness” and an appropriate fraud risk-management program, with oversight from the board of directors or audit committee.

4.6.10 Mitigating Fraud Risks

Best practices in this area include (PriceWaterhouseCoopers, 2001);

- Consider making changes to company activities and processes that could help reduce or eliminate certain fraud risks.

- Management may have Internal Audit play an active role in the development, monitoring, and ongoing assessment of the entity’s fraud risk-management program.

- Some organisations may perform a periodic self-assessment using questionnaires or other techniques to identify and measure risks.

- Closely monitor the company’s procurement process.

- Monitor compliance with the code of conduct and related training. Monitoring may include requiring at least annual confirmation of compliance and auditing of such confirmations to test completeness and accuracy.

- Develop regular measurements of the extent to which the entity’s ethics/compliance and fraud prevention goals are being achieved. Such measurement typically includes surveys of a statistically meaningful sample of employees.

- Establish a process to detect, investigate, and resolve potentially significant fraud. Such a process should typically include proactive fraud detection tests that are
specifically designed to detect the significant potential frauds identified in the agency’s fraud risk assessment. Other measures can include audit “hooks” embedded in the entity’s transaction processing systems that can flag suspicious transactions for investigation and/or approval prior to completion of processing.

4.6.11 Implementing and Monitoring Appropriate Internal Controls

Best practices in this area include (PriceWaterhouseCoopers, 2001);

- Use the fraud risk assessment to identify the processes, controls, and other procedures that are needed to mitigate the identified risks. The company must consider:
  - Whether the controls implemented are adequate to address all of the individual company’s specific business activities
  - Whether these controls are properly designed for the purposes of detecting, deterring and mitigating the particular fraud risks to which the organisation is exposed
  - Whether these controls are being applied properly to sufficiently address the company’s unique business operations and fraud risks.

- The necessary control activities should be documented to ensure each significant fraud exposure identified during the risk assessment process has been adequately mitigated. The audit committee should evidence its oversight and approval of the adequacy of the design and operating effectiveness of the control activities in minutes of its meetings. Internal audit or a third party working on behalf of the
audit committee should evaluate the effectiveness of the design of control activities through a walk-through.

- Effective internal controls include a well-developed control environment, an effective and secure information system, and appropriate control and monitoring activities.

- Implement and maintain appropriate controls, whether automated or manual, over computer-generated information because of the importance of information technology in supporting operations and the processing of transactions. Consideration may include:
  - Technologically enabled fraud such as manipulating system time clocks that affect a cut-off on the books and records
  - IT security controls, with increased emphasis on prevention and detection of unauthorized access and physical intrusion
  - The impact of system access on segregation of duties
  - The adequacy of fraud detection and monitoring tools such as of fraud-related computer-assisted auditing techniques
  - Inappropriate modifications to computer programs by IT personnel, such as falsification of financial reports
  - The system override of control features, such as using information systems to circumvent control activities
  - The ability to investigate computer misuse, such as computer forensics/incident response capabilities and maintaining system logs for an adequate period to perform investigations
General computer controls related to security should be tested to ensure they are operating effectively and they should be documented.

- Create a strong value system and a culture of ethical financial reporting to overcome fraudulent financial reporting that involves management override of internal controls.
- Implement appropriate oversight measures by the board of directors or audit committee.

4.6.12 Management

Best practices in this area include (PriceWaterhouseCoopers, 2001);

- Provide a periodic report, certificate, or similar acknowledgment of the responsibility for the fraud policy administration and the establishment and maintenance of an effective system of internal controls.
- Create “ownership” of fraud risks by identifying a member of senior management as having responsibility for managing all fraud risks within the entity and by explicitly communicating to divisions and units managers that they are responsible for managing fraud risks within their part of the agency.
- Implement an ongoing process for regular identification of the significant fraud risks to which the agency is exposed.
- Management implement measures, where possible, to eliminate or reduce through process re-engineering each of the significant fraud risks identified in its risk
assessment. Basic controls include segregation of duties relating to authorization, custody of assets and recording or reporting of transactions.

4.6.13 Others

Some other best practices in this area include (PriceWaterhouseCoopers, 2001);

- Internal auditors should assist in the deterrence of fraud by identifying indicators of fraud and fraud risks, examining and evaluating the adequacy and the effectiveness of the system of internal controls, and recommending action to mitigate risks and improve controls.

- Internal auditors, in carrying out this responsibility, should determine if the agency has an environment that fosters control consciousness, realistic goals and objectives, written policies that describe prohibited activities and the action required whenever violations are discovered. They should also determine if agency has:
  - Established and maintains appropriate authorization policies for transactions
  - Developed policies, practices, procedures, reports, and other mechanisms to monitor activities and safeguard assets
  - Developed communication channels that provide adequate and reliable information

In addition, if recommendations are needed to be made for the establishment or enhancement of controls to help deter fraud.

- Internal auditors should conduct proactive auditing to search for corruption, misappropriation of assets, and financial statement fraud.
Internal auditors should employ analytical and other procedures to isolate anomalies and perform detailed reviews of high-risk accounts and transactions to identify potential fraud.

Internal Auditors should assess the operating effectiveness of the hotline or whistle blower program, if any. Considerations include:

- Are employees aware of the hotline
- Is reporting of alleged incidents encouraged
- Are people actually reporting possible instances of misconduct
- Is follow-up appropriate and timely
- Do employees use the hotline to get advice for difficult decisions

The process should be tested through an examination of the various communications and a sample of alleged incidents.

Internal Auditors should ensure that executive management is aware each year of what risks are not being covered by the audit plan to alert management to the risks being assumed.

Internal auditors should have an independent reporting line directly to the audit committee, to enable them to express any concerns about management’s commitment to appropriate internal controls or to report suspicions or allegations of fraud involving management.

Independent or external auditors should provide the audit committee with an assessment of the agency’s process for identifying, assessing, and responding to the risks of fraud.
• Independent auditors should have an open and candid dialogue with the board of directors (or audit committee) regarding management’s risk assessment process, the system of internal control, the agency susceptibility to fraudulent financial reporting, and the agency’s exposure to misappropriation of assets.

• If employed, certified fraud examiners should provide the audit committee and board of directors with objective input into management’s evaluation of the risk of fraud, the development of appropriate antifraud controls, evaluation of the fraud risk assessment and the fraud prevention measures implemented by management.

• Certified fraud examiners should conduct examinations to resolve allegations or suspicions of fraud, report either to an appropriate level of management or to the audit committee or board of directors.

4.7 SUMMARY

Understanding the key components of fraud prevention and detection is crucial in the crusade of trying to eliminate this deadly disease out of society. There is no place in society for white-collar criminals therefore prevention and detection are crucial concepts that need to be understood by all stakeholders concerned. Methodologies for the detection of fraud are essential if we are to catch white-collar criminals once fraud prevention has failed.
The chapter started off with an introduction to fraud detection tools. Fraud detection can be both supervised and unsupervised. Supervised methods use a database of known fraudulent/legitimate cases from which to construct a model, which yields a suspicion score for new case. Unsupervised methods are used when there are no prior sets of legitimate and fraudulent observations. It highlighted that fraudsters adapt to new prevention and detection measures, so fraud detection needs to be adaptive and evolve over time.

One of the most common methodologies to assess the possible risk to an organisation from white-collar crime is a risk assessment. A risk assessment is a method of balancing security controls against the possible loss that could occur in any organisation. This risk assessment involves scheduling of weaknesses, an agreed list of vulnerable areas, options to close the vulnerable areas, an action plan.

The auditor’s role then came under the microscope in respect of fraud prevention and detection. Auditors have a steadily growing responsibility, not only to identify fraud risks and issues from an operational or management perspective and to speak out on them but also to document their findings and deal with any potential civil or even criminal law proceedings. The new auditing standard details the auditor’s responsibility to detect and report material misstatement in financial statements due to fraud.

Internal controls play a huge role in the prevention and detection of white-collar crime in the organisation. Reviewing and improving internal controls are often thought as the
primary defence against fraud and abuse. A strong system of internal control is the most effective method of fraud prevention. Prevention of fraud starts with the identification of the weakness in the current systems of an organization. Then the organization must improve those systems with new or better. The introduction and enforcement of controls will reduce the opportunities of fraud. The control warns potential fraudsters that management is actively monitoring the business and that it in turn deters fraud.

To conclude this chapter the best practices of fraud prevention and detection were highlighted. It must be understood that any one best practice will differ from one organization to another simply because of the value that it provides to that particular organization. Most practices with regards to white-collar crime were centered on prevention strategies, detection strategies and investigation methodologies. Flowing from this chapter the research will then conclude with a summary and recommendations.
CHAPTER 5. – SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 SUMMARY

It is important that all stakeholders’ internal auditors, external auditors, company officials/executives and government officials to name a few understand all the facts and implications involved in white-collar crime.

Edwin Sutherland an American Criminologist in 1939 developed the phrase “White Collar Crime” Sutherland (1983:7) where he argued that this type of crime involved a betrayal of trust implied in the holding of an office or a position of trust. He further went on say that this crime is committed by persons of high social status in the course of their occupation.

Main features of white collar crime as experienced by both victims and perpetrators, included the fact that, victims would often suffer the effects of white-collar crime without ever meeting their perpetrators, it is an indirect form of theft therefore it is acceptable to perpetrators. Most often the complainants/defendants are present and unaware of the offence that is in progress.

There must be a motive for a white-collar criminal’s actions and this includes, white collar criminals don’t socialize with normal criminals, and are not poor, they live fancy and extravagant lives and are well respected in the social circles. Some of the key motives behind white-collar criminal’s actions include, maintaining a certain type of lifestyle, anger due to bureaucracies and red tape where the individual feels trapped in.
The review then looked at the unique nature of white-collar crime as opposed to other normal crimes. It discovered that these crimes are costlier and affect more individuals. Traditional crimes involve force and violence whereas white-collar crime relies on deceit and concealment. The traditional criminal uses brute force and violent tools whereas the white-collar criminal often employs high level technology and plays on the defendant’s ignorance, naivety and greed.

Different types of white-collar crimes and schemes that are currently being perpetrated by criminals were then explained in detail. The detail discussion on the different types and schemes of white-collar crime was carried out to place the entire concept of white-collar crime in context, thereby allowing the reader to easily understand the material.

It was imperative that after introducing the concept of white-collar crime, the reader gets a perspective of the current white-collar climate in South Africa. This included identifying all aspects of white-collar crime within the South African context especially the implication of white-collar criminal activity culture with regards to the judicial system within the country.

Focus was then drawn on the white-collar crime in South Africa both current and historical, whereby it was apparent that the increase in this form of crime was attributed to the country’s historical past. Although no studies have been done on the profile of white-collar criminals in South Africa it is clear that a large part of white-collar criminal
activity, is as a result of sanctions imposed on companies, the dual financial system and the low morality towards government policies and reforms (Camerer, 1996:7).

It was therefore crucial to look at the current and historical punishment being given to individuals involved in white-collar crime. It is clear that commercial fraud and related offences command a far smaller proportion of criminal justice resources than more conventional forms of crime. The complexity of the issues and the volumes of evidence make it a difficult task to bring white-collar criminals to book. The issue that was described is how to prevent potential white-collar criminals from committing these crimes in the first place, since there is little likelihood that sufficient resources will be available in the near future to effectively police and prosecute these crimes once they have occurred (Camerer, 1996:11).

At that juncture, some of the barriers to detection and successful prosecution of white-collar criminals were reviewed. White-collar criminal prosecutions are rare and almost non-existent, since the wealth and influence of these criminals allow them to avoid the full weight of the law. Another reason for the difficulty in prosecuting white-collar offenders include the fact that the primary concern of the law has always been to regulate relations between persons, that is individuals, rather than 'corporate persons' or companies (Camerer, 1996:10).

It is quite apparent from the empirical investigation that the government, through it’s enforcement agencies, have not tackled this issue with any seriousness. It is clear that
very little resources have been put in place by the state to address the issue of white-collar crime in the country. However this has started to change on the part of government as they realise that something needs to be done to address these issues before it gets totally out of control. Therefore, consumers, and businesspeople and professionals such as accountants and corporate lawyers have come to play important roles as initiators of action via their decisions to report fraud or not, as well as in initiating the investigation process.

The main objective of the empirical investigation was to give the reader an understanding of what South African companies are saying with regards to the current white-collar crime climate. The study had the function of identifying and reviewing what the current white-collar crime culture being experienced by South African companies. It is evident from the responses that white-collar crime is in no way disappearing or being eradicated in the short term. It seems as though that organisations are desperately trying to contain the levels of fraud experienced from year to year, however their efforts are not good enough as white-collar criminals simply raise the level of the game by outsmarting organisations and systems.

Over sixty three percent of the respondents indicated that fraud in the last two years was in excess of a million rand. The fact that a fraud has taken place in organization irrespective of the value of the fraud is an indication that white-collar crime poses a huge problem for South African companies. Trying to minimise the possibility of white collar-crime occurring in an organization will be one the greatest challenges facing South
African it seems as though this has created a certain level of anxiety amongst senior management, however there are still others that are not taking this threat seriously.

The empirical investigation into South Africa organisations indicated that most companies do have a formal fraud policy or fraud procedures, however organisations do not provide their employees with formal training to help them understand and implement anti – fraud policies. This could be one of the reasons why South African companies are still experiencing white-collar crime. This demonstrates the shortfall of corporate South Africa in combating the problem of loss through fraud and corruption.

It seems that fraudulent activity is mostly detected through a medium of whistle blowing whereas external audit on the other hand detect the least amount of fraud. This is not surprising considering that external auditors are not ideally equipped to uncover fraud. Majority of the companies under review believe that greed is the over-riding motivation factor that allows white-collar criminals to act in a manner that they do. Very interestingly companies under review also believe that poor internal controls within the company contribute to fraud taking place in the organization.

Almost all companies under review do have a platform for reporting fraud or unethical behaviour. Employees and middle management are the ones most likely to commit fraud. Respondents have indicated that of the frauds that were committed, there were sufficient red flags pointing in the direction of the alleged fraud.
Majority of the respondents do have a dedicated officer that is responsible for handling these types of issues. Once again it reinforces the approach that large businesses have taken with regards to white-collar crime. However robust business ethics, backed up by proper internal control processes, have to be ingrained into operations and not just an extension of head office culture.

After reviewing what corporate South Africa had to say in the form of the empirical investigation it is clear that more fraud prevention and detection policies need to be in place in order to minimise the levels of white-collar crime in the country.

Understanding the key components of fraud prevention and detection is crucial in the crusade of trying to eliminate this deadly disease out of society. There is no place in society for white-collar criminals therefore prevention and detection is crucial concepts that need to be understood by all stakeholders concerned. Methodologies for the detection of fraud are essential if we are to catch white-collar criminals once fraud prevention has failed.

Fraud detection can be both supervised and unsupervised. Supervised methods use a database of known fraudulent/legitimate cases from which to construct a model, which yields a suspicion score for new case. Unsupervised methods are used when there are no prior sets of legitimate and fraudulent observations. It highlighted that fraudsters adapt to new prevention and detection measures, so fraud detection needs to be adaptive and evolve over time.
One of the most common methodologies to assess the possible risk to an organisation from white-collar crime is a risk assessment. A risk assessment is a method of balancing security controls against the possible loss that could occur in any organisation. This risk assessment involves scheduling of weaknesses, an agreed list of vulnerable areas, options to close the vulnerable areas, an action plan.

The auditor’s role was then reviewed in respect of fraud prevention and detection. Auditors have an important responsibility, not only to identify fraud risks and issues from an operational or management perspective and to speak out on them but also to document their findings and deal with any potential civil or even criminal law proceedings. The new auditing standard details the auditor’s responsibility to detect and report material misstatement in financial statements due to fraud.

Internal controls play a crucial role in the prevention and detection of white-collar crime in the organisation. Reviewing and improving internal controls continuously are often thought as the primary defence against fraud and abuse. A strong system of internal control is the most effective method of fraud prevention. Prevention of fraud starts with the identification of the weakness in the current systems of an organization. Then the organization must improve those systems with new or better. The introduction and enforcement of controls will reduce the opportunities of fraud.
It must be understood that any best practice will differ from one organization to another simply because of the value that it provides to that particular organization. Most practices with regards to white-collar crime were centered on prevention strategies, detection strategies and investigation methodologies.

5.2 CONCLUSIONS

White-collar crime/fraud remains a serious issue for both local and international organisations. Over eighty percent of the respondents experienced fraud in the last two years and of those that did experience fraud, sixty three percent confirmed that the fraud was in excess of a million rand. The survey results may be a bit underscored as opposed to what our experience of white-collar within the country has taught us, however the following conclusions can be highlighted:

- It is evident from the first question that fraud/white collar-crime is not something new to South African companies and individuals. It seems that fraud is alive, well and growing within the South African companies. This to me is not surprising considering that most companies under review reported that those that experienced fraud in the last two years were significantly high in rand value.

- It is evident that the cost of fraud experienced by the companies under review is significantly into millions of rands. Over sixty three percent of the respondents indicated that fraud in the last two years was in excess of a million rand. The fact that a fraud has taken place in organization irrespective of the value of the fraud is an indication that white collar crime poses a huge problem for South African companies. Trying to minimise the possibility of white collar-crime occurring in
an organization will be one the greatest challenges facing South African companies.

- It is estimated that some companies budget as much one percent of their turnover for white collar criminal/fraudulent activities during the financial year. This can run into millions of rands of which the companies do understand that fraud and white-collar crime is a real problem for business in this day and age. Some companies are therefore prepared to invest, and take the necessary steps to curb the rate and quantum of white-collar crime in their organization, because the return on the investment is favourable to do so.

- It seems that general fraud is the most common type of fraud perpetrated, followed by asset misappropriation, then financial misrepresentation and procurement fraud. Cheque fraud, together with corruption and bribery seems to be also high up on the common types of fraud committed.

- It seems that fraudulent activity is mostly detected through a medium of whistle blowing whereas external audit on the other hand detect the least amount of fraud. This is not surprising considering that external auditors are not ideally equipped to uncover fraud during the external audit of a company. Internal audit, it seems are more susceptible to uncover a fraud than external auditors.

- Majority of the companies under review believe that greed is the over-riding motivation factor that allows white-collar criminals to act in a manner that they do. Very interestingly, companies under review also believe that poor internal controls within the company contribute to fraud taking place in the organisation.
So it’s not just the fraudsters committing fraud because they need to satisfy their financial situation, lifestyle and greed, it’s also largely due to the opportunity that is created by the company through poor internal controls. If an employee identifies a weakness or a gap in the system, this makes the employee very vulnerable to exploit that weakness by committing fraud.

- It is evident that almost all companies under review do have a medium for reporting fraud or unethical behaviour. More interestingly, employees and middle management are the ones most likely to commit fraud. This is very likely to happen considering that employees and middle management are more hands-on at the workplace and therefore are more likely to spot an opportunity of committing and thereafter concealing the fraud.

- Majority of the respondents that took part in the empirical investigation believe that a company’s poor internal controls, allowed the fraud to take place. It’s becoming increasingly evident that companies need to do more in respect of ensuring that their companies are not targeted or come under attack from fraudsters. Of the frauds that were committed there were sufficient red flags pointing in the direction of the alleged fraud. If there were footprints pointing in the direction of the alleged fraud then this analysis, would agree with the argument of a company having poor internal controls.

- Historically companies were very reluctant to report fraud/white-collar crime that occurred within the organisation to external sources, simply because of the stigma
attached to it and also the reputation damage that goes with the offence. However it is pleasing to note that companies are now adopting a zero tolerance approach to white-collar crime and thereby ensuring that fraudulent behaviour within the organisation is dealt with in the most serious manner. Companies have become much more transparent with regards to their approach and stance when it comes to white-collar crime.

➢ Most companies do not have any confidence in the authorities, in successfully addressing the white-collar crime situation in the country. The commercial crime unit of South African Police Services are not adequately resourced to handle the demands or the spiralling rate of white-collar crime in the country. In South Africa it is widely accepted, as well as openly admitted, that the Commercial Branch, which is responsible for policing all instances of fraud, numerous forms of theft, and offences under almost 60 acts of parliament, is unable to effectively police white-collar crimes in the business and broader consumer sector.

➢ Almost ninety percent of all respondents have a formal fraud policy in place. This is indeed pleasing to note, however when one looks at the value and quantity of frauds that occurred in the last two years by the same respondents, it’s shocking. Its either the policy is not being properly implemented by the organization or the white-collar criminals have stepped up their game to the next level.
The other reason why the fraud levels are so high although there is a formal fraud policy in place, could be as a result of the policy residing in a cupboard and not effectively rolled out or implemented to all the stakeholders concerned. It’s important that senior management take the initiative to drive a culture within the organization which emphasizes zero tolerance with regards to white-collar crime.

Once again it seems that organisations are communicating and enforcing their policy with regards to fraud to all the relevant stakeholders. However the level of fraud within these companies leads on to believe that the fraudsters are winning the race or battle to eradicate fraud or white-collar crime in the workplace.

Over eighty percent of the respondents do have a dedicated officer that is responsible for handling these types of issues. Once again it reinforces the approach that large businesses have taken with regards to white-collar crime.

5.3 RECOMMENDATIONS

Most organisations, obviously want to expand and grow into other leading markets, but entering into unknown territory can be fraught with risk. Managing those risks are crucial to the success of growth and expansion within the organisations. Nowadays there are fraud risk management practices that are available to organisations to minimise the risk or exposure to fraud.

Listed below are recommendations that the author considers crucial to companies and all stakeholders when addressing the issue of white-collar crime and fraud in the workplace.
Internal controls were one area which came up strongly as a first line of defence for companies against white-collar crime. Focus needs to be placed on these internal controls whereby companies should integrate anti-fraud controls into a formal documented ant-fraud policy.

Paper programmes, existing only in their documentation, are of no use if not properly communicated and rolled out to all stakeholders concerned. Proper compliance and enforcement of the programmes need to be effected in order to experience full value.

For a anti-fraud programme to be effective in an organisation, the programme should closely align the most significant fraud risks faced by an organisation.

Once again it’s imperative that companies do not just notify and educate the fraud policy of the organisation to its stakeholders, but rather move towards a corporate culture that lives its ethical values. This tone must be set at the beginning by the top brass of the organisation for it to have any serious value.

Establishing a criterion to govern the increase of allegations of fraud helps to assure the appropriate oversight and composition of investigative teams.

Anti-fraud practices should form a critical element of the comprehensive approach to risk management. Companies should be transparent in communicating to
stakeholders the risks that are likely to be faced and how the organisation intends to mitigate the risks is very crucial and important.

- By having an effective approach to managing white-collar crime as part of risk management within the organisation will ultimately ensure that corporate governance within an organisation is met.

- I will end this chapter with a quote by Philip Robinson (Ernst & Young, 2006) “Firms need to continue to manage their responses to fraud in order to avoid being targeted as the weakest link”.
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APPENDIX A

Dear Sir/Madam

I am a final year Masters in Business Administration (MBA) student registered at the University of Johannesburg (RAU campus) and employed at the Large Business Centre (SARS). I am currently busy with the final leg of my MBA, which involves penning a dissertation on a topic of my choice. I have decided to expand my theoretical knowledge by conducting research on “White Collar Crime in South Africa”.

As a result of the intended research topic, one aspect that needed to be covered in the research is an empirical study. This study would take the form of a questionnaire that would need to be answered by companies across South Africa. This “Fraud Questionnaire” would be a two page document that would need to be completed by the companies in order for me to understand the fraud climate and culture that is being experienced in South African companies.

It must be understood that this is not a LBC - SARS initiative and it is clearly a personal research study that is being completed as part of my Masters Program. It must be noted that each questionnaire will be treated with the strictest of confidence and the results would not be published or discussed in any open forum. The completed questionnaire would not be shared with SARS or any other organization. For reasons of confidentiality please e-mail the completed questionnaire to karthi1@telkomsa.net

To this end I therefore appeal to the designated official of the company that deals with fraud to complete the attached Fraud questionnaire and return to the above e-mail address. Should you wish to have a copy of the statistics and analysis of the survey please contact me on the number below.

I trust the above is in order and do not hesitate to contact me should you have any queries regarding the above on 083 566 1711.
Thanks and regards
Karthi Naicker
Fraud Survey
(NB: All responses to this questionnaire will be kept strictly confidential)

1. Have you heard or seen fraud in your organisation? (Please tick)
   Yes: _____  No: _____  Not sure: _____

2. If yes, how many frauds were detected in the last 2 years?
   1-3: ____  4-6: ____  7-10: ____  Not sure: ____

3. If your organisation did experience fraud, what would you estimate the cost of the fraud to be?
   Above R1 million ____  Between R500k & R1 million ____
   Between R100k & R500k ____  Less than R100k ____

4. What type of fraud was experienced?
   General Fraud ____  Asset Misappropriation ____  Financial Misrepresentation ____
   Corruption & Bribery ____  Cheque Fraud ____  Procurement Fraud ____
   Credit Card Fraud ____  Cyber crime ____  Insider Trading ____  Money Laundering ____
   Industrial espionage ____  Other ____

5. How was the fraud discovered to your knowledge?
   Whistleblower ____  Internal Audit ____  Informant ____
   External Audit ____  Investigation ____  Customer/Supplier ____
   Management ____  Other ____

6. What do you think was the motivation behind the fraud?
   Greed ____  Financial ____  Poor Internal controls ____
   Lifestyle ____  Other ____

7. Does your organization have a process/system in place for reporting fraud, corruption and unethical conduct?
   Yes ____  No ____  Not sure____

8. If you aware of frauds in your organization (please tick below)
   a) At which level of staff did these frauds occur?
      Senior management ____  Middle Management ____
      Employees ____  Customers ____  Suppliers ____  Other ____
b) What do you think has allowed these frauds to occur?

Inadequate int/controls ___ Management override of controls ___
Collusion between employees & management ___ Collusion between employees & 3rd party ___ Poor hiring policies ___ Other ___

c) Where there any “red flags or electronic footprints” pointing in the direction of the alleged fraud.

Yes ___ No ___ Not sure ___ If yes, specify ______________________

d) What have you done regarding these frauds?

Reported to Police ___ Reported to senior mgmt ___ Kept Quiet ___
Investigation ___ Reported to audit committee ___ Civil Action ___
Others (specify) ___

e) Why would you not report fraud within your firm to an external authority?

Negative publicity ___ Minimal chance of financial recovery ___
Inconvenience ___ No confidence in the authority’s ___
Others (Specify) ______________________

9.) Does your organization have a fraud policy in place?

Yes ___ No ___ Not sure ___

10.) Does your organization communicate its ethical standards to its employees, suppliers and customers?

Yes ___ No ___ Not sure ___

11.) Is there a dedicated fraud/ethics officer that deals with ethical issues in the organisation?

Yes ___ No ___ Not sure ___

Thank you very much for your time.

If you have any questions, please call Karthi Naicker on 083 566 1711 or email me at karthil1@telkomsa.net