

Senate Economics Committee – Inquiry into penalties for white collar crime

AGD responses to Questions on Notice from public hearing (6 December 2016)

The Global Economic Crime Survey shows that 57% of surveyed Australian organisations experienced white-collar crime in the past two years. To what extent is that white-collar crime organised or is it lone actors motivated by individual circumstances?

The department's submission refers to the 2014 PwC Global Economic Crime Survey, which reported that 57% of surveyed Australian organisations experienced economic crime (which is defined as including procurement fraud, cybercrime, asset misappropriation, accounting fraud, bribery and corruption).

In the 2016 Global Economic Crime Survey, the reported rate of economic crime dropped slightly to 52%. This is significantly higher than the global rate (36%).

The survey notes that this does not necessarily mean that there is more economic crime in Australia, but is likely to be indicative of more effective detection. It also notes that the survey evidence suggests that Australian organisations are applying effective detective controls such as data analytics and whistleblowing services more commonly than in many other economies.

The survey does not provide data on whether economic crime experienced by organisations in Australia is organised or coming from lone actors motivated by individual circumstances. However, the survey showed a significant decrease in internal perpetrators to Australian organisations. It also found that the most likely characteristics of an 'internal fraudster' are: male, university graduate, 31-40 years old in a low-to-middle management position.

Your submission states that the actual cost of fraud is likely much higher than the \$1.2 billion because there is undetected fraud. Are there any ballpark estimates at anyone has made as to what the total cost might be?

According to the Australian Institute of Criminology's *Fraud against the Commonwealth Report 2015*, over \$1.2 billion in fraud was reported against the Commonwealth from 2012-2015 while only \$50.4 million (four per cent) was recovered.

The Association of Certified Fraud Examiners reports that western governments and organisations lose five per cent of their revenue to fraud. Applying this to Australia's revenue of around \$400 billion, total losses (including losses from undetected fraud) could be as high as \$20 billion per year.

This figure is also consistent with observations from the UK and reflective of recent significant fraud against programs (the VET Fee Help and Family Day Care schemes alone have lost \$3-6 billion in the last 2 years).

Tax fraud is generally not included in the AIC report figures as the Australian Taxation Office generally classifies tax fraud as part of its debts raised/non-compliance, which is around \$13 billion each year.

The Briginshaw test reduces the distinction (in terms of evidential burden) between civil proceedings and criminal prosecutions. Is this a desirable development?

Subsection 140(1) of the *Evidence Act 1995* (Cth) provides that the balance of probabilities standard is the accepted standard of proof in Commonwealth civil proceedings. The High Court in *Briginshaw* held that, where civil cases involve serious allegations, significant adverse consequences for the defendant or the alleged behaviour is inherently unlikely, the court must reach a higher level of satisfaction that the balance of probabilities standard has been met. Following this decision, the Commonwealth Parliament decided to reflect these principles by inserting a new subsection 140(2) of the *Evidence Act 1995* (Cth).