UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Gordon Institute of Business Science
University of Pretoria

The role of corporate governance in addressing the factors contributing to commercial crime in large organisations in South Africa

Nolan Naidoo

15388795

A research project submitted to the Gordon Institute of Business Science, University of Pretoria in partial fulfilment of the requirement for the degree of Master of Business Administration

07 November 2016

ABSTRACT

Organisations today face the pervasive problem of commercial crime. The losses suffered result in reduced profitability, diminished shareholders' returns, loss of growth opportunities and, in certain instances, even threaten the sustainability of the organisations. Despite dedicated investigation units and courts, specific legislation and enhanced awareness and monitoring in organisations in South Africa, commercial crime still abounds. Establishing the key drivers of commercial crime will enable organisations to better evaluate their risks and to understand how practising good corporate governance can assist in this regard.

Qualitative research using exploratory methods was utilised firstly to establish the key drivers of commercial crime; and secondly, to assess the role of corporate governance in addressing these drivers. A total of 13 semi-structured, in-depth interviews were conducted with management and executive leadership in a diverse range of organisations to explore this topic. A further seven interviews were conducted with experts in the field of forensic investigation and corporate governance, whose insights were used to test the initial findings by process of triangulation. The insights gleaned formed the basis of the data that was analysed to produce the findings in this research.

The research found both internal and external drivers of commercial crime and identified common themes, despite the diverse nature of the organisations researched. Collusion between employees as well as financial distress due to the current economic climate, were found to be amongst the key drivers. It was found that corporate governance does in fact play a critical role in addressing these drivers, and thereby making organisations more conscious and proactive to address commercial crime; however, poor or inadequate implementation of corporate governance standards weakens the effectiveness thereof. The reality that corporate governance is not legislated contributes to the haphazard manner in which it is applied in different organisations. Lastly, corporate governance needs to be supported by an ethical culture in order to serve its purpose, and this is neglected by certain organisations. The findings from the triangulation exercise supported the above findings.

KEYWORDS

Commercial crime
Corporate governance
Ethics
Fraud
King III
White-collar crime

DECLARATION

I declare that this research project is my own work. It is submitted in partial fulfilment of the requirements for the degree of Master of Business Administration at the Gordon Institute of Business Science, University of Pretoria. It has not been submitted before for any degree or examination in any other University. I further declare that I have obtained the necessary authorisation and consent to carry out this research.

Nolan Naidoo
07 November 2016

TABLE OF CONTENTS

LIST OF FIGURES

LIST OF TABLES

LIST OF APPENDICES

CHAPTER 1: INTRODUCTION TO RESEARCH PROBLEM

1.1 Introduction

In recent history, reports on financial statement fraud, insider trading, embezzlement and bribery have been publicised globally, highlighted by a variety of high-profile fraud matters (Free & Murphy, 2015). As public awareness of the phenomenon increased, fraud has become a key focus of research (Free & Murphy, 2015).

According to PwC's Global Economic Crime Survey 2016, 37% of surveyed organisations experienced some form of commercial crime in the past 24 months (PwC, 2016). In respect of the African continent, the reported commercial crime in 2014 was 50%, and in 2016 it had increased to 57% (PwC, 2016). Narrowed down to South Africa, reported commercial crime was reported at 69% in 2014 and it remained at the same level in 2016 (PwC, 2016). Despite no apparent reported change in the commercial crime level in South Africa between 2014 and 2016, the finding that nearly seven out of ten companies were victims of commercial crime is indicative of the problem faced in this regard.

The 2016 Global Fraud Study by the Association of Certified Fraud Examiners found that organisations lose approximately 5% of their revenue to fraud annually (ACFE, 2016a). It was further found that the aggregated value of the frauds as reported by the organisations surveyed exceeded USD 6.3bn and the average loss per incident was USD 2.7m. According to a statement by the Institute of Internal Auditors in 2015, the South African economy lost at least R700m to fraud and corruption in the preceding 20 years (Fin24, 2015). Placing a reliable value on the total value of fraud perpetrated in a country is impossible, as most well-orchestrated white-collar crimes are never discovered, some may never be reported, some involve incomplete details (such as quantum), and others are never resolved by civil or criminal action (McGee & Byington, 2009). However, given the scale of the problem as evidenced in the statistics above, it is highly probable that the total value of fraud in South Africa would be high.

The South African business environment is highly regarded and ranked in terms of efficient financial markets (WEF, 2016), strong institutions (WEF, 2016), business sophistication (WEF, 2016) and heightened fraud awareness (Deloitte, 2016). In addition, specialised fraud-fighting units were introduced, within organisations, as well as law-enforcement, e.g. Specialised Commercial Crimes Unit and Hawks.

Supplementary to these interventions are a host of specific laws enacted to combat commercial crime in the various forms that they exist, namely: Criminal Procedure Act (No. 51 of 1977); Insider Trading Act (No. 135 of 1998); Prevention of Organised Crime Act (No. 121 of 1998); National Prosecuting Act (No. 32 of 1998); and Prevention and Combating of Corrupt Activities Act (No. 10 of 2012).

The burning question therefore is, why is commercial crime at such high levels when South Africa has internationally recognised systems and mechanisms and a host of specific legislation in place to address the scourge?

The Companies Act 71 of 2008 has certain provisions in relation to fraud in organisations; however, these pertain to fraudulent conduct by directors and officers of the company (IoDSA, 2016a). Such high ranking individuals are tasked by the board and shareholders with the running of the organisation; therefore, trust, transparency and accountability are paramount. When directors and officers engage in criminal conduct that results in undue benefit to themselves or individuals associated with them; the Companies Act becomes a crucial document as it clearly defines what would constitute unlawful conduct and what the appropriate punitive measures that should be applied.

The deficiency identified with this legislation in the context of this research, is the Companies Act focuses solely on the misconduct of directors and officers and not on the misconduct on other individuals in an organisation. The absence of legislation that directs organisations to conduct their business and processes in a particular way, gives rise to a variety of approaches taken by organisations which may take the form of policies, procedures or codes of conduct. The potential shortcomings include: these steps may not always be adequate to address the requirements of the organisation; such approaches may be haphazardly implemented, thereby rendering them ineffective; or, they may not be adhered to as envisaged at the time of design and implementation.

This need led the Institute of Directors in South Africa to establish the King Committee which was tasked with drafting a standard of corporate governance (IoDSA, 2016b). The aim was for a standard that could be applied in organisations to serve as a mechanism to guiding organisations to ensure the highest levels of governance, transparency and ethical conduct (IoDSA, 2016b). This document, known as the first King Report or King I, acquired international acclaim for its inclusive approach to corporate governance.

Amongst the various provisions in King I were sections dealing specifically with fraud, risk, ethics, compliance, monitoring, and establishing accountability for those in the organisation who should be tasked with driving these initiatives. King I underwent several revisions and refinements which made it more inclusive and easier to comply with. At the time of this research, King III is the applicable version, and it is a requirement of the JSE Limited (Johannesburg Stock Exchange) that listed companies are compelled to adopt and comply with King III (JSE, 2016). Organisations are required to 'apply or explain' which simply means that organisations must adopt and comply with the provisions or if they do not, they are required to provide reasons for the non-compliance (IoDSA, 2016b).

At the time of this research, King III is the only widely supported and recognised standard of corporate governance in South Africa. This research therefore assesses the role of King III in addressing the factors driving commercial crime, and the adequacy thereof.

Unlike the King I and II codes, King III can be adopted by all entities, regardless of the manner and form of incorporation or establishment and whether in the public, private sectors or non-profit sectors. King III is based on the 'apply or explain' approach which requires organisation to adhere to the standard, or explain what has been done to implement the principles and best practice recommendations of governance (IoDSA, 2016b).

1.2 Purpose

The purpose of this research is to critically identify and examine the reasons for the high levels of commercial crime in the South African business environment, despite the legislation, standards and systems in place to prevent or mitigate the risks.

The research further aims to assess the role that corporate governance plays in relation to the major factors identified. More specifically, it will be assessed as to whether the corporate governance code, King III in this instance, assists organisations in mitigating fraud and the associated risks.

1.3 Research Problem

The South African economy is under strain due to a number of macroeconomic and microeconomic factors (Investec, 2016; IMF, 2016). A study conducted by the Association of Certified Fraud Examiners identified that when an economy is in distress, it results in an increase in commercial crime (ACFE, 2016b).

The aim of this research is to gain a deeper understanding of the key factors that are responsible for the escalation in commercial crime in organisations in South Africa, and to establish if corporate governance could be used as an instrument to directly address these identified drivers in order to reduce incidents of fraud and mitigate the associated risks.

This research aims to:

1. To identify the major factors that are contributing to the high levels of commercial crime in large organisations in South Africa.
2. To establish the role that corporate governance plays in the identified factors.
3. To establish if the standards and principles of corporate governance as currently applied in South African organisations are adequate to address the identified challenges faced in respect of commercial crime.

The literature review in Chapter 2 focuses on the factors influencing commercial crime and reviews other contributing elements. The literature review then examines the objectives of corporate governance, with special focus on its role in respect of commercial crime. The goal is to assess if corporate governance does in fact play a role in mitigating commercial crime in the organisations which have adopted a corporate governance standard or code, and so, to what extent. The research aims to be of benefit to risk managers, executives, boards and lawmakers by providing insights into how corporate governance can assist organisations become more alert and resistant to fraud and the associated risks.

CHAPTER 2: THEORY AND LITERATURE REVIEW

2.1 Introduction

Throughout this research the terms fraud, commercial crime, economic crime, financial crime and white-collar crime are used interchangeably, but ultimately refer to the same concept; that is, fraud or theft perpetrated by employees of an organisation, or with the complicity of employees of an organisation.

Financial crime has probably existed since humans started trading (Dorminey, Fleming, Kranacher & Riley, 2012). Studies have established the use of rudimentary biometrics thousands of years ago as a means of identifying trusted traders, thereby inferring that untrustworthy market participants have existed since the beginning of commerce (Dorminey et al., 2012). Abid & Ahmed (2014) found that the first well-documented fraud, a scheme in Holland known as the Dutch Tulip Mania, dates back to the year 1636. The above-mentioned findings agree to research by Lenz & Graycar (2016) who concluded that fraud has been part of society since “antiquity” and evidence of white-collar crime could be found in Western Europe literature dating back over three centuries (p. 614).

The potential for loss through internal fraud is a reality for organisations today (Zimbelman, 1994). The theory reviewed in this section defines and describes the concepts of commercial crime and corporate governance, and assesses the relationship between the two.

In Kroll’s Global Fraud Report 2015/16, it is reported that the biggest fraud threat to organisations comes from within the organisation itself (Kroll, 2016). More than one in three companies (36%) experienced fraud perpetrated by their own senior or middle management and 45% at the hands of a junior employee (Kroll, 2016). The findings by KPMG in their 2016 Global Profiles of a Fraudster survey found that 34% of fraudsters were executive directors, 32% were managers and 20% were lower level employees (KPMG, 2016).

The research problem that has been identified relates to the key drivers of commercial crime and attempts to provide insights as to how corporate governance addresses these drivers. Both these areas will be reviewed in order to gain a clearer understanding if the standards and principles of corporate governance as currently applied in South African organisations, are adequate to address the challenges faced in respect of commercial crime.

2.2 Definitions

2.2.1 White-collar Crime

Sutherland (1940) defined white-collar crime as crime of the upper socioeconomic class committed by individuals of high social standing. Kelley (1976) defined it as illegal acts "characterized by deceit, concealment, violation of trust, and not dependent upon the application of threat of physical force or violence" (p. 35). In more recent times, the term "occupational fraud and abuse" was coined by the Association of Certified Fraud Examiners, who described white-collar crime as the use of one's occupation to personally enrich one's life by the deliberate misuse or misapplication of his employer's resources or assets (McGee & Byington, 2009).

Whilst in earlier years, white-collar crime was viewed as a crime perpetrated by those of a particular social class, it has since evolved into a broader concept that speaks generally to illegal behaviour and misconduct that takes advantage of positions of authority and power - or simply the opportunity structures available within business - for personal or corporate gain (Kempa, 2010). It is therefore evident that inherent in the nature of financial crime is intentional deprivation causing loss to another party and selfish illegitimate gain to the other.

The white-collar criminal was described as a respectable person, who perpetrated crime in a professional environment, where criminal activities were concealed and disguised in organisational work (Benson & Simpson, 2009; Bookman, 2009). The criminal had power and influence and held the trust of others (Kempa, 2010). Gottschalk (2014) stated that white-collar crime was based on an opportunity for illegal profit. This opportunity was said to arise when individuals or groups engage in illegal and unethical behaviour and expect, with reasonable confidence, to avoid detection and punishment (Gottschalk, 2014). Therefore, based on the above definitions, this research views a white-collar criminal as any employee of an organisation, whether acting alone or in collusion with others, that occupies a position of trust, regardless of social standing or seniority within the organisation.

Financial crime encompasses crimes such as fraud, embezzlement, insider trading, market manipulation and profit inflation (Kempa, 2010). Such crimes were generally found to be committed by senior management and executives in an organisation (Gottschalk, 2014; Kempa, 2010) as they have access to the necessary systems, resources and information in the organisation. Furthermore, these individuals generally hold the influence and authority to approve, override and bypass the necessary internal controls, checks and balances in order to perpetrate the crime.

Financial crime also includes theft of stock, theft of cash and misappropriation of company property (Moorthy, Seetharaman, Jaffar & Foong, 2015). Whilst these types of crimes can be committed by anyone in the organisation, they generally tend to be prevalent amongst employees below senior management. A few examples may assist to clarify: warehouse employees involved in theft of stock; and physical cash stolen by cashiers.

The computer age has seen the extension of financial crime to include identity theft, cybercrime, credit card fraud, phone and telemarketing fraud, insurance fraud and trade secret theft (McGee & Byington, 2009). The modernisation of business and steady transition from physical documentation processing to electronic processing has brought with it new risks and an evolution to fraud trends (Dorminey et al., 2012).

2.2.2 Corporate Governance

Abid & Ahmed (2014) found that it was it was difficult to derive a universal definition for corporate governance that could encompass its various elements and dimensions. The reasons cited by Abid & Ahmed (2014) included the increasing complexities in an evolving business environment and the variations in the manner in which fraud is perpetrated in different parts of the world.

According to Crişan-Mitra (2015), the famed American economist, Milton Friedman, was among the first to provide some form of definition to the term corporate governance, by referring to the complexity of specifically managing a team and its actions, “according to owners and shareholders expectations, meant to sustain companies to achieve large profits, while respecting the rules imposed by society” (p. 467).

Definitions of corporate governance vary widely. Iskander & Chamlou (2002) stated that "corporate governance is concerned with holding the balance between economic and social goals, and between individual and communal goals, with the aim being to align the interests of individuals, corporations and society" (p. vi). According to Claessens & Yurtoglu (2013) corporate governance can be categorised into two sets - the first is a set of behavioural patterns: the actual behaviour of organisations in terms of measures such as performance, efficiency, growth, financial structure, and treatment of shareholders and other stakeholders. The second set is the normative framework: the rules under which firms operate - with the rules originating from sources such as the legal system, the judicial system, financial markets, and labour markets. The draft King IV Report on Corporate Governance for South Africa defined corporate governance as the exercise of ethical and effective leadership by the governing body (IODSA, 2016c).

Corporate governance, for purposes of this research, is defined as the mechanisms, rules and processes by which organisations are directed, operated and controlled for the betterment of all stakeholders concerned.

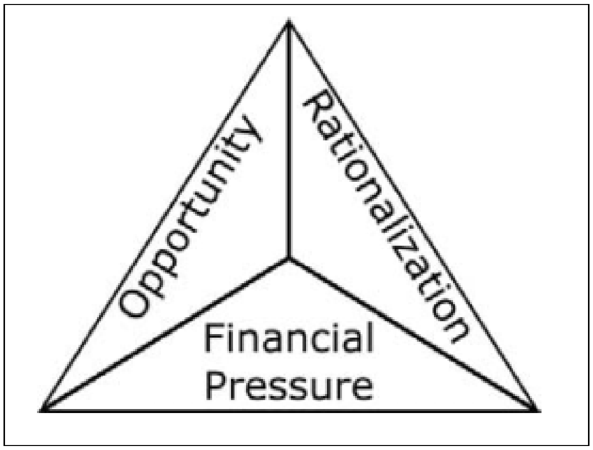
Corporate governance was built initially on the principles of Agency Theory, but has since become associated with Legitimacy Theory, Institutional Theory and Stakeholder Theory (Albu, Albu & Gîrbină, 2012).

2.3 Commercial Crime

2.3.1 Drivers of Commercial Crime

In the early 1950's, a student named Donald R. Cressey interviewed convicted criminals as part of his PhD research in the field of criminology and found that white-collar convicts displayed certain common characteristics (Dorminey et al., 2012). Based on his observations, Cressey (1950) identified three criteria for criminal violations of trust: (1) a financial problem which an individual is not willing to share with others who may be in a position to assist; (2) knowledge on the workings of a particular organisation and the means by which the organisation will be defrauded; and (3) the cognitive stage during which the individual is able to justify the crime such that it does not constitute criminal behaviour in his or her mind. Cressey (1950) therefore came to the conclusion that in order for fraud to occur, three factors must exist: pressure, opportunity and rationalisation and is represented as 'The Fraud Triangle' as depicted below in Figure 1.

Figure 1: The Fraud Triangle



'The Fraud Triangle' became entrenched in the codes and professional standards of professional associations worldwide, including the United States of America (known as SAS No. 99), Australia (known as ASA240), and the international audit standards (known as ISA240) (Free & Murphy, 2015).

The pressure that an individual may feel due to a problem they refrain from disclosing to others creates the motive for the transgression. The individual's perception of the social stigma associated with such a problem may be the reason for them not wanting others to be alerted to the issue (Dorminey et al., 2012). Ego and pride may also be factors that prevent the individual from sharing the problem with others.

Opportunity in the context of 'The Fraud Triangle' is the perception that a weakness in control is present, and that the probability of being caught for exploiting the weakness is low. Therefore, the perceived opportunity requires the individual to perform the act, and to do so without detection (Dorminey et al., 2012) and to conceal the act.

Rationalisation is the means employed by the fraudster to subdue the cognitive dissonance within himself / herself in relation to the act performed or to be performed (Ramamoorti, 2009; Dorminey et al., 2012). Fraudsters do not believe that their acts place them in the same category as hardened criminals; rather, they justify their crime with the notion that the nature of their problem sets them apart, hence the act is not viewed as a crime in the mind of the individual (Cressey, 1950). Moorthy et al. (2014) suggested that organisations should undertake regular fraud awareness training because when employees are explicitly warned that the organisation has a zero tolerance attitude to fraud, it becomes more difficult for them to rationalise committing a crime.

Free & Murphy (2015) suggested a fourth element could be added called "capability, thereby rendering it "The Fraud Diamond", or even adding a fifth dimension called "arrogance", thereby rendering it "The Fraud Pentagon" (p. 44).

Ramamoorti & Olsen (2007) argued that all the three elements of 'The Fraud Triangle' are fundamental behavioural constructs; thereby inferring that in essence human nature was a contributing factor. This was supported by Lenz & Graycar (2016) who found that the impetus to commit fraud was an internal human one; thereby suggesting that certain individuals possess the innate propensity to engage in financial misconduct and that the drive to participate in such acts were not necessarily fuelled by desperation or other such factors. Findings by Goossen, Seva & Larrson (2016) suggested that fraudsters were likely to have a "psychotic personality" and "tend to be more narcissistic" (p. 436). Therefore, the literature reviewed in respect of human nature being a driver of fraud suggested that certain individuals would actively seek opportunities to commit fraud in order to satisfy an inner need to accomplish such. This 'inner need' was explored further and greed was found to be underpinning factor (Gottschalk, 2014; Yeoh, 2016; Abid & Ahmed, 2014; Trompeter et al., 2014). Individuals may therefore become obsessed with the ability to defraud organisations and amass ill-gotten wealth. Dorminey et al. (2012) found that a culture of competitiveness may be another factor. This suggested that wealth and success become intertwined with the personality of the individual; therefore, there may be an inherent need to uphold a particular image in society as well as to maintain a certain financial standing.

Xenakis & Cheliotis (2009) found widespread concern about the causes and impact of the recent and ongoing international economic downturn experienced by societies across the world. As with such previous downturns, one of the issues to have received particular attention in political, media and public discourse has been the relationship between rising socio-economic hardships and financial crime. During 2016, the state of the South African economy led to a projected Gross Domestic Product (GDP) growth of less than 1% (IMF, 2016). This has been attributed to a host of factors resulting in a slowdown in businesses (BDO, 2016), including but not limited to the effects of, escalating electricity costs (Fin24, 2016), a severe drought (M&G, 2016) and high labour costs due to labour union demands (RDM, 2016).

A survey by KPMG (2016) indicated that certain frauds become prevalent during an economic downturn, inferring that the state of the economy can become a driver of fraud. This was however not supported by the literature reviewed. Xenakis & Cheliotis (2009) found that the available studies did not establish a correlation between the impact of an economic downturn and white-collar crime. They therefore stress the need for caution when attributing increased levels of fraud to adverse economic conditions and suggest further research on the types of crime likely to be triggered by poor economic conditions. Krisberg, Guzman & Vuong (2009) reviewed studies going back as far as the Great Depression of the 1930's extending to the early 2000's. The main study looked at economic indicators to identify periods of known recession, and then plotted a number of measures of crime against the period of recession. The findings revealed no evident relationship between economic recession and crime rates. Krisberg et al. (2009) concluded that no evidence was found to suggest that economic downturns have led to increases in crime rates, even if one was to assume a lag between the time of a recession and a spike in crime.

Ramamoorti & Olsen (2007) likened high-level fraud as a "team sport" that requires the involvement of one or more employees acting in collusion in order to perpetrate the crime (p. 55). Individuals acting in concert in the perpetration of a fraud may be individuals in the same division or organisation; individuals across organisations or even individuals across geographies. Systems of internal controls are generally underpinned by segregation of duties which makes it somewhat impossible for an individual acting on their own to bypass or circumvent (In'airat, 2015); however, these controls are not able to withstand collusion and management overriding controls (Dorminey et al., 2012; Ramamoorti & Olsen, 2007). A study by KPMG (2016) found that fraud is twice as likely to be perpetrated in groups as compared to those who act alone, and in 2015 62% of fraudsters colluded with others.

Despite the publicity, few white-collar criminals have actually been convicted and imprisoned (Ivancevich, Duening, Gilbert, & Konopaske, 2003; Yeoh, 2016). A distinct disparity was noted between how managers and executives who committed white-collar crimes were punished as compared to criminals convicted of other offences (Ivancevich et al., 2003). A study by KPMG (2013) found that only 7% of fraudsters were sentenced to imprisonment. Trompeter, Carpenter, Jones, & Riley (2014) however argue that the perception to fraudsters may be changing with the justice system dispensing appropriate punitive measures. A potential driver of commercial crime may therefore be the perceived lack of punishment for fraudsters.

The global financial environment has undergone accelerated and wide scale changes as a result of the globalisation of commerce and use of the internet (Gates, Prachyl & Sullivan, 2016). With organisations today harnessing technological advancements and rapidly transitioning away from manual business processes to fully automated processes, it has opened up new channels for the perpetration of financial crime. KPMG (2016) found that technology can be a double-edged sword that can assist organisations to detect fraud, but in more instances it facilitates fraud. The simplicity, efficiency and speed which modernised business administration processes offer, brings with it a host of new risks and threats to the organisation. To compound the problem, geographical constraints are now eliminated in light of the shift from physical document processing to electronic processing, meaning that white-collar criminals are no longer restricted to being physically present in an organisation in order to commit fraud. Moorthy et al. (2014) suggested that internal controls in relation to computer software should be tightened due to “computerisation and globalisation” in the current business environment (p. 77).

2.3.2 The Impact of Commercial Crime

Since recognising that the concept of crime encompasses more than just poverty-related anti-social acts, society has come to realise the danger posed by white-collar criminality (Goossen et al., 2016). McGee & Byington (2009) suggested that the shortlist of key financial indicators of the CEO and CFO, which commonly include revenue, expenses, net income, margins, cashflow and returns to shareholders, should include white-collar crime. The reasoning was that white-collar crime can impact each of the abovementioned indicators, resulting in reduced revenue, increased expenses, diminished net income, lower profit margin, a reduction in cash flow, and an adverse effect on shareholder wealth (McGee & Byington, 2009).

The 2016 Global Fraud Study by the Association of Certified Fraud Examiners found that organisations lose approximately 5% of their revenue to fraud annually (ACFE, 2016a). It was further found that the total value of the fraud in the 2016 study exceeded USD 6.3bn and the average loss per incident was USD 2.7m.

According to a statement by the Institute of Internal Auditors in 2015, the South African economy lost an amount of R700m to fraud and corruption in the preceding 20 years (Fin24, 2015). This amount of R700m was rightfully challenged by many critics. Placing a reliable value on the total value of fraud perpetrated in a country is almost impossible to do. According to McGee & Byington (2009) the most well-orchestrated white-collar crimes are never discovered; some may never be reported, some involve incomplete details (such as quantum), and others are never resolved by civil or criminal action. Mohammad (2015) supports the view that the value of fraud is difficult to estimate because not all fraud is discovered and not all uncovered fraud is reported; however, it is pointed out that endeavours have been made to estimate fraud.

Annual surveys conducted by global audit firms provide a periodic indication / estimation of the average value of fraud suffered by organisations.

Quantifying the cost of fraud and establishing the extent thereof are fraught with underreporting and measurement issues, however it is widely reported and accepted that fraud results in a massive economic cost on organisations, government and society (Free & Murphy, 2015).

2.4 Corporate Governance

2.4.1 The Need for Corporate Governance

During the successive financial crises in 1998 in Russia, Asia, and Brazil, the misconduct of the corporate sector affected entire economies, and deficiencies in corporate governance in these countries placed global financial stability at risk (Claessens & Yurtoglu, 2013). Gates et al. (2016) stated that a large failure of one market system has the potential to result in knock-on effects worldwide causing losses on an international scale. Therefore, in light of the dramatic changes in worldwide economies and globalisation of financial markets, preventing corporate fraud is not restricted to being a domestic issue but has significant implications for financial markets internationally (Gates et al., 2016).

Since the accounting scandals in the early 2000's, ethics and corporate governance issues have continued to attract the attention of researchers, practitioners, and policymakers (Darrat, Gray, Park & Wu, 2016). These scandals included: WorldCom unduly enhanced their profits by USD 3.8 billion by improper classification of expenses as investments; Enron used creative accounting practices to move debt off its books and thereby presented a misleading financial status; and Adelphia, one of the largest cable companies in the USA, collapsed into bankruptcy after it disclosed USD 2.3 billion in off-balance-sheet debt (Darrat et al., 2016).

The 2008 financial crisis brought to light the failure of corporate governance in financial institutions and established corporations, which resulted in systemic long-term consequences (Claessens & Yurtoglu, 2013). Yeoh (2016) research findings supported this view and found that the financial crisis could be largely attributed to the shortcomings and breakdown of corporate governance practices by the key role players in the financial sector in particular.

An example in point was lucrative remuneration schemes which prompted excessive risk-taking by executives without appropriate punitive measures, with the focus being on short-term self-interests with no consideration to the long-term alignment of risk exposure to the organisation and its stakeholders (Rajan, 2010). Maguire-Krupp & Ramamoorti (2011) summarised the issue aptly by stating that executive management has the tendency to conduct themselves in an opportunistic manner that serves their self-interests at the expense of their principals, being the shareholders.

Abid & Ahmed (2014) disagreed that personal financial need was the sole motive of the executives in the abovementioned companies. Their research found that greed and over ambitiousness of executives who engaged in extremely risky ventures were geared more to expand their organisations. Even if self-enrichment was not the immediate goal for these top notch executives, it would be difficult to argue that amassing wealth in the form of bonuses and profit-share schemes, would not have been a medium- to long-term objective.

Whilst most of these scandals affected the developed world, corporate misconduct has taken an especially debilitating toll on developing economies (Ffolkes-Goldson, 2015). Emerging markets are highly sensitive to fluctuations in first world markets.

In the aftermath of these events, not only has the phrase “corporate governance” become topical, but also researchers, the corporate world, and policymakers everywhere recognise the potential macroeconomic and long-term consequences of weak corporate governance systems (Claessens & Yurtoglu, 2013). The abovementioned events saw the adoption of codes and introduction of legislation to address corporate abuse and misconduct, which have not only had an impact on the corporations and their shareholders, but also on a wider group of stakeholders, which includes, in some cases, the countries in which they operate (Ffolkes-Goldson, 2015). The positive side of the series of global corporate scandals should not be overlooked as these have served as the catalyst for moulding and supporting the corporate governance frameworks that exists in many countries today (Claessens & Yurtoglu, 2013).

The codes referred to above are the standards of corporate governance which were investigated and adopted in various countries. These codes include: Cadbury Report, Greenbury Report, Hampel Report, Higgs Report, Myners Report, UK Corporate Governance Code, Australia Stock Exchange Corporate Governance Principles, Canadian Coalition for Good Governance Policies and Principles, South Africa King Reports, French AFEP-MEDEF Code, German Corporate Governance Code, OECD Principles of Corporate Governance (Ffolkes-Goldson, 2015). An example of the legislation referred to above includes the Sarbanes-Oxley Act which was enacted into law in the USA.

2.4.2 The Role of Corporate Governance

The importance of good corporate governance becomes evident when considering the outcomes, or potential outcomes, when there is lack of corporate governance or there are significant deficiencies therein. Crişan-Mitra (2015) stated that there has been a growing concern for developing and implementing good corporate governance practices due to their major impact on companies' image, market share, companies' organic growth, customers and long-term strategy.

It is further evident that weak or inadequate corporate governance principles can have far-reaching implications that extend beyond the organisation itself, across the industry and affect the local and global economy. Crişan-Mitra (2015) suggested that organisations that did not address corporate governance adequately, could find themselves attending to crises with serious consequences, which the organisation will have to deal with at its own expense.

Over time, there has been increased awareness of the positive results brought about by good corporate governance on the economic growth of the country and on the company's results (Crişan-Mitra, 2015). Numerous studies have concluded that corporate governance has positive effect on an organisation's financial performance (Malik & Makhdoom, 2016; Arora & Sharma, 2016; Rose, 2016).

Maguire-Krupp & Ramamoorti (2011) found that corporate governance has emerged as a critical concept that assigns the primary responsibility for enterprise risk management on executive management, while requiring appropriate oversight by the organisations board of directors. To the contrary, instead of managing risk responsibly and appropriately, certain boards conduct themselves in a manner that jeopardises the entire organisation.

Maguire-Krupp & Ramamoorti (2011) further suggested that a carefully crafted standard of corporate governance was a key mechanism which the board of directors and executive management could use to convey and reinforce sound corporate governance throughout the organisation, the core values and the ethical culture, which consist of inter alia, integrity, accountability and transparency.

The literature reviewed appears to be consistent that the role of corporate governance is to create an organisation that is built on the foundations of accountability, transparency and strong ethical principles. Corporate governance seeks to hold executives and senior management to account in ensuring that self-interest does not distort the judgement of those charged with running the organisation. Furthermore, reckless and negligent business conduct is not acceptable in modern day organisations and corporate governance serves to hold such transgressors personally liable. The needs of the stakeholders must be considered above the needs of the executives and management.

2.4.3 Evolution of Corporate Governance in South Africa

In 1993, the Institute of Directors in Southern Africa established the King Committee on Corporate Governance, which was chaired by retired Judge Mervyn King (IODSA, 2016b). The timing of which coincided with the profound social and political transformation with the dawning of democracy and the re-admission of South Africa into the global economy (IODSA, 2016b).

The King Committee produced the first King Report (King I) on Corporate Governance which was published in November 1994. The purpose of the report was to promote the highest standards of corporate governance in South Africa; however, King I gained international recognition as the most comprehensive publication on corporate governance.

In March 2002, the King Committee on Corporate Governance launched the King II Report on Corporate Governance for South Africa, which contained new additions from King I, including sustainability, the role of the corporate board and risk management.

The third report on corporate governance in South Africa (King III) became necessary because of the new Companies Act (No. 71 of 2008) as well as changes and developments in international governance trends (IODSA, 2016b). King III came into effect on 01 March 2010 – until then, King II applied. King III was written in accordance to the apply-or-explain approach of governance. This approach remained a debated issue globally with the King III Committee remaining resolute that it should be a non-legislative code on principles and practices (IODSA, 2016b).

Since the launch of King III in 2009, there have been significant corporate governance and regulatory developments, locally and internationally, which necessitated an updated report (IODSA, 2016c). The other consideration was that whilst listed companies were generally applying King III, non-profit organisations, private companies and entities in the public sector experienced challenges in interpreting and adapting King III to their particular circumstances. The enhancements aimed to make King IV more accessible to all types of entities across sectors (IODSA, 2016c). At the time of this research being undertaken, the King IV report was in draft format, due for release on 01 November 2016, with application being effective in the course of 2017.

The King Reports were the standards by which corporate governance was assessed in this research; however, King III was used predominantly as it was the standard in place over the period which this research covered. At the time of this research being undertaken, King IV was in draft format and hence was not formally presented as the updated standard.

2.5 Corporate Governance and Commercial Crime

Emerging markets and developing countries have come to recognise the importance of good corporate governance as a mechanism for the deterrence of financial crimes (Ffolkes-Goldson, 2015). Increased concern towards corporate governance of senior management, business-owners and investors is leading to the re-establishment of ethical principles in business, but also to the creation of strong frameworks that would reduce the risks of fraud and corporate scandals (Crişan-Mitra, 2015). According to Crişan-Mitra (2015) managers realise that engaging in business conduct that is transparent and based on ethical and moral principles will lead to positive results for the organisation in the long-term.

The first question that must be addressed is whether corporate governance in a South African context (that is, the King Reports) were designed at all to address commercial crime as one of its objectives. King III states that there is a duty on directors and officers to discharge their legal duties; these duties are grouped into two categories, namely: the duty of care, skill and diligence, and the fiduciary duties (IoDSA, 2016b). Therefore, the duties of those tasked with the running of the organisation are clearly spelled out and places accountability on them for their actions.

The King Reports also prescribe a risk-based approach to internal audit as opposed to the traditional compliance-based approach (IoDSA, 2016b). The latter, it states, adds little value to the governance of an organisation as it merely provides an assessment of the compliance with existing procedures and processes, without providing an evaluation of whether or not the procedure or process is an adequate control in the first place (IoDSA, 2016b). A risk-based approach is therefore more effective as it allows internal audit to determine whether controls are effective in managing the risks which arise in the course of business.

The report prescribes that the internal auditors should, on an annual basis, provide the board with an assessment of the internal controls, and to the audit committee specifically on the effectiveness of internal financial controls (IoDSA, 2016b). The audit committee must report to the board on its conclusions arising from the internal audit assessment (IoDSA, 2016b). This gives substance to the endorsement by directors of the effectiveness of internal controls in a company in the integrated report. The accountability that is placed on directors and officers of an organisation in ensuring that fraud risks are assessed and appropriately addressed, is therefore evident.

The report then goes into detail in dealing with risks inherent in the Information Technology aspect of businesses. With nearly all formal businesses utilising technology and systems in some form or another, there is high fraud exposure and the report articulates the role of directors and officers in addressing these risks.

King III has a strong focus on ethics and ethical leadership. Such leadership is characterised by directors and officers who act in a responsible manner and are accountable, fair and transparent in their conduct. The board is responsible for setting the values and ethics which the organisation must strive to uphold and this must be articulated in the organisation's Code of Conduct as the means of through to the employees (IoDSA, 2016b). The organisation must conduct all its business dealing in an ethical manner which takes into account the impact on all stakeholders, internal and external. The board is therefore tasked with driving an ethical culture within the organisation. The organisation's ethics performance must be monitored, assessed and reported in the annual integrated report.

Therefore, it is clear that the King III report was designed, as one of its many aims, to address the commercial crime risks prevalent in organisations.

Yeoh (2016) studied corporate governance in relation to financial crimes committed in major banking institutions in the UK and USA. The legislative, regulatory and corporate governance reform measures in both economies were designed to deter and prevent the perpetration of financial misconduct in the sector, however, banking and financial scandals emerging in the aftermath of this legislation appears to suggest otherwise (Yeoh, 2016). While several factors may account for this development, Yeoh (2016) attributed the issue to the inherent shortcomings and deficiencies of corporate governance in the sector itself. In'airat (2015) found that mere existence and implementation of corporate governance is not adequate to reduce the prevalence of commercial crime; instead it was found that effective functioning of internal controls, internal audit and external audit, would result in a reduction.

The findings firstly suggest that the application of corporate governance standards do not always eliminate or prevent financial misconduct. Dorminey et al. (2012) researched the evolution of fraud and due to the dynamic nature thereof, it was apparent that corporate governance needs to similarly evolve in order to appropriately address the issues. Secondly, corporate governance standards may work effectively in a particular industry, but be deficient in another. Corporate governance standards are therefore not a case of one-size-fits-all. Further to this point, Claessens & Yurtoglu (2013) suggested that corporate governance differs between countries, and more so in respect of emerging countries compared to advanced countries. This view was reinforced by Crişan-Mitra (2015) who stated that organisations in emerging countries required corporate governance standards and principles that are often different from the ones implemented by organisations in developed countries. Crişan-Mitra (2015) further found that emerging markets face unique challenges in implementation of corporate governance, owing to factors such as political and economic instability, weak legal and judicial systems and political interference.

Ffolkes-Goldson (2015) assessed corporate governance as a mechanism for the deterrence of commercial crimes in the Commonwealth Caribbean. The focus on corporate governance in the geography has grown due to the introduction of codes and legislation with a focus on transparency and accountability in accordance with international standards. The challenge that was identified was a perceived disconnect between corporate governance and commercial crime. The recommendation to bridge this gap was the introduction of an anti-corruption project. In a South African context, one of the aims of this research is to establish whether such a disconnect exists between King III and commercial crime. Whilst it has already been established that King III was partly designed to address fraud and commercial crime as well as cultivate an ethical culture, it needs to be established if in practice, this is the case.

2.6 Conclusion

Corporate frauds around the globe have become a regular occurrence and the incidence of financial fraud is on the increase (In'airat, 2015). The nature of the widely-publicised frauds ranged from irregular financial reporting to bribery and corruption (Abid & Ahmed, 2014). McGee & Byington (2009) found that in many instances the losses were in the billions of Euros or Dollars and as such, according to Abid & Ahmed (2014) these scandals caused an impact throughout the financial world. The literature found focused on frauds and scandals in developed economies, however South African fraud incidents and trends, although not reported on a global scale, demonstrate the extent of the issue locally.

"The Fraud Triangle" formulated by Cressey (1950) proposed that financial pressure, opportunity and rationalisation were the founding elements of fraud. The drivers of commercial crime were diverse and it was observed that different global geographies indicated different drivers. However, in essence the key drivers were found to be human nature (Ramamoorti & Olsen, 2007; Lenz & Graycar, 2016), collusion (Ramamoorti & Olsen, 2007), lack of effective punishment (Ramamoorti & Olsen, 2007), financial distress due to the state of the economy (Xenakis & Cheliotis, 2009;

Krisberg et al., 2009) and technological advancements in the business environment (Gates et al., 2016).

Commercial crime has had a positive outcome in that it has served as the impetus for corporate governance standards (Claessens & Yurtoglu, 2013) by way of the introduction of new or revamping of the older governance structures, codes and guidelines (Abid & Ahmed, 2014). Emerging markets and developing countries have come to recognise the importance of good corporate governance as a mechanism for the deterrence of financial crimes (Ffolkes-Goldson, 2015). The literature indicated that the application of corporate governance standards do not always eliminate or prevent financial misconduct. Due the evolution of fraud and the dynamic nature thereof, it was apparent that corporate governance needs to similarly evolve in order to appropriately address the issues (Dorminey et al., 2012). Secondly, corporate governance standards may work effectively in a particular industry, but be deficient in another. It was found that governance differs between countries, and more so in respect of emerging countries compared to advanced countries (Claessens & Yurtoglu, 2013). Crişan-Mitra (2015) further found that emerging markets face unique challenges in implementation of corporate governance, owing to factors such as political and economic instability, weak legal and judicial systems and political interference. Lastly, it was established that other systems and structures may be required to support corporate governance in order to enhance its effectiveness (Ffolkes-Goldson, 2015).

It has been observed that while academic research has been conducted in the area of corporate governance and commercial crime, the research to date has not been extensive. All the research identified was conducted in countries outside of South Africa, where the nature of commercial crime differed as well as the standards and codes of corporate governance which were applied (Kempa, 2010; Claessens & Yurtoglu, 2013; Ffolkes-Goldson, 2015; Yeoh, 2016). Furthermore, a substantial number of survey reports were identified which examined commercial crime trends and statistics globally. There is therefore the need for a study to be conducted in South Africa, to identify local commercial crime drivers, and assess these against the backdrop of South African legislation and standards of corporate governance, namely, King III in this instance.

CHAPTER 3: RESEARCH QUESTIONS

3.1 The Purpose of the Research

This chapter details the purpose of conducting this research into the following two components: the major factors resulting in the high prevalence of commercial crime; and the role of corporate governance in addressing the identified factors. The precise purpose of this research is to understand whether King III can assist organisations, not just to ensure transparency, accountability and ethical business operations, but also to assist in mitigating the risk of commercial crime.

This chapter draws on the issues emerging from the literature review presented in Chapter 2, together with the concepts and the purpose of the research detailed in the Introduction in Chapter 1.

3.2 Research Questions

Research Question 1:

What are the major factors that are driving the high prevalence of commercial crime in large organisations in South Africa?

This research question sought to identify any trends or patterns in the drivers of fraud losses suffered by the organisations. A further objective was to gain an understanding as to what root causes the respondent attributed to the perpetration of the crime.

Research Question 2:

What was the response of the organisations to the incidents of commercial crime perpetrated against them?

This research question sought to establish whether the organisation acted with any sense of seriousness and / or urgency in response to the matter, what steps were taken and whether these steps were appropriate and effective.

Research Question 3:

How does corporate governance play a role in the response of the organisation to commercial crime?

This question sought to assess whether the response of the organisation to Research Question 2 was informed by the provisions of King III in any way or form. Furthermore, this research question was to gauge whether the loss could potentially have been averted altogether had King III been adopted, or had King III better been implemented, as the case may be.

Research Question 4:

In terms of addressing the major drivers of commercial crime identified, is the King III standard of corporate governance adequate?

This research question sought to establish if the provisions in King III are appropriately designed to address the risk of commercial crime. The ultimate aim is to understand whether adoption of King III, or better implementation thereof as the case may be, would actually make organisations more resistant to the risk of commercial crime.

CHAPTER 4: RESEARCH METHODOLOGY

4.1 Introduction

This chapter discusses the selected research methodology utilised in this research. The literature review presented in Chapter 2 forms the theoretical basis for the research undertaken. The research entailed a series of in-depth one-on-one expert interviews. The study was highly explorative and qualitative in nature. This is evident in the research method, design, sampling and data analysis techniques utilised.

4.2 Research Method

This study aims at identifying the key factors driving commercial crime and the role of corporate governance, as well as the adequacy thereof, in addressing these factors.

For research that seeks new insights and asks new questions, Saunders & Lewis (2012) recommend an exploratory study. Qualitative research is characterised by its aims, which relate to understanding some phenomena which, in general, generate words, rather than numbers, as data for analysis (McCusker & Gunaydin, 2015; Cairn & Denny, 2015). This view is shared by Daft (1983) who states that qualitative research is concerned with the meaning of organisational phenomena rather than the measurement of thereof. These methods aim to answer questions about the 'what', 'how' or 'why' of a phenomenon rather than 'how many' or 'how much', which are questions answered by quantitative methods (McCusker & Gunaydin, 2015).

Cairn & Denny (2015) suggest that qualitative research could be described as a way to study the real complex world in a more meaningful way, observing behaviour and encouraging interviewee expression rather than relying on closed or limiting questionnaires. In turn, qualitative methods provide the flexibility required to modify research as it progresses.

To thoroughly understand the role and adequacy of corporate governance in addressing the key drivers of commercial crime, exploratory qualitative research was deemed the appropriate methodology. This methodology further provided the necessary insights for further studies (Daft, 1983).

As the details were immersed in the data, the qualitative study was inductive by nature. After analysis, the research identified patterns, categories and interrelationships through the exploring of open questions, rather than hypotheses derived from the literature reviewed (Blanche, Durrheim & Painter, 2006).

Saunders & Lewis (2012) suggest the use of semi-structured or unstructured interviews when conducting qualitative research interviews.

The research methodology included a further aspect, being a triangulation exercise. Jick (1979) defines triangulation as the combining of different methods in the study of the same phenomenon. Triangulation entails the use of more than one method in the validation process to ensure that the variance reflected that of the trait and not of the method, thereby obtaining convergence between the different methods (Jick, 1979). The purpose of this in the context of this research was to test the responses by one set of respondents to that of another.

4.3 Research Process

The research took the form of face-to-face (and certain interviews conducted telephonically) with a duration of between 35 minutes to 70 minutes. A total of 20 individuals were interviewed. These individuals occupy management or executive leadership positions within their respective organisations. In the case of testing for triangulation, the individuals consulted were experts in the field of fraud, forensic investigation and corporate governance.

4.4 Population

The population consists of large organisations that have suffered a loss as a result of fraud or financial crime in the last five years. This timeframe is also aligned to the period that King III was in effect, which was from 01 March 2010. Large organisations were defined as follows:

- Companies that are listed on the Johannesburg Stock Exchange;
- Businesses registered with the Companies and Intellectual Property Commission (CIPC); or

- Businesses that have more than 150 employees.

The individuals approached were part of management and / or executive leadership, as well as respected experts in the forensic field. The management and executives selected were knowledgeable on commercial crime in their organisation and industry, as well the topic of corporate governance. The forensic investigation and corporate governance experts were selected based on their reputation and extensive experience in their respective fields.

4.5 Sampling Method and Size

A non-probability sample of 13 managers and executives from a diverse range of organisations, as well as seven experts in the field of forensic investigation and / or corporate governance, were selected; therefore, a total of 20 respondents were surveyed. The method of selection is referred to as purposive sampling (Saunders & Lewis, 2012).

Table 1 indicates the data collection method, sampling technique and sample size for each of the proposed research phases.

Table 1: Research Phase and Corresponding Sampling Information

Research Phase	Aim	Data Collection Method	Sampling Technique	Sample Size
Phase 1	Face-to-face interviews with appropriate managers / executives from organisations that have suffered a commercial crime loss	Semi-structured interview	Purposive	13
Phase 2	Face-to-face interviews with experts in the field of forensic investigation and / or corporate governance	Semi-structured interview	Purposive	7

The sample of 20 respondents was deemed sufficient for the purposes of the research once the emerging patterns and insights became repetitive and point of saturation was reached.

4.6 Unit of Analysis

The unit of analysis in this study was the opinions and perceptions of individuals interviewed in respect of the factors driving commercial crime in their respective organisations and the role of corporate governance in this regard.

4.7 Data Collection

Saunders & Lewis (2012) suggest the use of semi-structured or unstructured interviews when conducting qualitative research interviews. These types of interviews are said to be useful where:

- There is uncertainty as to the answers the respondent will provide;
- The questions are complicated; or
- The order or questions may need to be varied, certain questions may be omitted altogether, or additional questions may be introduced.

Prior to commencement of the data collection, two trial interviews were conducted with individuals in the researcher's place of employment. The goal of the pilot investigation was to test the suitability and flow of the interview guide in order to obtain the necessary information to address the research questions. Based on the feedback received from the interviewees in the trial exercise, certain revisions were made to the interview guide to facilitate a more structured discourse as well as to obtain deeper insights as opposed to one word responses.

At the beginning of each interview, respondents were requested to sign the Interview Consent Form (attached as ***"Appendix 1"***). Each respondent was then guided through the format of the interview as per the pre-designed interview guide.

Separate interview guides were developed for Phase 1 and Phase 2 of the data collection. The use of the interview guides assisted in ensuring consistency in the interviews conducted (Zikmund, 2003).

As per the Interview Guide – Phase 1 (attached as ***"Appendix 2"***), the first part of the interview was to obtain certain general, straightforward details which were requested of the respondents. As each interview progressed into the incidents of commercial crime, the details thereof, the subsequent investigations and the role of corporate governance, the interview became more unstructured and open-ended.

As per the Interview Guide – Phase 2 (attached as ***"Appendix 3"***), the first part of the interview was to obtain certain general, straightforward details which were requested of the respondents. As the interview progressed into the incidents of commercial crime investigated, the trends observed and the role of corporate governance, the interviews became more unstructured and open-ended.

As suggested by Saunders & Lewis (2012), this approach enables the researcher to elicit further information as may be necessary, explore the research objectives in more detail and confirm understanding of the details provided by the respondent.

The research project was conducted by way of a two-phase qualitative study. Details of each phase are as follows.

4.7.1 Phase 1 – Management and Executive Leadership

This phase entailed semi-structured interviews with the appropriate Finance, Risk and Legal professionals who are tasked with the assessment of risk and compliance with corporate governance in their respective organisations. The aim of this research phase was to obtain details of the fraud incidents in the organisation and determine the individuals views in terms of the standards of corporate governance applied in their organisations, whether it was assisting in preventing / mitigating commercial crime, and establish the adequacy thereof. In order to extract meaningful responses to the key drivers of commercial crime in the respondent's business, and thereafter to understand how the business responded and the role that corporate governance played, interviews were of a semi-structured nature.

Table 2 is a listing of the individuals who formed part of this sample. Due to the sensitive nature of the research, neither the names of the respondents nor the organisations, are disclosed.

Table 2: Individuals Consulted in Phase 1

No.	Respondent	Designation	Industry
1	GW	Chief Operations Officer	Media & Advertising
2	RR	Group Risk Manager	Dairy Products
3	CB	Chief Financial Officer	Building
4	QdP	Group Financial Manager	Pharmaceutical
5	BN	Group Financial Manager	Pharmaceutical
6	DL	Head of Forensics	Insurance
7	SS	Group Finance Manager	Steel
8	RQ	Chief Compliance Officer	Insurance
9	LG	Head of Compliance & Anti-Money Laundering	Banking
10	PN	Regional Compliance Officer	Mining
11	MB	Group Forensic Manager	Manufacturing
12	CM	Forensic Manager	State Owned Enterprise
13	MY	Head of Fraud Risk Management	Banking

A total of 11 interviews were conducted face-to-face. Two interviews were conducted telephonically due to the respondents travelling on business and not being available to meet in person. On average, the interviews in Phase 1 lasted 40 minutes.

4.7.2 Phase 2 – Industry Experts

This phase entailed semi-structured interviews with experts in the field of forensic investigation and corporate governance. The aim of the interviews was to understand whether or not there were trends evident in the matters investigated and / or prosecuted by these individuals, and whether the current standard of corporate governance was adequate to address the root causes identified in the matters investigated and / or prosecuted.

Table 3 is a listing of the individuals who formed part of this sample. Due to the sensitive nature of the research, neither the names of the respondents nor the organisations, are disclosed.

Table 3: Individuals Consulted in Phase 2

No.	Respondent	Designation	Industry
1	GP	Programme Director: Ethics & Governance	Academic
2	JJ	Forensic Scientist	Cyber Forensics
3	SP	Director	Legal / Forensics
4	KP	Chief Executive Officer	Banking Risk Body
5	MJ	Attorney & Member of King Committee	Legal / Compliance
6	SdP	Chief Executive Officer	Forensics
7	HW	Deputy Director of Public Prosecutions	State Prosecution

A total of four interviews were conducted face-to-face. Three interviews were conducted telephonically due to the respondents travelling on business and not being available to meet in person. On average, the interviews in Phase 2 lasted 35 minutes.

This two-phased approach assists with the process of triangulation, which is the use of two or more independent sources of data within one study in order to test the consistency of what the data reveals (Saunders & Lewis, 2012).

4.7.3 Interview Question Mapping

The interview questions for both phases were mapped against the research questions. This was important so as to ensure that the research questions were being addressed from a research point-of-view as well as triangulation angle.

The mapping of interview questions to the research questions is presented in Table 4.

Table 4: Interview Questions Mapped to Research Questions

Research Questions	Interview Questions	
	Phase 1: Management & Executives	**Phase 2: Industry Experts**
Research Question 1: What are the major factors that are driving the high prevalence of commercial crime in large organisations in South Africa?	1. Provide details of major fraud incidents suffered in the last five years? 2. What was found to be the underlying cause of each fraud disclosed? 3. What are the key drivers of fraud in your opinion?	1. What are the current commercial crime trends observed in SA in 2016? 2. What are believed to be the key drivers in these trends?
Research Question 2: What was the response of the organisation to the incidents of commercial crime perpetrated against them?	4. How did senior management treat the matter/s? 5. What could have allowed the fraud to be detected sooner? 6. What changes, if any, were implemented afterward to address the shortcomings that allowed for the fraud to be perpetrated, and to prevent future losses?	3. Are organisations being proactive in the fight against commercial crime? Provide details.
Research Question 3: How does corporate governance play a role in the response of the organisation to commercial crime?	7. What is the organisations attitude to corporate governance?	4. How serious are organisations taking corporate governance? 5. What role does corporate governance play in addressing commercial crime?
Research Question 4: In terms of addressing the major drivers of commercial crime identified, is the King III standard of corporate governance adequate?	8. Is King III is effective in addressing commercial crime?	6. What is the adequacy of King III in addressing commercial crime?

4.8 Data Analysis

According to Mccracken (2014) the objective of qualitative data analysis is to establish the categories, relationships, and assumptions that shape the respondent's view of the world in general and the topic under research.

4.8.1 Transcript Preparation

All interviews, with the exception of one, were electronically recorded and then transcribed by a transcription services agency. In respect of the one which was not electronically recorded, this was due to continuous disruptions in the respondent’s office on sensitive and confidential matters. In this instance, detailed notes were taken by the researcher.

The transcripts were then checked against the audio recordings to ensure accuracy of the transcribing. The transcripts were then formatted in a consistent manner to ease the analysis process.

The names of the respondents are not disclosed and to maintain anonymity, their initials are utilised wherever reference is made to them. Furthermore, the transcripts have been sanitised to remove the names of the respondents, their organisations and any reference to parties that might compromise the anonymity.

4.8.2 Qualitative Data Analysis

According to Mccracken (2014), the objective of qualitative data analysis is to establish the categories, relationships, and assumptions that shape the respondent's view of the world in general and the topic under research. Thematic analysis is a method used in the analysis and identification of patterns and themes in qualitative data (Braun & Clarke, 2006). According to Sullivan, Gibson & Riley (2012) thematic analysis is particularly suited to research questions concerned primarily with the content of what respondents say.

The "Phases of Thematic Analysis" (Braun & Clarke, 2006) were followed during the data analysis, as presented in Table 5.

Table 5: Phases of Thematic Analysis (Braun & Clarke, 2006, p.87)

Phase	Description of the Process
1. Familiarizing yourself with your data:	Transcribing data (if necessary), reading and re-reading the data, noting down initial ideas.
2. Generating initial codes:	Coding interesting features of the data in a systematic fashion across the entire data set, collating data relevant to each code.
3. Searching for themes:	Collating codes into potential themes, gathering all data relevant to each potential theme.
4. Reviewing themes:	Checking if the themes work in relation to the coded extracts (Level 1) and the entire data set (Level 2), generating a thematic 'map' of the
5. Defining and naming themes:	Ongoing analysis to refine the specifics of each theme, and the overall story the analysis tells, generating clear definitions and names for each
6. Producing the report:	The final opportunity for analysis. Selection of vivid, compelling extract examples, final analysis of selected extracts, relating back of the analysis to the research question and literature, producing a scholarly report of the analysis.

Handwritten notes compiled during the interviews were also utilised during the analysis. The audio recordings were listened to and the transcripts reviewed several times in the process of coding and collating into potential themes (Braun & Clarke, 2006).

The next stage in the data analysis entailed that of coding. Codes identify a feature of the data that is deemed to be relevant to the research questions (Braun & Clarke, 2006). As suggested by Saldaña (2015), coding is a judgement call as the researcher's subjectivities, personality and predispositions inevitably influence the process.

The process of coding entailed a detailed review and extraction of the words, phrases or concepts per the transcripts which followed a repetitive pattern or were deemed to be of importance in relation to the research questions (Braun & Clarke, 2006; Saunders & Lewis, 2012). According to Saldaña (2015) the process of coding is not a once-off act but rather one that may require several rounds of revisiting in order to refine, filter and highlight in order to generate themes, concepts and meaning in the data.

The different themes emerging were plotted onto a template designed in Microsoft Excel and this facilitated the sorting, merging and eliminating of themes, as was deemed appropriate.

This process was aided by the use of Frequency Analysis which recorded the number of times a particular word, phrase or concept was mentioned. These were then ranked in order of the frequency which they occurred, from highest to lowest. The final themes emerging were then assessed and analysed against the research questions (Braun & Clarke, 2006; Sunders & Lewis, 2012).

4.9 Data Validity and Reliability

The very nature of qualitative research methodology is subjective and lends itself to a host of biases. Amongst these biases is interviewer bias which by way of verbal or non-verbal behaviour can lead the respondent to respond or react in a particular manner. To address this potential issue, the Interview Guide was carefully designed to allow the discussion to flow from one topic to the next, thus placing the respondent at ease and facilitating easy dialogue. In addition, a conscious effort was made to allow the interviewees freedom to respond as they wished, without interrupting unless it was absolutely critical in the interests of seeking clarity or delving deeper.

4.10 Potential Research Limitations

The following aspects are limitations to this study:

- Only one appropriate senior person per organisation was interviewed. To gain a more in-depth and fuller view of the manner in which corporate governance is applied and communicated in the organisation, it would be beneficial to conduct interviews with employees in various tiers of executive and management levels.

- The target of the research was large organisations in South Africa. Certain of these organisations are multibillion Rand revenue and asset-rich entities employing thousands of individuals across a host of subsidiary companies. Unless the company maintains a reliable incident reporting system, the individuals interviewed may not necessarily have had full knowledge of all the fraud incidents in their organisation.

- The timeframe of the research was the period 2011 to 2016. The individuals interviewed may not have been with the organisation for the full period and hence may have had limited knowledge of the topics discussed.

- Due to the sensitive nature of internal fraud and commercial crime perpetrated by employees, organisations could have dealt with the matter/s internally and not reported it to the prosecuting authorities. Therefore, companies may have been reluctant to disclose of certain of the incidents, especially if it implicated executive level employees.

CHAPTER 5: RESULTS

5.1 Introduction

The results in this chapter are structured according to the Research Questions formulated in Chapter 3. The research sample consisted of 13 senior managers or executives and seven experts in the field of forensic investigation, prosecution or corporate governance. The data, obtained through the in-depth, one-to-one interviews, was analysed and this section presents the findings thereof. The interview questions were derived by utilising a consistency matrix and were mapped against the Research Questions from Chapter 3. This assisted in ensuring consistency between the Research Questions, reviewed literature, data collection and analysis methodology.

5.2 Presentation of Results

The results are presented as per the Research Questions formulated in Chapter 3 and the interview questions mapped in Table 4.

5.3 Results for Research Question 1

RESEARCH QUESTION 1: What are the major factors that are driving the high prevalence of commercial crime in large organisations in South Africa?

This research question sought to identify any trends or patterns in the drivers of fraud losses suffered in the organisations of the respondent. A further objective, was to gain an understanding as to what root causes the respondents attributed to the fraud incidents. The three interview questions that relate to Research Question 1 were designed to understand the respondent's views on trends and patterns in commercial crime in his / her organisation, as a preface to the identification of the drivers of commercial crime. Furthermore, the questions aimed to confirm whether the factors that were previously identified in the literature review were in fact the key drivers of commercial crime. These being: human nature, financial pressure or distress, collusion, perceived lack of punitive measures and technology in business.

5.3.1 Trends in major fraud incidents

The first interview question sought to understand the nature and details of the major fraud incidents in the respondent's organisation in the prior five years. To explore the topic in as much depth as possible, respondents were asked to provide details on the level of employee involved, duration of the fraud, manner in which it was perpetrated, loss suffered and the outcome of the matter. Due to the nature of certain organisations, in certain instances the respondents provided details at a high level rather than delving into the details of each and every fraud incident. Table 6 provides the major trends identified. "Fraud or theft perpetrated by way of organised crime" and "Cases registered with the SAPS and criminal charges pursued" were collectively ranked first.

Table 6: Trends in Major Fraud Incidents

Rank	Construct	Frequency
1	Fraud or theft perpetrated by way of organised crime	10
1	Cases registered with the SAPS and criminal charges pursued	10
3	The values in respect of the fraud or thefts have been very high	8
4	Fraud perpetrated by senior management	6
4	Claim lodged under Commercial Crime / Fidelity Guarantee insurance policy	6
6	The fraud was perpetrated over a protracted period of time	5
7	Fraudsters were trusted employees	4
7	Recoveries were pursued following the discovery of the fraud	4
9	Lower level employee fraud	3
9	Dismissal of employees	3
9	Accounting fraud	3
9	Stock theft	3
13	Cybercrime	2

Respondents approached the interview question in different ways. Some went into detail on how the fraud was perpetrated, others spoke more of the individuals involved, while some chose to delve deeper into the types of frauds suffered. The top constructs are elaborated below.

The current trend is for white-collar criminals to operate in groups, as opposed to operating solo. According to the respondents, the *modus operandi* of the frauds is not random, haphazardly carried out, or stumbled upon by the perpetrators. Instead, the frauds were found to be meticulously crafted, executed and thereafter concealed. One respondent commented that "syndicate members and individuals are becoming smarter and reinventing themselves". Respondents disclosed that rogue employees were found to be working in concert with an array of other individuals, including "fellow employees", "security guards", "external syndicates", "government departments" and "cyber criminals". This "collusion" enabled even the strongest of "internal controls to be breached" according to the respondents. Four experts also stated a surge in "organised crime activity". One expert stated "… your threats are coming from highly sophisticated people who know far more than you could ever know. They have the ability to pool their resources". This expert went on to say that syndicates actually perform a "recruitment process" for the person with the correct skills to assist in the perpetration of the fraud. Another expert stated "… we finding a lot of the crimes are very much more organised in fashion, where… [use is made of] small selected groups or better organised crime groups… To try and circumvent a lot of the control measures a lot of the organisations have in place, you need to actually have different role players committing different elements of the crime across multiple industry sectors to actually pull it off… So you… need someone in the banking system, you need somebody in the telco space, you need somebody in the organisations concerned, you need somebody in the ISP. So definitely more syndicated from my point of view". The respondents that confirmed fraud losses due to syndicated activity were from a variety of industries and sectors. It is therefore evident that syndicates are not targeting a particular industry or sector, hence every organisation has an exposure.

Ten out of the 13 respondents reported the fraud incidents to the South African Police Services and instituted criminal charges against the suspects concerned. It would appear that most organisations are aware of their responsibilities in terms of legislation, when commercial crime is discovered. One respondent stated that "… [the fraud incidents] must be reported. Now, whether you open up a criminal case or not irrespective it must be reported. If the Hawks want to deal with it, they can deal with it. But it is important that obviously it gets reported. That is part of your obligation and if you failing that obligation you obviously can be penalized or criminal penalty". Another respondent stated that they report fraud matters to the police simply because they are required to, but they are well-aware that the matters will not be taken further as the police lack the expertise to investigate the incidents. One respondent stated that the organisation had registered a fraud case with the police where the loss was around R2.5 million, but did not believe it would be pursued by the police. A respondent advised that historically organisations did not report certain fraud incidents to the board or to the police, due to concerns of reputational damage and the effect on shareholder confidence. An expert advised that organisations are however still concealing large commercial crime incidents from the police and that in so doing, these organisations could face legal repercussions. He stated "… the kind of *laissez faire* attitude from boards towards fraud, theft, crime and attitude of 'it's not worth our while', 'it's an absorbable amount', 'something that we don't need to chase' and 'we only have a threshold over which we look at'. That type of attitude is totally and utterly unacceptable, legally and morally for many reasons… many corporates are not aware… that we have legislation in this country which provides that if you do not report a crime over a threshold… you are as guilty as the perpetrator of that crime".

The sums misappropriated or the value of the frauds, appear to have becoming larger over time. A respondent from a bank commented "In terms of value we are seeing big numbers and… you might have seen in the media where other financial institutions have been hit with volumes of R300 [million] or R400 million as a result of fraud through either internal collusion or syndicates. In the financial institution and in the banking environment, these numbers are very high… We have found that numbers have been increasing". In all interviews where the respondents were prepared to disclose the quantum of the frauds, all the amounts were in the millions of Rands. Based on the interviews with the 13 respondents, the values of the fraud incidents in their respective organisations ranged from R2 million to R400 million. It would appear that white-collar criminals are becoming brazen and no longer prepared to settle for small amounts. Of interest, in no instance was it found that the fraudsters misappropriated funds in a single attempt; in all instances funds were stolen over a protracted period of time and these eventually added up to a large amount. One expert stated "We see quite a lot of syndicate activity and when there are syndicates involved, the fraud value, is generally, is much much higher". This would make sense from the point of view that the more individuals complicit in a fraud, the more funds are required to pay everyone a share. An expert was of the view that organisations tend to focus only on the actual value misappropriated "but they also don't factor [in], the amount of money that it takes to actually recover from that loss, you know data recovery, investigations and all of those type of things". Therefore, the total value of losses that organisations actually suffer due to fraud is actually higher than just the misappropriated amounts.

Fraud perpetrated by senior management and executives appears to be prevalent. In one organisation that suffered three large fraud losses in three years, all were perpetrated by senior management. The respondent in question stated "So the level of the staff members involved, the [name removed] case, he's an accountant. The [name removed] case, he was the financial manager and [name removed] was the group financial manager". Another respondent stated "The staff involved really were two senior, two very senior staff, Head of Finance and Head of Sales". A respondent in the building material industry that suffered six large frauds in four years, stated "… there were a disproportionate number of senior financial people that were involved at Financial Manager level and at store level that was really the watchdog that was perpetrating the fraud and I think that is a major disappointment for us and then also at a level higher up, at General Manager level a number of the frauds were perpetrated at GM level in the operation most notably and the most recent one down there in Durban which was done from right at the top of the organisation".

Executives were also reported to be involved in commercial crime. One respondent disclosed that the Chief Executive Officer was charged with fraud and the Executive Vice-President was charged with money laundering. An expert stated "The majority in terms of volume, are the junior staff. The bigger losses are committed by the more senior staff. From a propensity point of view it's middle management and lower. They are normally the guys who are more strained about the economy" thereby suggesting lower level employees engage in a larger number of small-values frauds whereby senior employees are involved in high-valued frauds. Another respondent suggested that the extent of fraud committed at a senior management level may be difficult to determine as the allegations do not always result in appropriate action due to seniority of the employee. He stated "…obviously the higher up you go on the food chain, the less reluctance there is to pursue the matter further… We conduct an investigation and the person involved is a financial clerk, or something along those lines, the organisation will come down on them with a ton of bricks. You know 'we have to make an example'. But I'll be in a similar organisation and the investigation turns around the financial manager or the financial director or the CFO, and suddenly excuses are made why the attitude is permissible. So we often talk about the tone at the top, and I think that's partly where the problem lies. The higher up the food chain you are, the more power you have and the more impunity you think you can act with and the more reluctance the organisation actually has to deal with you".

Of interest, was that "Cybercrime" ranked thirteenth according to the trends observed by senior management and executives, with just two out of the 13 respondents making reference to it. Whereas four out of the seven industry experts observed that cybercrime was superseding all other forms of commercial crime.

5.3.2 Enablers to the fraud incidents

The second interview question requested respondents to indicate what they perceived to be the underlying factors that enabled the frauds in their organisations to be perpetrated. This question was intended to build on the details disclosed in the first interview question, as it was deemed critical to understand how the fraudsters were able to commit the crimes. Table 7 provides the 13 enablers to the fraud incidents reported by the respondents.

Table 7: Fraud Enablers in Organisations

Rank	Construct	Frequency
1	Management override of controls	5
2	Lack of segregation of duties	4
2	Weak internal controls	4
2	Inherent business risk	4
2	Employees not being vigilant	4
6	Fraud in remote geographies	3
7	Complexity of business processes	2
8	Inadequate monitoring of controls	1
8	Insider information provided to external individuals	1
8	Identified risks not addressed	1
8	Lack of internal controls	1
8	Manipulation of subordinates	1

The ability for management to override internal controls was ranked first. One respondent relayed an incident where a director at the institution abused the recruitment process and placed subordinates under immense pressure to capture certain data in a short space of time. Due to the time pressure imposed upon them by the director, the subordinates did not scrutinise the details, and this enabled the director to perpetrate the fraud. Another respondent stated “So I mean [name removed] kind of bullied staff into processing transactions. Where he created the fictitious invoices and then got it through for processing and then said to people, ‘Hurry up and get this thing processed, I’ve authorised it, just know it’s right, just do it…’ The similar thing happened with [name removed], and then when you see the tone of his emails to staff, was like ‘So sorry to bother you with this but please could you action this really quickly.’ And then they would reply ‘Ja sure’ or whatever and then it will be ‘Gee you’re such a honey, thank you, really appreciate your help’ kind of stuff”. A respondent disclosed how a senior manager switched off a firewall protection system and in so doing, the complicit external parties were able to hack into the organisation’s banking system. No experts made comments in this regard.

"Lack of segregation of duties", "weak internal controls", "inherent business risk" and "employees not being vigilant" were jointly ranked second.

Two respondents spoke of thefts committed by senior employees who were able to manipulate stock count figures and conceal the losses. Had there been appropriate segregation of duties, this would not have been possible unless there was collusion between employees. In the earlier-mentioned case where the senior manager switched off the firewall security system, the respondent was of the view that there was a lack of segregation of duties in respect of the senior manager's roles and responsibilities. It is therefore apparent that power and control in the wrong hands can lead to epic failures, and segregation of duties serves as a means of limiting and monitoring that power. An expert stated "…once our suspects identify corporate governance lapses, blurring of responsibilities, lack of segregation of duties, lack of oversight, lack of governance controls, it just creates a recipe for them to exploit". Segregation of duties is therefore of utmost important in any control environment, however it is not watertight as collusion can render it ineffective.

It was interesting to find that "Weak internal controls" was ranked higher than "Lack of internal controls", which ranked eighth. This suggests that the necessary controls are not absent in organisations, but rather they are deficient in some way or form hence they are subject to being exploited. A respondent stated "In [entity name removed] the controls were not anywhere near what they should have been okay. And the business operated from Pretoria at the time okay. So for us here, to have proper oversight over that business was very difficult". It was therefore suggested that lack of oversight can actually weaken controls, as the monitoring function which goes hand-in-hand with internal controls, is compromised. Another respondent commented "Then I also think another factor that encourages fraud is where there is weakness in control". One respondent was of the view that weak internal controls open up a multitude of avenues for individuals to capitalise on the deficiencies and commit fraud. An expert stated "where… the controls are weak, when people have been in the organisation for a while, they start to see it and they can't resist the temptation to exploit the gap and make some easy money". Another expert commented that syndicated crime was becoming a trend due to the collusion element which enabled criminals to "circumvent a lot of the control measures" that organisations had in place. One expert mentioned that in an investigation his firm had undertaken, "complexities in internal controls" in the organisation cost around R10 million to rectify. The above findings suggest that internal controls are the watchmen of the organisation, which require careful design, implementation and monitoring, and if there are deficiencies, it presents major risk exposure to the organisation.

A number of respondents were of the opinion that the nature of their businesses was such that certain fraud risks were always going to be present; therefore, these risks were accepted. The implication of this stance being that the very nature of the organisation was a fraud enabler. A respondent stated “I think it’s the industry and the type of materials that we deal with they are high value, they are in demand and they expensive. So that kind of fraud is prevalent in the environment, it happens many times… so I think it’s the type of business; the nature of the business and the material that we dealing and all the values that we dealing”. Another respondent made the comment “The problem with a massive organisation like this and the type of business model it has, you may find that some things will fall through the cracks”. The nature of the business and the size of the organisation therefore create vulnerabilities for the organisation. No experts made mention of anything in this regard.

Contrary to the earlier finding that management sometimes place subordinates under pressure resulting in poor or no checking being performed, it was also found that employees sometimes lack due vigilance and awareness in the execution of their duties and this enables the perpetration of fraud. In describing a fraud incident, a respondent made the comment “If we were a bit more vigilant and a bit more focussed on the detail [we would have detected the fraud]”. Another respondent stated “So we’ve got lots of control environments along that and most of the times that we find that we do have fraud there… the process exists, the control exists, but it’s a people failure”. No experts made comments in this regard.

5.3.3 Key drivers of commercial crime in organisations

The third interview question required respondents to list what they perceived to be the key drivers of fraud in organisations. Respondents were prompted to draw on personal and organisational experiences in order to identify the main factors. Each identified factor was explored with the respondent to gain a deeper understanding as to why the participant believed the identified factor was a key driver. Table 8 presents the 16 factors identified as the key drivers of commercial crime.

Table 8: Key Drivers of Commercial Crime

Rank	Construct	Frequency
1	Collusion	12
2	Financial distress brought about by the state of economy	10
3	Human nature	6
3	Poor support from South African Police Services	6
3	Deficiencies in control environment	6
6	Operating in syndicates	5
7	Self-enrichment or financial gain	5
7	Technology in business and the exposure it creates to cybercrime	5
7	Greed	5
7	Performance pressures	5
11	Lack of fraud awareness in organisations	4
12	Weak criminal justice system	3
12	Unethical leadership that set poor tone at the top	3
12	Upkeep of lifestyle	3
12	Opportunistic	3
16	Rationalisation	2
16	Unethical culture	2

The views of the respondents were varied as would be expected in a question of this nature; however, common themes and patterns in the responses did emerge. “Collusion” was identified as the highest ranking driver of commercial crime, with 12 out of the 13 respondents making reference to it. Collusion was found to relate to employees working in concert with each other to commit fraud, as well as employees working with external individuals. As stated by one respondent “So staff involvement appears to be to be a daily occurrence. Staff themselves committing the offence… or staff and a third party, so collusion with syndicate members or collusion amongst staff”. This was supported by another respondent who stated “The value involved was around R2 million. It included fraud and theft of paper that was stolen for fraudulent needs. It was a manager who was involved in a syndicate”.

It was interesting to note that external individuals are not always typical criminals as one would envisage – another respondent commented “… from time to time we may find that our employees collude with our prospective or existing clients where they may bend the rules to the benefit of the client”. Therefore, whilst the actions constitute a fraudulent deed and the parties become complicit in the deed, the external parties may well be individuals known to the organisation. In certain instances, employees of the organisation may collude with family or friends, as stated by one respondent “We had a lady who was working in shared services as a security supervisor. She defrauded the company of R5.5 million. In collusion with her husband, they created a fictitious entity where they submitted fabricated invoices over a period of 20 months”. Another respondent stated “…and then there’s collusion like the Durban scenario - that was collusion. And then the iron-mongering scenario… that was collusion. So in a number of instances and even though it might not be collusion that both parties are aware what is going down but you have a scenario where the financial manager would say to his accountant ‘don’t worry I will keep an eye on the cash, I know you are busy’, and then he is the person the perpetrates it”. Lastly, employees were found to work with the complicity of contracted service providers to the organisation, as stated by one respondent “… we had this cheese fraud that was R2.5 million, that was stolen from the factory with one staff at lower ranking [working] in collusion with the security company”. Against the abovementioned interpretation and perceptions, it is evident why collusion was ranked as the top driver. Three experts were of the view that collusion was a driver of fraud; however, not the ultimate driver, as established from interviews with the senior management and executives. One respondent spoke of collusion in the context of cybercrime and the various role players that are required in such a crime, and the other two respondents relayed two investigations where they uncovered large-scale collusion.

Financial distress as a result of the state of the economy featured second in the ranking. The findings revealed that individual’s finances are under strain with the high cost of living and salaries that do not keep up. The need to be able to support dependents was mentioned in several interviews. One respondent stated “I think fraud is more prevalent in tougher times. So when the economy is tough… at the end of the day we are all human and we have to put bread on the table, we have families”. Another commented “You have people that earn salaries but are caring for a lot of other people. I think the circumstances that people find themselves in financially, leads to this type of thing”. One respondent felt that when a person is placed under financial pressure to support their family and as a result they resort to committing fraud, the individual tends to disassociate the act from being one of crime, and instead rationalise it as being an act of necessity. Another respondent was of the view that individuals are highly indebted and it escalates to the point that committing fraud is the only means of obtaining funds. A respondent that works in an organisation that employs a large number of blue-collar workers stated that as soon as retrenchment talks commenced, theft incidents spiked as a result of employees trying to create a fund buffer in the event of them being retrenched. Four experts shared the view that the financial despair that individuals find themselves in, drives their fraudulent conduct. One expert stated “People are under pressure and they’re just trying to put food on the table and it becomes hard for them to be ethical, even a company… which has real values… if they're struggling financially, it's hard to be ethical". Another expert stated "People are quite desperate at the moment. I don't think it's an unknown fact that our economy is a bit strained... People usually do it for economic purposes". The respondent further stated that when financially distressed individuals start misappropriating funds, "it does not start with criminal intent"; however, it does escalate into that as the illicit funds becomes a dependency.

A number of respondents were of the view that the ability to commit fraud is innate to certain individual's characters. One respondent commented that in respect of the fraud perpetrated by employees in his organisation, fraud was in "the nature of the individuals" in question. Several respondents felt that not everyone is predisposed to committing fraud and it comes naturally to certain people and they will seek out opportunities to defraud, whether or not there is a financial need. This was supported by one respondent who commented "… there will always be that group of people who [are] just doing it for the heck of it" and another respondent who stated "I also think there are people who do that even if they have enough". One respondent went so far as to suggest that committing fraud is a fantasy for some individuals, "So it's like… you're a sick individual and my view is, ja they are. They [are] like psychopaths and that every time they perpetrate a fraudulent transaction, they get some kind of a thrill out of it. I'm absolutely convinced that they do". This respondent felt so strongly about the topic and became visibly enraged and stated "Yes a proper psychotic pleasure I mean, I'd even say maybe even some kind of a sexual turn on you know, that the guys are so twisted". Another respondent stated "… I think it's a sickness that someone could have… they said that it's actually a disease, that you might be well-off and everything, but you get a kick out of stealing… so it could be a psychological thing". One respondent felt that organisations should not be misled by believing that the instinct or propensity to commit fraud can be detected in employees. He stated "it's always the lady who worked the longest hours and she was the sweetest, nicest person you know. She'd like bake koeksusters and bring them for everybody on a Monday morning. So the person that you would never suspect". It was noted that all the fraudsters in this respondents' organisations were long-serving trusted senior employees.

However, one respondent was of the view that when faced with a situation that personally affected an honest individual, they may cross ethical boundaries to remedy the crisis in question. The example provided by the respondent was "… people's circumstances change you know, so the guy who was the perfectly honest guy who was living a half decent life… suddenly now has a sick mother… and he now suddenly needs a bit more cash or whatever it is, will very easily change what that person's outlook is". This was supported by an expert who stated that according to psychologists, when "desperation" finds an "opportunity", fraud is the result. One respondent was of the view that temptation can lead a person down the path of commercial crime. He stated "You know people, if someone is sitting there every day and they notice that this cash walks past their desk every day, but no one is counting it when it gets to the other end. It's like dangling the carrot in front of the horse. So that's also human nature, temptation. So I think temptation is one thing. If something is too easy, you can be tempted as a normal person". Only one expert made reference to human nature being a driver of fraud. He was of the view that based on his own research in his profession, only a small percentage of individuals are born with criminal instincts and the vast majority of fraudsters learn it from their surrounding environment and upbringing.

A total of 12 out of 13 respondents felt that the South African Police Services were ineffective in the fight against commercial crime. However, in respect of this interview question, six respondents were of the opinion that the poor support received from the police, acts as a driver to fraud. The said respondent's general view was that fraudsters feel that they can escape the might of the law hence there is no fear for acting with impunity and disregard for company policy or the rule of law. One respondent felt that when other employees witness how a fellow employee is able to perpetrate fraud, amass a large sum of illicit funds, and then not even have the case proceed to a criminal trial, this sends a signal of motivation to other employees, as opposed to one of deterrence had the suspect been convicted and jailed. This was supported by an expert, who stated "The current state of the criminal justice system is of such a nature that 90% of [fraudsters] will rather take a chance because the chances of them being convicted is so limited and small". The problem was explained by one respondent as "We are seeing lesser convictions, lesser numbers of court cases going through the process. We are having lots of discussions with both the law enforcement and NPA, law enforcement and their senior managers, to find a strategy to deal effectively with banking crime".

Inexperience in complex commercial crime matters was cited as one area where the police fail. A respondent stated "You can't give a detective who is in their first year some economic crime for instance because they don't understand it at the end of the day you can't do that. So if you do that, obviously it has to be with someone more experienced to take them through the ropes, show them how it is done. What to look for, what to ask and so forth… trade-based finance fraud for instance, you can't explain that to a constable or a particular level within the police". Another respondent commented "Assistance from the police? Zero. We just reported the case. Because it is unfortunately so that very seldom that we find these sophisticated types of cases that the police are adequately equipped to deal with these kind of things and understand". Another respondent was of the opinion that the police are overburdened with other crime investigations and white-collar crime was "not too high on their priority list". Three respondents found that the police were too delayed in their investigations and this too compromised the organisation's case against the suspects. On respondent even went so far as to blame the police for botching up a solid case which the organisation and its external forensic experts had built, to the extent that a criminal conviction was not secured despite the suspect even confessing in writing to the fraud she had committed. Another respondent blamed the poor assistance from the police for the organisation's inability to recover the fraud loss under their fidelity insurance policy.

Only one respondent took a sympathetic stance to the challenges faced by the police, and gave them credit for the work performed under very adverse conditions.

An expert who deals with scheduling of court cases and allocating of State Prosecutors to matters, was of the view that the introduction of the Specialised Commercial Crime Court has greatly facilitated the investigation of fraud cases and enabled faster prosecutions. He stated that the Specialised Commercial Crime Unit of the police takes over fraud matters that are complex or exceed the threshold value of R100 000, and the investigation performed by the Investigating Officer, in close consultation with the State Prosecutor. The expert advised that the Specialised Commercial Crime Court has magistrates that deal only with commercial crime matters, hence are very experienced in this regard. The expert was of the view that this approach has resulted in a high prosecution success rate. However, four other experts supported the view that the police "are capable of being more effective", had a "lack of capacity, lack of expertise", were "overloaded" and were "low on motivation".

The key drivers identified were therefore: collusion between employees and other internal or external parties; financial distress due to the state of the economic environment; human nature; and the poor assistance from the police in commercial crime matters.

5.4 Results for Research Question 2

RESEARCH QUESTION 2: What was the response of the organisations to the incidents of commercial crime perpetrated against them?

This research question sought to establish whether the organisation acted with any sense of seriousness and / or urgency in response to the matter. It also sought to gauge if the organisation performed detailed investigations or reviews to determine what the points of compromise or weaknesses were, and how they remediated them. The three interview questions were designed to understand and assess what steps were taken and whether these steps were appropriate and effective.

5.4.1 Response of senior management to the matter/s

The first interview question attempted to ascertain the steps taken by management in response to the incidents of commercial crime. Respondents were given room to approach the questions from whatever angle they chose to – from the attitude of management and / or the actual steps initiated by management. Table 9 presents the 9 constructs identified as the response of management.

Table 9: Response of Senior Management

Rank	Construct	Frequency
1	Cases registered with the SAPS and criminal charges pursued	10
1	Hired external experts to assist with investigations	10
3	Management treated it very seriously and provided support to investigations	9
4	Disciplinary procedures initiated and dismissed employees	6
5	Start immediately with investigations	5
6	Reported to all relevant committees	4
7	Report at shareholders' meeting on commercial crime incidents	3
8	Hold executive of division accountable for cause of fraud incident and remediation thereof	2
9	Recorded in risk register	1

Reporting the matter to police and registering of criminal charges against the suspect/s, as well as the appointing of external investigation specialists, jointly ranked first.

Two respondents stated that reporting of commercial crime incidents to the police authorities was mandatory by law where the value of the potential loss exceeded R100 000. This legislative requirement would potentially be one reason for more than

75% of respondents indicating that the fraud incidents were duly reported to the police. One respondent stated "And that must be reported. Now, whether you open up a criminal case or not irrespective it must be reported. If the Hawks want to deal with it they can deal with it. But it is important that obviously it gets reported. That is part of your obligation and if you failing that obligation you obviously can be penalised or face criminal penalty". It is therefore evident that there are punitive steps that can be taken against the organisation should they be found in contravention of the legislative requirements.

It was found that organisations, although generally placing little faith in the ability of the police to investigate and successfully prosecute suspected fraudsters, did what was necessary to hold the suspects to account for their suspected crimes. One respondent stated "… we've opened it at the police but because it's a lower level case I don't think anything is really going to happen". Another respondent commented "We just reported the case. Because it is unfortunately so that very seldom that we find these sophisticated types of cases that the police are adequately equipped to deal with these kind of things and understand". A respondent stated "… if you commit any criminal offences we investigate obviously. If the evidence proves that you did commit the offence, there is a disciplinary hearing… and for every case where there is criminal conduct, the group opens case with law enforcement which then gets investigated and we assist and follow through". It was evident with this organisation that they tend to register cases with the police only once they have solid evidence that they know could stand up to scrutiny in court, whereas the other two respondents reported the matters with no expectation of a positive outcome.

It was found that organisations use the police to obtain information and evidence that the organisations are unable to obtain in their legal capacities. Two respondents mentioned using the police to secure subpoenas to compel certain institutions to provide documentation necessary for investigation purposes. Another reason identified for organisations pursuing criminal charges with vigour is to set an example in the organisation. One respondent stated "We go after you and we will make it very public as well, within the organisation. I mean we don't go publish articles in the newspapers or whatever else but within the organisation it's made clear what has happened and the vigour in which it's being pursued". Another respondent stated "We don't tolerate these things. If we find or establish that they are in existence we will deal with them seriously and we take them seriously. They have a serious impact on us because we are a SOE owned by government, it will have serious reputational risk on us and we won't tolerate it. So the CEO will issue a statement and the chairperson of the board will also issue a statement. Statements are circulated on an annual basis to sensitise the employees towards those incidents".

Lastly, it was identified that organisations go the route of registering criminal charges in order to secure recoveries against the suspects. The types of recoveries mentioned by the respondents include houses, vehicles, funds in bank accounts and pension fund proceeds. It was established that the police have the means to secure these, whereas it can be a lengthy and costly process should the organisation attempt to secure such attachments without going via the police.

A total of ten respondents indicated that they have had to utilise the services of external experts to perform investigations. One of the reasons identified for contractor external parties was simply that the organisation did not have the required resources in-house. One respondent indicated "… even the group don't have the resources or capacity to go through almost a full-time investigation on the matter, so that was outsourced". Five of these respondents had to extend the mandate of the external service providers to include the obtaining and collating of necessary evidence and assembling into a docket that is handed to the police for prosecution purposes. One respondent stated "That was one of the reasons that we hired the forensic guys. They effectively prepared the case files, all the evidence, did all the interviews and the subpoenas, and everything else with all the witnesses, with the people who'd been paid and whatever else, and what they said. We prepared the entire case docket for SAPS. Entire thing". Another stated "We did the entire file. They didn't even have to write the affidavit. I mean because we've got our own legal guy inside we did our own affidavit and everything. Typed it up for them. It was like handing them the case and saying well just go and arrest this person". It is therefore evident that the external forensic experts were required in order to perform the work that ordinarily would have been done by the police.

Three experts discussed the reasons for organisations appointing them as opposed to simply leaving the matters in the hands of the police. The reasons were "legal privilege", "loss recovery" and "the acumen simply doesn't exist in the police anymore". One expert indicated that "minimal reliance" is placed in the police and stated "… we end up driving the police because there's one police car to ten investigators at the Commercial Branch, and so we drive them around to make sure our client subpoenas are issued, and then we help them collect the info. Once we've issued the subpoena, we'll liaise with the internal people within the institution to speed up the process".

In certain investigations, independence is required in the investigative process. One respondent stated "There are instances where we say we do investigations but the moment it affects executives or board members we contract an outside service provider for that… Because of the authority that they hold and the independency that we want to create when it involves those people. We want it to be independent so that we are not seen to be biased, we continue to support it but it will be done independently". Lastly, external forensic experts were found to have established links and networks to expedite certain aspects of the investigative process. A respondent commented "… you know that SAPS is, I mean it's ridiculous because from the moment we opened this case I mean it took forever to get SAPS in. And you know how we had to arrange so many meetings and interventions for them, it just sort of seemed that it's not too high on their priority list but eventually, also with [individual's name removed] help, we did get them round the table and they all got to where we are now".

A total of nine respondents indicated that management treated the fraud incidents with the seriousness it deserved and they were proactive in providing the required support in the investigation process. Two respondents stated that their organisations have dedicated forensic units comprising over 100 employees, which were commissioned by executive leadership. The dedicated units attend to daily fraud incidents and threats against the organisations. One of these respondents stated "at least on a quarterly basis they need to present at the shareholders meeting is the bank being riddled with fraud or any commercial crime. If it is, by how much? What are we doing? How are you dealing with it? If it is internally, you know, what is the level? We have all these statistics in terms of saying this comes from junior management, middle management or senior management or wherever it comes from and what are the amounts".

Three experts agreed that organisations were being proactive in managing fraud and taking commercial crime seriously. One expert stated "I've also seen a bit of proactiveness, that a lot of organisations that previously didn't have any internal forensic investigation component, have forensic investigators there now. And I've seen it in organisations that I totally never would have expected to have that capacity. So I think they are being more proactive in terms of taking control over their own commercial crime risk". Another expert stated "A lot of our clients are taking it extremely seriously and they worried about a number of things. A lot of our clients have experienced significant fraud and they're not prepared to be bitten again, so they're improving the control environment… And they're taking this really seriously... I think that a lot of companies are being very proactive. They've seen this as a major risk". Two experts did not share the sentiment; one stated "I think first and foremost, way too little time, money and resources are being spent on prevention. There is no real awareness creation by corporates to the employees and their service providers". The other expert stated "There is no internal fraud management or education processes with the majority of corporates that we will deal with. If I can rate that on a scale of one to ten, corporates would probably be rated about three in terms of proactive approaches".

Another respondent discussed the reporting that occurs when a fraud is discovered, "They treat it seriously, it's top of mind and it's reported at different levels as well, risk committee, audit committee, all those". It is therefore indicative that reporting of fraud incidents to such executive levels and in such forums, demonstrates transparency and the serious attention given to such matters.

All 13 respondents indicated that their organisations had a zero tolerance to fraud. One respondent stated "in terms of the fraud risk policy and the mandate, there's a definite statement that we have a zero tolerance against criminal activity, misconduct, employee behaviour. It's not to say that we don't have a certain appetite for losses because you will always have that. But in terms of addressing it, taking it very seriously". Another respondent commented "… a zero-tolerance approach to [fraud], senior managers will not, do not tolerate this type of activity in the group". However, this observation was not shared by two experts, one of whom made the following comment, "It's no good to have zero tolerance, [to] have a culture of absolute honesty, but not be assisting people". This expert felt that organisations should be doing more to look after the wellbeing of their employees, and that will make the employees look after the organisation. The other expert stated "Most of the corporates have very fancy zero tolerance fraud and corruption policies but it's probably only worth the paper that it is written on because it is not really lived as a part of the culture in the organization". The expert was of the view that nurturing an ethical culture was far more effective than trying to dictate a zero tolerance stance.

It was identified that tone set at the top by leaders, correlated to the attitude in the organisation towards commercial crime, as reported by one respondent, "The group has got, as one of its values, integrity and that's <u>beyond any any doubt</u>. So if that is shown to be deficient in any way through whatever means, then basically the group takes <u>very</u> harsh action. They won't, they don't accept that <u>at all</u>. So it's a <u>very very</u>, it's taken <u>very very</u> seriously and I think if I look at the very senior management at a group level and even as a regional level, it's something which everyone practices what they preach, they definitely take it <u>very very</u> seriously [emphasis added]". The same respondent commented on the response to a large fraud loss “I think for from the minute it became known, our local CEO basically raised the issue within the group, which then involved the regional executives, SSA, it involved group legal, group secretary and the group CFO, a group company secretary and then together basically agreements were arrived on how exactly to treat the fraud and what steps to go ahead with but in country, the CEO was very proactive”. Two other respondents also confirmed that in certain fraud incidents, the CEO took proactive interest in terms of driving and monitoring in the matters. It is evident that management and leadership need to be seen to be proactive and looking after the interests of stakeholders; however, the reputation of the organisation also needs to be protected, as mentioned by two respondents. Two experts shared contrasting views. One expert stated “Yes [ethical leadership and ethical culture is taken seriously], but it’s done for specific main reason and that is what we refer to as tone from the top… what we finding is that a lot of corporates are creating their ethics tone from the top, and the message is coming out from CEO and Chairman level, that you know, ‘in this organisation… we don’t tolerate fraud and corruption. If you steal from us, we will lay criminal charges, etc. And, you know, we committed to doing business ethically…’ I am quite comfortable that we seeing genuine commitment in that space”. The other expert stated “I don’t think that we as businesses do enough to really live those ethical values and really drive the codes of conduct and code of ethics in our companies... Directors are normally people who are financially quite well-off. They can afford the best attorneys if something strikes that fan. So because of them not really being involved in all the levels of their business and not really living the ethical values, I don’t think that they manage the micro-criminal activities”. It is therefore important for executive leadership to “walk the talk” and lead by example. While policies and awareness are important in order to drive an ethical culture, these are no replacements for the tone set at the top.

5.4.2 Earlier detection of fraud incident/s

In light of the fact that the period over which the reported frauds were perpetrated ranged from one year to eight years, the second interview question sought to understand if management applied their minds to establishing what could have allowed for the fraud to be detected earlier. Table 10 presents the eight processes or steps that could have enabled the frauds to be identified sooner than they actually were identified.

Table 10: Steps or Processes to Enable Earlier Detection of Fraud

Rank	Construct	Frequency
1	Pre-employment screening and vetting of employees	3
2	Review of business processes, especially those that often get neglected or overlooked	2
2	Heightened fraud awareness in organisation	2
2	Tighter internal controls	2
2	More vigilance by employees and management	2
2	Managing high risk areas more closely	2
7	Better oversight over activities at branches, away from head office	1
7	Trusting instincts / gut feel	1

Screening by way of background checks and lifestyle audits ranked first in the list. This speaks to organisations being aware of who they are bringing on board. One respondent suggested that "vigorous screening" and "background checks" would have helped identify three senior employees who were trusted in the organisation but later found to have separately perpetrated extensive frauds. During the course of the respective investigations, one employee was found to have been an insolvent, albeit rehabilitated; another was found to have had a Range Rover registered in his name yet his remuneration would not have allowed for such a purchase; and the last employee, who occupied the most senior position of all three, was found to have a conviction for shoplifting. The respondent indicated that had this knowledge been available earlier, it would have potentially averted or mitigated the significant losses suffered. Another respondent also detected only in the course of investigations that a young manager has a number of luxury sportcars registered in his name, which the organisation had no knowledge of. However, the former respondent indicated that individual's profiles change over time and a person that was once clean can become tainted later. Therefore, it was established that pre-employment screening in itself is not effective and regular screening and checks on employees should be undertaken. No experts made comments in this regard.

A review of regular business processes, including those that are frequently overlooked, ranked second (along with five other steps) as a step that could have identified fraud sooner. One respondent indicated "The debit order [fraud] would have been picked up by doing a monthly review of all bank statements, which at a senior level nobody does in an organisation…" The same respondent pointed out that in respect of another fraud in the organisation "a simple review of returned paid cheques okay, would have picked it up". Another respondent stated "vetting and reviewing process around approving of invoices, I think that would have ensured that [the fraud] was picked up earlier". In most instances it does appear to be the case that after losses are suffered organisations become more alert, as stated by a respondent "So we've learnt a lot of hard lessons from that to say, so, where must we jack up our controls? How must our business processes look? How do we monitor it continuously?" It therefore stands to reason that reviews should be more encompassing, more regular and perhaps performed on a rotational basis in certain areas of the organisation. No experts made comments in this regard.

Enhanced fraud awareness was identified as a factor that could make employees more vigilant to misconduct in the organisation and enable quicker detection. One respondent comment "… white-collar crime is nowhere near the heightened level awareness that it should be". The respondent cited an example around electronic banking, "level of training by the banks on the electronic banking systems and the controls that are possible or not possible okay, is very poor". In this example it is evident that better working knowledge of such systems would enable the user to detect irregular transactions quicker. Another respondent was of the view that while it was important to educate and equip employees to be alert to fraud, he felt that there should be a shift to "relying on not people but control environments". One respondent who is the Chief Financial Officer of his organisation, after experiencing a fraud loss, actually went on to complete a qualification in the field of forensic audit, as well as a course at the payroll software provider in respect of payroll fraud. A respondent stated "So if it was a breach in system or control we would do more training and awareness around that control… you've got to strike a balance. You can't just do training all the time. You've got to do business as well". This statement highlights the challenge faced by organisations in terms of how much is enough?

Two experts were of the view that lack of fraud awareness was the downfall of organisations. One expert stated "I think, across the board, a lot of the companies don't have the governance expertise to see the symptoms, [and are not] training their people sufficiently to recognise those red flags". The other expert stated "There is no internal fraud management or education processes with the majority of corporates that we will deal with. The only way to really include this as a proper process would be to have it embedded in the structures so that there is a person charged with looking at fraud risks regarding internal and external fraud". It is there apparent that deficiencies in the area of awareness are making it difficult for organisations to detect fraud sooner.

5.4.3 Implementations to remedy and prevent future losses

The third interview question sought to establish the proactiveness of management to remediate failures or shortcomings that allowed the frauds to be perpetrated, and furthermore to prevent future commercial crimes. After having established what management's response to the fraud incidents were, and after identifying what processes could have made earlier detection possible, it was deemed critical to understand what steps were taken to fix the issues and prevent similar occurrences going forward. Table 11 presents the nine processes or steps that were taken by management.

Table 11: Implementations to Remedy and Prevent Recurrences

Rank	Construct	Frequency
1	Revision to business processes	8
2	More enhanced monitoring	5
3	Training and fraud awareness initiatives	4
4	Tighten internal controls	3
5	Internal assessment of risk	2
5	Presenting findings to committee	2
5	Terminating certain business processes	2
5	Rotation of employees	2
9	Commission independent review of control failures	1
9	Segregation of duties	1

"Revision to business processes" ranked first, indicating that organisations were proactive in remediating the issues that either enabled the fraud incidents, or fixing the controls that prevented the fraud from being detected earlier. One respondent indicated that they revamped the entire electronic payment system, and furthermore implement additional checking mechanism to confirm signatories on approval documentation and cheques. The respondent stated "The VAT registered number we verify on SARS website, the company reg details we verify on CIPRO's website and then we do the online verification that exists between the four major banks, where you put in the reg [registration] number, ID number and the bank account number and it matches, it says yes it matches". Another respondent whose organisation suffered a major payroll fraud, relocated the entire payroll function out of the human resources department into the finance department, where there was more accountability. Another organisation that carries out multimillion dollar mining projects in other Africa countries, revised their policies and procedures around the handling of cash. One expert mentioned that in an investigation his firm had undertaken, "complexities in internal controls" in the organisation cost around R10 million to rectify.

It is therefore evident that organisations generally do take the necessary reactive steps to amend their business processes to remedy the weaknesses. However, altering of business processes is not always a quick and easy procedure. Four respondents stated that certain fixes can take a long time to perform as there are many factors that might need to be considered, many parties to be consulted and a number of approvals to be obtained. One of these respondents stated "Now whilst we can change a process or system in the organisation, it's not always possible because we still want to do banking right, and you also don't want to create the angst for the customer, and you don't want to this to be a laborious exercise for the staff members of the group as well. What we have noticed the tighter the controls are, yes, you can have you numbers reduced in fraud but not necessarily. People have a way to break these controls but we must reach a way to find the balance between what is business and what risk is. Therefore, while it appears that organisations incur the necessary time, effort and resources to close the gaps, other factors that must be considered include, impact on the organisation's core business as well as the balance between running a business and managing the various risks.

Ranking second was "More enhanced monitoring". Certain companies elected not to change their business processes but rather to implement more checks and balances to monitor the process more closely. The reason cited by respondents for this approach ranged from an oversight by management, which was fairly easy to rectify, to there simply being insufficient resources available to completely overhaul the process and systems. A respondent stated "We check every individual now and his buddy on the clock-in system because we've got a biometric clock-in system and it takes us 2 to 4 days to do the entire company before were do the salaries and wages at the end of the month. We check everything twice. But by doing this it's also created a lot of benefits for us because people were taking chances on other things". Another respondent stated "With more double checking by different individuals but it's not like in the old days where the guy who does the payroll loads everything. It's now split between different people". One respondent commented "The vigilance… even the security and everything, all of these things were sort of a turned around to make sure that everybody knows that if they do anything they will be caught and also the variances were monitored daily, the stock recording system was improved, weigh bridges and everything and they have to be rotated from time to time, so they don't just sit in one place and get used to it. A lot of things happened like moving people around and monitoring on daily basis". An expert was of the view better monitoring was taking place in organisations as a result of "more advanced systems and more governance, and what has happened in the market currently… [with] people are watching their budgets and they watching their spend and they questioning things that don't make sense".

It was therefore found that it was not always necessary for new processes to be implemented, but sometimes just for existing controls to be fine-tuned and more closely monitored. Enhanced monitoring not only creates awareness amongst employees, but also enabled anomalies to be detected earlier, thus enabling mitigation of losses.

Third ranking under the steps taken to remedy and prevent future fraud incidents, was "Training and fraud awareness initiatives". It was interesting to find that this remediation process ranked above the tightening of internal controls, which one may have been inclined to think would be a more important step. Of particular interest was the fact that "Lack of fraud awareness in organisations" ranked eleventh under the key drivers of commercial crime, and "Heightened fraud awareness ranked second under the factors that could have allowed the frauds to be detected earlier. It is therefore evident that fraud awareness is deemed to play a very critical role in organisations.

It was interesting to observe that certain senior management and executives took it upon themselves to become more educated on commercial crime. One respondent stated "We went for the courses, we educated ourselves about fraud. I think we educated ourselves in terms of the system we are running… and what to look out for". Another respondent called himself a "serial fraud seminar attender" given the number of seminar and conferences on the topic that he attended after several fraud incidents in his organisation.

Most organisations took steps to create awareness amongst employees. One respondent stated that they undertook "training, skills development in terms of anti-fraud" amongst employees. Another respondent stated "we have an ethics risk assessment as we call it, workshop, and we have all the regions, so we do ethics risk in every country we operate in..." A respondent whose organisation suffered a large syndicated fraud incident, indicated "after dismissing people we had to do a lot of fraud awareness". Training and fraud awareness was observed to have been undertaken in a variety of ways. One respondent stated "… okay so if you look at the whole business to say where could people perpetrate frauds? And we've done that together with management of the businesses, where we've had… Steven Powell… here [to] come and talk to our management teams okay, to create heightened awareness". Another respondent from an organisation that has approximately 35 000 employees in the group, indicated that their training and awareness is done "via a system where you have to go onto the system [and] do the online exercise training or awareness initiative". An expert suggested that organisations needed to structure fraud and ethics awareness training differently to make it more appealing to employees, and not just a "tick box" exercise. He suggested training that is "dynamic and participatory and uses creative and experiential techniques and is relevant to the situations that people face and that ultimately is designed to engage them, to inspire them and to achieve behavioural change". It is therefore evident that training and awareness can be an extensive, and very possibly, an expensive exercise. One respondent stated "You've got to strike a balance. You can't just do training all the time. You've got to do business as well".

5.5 Results for Research Question 3

RESEARCH QUESTION 3: How does corporate governance play a role in the organisation's response to commercial crime?

This research question sought to assess whether the response of the organisation in addressing the fraud incidents was influenced by the provisions of King III in any way or form. Furthermore, this research question was to gauge whether fraud risks in the organisations could be potentially minimised by King III being adopted and followed, or better implemented, as the case may be.

5.5.1 Organisation's attitude to corporate governance

This question attempted to understand how organisations perceive corporate governance and whether they have adopted King III as a standard. Table 12 presents the 11 themes emerging in relation to how organisation's view corporate governance.

Table 12: Organisation's Attitude to Corporate Governance

Rank	Construct	Frequency
1	Adoption of King III	13
2	Maintaining a risk register and reporting of fraud incidents	11
2	Audit committee	11
4	Ethical culture in organisation	10
4	Review of internal controls	10
4	Social and ethics committee present	10
7	Fraud risk assessment carried out	9
7	Risk committee	9
9	Executives take charge of implementing new controls as needed	7
10	Internal audit independent of the board	2
10	Independence of directors	2

King III code of corporate governance was ranked first with all 13 respondents making reference to it. Six respondents confirmed that their organisations were listed entities on the Johannesburg Stock Exchange therefore it being a listing requirement, their organisations adopted and complied with King III as a corporate governance standard. In this instance, the adoption of King III was mandatory. One respondent stated "We're very formally structured. We've got regulators [to answer to], we are listed on the JSE and all of that. So you know, the whole corporate governance process King III, considering the implications of King IV and various legislation. Big role, we've got … from compliance… So we've got various heads of risk types that report to the CRO of which I am one, so risk type fraud, risk type compliance, all of that kind of things. So really formalised". Another respondent stated "Well, being a top forty listed company on the JSE, there's a requirement to comply with King III. So the group have a requirement to fulfil, you know, the compliance with King III but over and above that the group have got a very favourable view on good governance practices... It's based on King III because it's been done by our Group Company Secretary, who actually is very close to King III and … code of conduct , declaration of interest in a conflict of interest, we have very comprehensive documentation that we all need to comply with". Three respondents stated that full details regarding the organisations attitude to corporate governance, the compliance to King III and the structure of the board and committees, were disclosed on the respective organisation's websites.

Three respondents advised that although their organisations are not listed on the Johannesburg Stock Exchange, they have adopted King III. One respondent stated "So King III is very much a South African framework and it's an 'adopt or explain' thing. It's a voluntary thing. We're not a listed company, but we have, we do adhere to King III, so we have chosen to adopt the principles of King III. Standing more with the board at board level through our Company Secretary, but it is definitely part of our guide in terms of corporate governance". Another respondent stated "We adopted King III, and we've written an ethics policy with King III as the backdrop and background to… It's all encompassing". One respondent stated "We comply with that [King III], it's one of the core instruments that we use to ensure that we achieve our strategy objectives… part of the responsibility of the Corporate Secretariat is to ensure that we comply with this type of regulations at all times". It is evident that certain organisations see the value in adopting and complying with King III even though it is not mandatory for them to do so.

Three respondents stated that the organisations had partially adopted King III, meaning that certain sections were followed and complied with. One respondent stated "The first thing is that… well we try and do everything according to the book. Myself and the CEO, we are the only people that's really been exposed to King III. We did the board leadership programme through GIBS where they initially focus quite intensively on this. We try and implement what we can… but we're not as formal as the big organisations... We do try and comply with some of the aspects of King III, specifically the risk identification on IT and that type of thing. We've implemented that but we're not following King III to-the-t every day. We try and do it to its best". Another respondent commented "Well corporate governance is fine, it is accepted by everybody… the structures of corporate governance, some of them are accepted and implemented but there are some of them that probably they are not sort of adopted, people probably pick what they see is suitable for them". One respondent felt that King III was ineffective and an administrative burden that was not worth following. He stated "… we got all these policies, did it make the organisation a better place? Did it make you a better employee? Did it make you more honest than what you previously were? Not a f**k. It did nothing. So it's all a waste of time. So my honest answer, it's just such a w**k. It is the only way I can describe it and it just becomes such an admin burden that people now have to deal with". It is therefore evident that for a variety of reasons, organisations may not want to, or be able to, adopt and comply with King III in its entirety.

One respondent advised that her organisation had not adopted King III. The reason was that the entity is Canadian-owned and followed Canadian corporate governance policies. However, the value of King III is seen as supported by her statement "In fact last year… local management team with general manager and managers, so a good couple of us, went to the session run by Mervyn King. So people, I would say the managers here, are aware of King III, they are aware of corporate governance".

One expert observed that organisations "… have all of these fancy policies and they claim that they do this and they do that but they pay very little attention to typical common law crimes like fraud. They also pay very little attention to occupation fraud which is pretty much habitual in South Africa. Nobody even frowns anymore if somebody takes a roll of toilet paper or a ream of paper home, it's just our common way of doing things". Another expert was of the view that corporate governance was a "buzz word" and was not "taken as seriously as it should be". The expert was of the view that it was merely a "tickbox exercise" by organisations for the sake of it. One expert felt that a corporate governance standard can "be something that gathers dust or it's a living, breathing document". The expert cited a study on corporate governance standards conducted by Notre Dame University which found "they tended to be very generic… kind of copies and paste". He felt that "… unless those values are practised, unless there is a culture to support it, well then it's just empty, it's meaningless".

It was therefore found that the adoption of corporate governance can only be effective if is seriously practised by organisations and if organisations simultaneously foster an ethical culture and value system to support it.

The maintenance of a risk register and reporting of fraud incidents to the board, various committees and shareholders, as well as the role of the audit committee, ranked jointly second. Eleven respondents confirmed that their organisations maintain a risk register which is used for the purposes of recording any risks and fraud incidents in the organisation. One respondent stated "There is a register when there is an incident in terms of any form of risk whether the lady slips in one of the branches they would record it and there would be a follow up in terms of what was done to rectify it. Whether it is a criminal offence let's say a branch has been robbed… they have to record it they have to look at it investigate it … and what is rectified thereafter". Formal recording of risks, incidents and remediation steps can serve as a useful instrument to establish trends, plan for the future and track progress, as indicated by one respondent "It is actually a tracking tool at the end of the day so you can pick up where your losses are, where are your problem areas. It is about data at the end of the day. You know on a quarterly basis or a monthly basis or whichever, you can extract the data see what the problem areas are… You can obviously focus your attention and prioritize mitigating those risks. That is essential you can't operate without data".

It was found that hand-in-hand with the maintaining of a risk register, is the reporting of risks and fraud incidents to the relevant structures as established by the respective organisations. One respondent suggested that disclosure is important in their organisation from the point of view of ensuring the incidents are appropriately dealt with and there is accountability. He stated “Insofar as firms are concerned when they discover any sort of fraud or corruption do they report it or do they just you know sweep it under the carpet? …they used to sweep it under the carpet because they were scared of the investors’ influence, alternatively shareholders, because if you know any of this companies losing like millions because of stealing and fraud you don’t normally invest in that company. But because the paradigm has shifted on the corporate governance in terms of transparency it gives the investor confidence okay there’s the fraud what are you doing about it, and how you dealing it have you recovered and so forth at the end of the day so that is obviously happening. And although it talks to corporate governance at the end of the day when a company has an internal fraud do they report it, are they recovering, what is happening, who is doing it?” Another respondent stated “One of the issues is that I need to report on a quarterly basis in terms of what I am doing. This is in terms of training, awareness, and the types of cases that I investigate and how I follow up on them to bring them to a resolution. So there is quite an emphasis that is linked to King III in terms of the company at this point in time”. It is therefore evident that the maintenance of a risk register has the added benefit of facilitating gathering of data, which is vital for analysis and monitoring. The disclosure and reporting of risks and incidents ensures that pertinent issues get prompt attention and that management is held accountable where necessary. An expert stated that King III is based on the “the inclusive model” in which “duty is owed to the company, to its shareholders, to all of the stakeholders”. The expert was therefore of the view that full reporting of pertinent issues that affect these stakeholders in whatever way, was critical and not something that organisations should take lightly.

The role of the audit committee was discussed by 11 respondents. As an oversight committee concerned with processes, controls and risks of the organisation, this committee fulfils a crucial function. The researcher established that the Companies Act prescribes the establishment of the audit committee, therefore it is a statutory requirement. With regards to the audit committee, one respondent stated “Yes, very formalised, so obviously in terms of legislation. Then we’ve got a number of business units that have their own audit committees, and there’s requirements in some of our legal entities, etc. They all roll up into an [name removed] audit committee. So very formalised. They’ve got their checklists, they need to check independence is there. Executive directors and then non-execs, they sit as members to it”. Another respondent stated “There are three non-executive directors on the audit committee, there's a representative from executive management, and we are part of the audit committee, we've been appointed to the audit committee". An element of independence is a critical requirement in the audit committee in order to ensure that bias and self-interest do not distort decision-making, and to ensure that objectivity is maintained. However, independence was not observed in every organisation, as reported by one respondent "the audit committee for example is supposed to be completely independent. That kind of thing may not be found here so you find out that the majority of the people there [are] part of the executive sitting on board or that particular audit committee so it may not be in line".

The respondent further stated "Yes we do have an audit committee but … it's called 'financial oversight committee' which is sort of replication of an audit committee... For now it is [effective] but it requires improvement I think. Improvements need to be done... For example if you have an audit committee, you need to call it an 'audit committee' because you can't call it a different name… it needs to be made up in terms of the King III requirements with a minimum of three [members] and all those must be non-executives. If it is not, then it is a problem because for example if it's only one person who is a non-executive and the others are executives then… it won't have any teeth because you will end up having the majority who [are] interested in their activities so you may not be effective in judging their work because they are sitting there, they are members that are already a majority even if you feel you are independent you are only one, you may feel intimidated already although this is not in the open. But if you are surrounded with executives that are not supposed to be there and they are members then it may be difficult for you to challenge". Incidentally this respondent was from one of the organisations that only partially implemented King III.

Seven respondents stated that the internal and external auditors meet with the audit committee at least annually. King III prescribes that the organisation's management should not be part of this meeting. Two respondents indicated that management is part of these meetings, which in effective means the internal or external auditors may feel uncomfortable in freely expressing their findings and opinions for a variety of reasons, including fear of reprisal from management.

The ethical culture that exists in organisations ranked fourth in terms of organisations' attitude to corporate governance. Of interest was that ethical culture ranked at sixteen in the key drivers of fraud. Only two respondents explicitly stated that they believed their organisations displayed a strong ethical culture. One of these respondents stated "The group has got, has one of its values is integrity and that's beyond any any doubt. So if that is shown to be deficient in any way through whatever means, then basically the group take very harsh action they won't, the don't accept that at all. So it's a very very, it's taken very very seriously and I think if I look at the very senior management at a group level and even as a regional level, it's something which everyone practises what they preach, they definitely take it very very seriously". Other respondents described their organisations ethical culture as, "it is a challenge", "I think by a notch, yes", "by and large yes, with some notable exceptions", "we are getting there" and "skating close to the line". Therefore, most organisations felt that there were improvements in terms of a culture of ethics developing in the organisations, and they are on the right track going forward, but there are obstacles along the way. Of interest was one respondent who indicated that employees were being scared into complying with ethics - "…we moved, or we are moving let me say, from the emphasis on compliance to more like scaring the hell out of everybody like this is it, 'you going to get you're a* fired if you don't do this and that' to starting to promote the ethic side of it, to do the right thing because it is the right thing to do".

Under the topic of ethical culture, the topic of ethical leadership was discussed extensively. Only one respondent felt that that his organisation's executive leadership did not conduct themselves to the level of ethical standards expected of those in such positions. He stated that his organisation's leadership behave ethically in those areas where they chose to or where it may be easy to do so. He further stated that executives do the minimum just to ensure compliance, and do no more. The respondent was of the view that ethical leadership extends to going beyond what is prescribed and doing what is right for the good of all stakeholders, and not for one's self interests. Nine respondents felt that their executive leadership conducted themselves in an ethical manner and set the tone at the top for the rest of the organisation to follow. One respondent stated "… in terms of making sure that there are rules that are in place, I think that we have an effective view at the top at this point in time. Also in view of the fact that the board drives that, so surely it is a good oversight to make sure that the views at the top are correct and that it permeates down to the rest of the management levels and the employees". Another respondent stated "So for leaders to be ethical in the group is high on the agenda, It is always discussed, always monitored. It comes up in almost every conversation and I don't believe that this is something that is on the wayside, it is always in the forefront of anything".

An expert questioned "I think that a lot of the problem that ethics is seen as something which is peripheral or… fluffy, and you've got these busy people who are concerned with P&L's and where does ethics fit?" The expert was of the view that leadership was more focussed on profits and that ethics was side-lined. He made reference to a talk by two prominent business figures in South Africa who spoke about the "preoccupation with getting the short-term results, how there needed to be shift to a sort of a normative perspective, a more stakeholder orientated perspective not exclusively focused on generating shareholder wealth". The expert was of the view that "financial performance depends on ethical performance… but there's also the inverse relationship which I think is less examined, that ethical performance is also a result of financial performance often".

5.6 Results for Research Question 4

RESEARCH QUESTION 4: In terms of addressing the major drivers of commercial crime identified, is the King III standard of corporate governance adequate?

This research question sought to establish if the provisions in King III are appropriately designed to address the risk of commercial crime. The ultimate aim is to understand whether adoption of King III, or better implementation thereof as the case may be, would assist in making organisations more resistant to the risk of commercial crime.

5.6.1 Adequacy of King III in addressing commercial crime

This question attempted to assess the adequacy of King III in addressing the major drivers of fraud identified. Table 13 presents the themes emerging in relation to how organisations view the adequacy of corporate governance.

Table 13: Adequacy of King III in Addressing Commercial Crime

Rank	Construct	Frequency
1	King III is a good standard but ineffective due to implementation issues	5
2	Corporate governance does play an effective role in addressing commercial crime	3
2	No amount of governance and policies will stop a person from committing fraud	3
4	Not enough awareness and preparation in respect of cybercrime	1

"King III is a good standard but ineffective due to implementation issues" was ranked first. One respondent gave credit to King III by stating that it was, "very well intended for what it tries to achieve" in terms of ensuring organisations are run with due accountability, transparency, ethics and for the benefit of all stakeholders. Another respondent commented that it was "a good document… comprehensive… all-encompassing in recognising the threats across the organisation". A further respondent was of the view that it was "the right guideline". On respondent stated "It's only if companies follow it and accept the principles, they will see benefits from implementing those recommendations because it is effective in terms of mitigating risks around fraud". Therefore King III was commended for being an all-inclusive standard that took into account the major risks in organisations and prescribed steps to address these risks. Three experts were of the view that King III was an "enormously important" document in the area of governance. Adjectives used to describe King III included, "integrated", "extraordinarily advanced", "world class" and "ground breaking".

However, the shortcomings in respect of its implementation evidently outweighed the positive aspects. The first issue identified was that King III was not enacted into law, unlike the Sarbanes-Oxley Act which was legislated in the USA. One respondent stated "…the challenge is that it's not getting implemented in the organisations or it is there but I don't see it bringing in any result because it is not properly implemented , it will only work if it is made into law". This view was shared by another respondent who stated "as you know it's only recommendations and it's not written down in terms of legislature". Another respondent commented "The fact that it is not law makes it vulnerable". Three respondents felt that when something is said to be the law, those who are subject to such tend to be more alert and aware. Attached to this, when punitive measures are prescribed for non-compliance or non-adherence to a particular rule, law or standard, it drives most people to behave in a certain manner to avoid punishment. These respondents felt that by making it optional for organisations to adopt King III, weakened the efficacy of the standard and what it sets out to achieve. An expert stated "I don't think that corporate governance plays a big role in addressing commercial crime… There is just not sufficient regulation in terms of it, there is not sufficient prosecutions for people who don't abide by corporate governance and unless that happens I don't foresee that it will change either". Therefore supporting the view that unless King III was enacted into law, it would not serve its intended purpose.

However, one respondent disagreed that legislating King III would make it effective. He stated "…you can legislate up your own a**. No matter how much legislation there is, if the guys a crook, he's going to f*****g do it. Legislation doesn't change anything. The only thing that changes it is if the oke knows he gets caught, he is going to get hanged, then maybe he won't do it… a crook is a crook. No amount of legislation is going to change that fact… So now what happens is, you put all this legislation in place okay, people are so busy trying to comply with the f*****g legislation, that everybody loses sight of what the risks and the controls are because they can't comply with the legislation and run their business and keep up to date with the controls and do own independent checks…"

Another shortcoming identified was the "apply or explain" principle. One respondent felt that it allowed organisations to "just choose what is suitable and leave the rest" knowing it can be explained away. Another respondent stated "In top management if they have a reason to commit fraud or irregular, unlawful activity they might not subscribe to it but they can easily justify it". Therefore the view was that King III needs to be more stringent and not afford as much flexibility as it does in its current form. Another issue noted by a respondent was that King III does not work effectively "when you don't necessarily have the right control environment".

"Corporate governance does play an effective role in addressing commercial crime" ranked second. One respondent felt that "irrespective of whether [King III] speaks directly to commercial crime, it speaks to good governance". Good governance encompasses running an organisation in a manner that promotes honesty, values and ethics as its fundamental building blocks. The inference being that if you have a standard that promotes good governance, this will automatically translate into, amongst others, an ethical culture and reduced commercial crime. Another respondent stated "I think it is important to have such a principle-based document to explain to people in context to be responsible citizens. It's not just for fraud and theft and ethics, it's towards the environment… you must be responsible to your stakeholders... because it also lays down the principles of risk management, I think King III was the first one really to introduce risk management…. to consider all the things for future sustainability, that's why you need to have an enterprise wide risk management framework concerning negative risks and opportunities". The inclusive and all-encompassing aspects of King III are once again featured. A respondent stated "there's no doubt that [King III] is effective to the extent that there's an ongoing awareness with… at a senior level which rolls down to all staff in the businesses of good governance practices, integrity which is part of the values which we have placed all over… all our businesses in Africa". The respondent therefore felt that King III worked effectively in conjunction with organisational awareness that reinforced acceptable and non-acceptable behaviour. The responded concluded that "Definitely has got a beneficial impact on addressing commercial crime". This view was supported by only one expert who stated "So if I think of corporate governance and my understanding of corporate governance, then I say yes. It can play a massive, and not just in commercial crime but in risk in general".

The joint second ranking construct was that no amount of governance and policies will stop a person from committing fraud. The respondent's views were that no organisation can be 100% safe and that every control, check and balance can be weakened in some way or form. One respondent stated "I've learned from this experience that it doesn't matter what sort of things you do and if people want to defraud you then they're going to defraud you and all you can do is hope that you've got good people in that work for you and people that you can trust". Organisations place trust in people and people are fallible and can become compromised under certain circumstances. Another respondent echoed this sentiment with "Do we have a policy that's published to the staff that says it's a really bad idea to steal? Yes we do. So f*****g what? The oke still steals. I can have as many policies as I like, the oke will still steal". The respondent was of the view that the ability to commit fraud is inherent in certain individuals and if such a person was in an organisation, no policy would stop such a person. A respondent provided a very profound analogy to support his view that one has only so much power and control, and when one tries to force that power and control, it does more harm than good. The responded stated "There was a series in the first Star Wars where Darth Vader says to Princess Leah that he is going to tighten his grip and she says that the more you tighten your grip, the more solar systems are going to pass through your fingers. You think you can control everything and that you can have this grip, but that doesn't mean anything".

Three experts believed that corporate governance cannot be expected to be driven by King III alone. One expert stated "corporate governance needs the ethics to support it… but it's not embedded in a sea of values so then that ultimately isn't going to be helpful or effective. So that's why the ethics I think is really foundational, and I think that's the big challenge we have as society.... corporate governance, having a great constitution, you know all of these things, only become meaningful and significant when they are supported by a sea of values, where there's a strong ethical underpin..." Another expert supported this view with the following analogy "So, the most important thing to understand about King, is that you can have all the codes, all the reports and all the legislation, [it] doesn't make crooks honest. So the most important thing, King is like the seed… but I can't grow seeds [if] the soil is not fertile. I have to create fertile soil in my company. I need to lead by example. I need to create a culture where we work hard, where we subscribe to honesty. Where the principles are of hard work, proper discharge of your fiduciary duties [exist]. Where I lead by example and where I then take King and I take the Act and I implement it. So I create [good soil] through the way I set up my company and the way I am. I create good soil. Now I've got [good] soil and now I take King, and King's like the seed… there's fertile soil. I put King into that soil, and a beautiful plant grows". The inference being that King III was adequate in terms of its provisions and recommendations, however these will not automatically remediate governance and ethical deficiencies in organisations. Leadership must lead by example and create the right culture and ethical environment and then only will corporate governance take root and grow into what the organisation desires it to be.

5.7 Conclusion

The results from the 20 interviews across two sample groups are presented in this chapter. The constructs that emerged during the in-depth interviews and through the data analysis, are supported to a large extent by the existing literature in respect of commercial crime and corporate governance. As the subject of commercial crime is constantly evolving, it is expected that the available literature may not necessarily be reflective of the current situation. For example, greed was identified as a key driver in the existing literature however, technological advancements in the last 3 years have given rapid rise to cybercrime; therefore, the existing literature does not always support the real state or current drivers.

In addition, new knowledge and insights were established through the research process and contribute to the understanding of the key factors that drive commercial crime and the role that corporate governance plays. The results and research findings from this chapter will be discussed in detail in Chapter 6.

CHAPTER 6: DISCUSSION OF RESULTS

6.1 Introduction

Chapter 6 discusses the research findings in detail in the context of the study in question and the literature presented in Chapter 2. The data to address the four research questions were gathered from a process of 20 in-depth interviews across two sample groups, namely management / executives and experts; the latter being from a triangulation testing point-of-view.

This chapter looks at the insights obtained and compares and contrasts them to the literature in order to answer the Research Questions presented in Chapter 3.

The research findings contribute to an improved and up-to-date understanding of the key drivers of commercial crime and the role of corporate governance in this regard, that are currently unexplored in the literature reviewed. The relevance of the results and the literature pertaining to this study are discussed**.**

6.2 Discussion of Results for Research Question 1

RESEARCH QUESTION 1: What are the major factors that are driving the high prevalence of commercial crime in large organisations in South Africa?

This research question sought to identify trends or patterns in the drivers of fraud losses suffered in the organisations of the respondent. A further objective was to gain an understanding as to what root causes the respondents attributed to the fraud incidents. The three interview questions were designed to understand the respondent's views on trends and patterns in commercial crime in their organisations, as a preface to the identification of the drivers of commercial crime. Furthermore, the questions aimed to confirm whether the factors that were previously identified in the literature review were in fact the current key drivers of commercial crime; these being, human nature (Ramamoorti & Olsen, 2007; Lenz & Graycar, 2016), collusion (Ramamoorti & Olsen, 2007), lack of effective punishment (Ramamoorti & Olsen, 2007), financial distress due to the state of the economy (Xenakis & Cheliotis, 2009; Krisberg et al., 2009) and technological advancements in the business environment (Gates et al., 2016).

6.2.1 Trends in major fraud incidents

The first interview question sought to understand the nature and details of the major fraud incidents in the respondent's organisation in the prior five years. Table 6 presented the 13 trends identified across the organisations. Based on the frequency and aggregated counts, "Fraud or theft perpetrated by way of organised crime" and "Cases registered with the SAPS and criminal charges pursued" were collectively ranked first, with 10 frequency counts each; therefore these trends appeared to be the most prevalent in the organisations researched.

In respect of "Fraud or theft perpetrated by way of organised crime", it is apparent that white-collar criminals are shifting to operating in groups as opposed to individually. As suggested by Ramamoorti & Olsen (2007) fraud at a senior level can be likened to a "team sport" that requires the involvement of individuals acting in unison in order to perpetrate the crime (p. 55). Most organisations were found to have sophisticated control environments which are regularly monitored. In addition, all the organisations researched, had internal auditors, whether internally or outsourced, who conduct routine checks. In'airat (2015) found that internal audit improves the control and monitoring environment to enable fraud detection. Furthermore, the said organisations have external auditors that perform interim and financial year-end audits. Although the role of external audit is to provide assurance on the financial statements produced by the organisation, they do need to assess whether the risk of financial misstatement due to fraud exists (In'airat (2015). It is therefore evident that with these measures and systems in place, a collective, well-planned and meticulous effort is required in order to perpetrate fraud. An employee acting in concert with other internal and / or external individuals therefore serves as the means of bypassing the controls to commit the crime and thereafter conceal it, as suggested by Dorminey et al. (2012) and Ramamoorti & Olsen (2007). It was further found that organised group bring synergies which facilitate the perpetration of the crimes.

In respect of "Cases registered with the SAPS and criminal charges pursued", more than 75% of respondents reported their matters to the police and pursued criminal cases against the suspects involved. The requirement for organisations to report fraud incidents where the loss is in excess of R100 000 is legislated in the Criminal Procedure Act (No. 51 of 1977). Most respondents were aware of this statute requirement and complied with it, albeit very few respondents expressed confidence in the ability of the police to thoroughly investigate the reported fraud incidents and hold the suspects to account. Whilst it may appear as an obvious step, it is interesting to note that three respondents made no mention of involving the police in the fraud incidents disclosed in the interviews. The reasoning behind organisations not trusting the police to handle their commercial crime incidents was detailed in Chapter 5, however in summary these relate to lack of will to investigate, lack of experience by officers, police overburdened with higher priority contact crimes and poor experiences with the police in the past.

"The values in respect of the fraud or thefts have been very high" ranked second. Based on the interviews with the 13 respondents, the values of the fraud incidents in their respective organisations ranged from R2 million to R400 million. It would appear that white-collar criminals are becoming brazen and no longer prepared to settle for small amounts. Of interested, in no instance was it found that the fraudsters misappropriated funds in a single attempt; in all instances funds were stolen over a protracted period of time and these eventually added up to a large amount. Ramamoorti & Olsen (2007) found that once a person starts committing financial misconduct, it becomes a slippery slope into more frequent acts of escalating values, to the point that the fraudster cannot turn back. Taking into account the trend which ranked first "Fraud or theft perpetrated by way of organised crime", it follows that the more individuals complicit in a fraud, the more funds are required to pay everyone a share. Furthermore, the prescribed minimum sentences in South African law is 15 years imprisonment for fraud in excess of R500 000. Therefore, there may exist the rationale of targeting the maximum value in light of the risk of punishment; the proverbial 'go big or go home' mentality. Two respondents observed that the fraudsters initially began stealing small amounts and the values gradually starting escalating over time. It would therefore appear that fraudsters eventually develop a dependency on the illicit funds and hence need to start misappropriating larger sums.

"Fraud perpetrated by senior management" ranked fourth under the trends observed. This was supported by findings by Lenz & Graycar (2016) that that a perpetrator's position creates the opportunity and capacity to commit fraud. However, the issue may be bigger than what was suggested by the respondents. Senior management and executives may have the power to reject allegations made against them, dismiss the employees make allegations, or simply conceal the fraud. Strong corporate governance would ensure that such allegations are taken seriously and appropriate action taken. It was further found that when senior management and executives are involved in commercial crime, the misappropriated values are generally much larger as compared to fraud perpetrated by lower level employees. Of interest is that the construct "Fraudsters were trusted employees" was ranked seventh. The individuals tasked with the running of an organisation are usually placed in such positions because they possess strong management and leadership skills and are trustworthy. The finding therefore suggests that organisations sometimes place too much trust in individuals and in so doing becoming complacent in terms of monitoring the individual or questioning their conduct when required. Lenz & Graycar (2016) suggested that when trust granted to an individual by his superiors is high and the lack of accountability demanded of the individual is low, a golden opportunity to commit fraud is presented to the individual.

6.2.2 Enablers to the fraud incidents

The second interview question sought to understand what respondents perceived the underlying factors to be which enabled the frauds in their organisations to be perpetrated. This question was intended to build on the details disclosed in the first interview question, as it was deemed critical to understand how the fraudsters were able to commit the crimes. Table 7 presented the 13 enablers to the fraud incidents reported by the respondents.

“Management override of controls” was ranked first. Occupying executive positions in the organisation was found to provide management with the power to bypass controls in order to perpetrate fraud. When a process involved other junior employees, these actions by management included instructing subordinates to process transactions without allowing them to first check it, placing immense time pressure on subordinates such that they will not have time to do the necessary checks and verifications, as well as manipulating staff either through bullying tactics or kind gestures, in order to get them to perform something in a particular manner. In certain instances, executives were found to have bypassed controls on their own as they held the power and authority to do so. It is therefore evident that dual authorisation should be a standard feature in the control environment.

“Lack of segregation of duties”, “weak internal controls”, “inherent business risk” and “employees not being vigilant” were jointly ranked second.

It was found that power and control in the wrong hands can lead to epic failures, and segregation of duties serves as a means of limiting and monitoring that power. A separation between the processing and the approving processes is of paramount importance in any environment. A checking mechanism is critical both from an accuracy point-of-view, but more importantly, to prevent financial misconduct. Segregation of duties is therefore key in any control environment, however it is not watertight as collusion can render it ineffective (Dorminey et al., 2012)

It was interesting to find that “Weak internal controls” was ranked higher than “Lack of internal controls”, which ranked eighth. This suggests that the necessary controls are not absent in organisations, but rather they are deficient in some way or form hence they are subject to being exploited. According to Dorminey et al (2012) a system of internal controls comes at a price to organisations, and most organisations perceive the cost as outweighing the benefit, therefore they pick and choose which controls to implement; therefore, this weakens the control environment. Dorminey et al (2012) highlighted that the business environment is constantly changing and controls become outdated; and furthermore, when controls remain static, individuals over a period of time are able to find shortcomings or ways to bypass them. It was found that even when controls are sound, lack of oversight can actually weaken controls, as the monitoring function which goes hand-in-hand with internal controls, is compromised. It was found that internal controls serve as the watchmen of the organisation, and require careful design, implementation and monitoring, and if there are deficiencies, it presents major risk exposure to the organisation.

Of further interest was the finding that weak controls can provide temptation to employees to exploit them for their own gain, therefore suggesting that because the opportunity exists, certain individuals will take advantage of it, and not because these individuals initially set out to find a gap in the system. This was supported by Lenz & Graycar (2016) who found that the certain individuals are predisposed to committing commercial crime.

It was established that the very nature of certain businesses make them susceptible to fraud risk and that the risk was always going to be present. The implication of this stance being that the very nature of the organisation was a fraud enabler. These organisations included banking, insurance and steel manufacturers. It therefore suggests that where organisations are the custodians of money, or deal with a high-sought after commodity, they will be targeted by criminal elements. The size of the organisation was also found to present fraud risks as large organisations tend to be complex and as such management are not always hands-on or thoroughly in control, as may be the case in smaller organisations.

Contrary to the earlier finding that management sometimes place subordinates under pressure resulting in poor or no checking being performed, it was also found that employees sometimes lack due vigilance and awareness in the execution of their duties and this enables the perpetration of fraud. These causes were found to relate to stressful working environments, familiarity with processes and sometimes simply plain lack of will.

6.2.3 Key drivers of commercial crime in organisations

The data gathered from the interviews assisted in establishing patterns and trends in fraud losses at the respective organisations. Table 6 presented the 13 trends identified across the organisations. Based on the frequency and aggregated counts across the two sample groups comprising 20 interviewees, "Collusion" ranked first, with 12 frequency counts; therefore this trend appeared to be the most prevalent in the organisations. As suggested by Ramamoorti & Olsen (2007), fraud at senior management level can be likened to a "team sport" that requires the involvement of one or more employees acting in collusion in order to perpetrate the crime (p. 55). Most organisations were found to have sophisticated control environments which are regularly monitored. In addition, all the organisations researched, had internal auditors, whether internally or outsourced, who conduct routine checks. Furthermore, the said organisations have external auditors that perform interim and financial year-end audits. It is therefore evident that with these measures and systems in place, it is not easy for an employee to commit fraud and conceal it without the fraud being detected by someone or some system in the control environment. It therefore follows that assistance would be required by the perpetrator/s in order to commit the fraud and keep it concealed. An employee acting in concert with other internal and / or external individuals therefore serves as the means of bypassing the controls to commit the crime and thereafter conceal it, as suggested by Dorminey et al. (2012) and Ramamoorti & Olsen (2007).

"Financial distress brought about by the state of economy" ranked second with a frequency count of ten. The data indicated that the financial pressures that individuals are exposed to create the impetus for them to perpetrate fraud in order to acquire additional (illicit) funds. From the interviews, it was established that financial distress arose from a host of factors including, escalating costs due to inflation, interest rate hikes, cost-cutting measures by organisations, the threat of a credit downgrade by the rating agencies and uncertainty in the South African economy. Cressey (1950) and Dorminey et al. (2012) found that financial pressure was a key driver of commercial crime. However, studies by Xenakis & Cheliotis (2009) as well as Krisberg et al. (2009), found no evidence to suggest that a downturn in the state of the economy could result in a escalation in commercial crime. Therefore, whilst it can be supported that financial distress is a driver of fraud, the researcher found that by going back a step, the state of the South African economy has created the financial distress for numerous individuals which in turn is a major contributing factor to the high prevalence of fraud.

It was found that the ability to commit fraud is innate to certain individual's characters, or more simplistically put, it is part of their nature. It was established that that not everyone is predisposed to committing fraud and it comes naturally to certain people and they will seek out opportunities to defraud, whether or not there is a financial need. In certain instances it was found that individuals may even get a psychotic thrill from possessing the ability to defraud an organisation. This was supported by Goossen et al. (2016) who found that white-collar criminals were more likely to have psychopathic personalities and less of a criminal thinking style. Goossen et al. (2016) also found that white-collar criminals view themselves as criminals to a lesser extent as compared to regular criminals. As previously discussed, organisations tend to place too much trust in employees; in nearly all the fraud incidents disclosed by the respondents, the perpetrators of the frauds were trusted and respected employees in the organisation. A further finding was that when otherwise honest and upstanding individuals are faced with a situation that personally affects them, they may cross ethical boundaries to remedy the crisis in question. This scenario was aptly summarised by an expert who stated that when "desperation" finds an "opportunity", fraud is the result. This was however not supported by Moorthy et al. (2014) who found that an individual of good character and honest upbringing, even if in a desperate situation and an opportunity exists, will not indulge in fraudulent conduct. Moorthy et al. (2014) found that "the inner characteristics of an individual are more important than the external forces to commit a fraud" (p. 79). Temptation was also found to drive individuals into improper behaviour; therefore, there might not necessarily be a need, but rather opportunity is exploited merely because it exists.

A total of 12 out of 13 respondents felt that the South African Police Services were ineffective in the fight against commercial crime. It was found that the poor support received from the police, inadvertently perpetuates fraud. The general view was that the perception existed that fraudsters can very likely escape prosecution hence there is no fear for acting with impunity and disregard for company policy or the rule of law. The observation that fraudsters are able to get away with crime, was found to send a signal of motivation to other employees, as opposed to one of deterrence had the suspects been convicted and jailed. This was supported by Moorthy et al. (2014) who suggested when an employee is found guilty of fraud or theft, punitive measures like dismissal and / or criminal action deters other employees from doing the same. Areas where the police fell short included: inexperience in complex commercial crime matters; overburdened with other crime investigations and white-collar crime not high on their priority list; lack of motivation and will; and police being too delayed in their investigations. It was however recognised that police officers work under adverse conditions but pockets of excellence do exist; for example, the Specialised Commercial Crime Court, whose prosecutors work closely with seasoned investigators in the Specialised Commercial Crime Branch, have been highly effective in expediting investigation and ensuring swift convictions. Ramamoorti (2008) found that white-collar crime was extremely difficult to prosecute because the suspects were well-connected and often were first-time offenders. None of these reasons were identified during the research, instead the reasons for difficulty in prosecutions were found to be poor investigative work or difficulty in securing evidence fit for court.

6.2.4 Conclusive findings to Research Question 1

The top drivers identified were therefore: collusion between employees and other internal or external parties; financial distress due to the state of the economic environment; the ability to commit fraud being inherent in certain individuals; and lack of assistance from the police in commercial crime matters. Deficiencies in the internal control environment, although being a critical factor and an enabler to commercial crime, was superseded by the abovementioned drivers. It was therefore established that collusion was the only internal driver, that is, within the control of the organisation. The other three are external drivers, based on outside factors which the organisation has no control over.

6.3 Discussion of Results for Research Question 2

RESEARCH QUESTION 2: What was the response of the organisations to the incidents of commercial crime perpetrated against them?

This research question sought to establish whether the organisation acted with any sense of seriousness and / or urgency in response to the matter. It also sought to gauge if the organisation performed detailed investigations or reviews to determine what the points of compromise or weaknesses were, and how they remediated them. The three interview questions were designed to understand and assess what steps were taken and whether these steps were appropriate and effective.

6.3.1 Response of senior management to the matter/s

The first interview question attempted to ascertain the steps taken by management in response to the incidents of commercial crime. Table 9 presented the 9 constructs identified as the response of management. “Cases registered with the SAPS and criminal charges pursued”, as well as “Hired external experts to assist with investigations” were collectively ranked first, with 10 frequency counts each; therefore these responses by management appeared to be the most prevalent in the organisations researched.

In respect of “Cases registered with the SAPS and criminal charges pursued”, it is evident that organisations are taking the necessary steps to hold the suspects to account. This finding was consistent with the trend identified under Research Question 1, which incidentally also ranked first, whereby it was observed that organisations were registering and pursing criminal charges with the police. The reporting of commercial crime incidents to the police authorities was mandatory by law where the value of the potential loss exceeded R100 000. This legislative requirement would potentially be one reason for more than 75% of respondents indicating that the fraud incidents were duly reported to the police. King III states that there is always a link between good governance and the law (IoDSA, 2016b). It was found that organisations, although generally placing little faith in the ability of the police to investigate and successfully prosecute suspected fraudsters, did what was necessary to hold the suspects to account for their suspected crimes. It was found that organisations use the police to obtain information and evidence that the organisations are unable to obtain in their legal capacities. Another reason identified for organisations pursuing criminal charges with vigour is to set an example in the organisation. Lastly, it was identified that organisations go the route of registering criminal charges in order to secure recoveries against the suspects. The types of recoveries mentioned by the respondents include houses, vehicles, funds in bank accounts and pension fund proceeds. It was established that the police have the means to secure these, whereas it can be a lengthy and costly process should the organisation attempt to secure such attachments without going via the police.

In respect of “Hired external experts to assist with investigations” a total of ten respondents indicated that they have had to utilise the services of external experts to perform investigations. This was an interesting find as it suggests that organisations are reporting matters to the police, however they did not trust the police to do a thorough investigation. It was found that organisations had to extend the mandate of the external service providers to include the obtaining and collating of necessary evidence and assembling into a docket that is handed to the police for prosecution purposes. Another reason identified for needing to appoint external service providers, was to ensure independence and impartiality in investigations, particularly where the suspects were executives or board members.

“Management treated it very seriously and provided support to investigations” ranked second. King III states that the board should ensure that management considers and implements appropriate risk responses. A total of nine respondents indicated that management treated the fraud incidents with the seriousness it deserved and they were proactive in providing the required support in the investigation process. This was evidenced by the introduction of dedicated forensic units, appointment of experienced investigative and legal personnel, management actively overseeing investigations and holding divisional executives to account for fraud that occurred in their respective divisions. This is consistent with the recommendation by Ivancevich et al. (2003) that management must take, and be seen to be taking, a proactive role when it comes to incidents of commercial crime. The impact of commercial crime affects a range of stakeholders, internally and externally and as such, management must be the drivers in any response action. Ivancevich et al. (2003) suggested that no organisation should accept management being silent, being reluctant to participate in actively addressing commercial crime, or ignoring warning signs for fraud. In the organisations interviewed, it was generally found that management responded in an appropriate manner to incidents of commercial crime.

6.3.2 Earlier detection of fraud incident/s

In light of the fact that the period over which the reported frauds were perpetrated ranged from one year to eight years, the second interview question sought to understand if management applied their minds to establishing what could have allowed for the fraud to be detected earlier. Table 10 presented the eight processes or steps that could have enabled the frauds to be identified sooner than they actually were identified.

“Pre-employment screening and vetting of employees” ranked first, with 3 frequency counts; therefore this as a proactive measure, as opposed to a reactive measure, could have flagged individuals for further scrutiny prior to them being employed. Furthermore this could have served as the first line of defence for the organisation as bad elements could be eradicated at the outset. This speaks to organisations being aware of who they are bringing on board. It was further established that pre-employment screening in itself is not effective and regular screening and checks on employees should be undertaken, as individual’s circumstances and profiles are subject to change.

“Review of business processes, especially those that often get neglected or overlooked” ranked second (along with five other steps) as a step that could have identified fraud sooner. It was found that subsequent to a fraud incident organisations do become more alert and take steps to review processes and the relevant internal controls. This was consistent with King III which states that internal audit should systematically analyse and evaluating business processes and associated controls (IoDSA, 2016b). It therefore follows that reviews should be more encompassing, more regular and perhaps performed on a rotational basis in certain areas of the organisation.

“Heightened fraud awareness in organisation” also ranked second. It was found that enhanced fraud awareness could make employees more vigilant to misconduct in the organisation and thereby enable quicker detection. The finding was that much emphasis is placed on educating and training employees on how to perform their duties, and some time and effort should be spent on making employees aware of what to look out for or what should make them suspicious from a fraud risk point-of-view. This was supported by Moorthy et al. (2014) who suggested that specific fraud awareness initiatives should be a regular feature at all organisations. Of interest was the finding that as humans are not perfect and are prone to errors, negligence and even misconduct, respondents felt that there should be a shift to relying on control environments and not on people.

6.3.3 Implementations to remedy and prevent future losses

The third interview question sought to establish the proactiveness of management to remediate failures or shortcomings that allowed the frauds to be perpetrated, and furthermore to prevent recurrences. After establishing management's response to the fraud incidents and the processes that could have enabled earlier detection, it was deemed critical to understand what steps were actually taken to fix the issues and prevent similar future occurrences. Table 11 presented the nine processes or steps that were found to be taken by management.

"Revision to business processes" ranked first with a frequency count of 8. Thereby indicating that organisations were proactive in remediating the issues that either enabled the fraud incidents, or fixing the controls that prevented the frauds from being detected earlier. It is therefore evident that organisations generally do take the necessary reactive steps to amend their business processes to remedy the weaknesses. This is in line with the King III recommendation that business processes and internal controls be regularly analysed and evaluation (IoDSA, 2016b). However, revising of business processes is not always a quick and easy procedure, and depending on the nature and size of the organisation there may be many factors to consider, many parties to be consulted and a number of approvals to be obtained. Therefore, while it appears that organisations incur the necessary time, effort and resources to close the gaps, other factors that must be considered include, impact on the organisation's core business as well as the balance between running a business and managing the various risks.

Ranking second was "More enhanced monitoring" with a frequency count of 5. Certain companies elected not to change their business processes but rather to implement more checks and balances to monitor the process more closely. The reasons for this approach ranged from there intially being an oversight by management, which was fairly easy to rectify, to there simply being insufficient resources available to completely overhaul the process and systems. It was therefore found that it was not always necessary for new processes to be implemented, but sometimes just for existing controls to be fine-tuned and more closely monitoring. Enhanced monitoring not only creates awareness amongst employees, but also enabled anomalies to be detected earlier, thus enabling mitigation of losses.

Ranking third with a frequency count of 4 was "Training and fraud awareness initiatives". It was interesting to find that this remediation process ranked above the tightening of internal controls, which one may have been inclined to think would be a more important step. Of particular interest was the fact that "Lack of fraud awareness in organisations" ranked eleventh under the key drivers of commercial crime, and "Heightened fraud awareness ranked second under the factors that could allowed the frauds to be detected earlier. It is therefore evident that fraud awareness is deemed to play a very critical role in organisations. It was interesting to observe that certain senior management and executives took it upon themselves to become more educated on commercial crime. Most organisations took steps to create awareness amongst employees. This was aligned to the recommendation by Ivancevich et al. (2003) that organisation should implement regular training for managers and employees on white-collar crime which includes drivers, warning signs, consequences and the legal process. Training and fraud awareness was observed to have been undertaken in a variety of ways ranging from keynote speakers to compulsory online training.

Of concern was that "Pre-employment screening and vetting of employees" ranked first under processes that could have allowed earlier detection, but yet it did not feature at all under implementations to remedy and prevent future losses.

6.3.4 Conclusive findings to Research Question 2

It was established that organisations were proactive and took steps to have the fraud incidents thoroughly investigated and to bring the suspects to book. The perceived lack of faith in the police's abilities, were supplemented by the appointment of external forensic experts. Senior management and executives were found to actively drive investigations and provide the necessary support.

Pre-employment screening and vetting were identified as effective processes to flag dubious individuals and detect irregular lifestyles patterns, for example assets that do not match earnings, criminal records and credit judgements. Regular reviews of business processes and increased fraud awareness were identified as processes that could enable earlier detection of fraudulent conduct or abnormal activities.

In regards to steps taken after the fraud incidents to address the root causes and to prevent recurrences, these mostly agreed to the findings above in respect of the steps that could have allowed early detection. The main steps implemented included revision to existing business processes and, enhanced monitoring of controls and better training and fraud awareness. “Pre-employment screening and vetting of employees” ranked first under processes that could have allowed earlier detection, but yet it did not feature at all under implementations to remedy and prevent future losses.

6.4 Discussion of Results for Research Question 3

RESEARCH QUESTION 3: How does corporate governance play a role in the organisation’s response to commercial crime?

This research question sought to assess whether the response of the organisation in addressing the fraud incidents was influenced by the provisions of King III in any way or form. Furthermore, this research question was to gauge whether fraud risks in the organisations could be potentially minimised had King III being adopted and followed, or better implemented, as the case may be.

6.4.1 Organisation’s attitude to corporate governance

This question attempted to understand organisations perceptions of corporate governance and whether they have adopted King III as a standard. Table 12 presented the 11 themes emerging in relation to how organisations view corporate governance.

“Adoption of King III” ranked first with a frequency count of 13. It was established that entities listed on the Johannesburg Stock Exchange were compelled to adopt and follow King III as listing requirement. In this instance, the adoption of King III was mandatory for publicly listed entities. Certain of these organisations provided full details on their websites regarding the organisations attitude to corporate governance, the compliance to King III and the structure of the board and committees. It was also established that certain organisations that were not listed on the Johannesburg Stock Exchange, have adopted King III. It was evident that certain organisations see the value in adopting and complying with King III even though it is not mandatory for them to do so. Certain organisations were found to have partially adopted King III, meaning that only certain sections of King III were followed and complied with. The main reasoning behind this was lack of resources to implement and monitor King III in its entirety. It is therefore evident that for a variety of reasons, organisations may not want to, or be able to, adopt and comply with King III in its entirety. It was therefore found that the adoption of corporate governance can only be effective if is seriously practised by organisations and if organisations simultaneously foster an ethical culture and value system to support it.

"Maintaining a risk register and reporting of fraud incidents" as well as "Audit committee" ranked jointly second with a frequency count of 11. It was found that organisations maintain a risk register which is used for the purposes of recording any risks and fraud incidents in the organisation. This was aligned to the recommendation in King III that states that the internal audit department should provide a source of information regarding instances of fraud, corruption, unethical behaviour and irregularities (IoDSA, 2016b). Formal recording of risks, incidents and remediation steps was found to serve as a useful instrument to establish trends, plan for the future and track progress. The risk register serves as a source of data in respect of reporting of fraud incidents to the board, various committees and shareholders. It was found that hand-in-hand with the maintaining of a risk register, is the reporting of risks and fraud incidents to the relevant structures as established by the respective organisations; these were mainly found to be the board, various committees and shareholders. Disclosure was deemed important from the point-of-view of ensuring the incidents are appropriately dealt with and there is accountability. This was consistent with King III which states that the board should regularly receive and review a register of the organisation's key risks.

In respect of "Audit committee", playing an oversight role over the processes, controls and risks of the organisation, this committee fulfils a crucial function. The Companies Act prescribes the establishment of the audit committee therefore it is a statutory requirement for public companies and state-owned companies, as well as a recommendation in King III for all other types of organisations (IoDSA, 2016b). From the respondents it was established that independence is a critical requirement in the audit committee in order to ensure that bias and self-interest do not distort decision-making, and to ensure that objectivity is maintained. This was consistent with King III which states that the board should ensure that the audit committee was effective and independent (IoDSA, 2016b). It was found that in certain organisations management is part of the audit committee, which immediately raises issues around independency. King III prescribes that the internal and external auditors should meet with the audit committee at least annually without management from the organisation being present

(IoDSA, 2016b). It was found that this requirement is not always adhered to, and with management being present it effectively means the internal or external auditors may feel uncomfortable in freely expressing their findings and opinions for a variety of reasons, including fear of reprisal from management.

The "Ethical culture" that exists in organisations ranked fourth in terms of organisations' attitude to corporate governance. Of interest was that ethical culture ranked at sixteen in the key drivers of fraud. King III states that the board should build and sustain an ethical corporate culture in the company (IoDSA, 2016b). Only two respondents explicitly stated that they believed their organisations displayed a strong ethical culture. Most organisations felt that there were improvements in terms of developing a culture of ethics in their organisations and they were on the right track going forward despite acknowledging obstacles along the way. Ramamoorti & Olsen (2007) found that a culture of ethics plays a significant role in reducing integrity risks, however Moorthy et al. (2016) found that the adoption of ethical policies alone does not reduce financial misconduct and that organisations should have a dedicated ethics function to promote ethics and conduct ethics training, and a committee to solve any ethical issues. It was observed that certain organisations were attempting to scare employees into complying with ethics; the effectiveness and sustainability of such efforts is doubtful. Under the topic of ethical culture, the topic of ethical leadership was discussed extensively with respondents. King III states that the board should provide effective leadership based on an ethical foundation (IoDSA, 2016b). Only one respondent felt that his organisation's executive leadership did not conduct themselves to the level of ethical standards expected of those in such positions. Nine respondents felt that their executive leadership conducted themselves in an ethical manner and set the tone at the top for the rest of the organisation to follow. This was supported by Moorthy et al. (2014) who found that unless employees observe ethical leadership and commitment to ethics by leaders, ethical climates will fall short of what stakeholders expect from organisations.

6.4.2 Conclusive findings to Research Question 3

It was found that whilst it was mandatory for publicly listed entities to adopt and follow King III, other organisations where King III was not mandatory were also adopting and following it. These entities were found to see the value in having such a standard and it furthermore simplified governance for them. The inclusive design of King III made it compatible for all types of organisations.

It was established that the maintenance of a risk register has the added benefit of being a data source, which is vital for analysis and monitoring. Under the Risk Response section, King III states that management should identify and note in the risk register the risk responses decided upon (IoDSA, 2016b). The disclosure and reporting of risks and incidents ensures that pertinent issues get prompt attention and that management is held accountable where necessary.

The audit committee plays a vital oversight and monitoring role. King III states that the audit committee should be made up of independent and non-executive directors in order to ensure independence and impartiality (IoDSA, 2016b). While most organisations comply with this requirement, some organisations were found to have executive directors and even management as part of the audit committee.

The very first governance element in King III is “Ethical leadership and corporate citizenship” (IoDSA, 2016b, p.19). King III stresses the importance of ethical leadership in order to achieve effective corporate governance. It was found that most organisations take ethics and ethical leadership very seriously. Without a strong ethical culture to support King III, corporate governance efforts were found to be meaningless.

6.5 Discussion of Results for Research Question 4

This research question sought to establish if the provisions in King III were appropriately designed to address the risk of commercial crime. The ultimate aim was to understand whether adoption of King III, or better implementation thereof as the case may be, would assist in making organisations more resistant to the risk of commercial crime.

6.5.1 Adequacy of King III in addressing commercial crime

This question attempted to assess the adequacy of King III in addressing the major drivers of fraud identified. Table 13 presented the themes emerging in relation to how organisations view the adequacy of corporate governance.

“King III is a good standard but ineffective due to implementation issues” was ranked first with a frequency count of 5. It was found that King III was commended for being an all-inclusive standard that took into account the major risks in organisations and prescribed steps to address these risks. However, the shortcomings in respect of its implementation evidently outweighed the positive aspects. The first issue identified was that King III was not enacted into law, unlike the Sarbanes-Oxley Act which was legislated in the USA. It was found that when something is said to be the law, those who are subject to such tend to be more alert and aware. Attached to this, when punitive measures are prescribed for non-compliance or non-adherence to a particular rule, law or standard, it drives most people to behave in a certain manner to avoid punishment. It was found that by making it optional for organisations to adopt King III, weakened the efficacy of the standard and what it sets out to achieve. A shortcoming identified was the apply-or-explain principle. It was found that this allowed organisations to choose what they wish to follow, knowing that the rest could be explained away. Therefore, the finding was that King III needs to be more stringent and not afford as much flexibility as it does in its current form.

"Corporate governance does play an effective role in addressing commercial crime" and "No amount of governance and policies will stop a person from committing fraud" jointly ranked second with a frequency count of 3.

Good governance encompasses running an organisation in a manner that promotes ethics, values and accountability as its fundamental building blocks. The inference being that if you have a standard that promotes good governance, this will automatically translate into, amongst others, an ethical culture and reduced commercial crime. This was supported by Goossen et al. (2016) who found that ethics and values have a direct bearing on the organisations exposure to commercial crime. King III stipulates the principles of risk management, of which fraud risk is an element (IoDSA, 2016b). The simplicity and inclusiveness made King III easy to implement in any organisation and if it was properly implemented and monitored, it would have an impact on commercial crime. It was found that King III worked effectively in conjunction with organisational awareness that reinforced acceptable and non-acceptable behaviour.

The joint second ranking construct was that no amount of governance and policies will stop a person from committing fraud. It was established that no organisation can be 100% safe and that every control, check and balance can be weakened in some way or form. This agreed to findings by Ramamoorti & Olsen (2007) that whilst corporate governance can minimise fraud, there are elements like the pressure employee's face and the rationalisation they may follow, which are outside the scope of governance. This was supported by Yeoh (2016) who found that corporate governance reform, even though legislated in the USA, failed to prevent certain large corporate scandals and financial misconduct. Organisations place trust in people and people are fallible and can become compromised under certain circumstances. It was found that that the ability to commit fraud is inherent in certain individuals and if such a person was in an organisation, no policy would stop such a person. A respondent provided a very profound analogy to support his view that one has only so much power and control, and when one tries to force that power and control, it does more harm than good. The responded stated "There was a series in the first Star Wars where Darth Vader says to Princess Leah that he is going to tighten his grip and she says that the more you tighten your grip, the more solar systems are going to pass through your fingers. You think you can control everything and that you can have this grip, but that doesn't mean anything".

6.5.2 Conclusive findings to Research Question 4

King III was found to be a highly-regarded document and not just in a South African context but a global context too. Its adoption by organisations where it is not mandatory to do so, bears testament to the value of King III. Its simplistic approach, inclusive design and relevancy to modern day businesses, make King III a highly effective standard. One of the goals of King III is to provide a risk management framework to organisations. The risks that it addresses are wide-ranging in order to support its all-inclusive design. Therefore fraud risks are addressed by default in King III. As a tool that promotes sounds governance, King III is designed to build an ethical culture and strong value system which ultimately creates an environment of honesty, transparency and accountability. Some of the recommendations made by King III include: the maintenance of a risk register; conducting of risk-based audits; forming an ethics committee and an audit committee; supporting the internal audit function; regular assessment and monitoring of controls; and reporting of fraud and corrupt incidences, amongst others. All of these, if properly implemented and followed would play a role in addressing commercial crime. The main issue identified relates to the implementation of King III. Firstly, by King III not being legislated, when it is adopted, it is done so in a haphazard manner or in an incomplete manner. This weakens its effectiveness. Another issue noted King III does not work effectively when it is implemented in a poor control environment. It was found that corporate governance cannot be expected to be driven by King III alone. Ethics and values are needed to support governance. If these are lacking, King III will serve no purpose. Therefore King III is adequate in terms of its provisions and recommendations, however these will not automatically remediate governance and ethical deficiencies in organisations. Leadership must lead by example and create the right environment and then only will corporate governance take root and grow into what the organisation desires it to be.

CHAPTER 7: CONCLUSION AND RECOMMENDATIONS

7.1 Introduction

In this chapter the key drivers of commercial crime and the role of corporate governance is presented, through the findings and insights that emerged in Chapters 5 and 6. Based on these findings, recommendations to organisations are discussed and areas for future research are suggested.

7.2 Synthesis of Research Data

The research combined the foundational literature that preceded it and integrated these findings with new knowledge and insights obtained through the interview process. Respondents shared pertinent experiences and views that are linked to the 4 Research Questions under Chapter 3 and provide a current context to the ever-evolving nature of commercial crime and corporate governance.

The findings in Chapter 6 are generally consistent with the existing literature; however, it was observed that much of the theory is outdated. This is attributed to the fact that the business environment is rapidly changing and so too are the associated risks and trends (Dorminey et al., 2012).

The first contribution is in regards to the current key drivers of commercial crime. According to the literature reviewed, the key drivers were found to be human nature, collusion, lack of effective punishment, financial distress due to the state of the economy and technological advancements in the business environment. Numerous other drivers were identified in the literature; however, the above were the drivers that appeared more consistently across the literature. It was further evident that the drivers varied in accordance with the country where the respective studies were conducted, over the time period that the respective studies were done, and where influenced by major events around the period of the study.

The research findings were consistent in terms of financial pressure and collusion, however lack of punitive measures and technological advancements did not feature in the findings. In addition, the findings revealed a driver to be lack of assistance from the police in terms of investigation support and evidence gathering. A number of other drivers emerged from the interviews, 18 in total; however, the above were the high-ranking factors. Furthermore, the drivers which were ultimately identified, were supported by and consistent with, the observed trends which were disclosed by the respondents.

The second contribution is in respect of corporate governance and the role it plays in addressing commercial crime. Unlike the Sarbanes-Oxley Act which was legislated the USA, the King III standard of corporate governance is not enacted into law in South Africa; however, it is a requirement for public listed entities. Of the 13 respondents, 12 indicated that their organisations had adopted King III and were complying whether in full or with certain sections only. In essence, it found that most organisations do understand the value in having King III as a governance standard. The literature revealed that corporate governance standards are generally wide in scope, and while the focus is on ensuring ethical and accountable leadership, and boards that take risk management and transparency seriously, they do play a role whether directly, or indirectly, in addressing commercial crime. King III was found to contain a number of principles and recommended practices that are geared towards the identification of fraud risks, the regularly monitoring of controls, the role on internal audit, disclosure accountability to the board in respect of risk and threats and the role of the audit committee in this regard. All these aspects were found to address commercial crime, but more specifically, they were found to address the identified key drivers of commercial crime in some way or form. Therefore, corporate governance, and King III in this instance, does play a role in addressing commercial crime and its current key drivers.

As it was established that corporate governance does in fact play a role in addressing commercial crime, the third contribution is with regards to the adequacy thereof. The literature reviewed suggested that corporate governance alone cannot be expected to have an impact on commercial crime and the associated risks. The literature revealed that other factors needed to assist and support corporate governance and holistically these would ensure commercial crime was addressed. The factors included a sturdy control environment, strong internal audit function and a thorough external audit. The research findings agreed with regards to corporate governance alone not being the 'magic wand' that will completely eradicate commercial crime. However, the research findings differed in that respondents felt strongly that it was a culture of ethics and a value system that was required to underpin and support corporate governance in order to make it effective in organisations. Of interest was the finding that treating employees fairly, looking after their needs and showing them that they are valued, played a crucial role in driving an ethical culture and making employees want to look after the organisations interests. Lastly, as the business environment is constantly undergoing transformation and development, commercial crime and associated risk, also evolve. Therefore, there needs to be continuous assessment and monitoring to ensure that the manner in which corporate governance is implemented, is still appropriate to address the commercial crime and fraud risks.

7.3 Recommendations for Organisations

Firstly, all organisations in South Africa should adopt King III (and its successor, King IV when applicable) as a standard of corporate governance. It is a thoroughly well-researched and well-documented standard, involving a host of the most reputable accounting, legal and governance experts in the country. It has been especially designed to be adopted in any type of organisation; therefore, it is all-inclusive and takes into account all stakeholders of the organisation, and not just the shareholders.

Commercial crime incidents result in substantial losses to organisations and the knock-on effects impact employees, shareholders, society and even the economy. Therefore, commercial crime must be taken seriously from both a proactive and reactive position. On the reactive side, criminal matters must be thoroughly investigated, root causes identified, perpetrators held to account and weaknesses fixed. However, from a proactive point-of-view, King III can assist in providing guidance on accountability structures in the organisation, regular assessments, monitoring responsibilities and taking action when deficiencies are identified.

As previously discussed, King III will not automatically address and remediate all of the organisations commercial crime exposures. Whilst it is effective, the organisation must take ethics and values very seriously. This starts with the correct tone being set at the top level, as this does have an influence on the rest of the organisation. A code of ethics must be designed and implemented based on the principles of King III. Employees should be encouraged to report suspected misconduct via whistleblower hotlines, and should be rewarded for such. Firm action must be taken against those found to be engaging in improper or fraudulent practices. Regular training and awareness on ethics must be held.

With the global economy under strain at the time of this research, nearly all organisations are seeking areas to reduce costs in order to improve profitability and ensure sustainability into the future. Costs related to the control environment should not be reduced. Aside from the potential losses that could be suffered due to failings in the control environment, it can cost substantially more to remediate and minimise all the exposures created, at a later stage. Furthermore, it was found that organisations that run secure operations have competitive advantage.

7.4 Recommendations for Future Research

While a fair amount of research and surveys have been conducted in the field of commercial crime and corporate governance, these mainly relate to other countries. South Africa is a unique country with certain unique challenges and as such, there is a need for more in-depth research locally. Areas for future research are suggested as follows:

- This organisations researched in this study were private companies, public companies and one state-owned entity. A study should be conducted on fraud in the public sector, to identify the key drivers and enablers, and compare these to findings in other countries.

- King IV is due for release in the near future. This revised version will address shortcomings in the prior King Reports, as well as contain enhancements to make it more updated and applicable to the changing business environment and the evolving risks that come with it. A similar study should be conducted to assess the adequacy of King IV.

- The areas of ethical culture and value systems have featured immensely during this research. Whilst ethics and culture have been researched extensively, a study should be conducted to measure the effect that an ethical culture (or lack thereof) has on the extent of commercial crime in South African organisations.

7.5 Research Limitations

Limitations in respect of the research methodology were previously discussed. Further limitations identified are as follows:

- Only management and executive level employees were interviewed. It would be beneficial to conduct interviews with lower level employees to understand their perceptions and observations on commercial crime.

- The organisations that formed part of the research were based in Johannesburg; therefore, as the economic hub of South Africa and Africa, geographical bias may have distorted results somewhat.

- The researcher is employed in the field of forensic investigations and during the interviews may have been biased toward certain disclosures or may have placed too much emphasis on a particular pattern or theme.

7.6 Conclusion

Organisations today face the pervasive issue of commercial crime perpetrated by employees of all levels. The losses present a variety of implications to the affected organisation and all stakeholders, and in large losses, even to the economy. This research undertook to establish the key drivers of commercial crime in South African organisations. Corporate governance was then researched to assess if it played a role in addressing commercial crime and the drivers identified, and thereafter the adequacy of corporate governance.

The key drivers were identified based on interviews with management and executives at 13 large organisations. A total of seven experts in the field of forensic investigations, legal and governance were interviewed to assess their views from the opposite side of the spectrum. The corporate governance standard in South Africa, King III, was found to play a role in addressing commercial crime and the identified drivers. However, it was found that King III in isolation is not effective and King III needs to be supported by other pillars in the organisation which include a strong ethical culture, a tight control environment, internal audit and external audit.

By adopting and implementing King III, and ensuring that it is upheld by the abovementioned pillars, this will assist in creating a fraud resistant environment; and an organisation that looks after the interests of all stakeholders and can forge into the future.

REFERENCES

Abid, G., & Ahmed, A. (2014). Failing in Corporate Governance and Warning Signs of a Corporate. *Pakistan Journal of Commerce & Social Sciences*, *8*(3), 846–866.

ACFE (2016a). Report to the Nations on Occupational Fraud and Abuse: 2016 Global Fraud Survey. Retrieved from http://www.acfe.com/rttn2016.aspx

ACFE (2016b). Occupational Fraud: A Study of the Impact of an Economic Recession. Retrieved from http://www.acfe.com/occupational-fraud.aspx

Albu, N., Albu, C., & Gîrbină, M. (2012). Improving Corporate Governance in Emerging Economies - An Analysis of the Implications on the Accountants' Roles and Competencies. *Annals Of The University Of Oradea, Economic Science Series*, *21*(1), 846-852.

Arora, A., & Sharma, C. (2016). Corporate governance and firm performance in developing countries: evidence from India. *Corporate Governance: The International Journal Of Effective Board Performance*, *16*(2), 420-436. doi:10.1108/CG-01-2016-0018

BDO (2016). Downsizing Can Lead to Fraud – Advice of SA Businesses. Retrieved from https://www.bdo.co.za/en-za/news/articles/downsizing-can-lead-to-fraud-advice-for-sa-businesses

Benson, M.L., & Simpson, S.S. (2009). White-Collar Crime: An Opportunity Perspective, Criminology and Justice Series, Routledge, NY: New York.

Blanche, M. T. Durrheim K., & Painter, D. (2006). *Research in Practice.* 2nd ed. Cape Town: UCT Press.

Bookman, Z. (2008). Convergences and Omissions in Reporting Corporate and White Collar Crime. *DePaul Business & Commercial Law Journal*, 6, 347-392.

Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology, 3*(2) 77–101.

Cairney, P., & St Denny, E. (2015). Reviews of What is qualitative research and What is qualitative interviewing. *International Journal Of Social Research Methodology: Theory & Practice*, 18(1), 117-125. doi:10.1080/13645579.2014.957434

Claessens, S., & Yurtoglu, B. B. (2013). Corporate governance in emerging markets: A survey. *Emerging Markets Review*, *15*,1-33. doi:10.1016/j.ememar.2012.03.002

Cressey, D. R. (1950). The Criminal Violation of Financial Trust. *American Sociological Review*, *15*(6), 738-743. Retrieved from http://www.jstor.org.uplib.idm.oclc.org/stable/2086606?seq=1#page_scan_tab_contents

Crişan-Mitra, C. (2015). Good Corporate Governance: Priorities and Principles. *Contemporary Legal & Economic Issues*, (5), 465-483. Retrieved from http://search.proquest.com/openview/e955dbbaaa58ab06224338430041209e/1?pq-origsite=gscholar&cbl=1006344

Daft, R. (1983) Learning the Craft of Organizational Research. Academy of Management Review, *8*(4) 539-546. doi:10.5465/AMR.1983.4284649

Darrat, A. F., Gray, S., Park, J. C., & Wu, Y. (2014). Corporate Governance and Bankruptcy Risk. *Journal of Accounting, Auditing & Finance*, *31*(2), 163-202. doi:10.1177/0148558X14560898

Deloitte (2016). *International Fraud Awareness Week*. Retrieved from http://www2.deloitte.com/za/en/pages/risk/articles/international_fraud_awareness_week.html

Dorminey, J., Fleming, A. S., Kranacher, M., & Riley Jr., R. A. (2012). The evolution of fraud theory. *Issues in Accounting Education, 27*(2), 555-579. doi:10.2308/iace-50131

Ffolkes-Goldson, S. C. (2015). Corporate governance as a mechanism for the deterrence of economic crimes in the Commonwealth Caribbean. *Journal Of Financial Crime*, *22*(3), 347-353. doi:10.1108/JFC-03-2014-0015

Fin24 (2015, January 28). *R700bn lost to corruption in 20 years*. Retrieved from http://www.fin24.com/Economy/R700bn-lost-to-corruption-in-20-years-20150128

Fin24 (2016, January 18). *Businesses warn of impact of Eskom tariff hike request*. Retrieved from http://www.fin24.com/Economy/Eskom/businesses-warn-of-impact-of-eskom-tariff-hike-request-20160118

Free, C., & Murphy, P. R. (2015). The Ties that Bind: The Decision to Co-Offend in Fraud. *Contemporary Accounting Research*, *32*(1), 18-54. doi:10.1111/1911-3846.12063

Gates, S., Prachyl, C. L., & Sullivan, C. (2016). Using Report to the Nations on Occupational Fraud and Abuse to Stimulate Discussion of Fraud in Accounting and Business Classes. *Journal Of Business & Behavioral Sciences*, *28*(1), 106-115.

Goossen, M., Johansson Seva , I., & Larsson, D. (2016). Basic human values and white-collar crime: Findings from Europe. *European Journal of Criminology*, *13*(4), 434–452. doi:10.1177/1477370816633260

Gottschalk, P. (2011). Characteristics of Rich White-Collar Criminals: An Empirical Study of a National Sample. *International Journal of Ethics*, *10*(3), 229-238.

In'airat, M. (2015). The Role of Corporate Governance in Fraud Reduction - A Perception Study in the Saudi Arabia Business Environment. *Journal of Accounting & Finance, 15*(2005), 119–128. Retrieved from http://eds.a.ebscohost.com.uplib.idm.oclc.org/ehost/pdfviewer/pdfviewer?sid=794f95bd-8359-4a68-85f8-e06987b2a35f%40sessionmgr4009&vid=26&hid=4202

Institute of Directors Southern Africa (2016a). King Report on Corporate Governance in SA. Retrieved from http://www.iodsa.co.za/?Companiesact

Institute of Directors Southern Africa (2016b). King Report on Corporate Governance in SA. Retrieved from http://www.iodsa.co.za/?page=KingIII

Institute of Directors Southern Africa (2016c). King Report on Corporate Governance in SA. Retrieved from http://www.iodsa.co.za/?page=KingIV

International Monetary Fund (2016). *Distress in Europe Slows South Africa's Economic Recovery*. Retrieved from http://www.imf.org/external/pubs/ft/survey/so/2012/car090612a.htm

Iskander, M. R., & Chamlou, N. (2002). Corporate Governance: A Framework for Implementation. *Globalization and firm competitiveness in the Middle East and North Africa region,* 119-137. doi:10.4135/9781412952613.n107

Ivancevich, J. M., Duening, T. N., Gilbert, J. A., & Konopaske, R. (2003). Deterring White-Collar Crime. *The Academy of Management Executive*, *17*(2), 114–127. doi: 10.5465/AME.2003.10025206

Investec (2016). *Economic outlook 2016 – 2020*. Retrieved from https://www.investec.co.za/research-and-insights/economy/economic-research/macro-economic-forecasts/economic-outlook-2016--2020--downward-trajectory-will-pull-econo.html

Jick, T. D. (1979). Mixing Qualitative and Quantitative Methods: Triangulation in Action. *Administrative Science Quarterly*, *24*(4), 602-611. doi: 10.2307/2392366

JSE (2016). *JSE Limited Listing Requirements.* Retrieved from https://www.jse.co.za/content/JSERulesPoliciesandRegulationItems/JSE%20Listings%20Requirements.pdf

Kelley, C. M. (1976). Accountants and auditors vs. white collar crime. *The Internal Auditor*, *33*(3), 35–39. doi: 10.1002/jcaf

Kempa, M. (2010). Combating white-collar crime in Canada: serving victim needs and market integrity. *Journal of Financial Crime*, *17*(2), 251–264. doi: 10.1108/13590791011033935

KPMG (2013). *Global profiles of a fraudster.* Retrieved from https://home.kpmg.com/xx/en/home/insights/2013/11/global-profiles-fraudster.html

KPMG (2016). *Global profiles of a fraudster.* Retrieved from https://assets.kpmg.com/content/dam/kpmg/pdf/2016/05/profiles-of-the-fraudster.pdf

Krisberg, B., Guzman, C., & Vuong, L. (2009). Crime and Economic Hard Times. Oakland, CA: National Council on Crime and Delinquency. Retrieved from http://www.nccd-crc.org/nccd/pubs/Crime_Economy.pdf

Kroll (2016). *Global Fraud Report 2015/16*. Retrieved from http://www.kroll.com/global-fraud-report

Lenz, P. J., & Graycar, A. (2016). Stealing from the boss: who is looking? *Journal of Financial Crime*, *23*(3), 613–623. doi: 10.1108/JFC-09-2015-0053

Maguire-Krupp, M., & Ramamoorti, S. (2011). Sleeping With The Enemy: The Internal Audit's Role In Extreme Governance Breakdowns. *Journal Of Forensic Studies In Accounting & Business*, *3*(1), 47-65. Retrieved from http://eds.a.ebscohost.com.uplib.idm.oclc.org/ehost/detail/detail?vid=36&sid=794f95bd-8359-4a68-85f8-e06987b2a35f%40sessionmgr4009&hid=4202&bdata=JnNpdGU9ZWhvc3QtbGl2ZSZzY29wZT1zaXRl#db=bth&AN=79819214

Mail & Guardian (2016, January 14). *Drought's devastating ripple effect*. Retrieved from http://mg.co.za/article/2016-01-14-droughts-devastating-ripple-effect

Malik, M. S., & Makhdoom, D. D. (2016). Does corporate governance beget firm performance in Fortune Global 500 companies?. *Corporate Governance: The International Journal Of Effective Board Performance*, *16*(4), 747-764. doi:10.1108/CG-12-2015-0156

Mccracken, C. G. (2014). The Long Interview: The Four-step Method of Inquiry Step 1 : Review of Analytic Categories, 53–59. http://doi.org/10.4135/9781412986229

McCusker, K., & Gunaydin, S. (2015). Research using qualitative, quantitative or mixed methods and choice based on the research. *Perfusion*, *30*(7), 537-542. doi:10.1177/0267659114559116

McGee, J. A., & Byington, J. R. (2009). The threat of global white-collar crime. *Journal Of Corporate Accounting & Finance (Wiley)*, *20*(6), 25-29. doi:10.1002/jcaf.20525

Moorthy, M. K., Seetharaman, A., Jaffar, N., & Foong, Y. P. (2014). Employee Perceptions of Workplace Theft Behavior: A Study Among Supermarket Retail Employees in Malaysia. *Ethics & Behavior*, 25(1), 61–85. http://doi.org/10.1080/10508422.2014.917416

PwC (2016). *Global Economic Crime Survey 2016*. Retrieved from http://www.pwc.com/gx/en/services/advisory/consulting/forensics/economic-crime-survey.html

Rajan, R.G. (2010), Fault Lines: How Hidden Fractures Still Threaten the World Economy, Princeton University Press, Princeton, NJ.

Ramamoorti, S., & Olsen, W. (2007). Fraud: the Human Factor. *Financial Executive*, 53–56. Retrieved from http://eds.a.ebscohost.com.uplib.idm.oclc.org/ehost/detail/detail?vid=41&sid=794f95bd-8359-4a68-85f8-e06987b2a35f%40sessionmgr4009&hid=4202&bdata=JnNpdGU9ZWhvc3QtbGl2ZSZzY29wZT1zaXRl#AN=25751849&db=bth

Ramamoorti, S. (2008). The Psychology and Sociology of Fraud: Integrating the Behavioral Sciences Component Into Fraud and Forensic Accounting Curricula. *Issues In Accounting Education*, *23*(4), 521-533. doi: http://eds.a.ebscohost.com.uplib.idm.oclc.org/ehost/detail/detail?vid=43&sid=794f95bd-8359-4a68-85f8-e06987b2a35f%40sessionmgr4009&hid=4202&bdata=JnNpdGU9ZWhvc3QtbGl2ZSZzY29wZT1zaXRl#AN=35187562&db=bth

RDM (2016, February, 16). *Cosatu's high minimum wage demand will increase unemployment*. Retrieved from http://www.rdm.co.za/business/2016/02/16/cosatu-s-high-minimum-wage-demand-will-increase-unemployment

Rose, C. (2016). Firm performance and comply or explain disclosure in corporate governance. *European Management Journal*, *34*(3), 202-222. doi:10.1016/j.emj.2016.03.003

Trompeter, G. M., Carpenter, T. D., Jones, K. L., & Riley Jr., R. A. (2014). Insights for Research and Practice: What We Learn about Fraud from Other Disciplines. *Accounting Horizons*, *28*(4), 769-804. doi: 10.2308/acch-50816

Saldaña, J. (2015). *The coding manual for qualitative researchers*. Los Angeles: SAGE Publication Ltd doi: 10.1519/JSC.0b013e3181ddfd0a

Saunders, M., & Lewis, P. (2012). *Doing research in business and management: An essential guide to planning your project*. London: Pearson Education.

Schnatterly, K. (2003). Increasing firm value through detection and prevention of white-collar crime. *Strategic Management Journal*, *24*(7), 587–614. http://doi.org/10.1002/smj.330

Sullivan, C., Gibson, S. & Riley, S. (2012). *Doing your qualitative psychology project* (pp. 127-153). London: SAGE Publications Ltd doi: 10.4135/9781473914209.n7

Sutherland, E. H. (1940). White-Collar Criminality. *American Sociological Review*, *5*(1), 1–12. Retrieved from http://eds.a.ebscohost.com.uplib.idm.oclc.org/ehost/detail/detail?vid=45&sid=794f95bd-8359-4a68-85f8-e06987b2a35f%40sessionmgr4009&hid=4202&bdata=JnNpdGU9ZWhvc3QtbGl2ZSZzY29wZT1zaXRl#AN=12826987&db=bth

World Economic Forum (2016). *The Global Competitive Report 2015 – 2016.* Retrieved from http://reports.weforum.org/global-competitiveness-report-2015-2016/

Yeoh, P. (2016). Corporate governance failures and the road to crime. *Journal of Financial Crime*, *23*(1), 216-230. doi:10.1108/JFC-10-2014-0044

Zikmund, W. G. (2003). *Business research methods (7th Edition).* Cincinnati, OH: South-Western Cengage Learning.

Zimbelman, M. F. (1997). The Effects of SAS No. 82 on Auditors' Attention to Fraud Risk Factors and Audit Planning Decisions. *Journal of Accounting Research*, *35*, 75–97. http://doi.org/10.2307/2491454

Appendix 1: Informed Consent Document

I am conducting research on the key drivers of commercial crime in South Africa and the role that corporate governance plays in addressing these.

Our interview is expected to last about an hour. The information obtained from the interview will help in assessing whether the standards of corporate governance as currently applied by South African organisations, are adequate to address the growing problem of commercial crime

Your participation is voluntary and you can withdraw at any time without penalty.

All data will be kept confidential. Due to the nature of the topic being researched, no interviewee details, nor the organisations details, will be disclosed in the final report.

If you have any concerns, please contact my supervisor or me. Our details are provided below.

Researcher Name: Nolan Naidoo	Supervisor Name: Dr Len Konar
Email: Nolan.naidoo@gmail.com	Email: Len.Konar@orcaservices.co.za
Contact No.: 083 296 5028	Contact No. 082 554 3920

Signature of Participant: ________________________________

Date: ________________

Signature of Researcher: ________________________________

Date: ________________

Appendix 2: Interview Guide (Phase 1)

Part A: Background

1. Which sector / industry the business operates in and period it has been in operation?
2. Is the organisation listed on the Johannesburg Stock Exchange?
3. How many people does the business employ?
4. Interviewee's role in the business and period in the role?
5. Does the organisation have a forensics division?
6. Does the organisation have an internal audit division?
7. Does the organisation have a whistle blower / fraud hotline?

Part B: Commercial Crime Incidents

1. Broad details of major fraud incidents suffered in the last 5 years? Level of staff member involved, type of fraud, value involved, period of fraud and outcome.
2. How did senior management treat the matter? Was it handled with the urgency and seriousness that it deserved?
3. Did they appoint an external party (e.g. investigator, forensic firm) to investigate?
4. Did the SAPS (or equivalent law enforcement) provide the required level of assistance in order for the matter to be investigated and prosecuted?
5. How were the frauds detected?
6. What was found to be the underlying cause of each fraud?
7. What could have allowed the fraud to be detected sooner?
8. Were any changes implemented afterward to address the shortcomings that allowed for the fraud to be perpetrated, and to prevent future losses?
9. Who initiated these steps?
10. Were they effective in preventing or deterring similar incidents?
11. What are the key drivers of fraud according to the interviewee?

Part C: Corporate Governance

1. What is the organisations attitude to corporate governance and King III?
2. How frequently are internal controls reviewed?
3. Are fraud risk assessments specifically carried out?
4. If weaknesses or issues are identified, what processes are followed and how long does it take before it is addressed and fixed?
5. Do executive and senior management practice ethical leadership, and if so, does the organisation display a strong ethical culture?
6. Does the organisation have an ethics committee?
7. Does the organisation have an audit committee? If so, is it perceived as effective?
8. Does the audit committee meet with the internal and external auditors at least once a year without management being present?
9. Does the organisation have a risk committee? If so, is it perceived as being effective?
10. Does the organisation maintain a risk register?
11. Is there a perceived zero tolerance to fraud in the organisation?
12. Does the interviewee believe King III is effective in addressing commercial crime?

Appendix 3: Interview Guide (Phase 2)

Part A: Background

1. Type of industry the interviewee is employed in?
2. Interviewee's role in the organisation?

Part B: Current Trends / Drivers

1. What are the current commercial crime trends observed in SA in 2016?
2. What are believed to be the key drivers in these trends?
3. What challenges are faced by organisations from a pre-loss and post-loss perspective when it comes to current frauds?
4. What challenges are faced by investigators in the investigation of the current frauds?
5. What successes have been achieved as far as white-collar crime investigations go?

Part C: Role of Corporate Governance

1. How serious are organisations taking corporate governance?
2. Are organisations being proactive in the fight against commercial crime? Or placing reliance on the SAPS to investigate?
3. Are you observing that organisations are taking ethical leadership and ethical culture seriously?
4. Does corporate governance have a role to play in addressing commercial crime? If so, please elaborate.

Appendix 4: Ethical Clearance Letter

Dear Nolan Naidoo

Protocol Number: **Temp2016-00962**

Title: **The role of corporate governance in addressing the factors contributing to commercial crime in large organisations in South Africa**

Please be advised that your application for Ethical Clearance has been APPROVED.

You are therefore allowed to continue collecting your data.

We wish you everything of the best for the rest of the project.

Kind Regards,

Adele Bekker

Appendix 5: Turnitin Originality Report

Turnitin Originality Report

Final by Nolan Naidoo

From Test your originality (GIBS Information Centre _99_1)

- Processed on 04-Nov-2016 23:25 SAST
- ID: 669299416
- Word Count: 38868

Similarity Index
13%
Similarity by Source

Internet Sources:
9%
Publications:
4%
Student Papers:
9%

sources:

1 < 1% match (student papers from 03-Nov-2013)
Submitted to University of Pretoria on 2013-11-03

2 < 1% match (student papers from 07-Nov-2012)
Submitted to University of Pretoria on 2012-11-07

3 < 1% match (publications)
Journal of Financial Crime, Volume 23, Issue 1 (2015)

4 < 1% match (Internet from 23-Mar-2010)
http://www.ecgi.org/codes/documents/king3.pdf

5 < 1% match (Internet from 13-Jul-2016)
https://en.wikipedia.org/wiki/King_Report_on_Corporate_Governance

6 < 1% match (publications)
Xenakis, S., and L. K. Cheliotis. "Crime and Economic Downturn: The Complexity of Crime and Crime Politics in Greece since 2009", British Journal of Criminology, 2013.

7 < 1% match (student papers from 04-Jun-2012)
Submitted to Central Queensland University on 2012-06-04

8	< 1% match (student papers from 07-Nov-2012) Submitted to University of Pretoria on 2012-11-07
9	< 1% match (student papers from 14-Mar-2016) Submitted to Midlands State University on 2016-03-14
10	< 1% match (student papers from 14-May-2014) Submitted to CTI Education Group on 2014-05-14
11	< 1% match (Internet from 18-Sep-2013) http://www.researchgate.net/publication/228241635_Corporate_Governance_in_Em
12	< 1% match (publications) Fox, C.. "Will the economic downturn lead to an increase in crime?", Probation Journal, 2010.
13	< 1% match (publications) Moorthy, Krishna M., A. Seetharaman, Nahariah Jaffar, and Yeap Peik Foong. "Employee Perceptions of Workplace Theft Behavior: A Study Among Supermarket Retail Employees in Malaysia", Ethics & Behavior, 2014.
14	< 1% match (Internet from 07-Apr-2012) http://services.bowman.co.za/Brochures/OnlineServices/CorporateGovernance/Corporate-Governance-King-3.pdf
15	< 1% match (Internet from 14-Jun-2015) http://library.manhesabdaram.com/uploads/paperfile/paperfile-1430672718.pdf
16	< 1% match (Internet from 04-May-2014) http://137.215.9.22/bitstream/handle/2263/23266/dissertation.pdf?sequence=1
17	< 1% match (Internet from 15-Jun-2015) http://repository.up.ac.za/bitstream/handle/2263/45237/Botha_Considerations_2014.pdf?sequence=1&isAllowed=y
18	< 1% match (publications) Cairney, Paul, and Emily St Denny. "What is Qualitative Research (Bloomsbury)", International Journal of Social Research Methodology, 2015.

19	< 1% match (student papers from 03-Aug-2016) Submitted to Grand Canyon University on 2016-08-03
20	< 1% match (student papers from 19-Jun-2016) Submitted to Keller Graduate School of Management on 2016-06-19
21	< 1% match (publications) J. Ralph Byington. "How to prevent inventory fraud", Journal of Corporate Accounting & Finance, 05/2003
22	< 1% match (student papers from 23-Jun-2015) Submitted to EDMC on 2015-06-23
23	< 1% match (Internet from 11-May-2015) http://repository.up.ac.za/bitstream/handle/2263/40645/Stirling_Practices_2013.pdf?sequ
24	< 1% match (Internet from 21-Feb-2014) http://upetd.up.ac.za/thesis/available/etd-05132010-150629/unrestricted/dissertation.pdf
25	< 1% match (student papers from 04-Oct-2016) Submitted to Colorado State University, Global Campus on 2016-10-04
26	< 1% match (student papers from 25-Jan-2015) Submitted to Study Group Australia on 2015-01-25
27	< 1% match (student papers from 05-Aug-2015) Submitted to Laureate Higher Education Group on 2015-08-05
28	< 1% match (Internet from 02-Oct-2016) https://www.questia.com/library/journal/1P3-4064757891/using-report-to-the-nations-on-occupational-fraud
29	< 1% match (Internet from 27-Apr-2016) https://jyx.jyu.fi/dspace/bitstream/handle/123456789/49545/URN%3aNBN%3afi%3ajyu-201604252310.pdf?sequence=1

30	< 1% match (student papers from 04-Nov-2016) Submitted to UT, Dallas on 2016-11-04
31	< 1% match (student papers from 23-Mar-2016) Submitted to University of Edinburgh on 2016-03-23
32	< 1% match () http://www.southernsun.com/Sunrise/Corporate_Info/Files/CorporateReport2002.pdf
33	< 1% match (publications) Free, Clinton, and Pamela R. Murphy. "The Ties That Bind: The Decision To Co-Offend In Fraud", Contemporary Accounting Research, 2013.
34	< 1% match (student papers from 04-Mar-2015) Submitted to University of Portsmouth on 2015-03-04
35	< 1% match (student papers from 25-Mar-2016) Submitted to University of Cape Town on 2016-03-25
36	< 1% match (Internet from 25-Jan-2015) http://upetd.up.ac.za/thesis/available/etd-02242013-101713/unrestricted/dissertation.pdf
37	< 1% match (Internet from 30-May-2016) http://scholar.sun.ac.za/bitstream/handle/10019.1/1017/leroux_applicability_2010.pdf?sequence=5
38	< 1% match (Internet from 14-Sep-2014) http://upetd.up.ac.za/thesis/available/etd-07282012-184127/unrestricted/dissertation.pdf
39	< 1% match (student papers from 09-Oct-2016) Submitted to Wilkes University on 2016-10-09
40	< 1% match (student papers from 08-Nov-2013) Submitted to University of Stellenbosch, South Africa on 2013-11-08

41	< 1% match (student papers from 10-Oct-2016) Submitted to Central Queensland University on 2016-10-10
42	< 1% match (student papers from 06-Mar-2016) Submitted to Laureate Higher Education Group on 2016-03-06
43	< 1% match (student papers from 12-Apr-2016) Submitted to Benedictine College on 2016-04-12
44	< 1% match (Internet from 12-Jan-2014) http://www.metrofileholdings.com/LinkClick.aspx?fileticket=9ksCF6eKfzk%3d&tabid=80
45	< 1% match (Internet from 13-Apr-2011) http://www.saps.gov.za/saps_profile/strategic_framework/annual_report/2005_2006/hrm_conclusion.pdf
46	< 1% match (student papers from 11-Apr-2016) Submitted to University of Northumbria at Newcastle on 2016-04-11
47	< 1% match (student papers from 23-Aug-2015) Submitted to Regis University on 2015-08-23
48	< 1% match (student papers from 07-May-2012) Submitted to North West University on 2012-05-07
49	< 1% match (student papers from 19-Dec-2015) Submitted to Keller Graduate School of Management on 2015-12-19
50	< 1% match (student papers from 22-Oct-2016) Submitted to Tarleton State University on 2016-10-22
51	< 1% match (Internet from 24-May-2016) http://eprints.uwe.ac.uk/23342/9/Predatory%20Lending%20Article%20February%202014%20%282%29.pdf