

Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime

Australasian, European and North American Perspectives

Edited by Duncan Chappell and Saskia Hufnagel

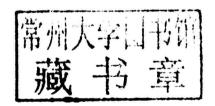
Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime

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Edited by

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ASHGATE

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Figure and Tables

Figure 2.1	Acquisitions of objects from Thailand dating to before 500 AD by three museums (PAM 1980-2002; LACMA 1974-2005; Berkeley 1991-2007)	31
Table 2.1	Donations to museums made by 'Tom Hoyt' of material purchased from Robert Olson	29
Table 2.2	Donations to museums made by 'Tom Hoyt' of material purchased from Jonathan and Cari Markell. Purchase price includes cost of material and appraisal fee paid to Markell	20

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Contributors xi

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Vicki Oliveri specializes in art crime research. The 2007 theft of the Frans van Mieris painting, *A Cavalier (self portrait)*, was the focus of her 2012 Honours thesis. She has recently teamed with University of Western Sydney academic Dr Pamela James to research the acquisition of illicit Indian antiquities by Australian galleries.

Kenneth Polk is Professor of Criminology at the University of Melbourne. Although now retired from teaching, he continues to engage in research and writing on various topics of crime in the art market. Polk received his BA from San Diego State, his MA from Northwestern University, and his PhD from UCLA. Before coming to Melbourne he was Professor of Sociology at the University of Oregon. Among his previous books were *When Men Kill* (Cambridge University Press) and *Children as Victims of Homicide* (with Dr Christine Alder, also published by Cambridge University Press). Polk is a former member of the Australian Governments National Cultural Heritage Committee.

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Preface and Acknowledgements

Duncan Chappell and Saskia Hufnagel

The origins of this book are to be found in a workshop on art crime held in the Australian city of Brisbane, Queensland, in May 2012. The workshop, coordinated by the present editors, was titled 'Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime'. The workshop was funded by a Griffith University International Workshop Award and the Australian Research Council's Center of Excellence in Policing and Security (CEPS) based at Griffith University in Queensland.

The workshop's aim was to gather international and Australian scholars and experts in the field of art crime detection, investigation and prosecution to discuss contemporary issues and developments. It was directed in particular at assessing the areas of art theft, fraud and illicit trafficking of cultural property, which have not so far received significant attention in the field of Australasian criminal law and policing research. It also sought to uncover more about the nature and scope of the art crime problem in an Australasian context, and examine how such crime is currently dealt with by criminal justice agencies within this region.

To inform this assessment the workshop applied a comparative perspective from Europe and North America regarding law enforcement and legal methods used to detect, investigate and prosecute art crime. It combined invited international academic and practitioner perspectives on the art crime problem to foster collaborative present and future research and linkages. The ultimate objective of the workshop was to address similarities and differences between the different regions and determine whether similar problems exist and common solutions can be identified.

The described aims and objectives of the workshop are now very much those which have motivated this book which incorporates chapters contributed by many of those who participated in the gathering. We believe that its publication is of particular significance not only because of the apparent lack of systematic scholarly research in the field of art crime in Australia and the region but also because European and North American studies reveal that art crime is becoming a broadening and highly profitable area of criminal activity.

This book, like the workshop that preceded it, could not have been published without the on-going support and encouragement of CEPS and its Director Professor Simon Bronitt. We wish to express our deep gratitude and thanks to Professor Bronitt who supported this project with growing enthusiasm.

We would like to thank all contributors for their considerable efforts and patience. In particular we would like to thank Alison Kirk (Publisher) from Ashgate Publishing for her enthusiasm for the project from its first hour and the reviewers for their very supportive feedback.

Contents

	t of Figure and Tables tes on Contributors	vii
	reface and Acknowledgements	
1	Law Enforcement's Still Evolving Role in Art Crime: Some Introductory Remarks Duncan Chappell and Saskia Hufnagel	1
PA	RT I CASE STUDIES	
2	The Antiquities Trade: Four Case Studies Neil Brodie	15
3	The Peculiar Problem of Art Theft Duncan Chappell and Kenneth Polk	37
4	Case Studies on Art Fraud: European and Antipodean Perspectives Duncan Chappell and Saskia Hufnagel	57
5	A Tale of Two Cities, A Tale of Two Art Thefts Vicki Oliveri	79
6	An Australian Art Dealer's Perspective on Art Crime Stephen Nall	101
PA	RT II CRIMINAL LAW AND PROCEDURE IN ART CRIME	
7	Considering Evidence in Art Fraud Robyn Sloggett	121
8	UNESCO's Influence on the Development of International Criminal Law Lyndel V. Prott	135

9	Difficulties in Investigating Art Crime and Recovering Its Proceeds: An International Perspective Patrick J. O'Keefe	151
10	Immunity from Seizure for Works of Art on Loan: The Criminal Context Craig Forrest	169
PA	RT III INTERNATIONAL AND REGIONAL OVERVIEWS	
11	Policing Art Crime in the European Union Ludo Block	187
12	Art Crime in North America Noah Charney	207
13	Perspectives on the Investigation, Prosecution and Prevention of Art Crime in Asia Stefan Gruber	221
14	Protecting Cultural Heritage: A Review of Some Contemporary Developments in Australia and Near Environs Duncan Chappell and Damien Huffer	237
15	Interpol and Advancements in International Police Cooperation on Art Crime Saskia Hufnagel	255
Inde	Index	

Chapter 1

Law Enforcement's Still Evolving Role in Art Crime: Some Introductory Remarks

Duncan Chappell and Saskia Hufnagel

Theft of an Icon

Just over a century ago one of the world's most iconic works of art, Leonardo da Vinci's painting of Lisa del Giocondo, the wife of a wealthy Florentine merchant, disappeared from the salon where it had been on display in the Louvre Museum in Paris, France. The disappearance on 21 August 1911 of the Louvre's prime masterwork, known as La Jocondo or Mona Lisa, was soon recognized to be a theft which prompted immediate worldwide publicity and attention. French police were quickly notified and a massive investigation commenced, led by the Paris police chief, Louis Lepine, under the supervision of a presiding magistrate, Henri Drioux, Also involved was Alphonse Bertillon, now generally recognized as one of the founders of modern forensic science,2 who searched the crime scene for clues and dusted for fingerprints – a method of identification of criminals that had only very recently been invented. A suspicious thumb print was in fact detected by Bertillon on the frame of the painting which had been discarded by the thief (or thieves). However, the print did not match those of any of the persons identified initially as possible suspects in the case, who included current and past employees of the Louvre.

Despite the best efforts of Lepine, Bertillon and their retinue of investigators the search for the painting and those responsible for its theft produced no results. It was believed that a gang of skilled art thieves must have been behind the theft of *Mona Lisa* but their motive was unclear since, as Lepine is reported to have said, 'it is generally conceded that even a dull person would realize the impossibility of selling such a famous work'. Lepine's words proved to be prophetic, to a degree, for the crime was ultimately solved more than two years later when a prominent

¹ In what follows we have relied, unless otherwise noted, upon the excellent and recent description of the theft of the painting and the investigation that ensued provided by Rita Angelica Scotti in her book *Vanished Smile*. *The Mysterious Theft of Mona Lisa* (Vintage Books 2010).

² See in general Ron Fridell, Solving Crimes: The Pioneers of Forensic Science (Franklin Watts 2000).

³ Scotti (n 1) 61.

art dealer in Florence, Italy, who had advertised that he would 'pay generously for fine artwork', 4 received a written response from a person who signed himself as 'Leonardo'. The writer stated that:

The stolen work of Leonardo da Vinci is in my possession. It seems to belong to Italy since its painter was an Italian. My dream is to give back this masterpiece to the land from which it came and to the country that inspired it.⁵

The art dealer, in company with the then director of the Uffizi gallery in Florence, subsequently met with 'Leonardo', established that he did indeed possess the missing *Mona Lisa*, and immediately notified the Italian authorities who quickly arrested the man. 'Leonardo' proved to be Vincenzo Peruggia, 32, an Italian house painter and migrant to France who had been involved in prior work at the Louvre, including assisting with the construction of the special frame for *Mona Lisa* on which Bertillon had found the suspicious fingerprint. Peruggia had in fact been interviewed by investigating police as a former employee but no fingerprints were taken from him and no attempt was made to check his professed alibi concerning where he was at the time of the theft. Further, the French police already possessed on their files a complete criminal dossier on Peruggia who had been twice arrested previously for unrelated crimes. The dossier included identity photographs as well a full set of fingerprints.

The Significance and Relevance of Art Crime to Law Enforcement

We refer to these details of the police investigation into what is still probably one of the most dramatic and sensational art crimes to occur during the past century because they continue to illustrate many of the themes that are central to the focus of this book. First and foremost this is a book which seeks to emphasize to those engaged in law enforcement, whether as practitioners or policy makers, the ongoing significance and relevance of art crime to their work as well as the nature of the challenges they are likely to encounter when responding to such crime. It is quite apparent that over a century ago French law enforcement officials were ill-prepared and ill-equipped to meet these challenges when responding to the theft of *Mona Lisa*. Not only did they lack any expertise in art crime but their investigation – as just noted – seems to have been deficient in many ways, despite having the assistance of one of the leading forensic experts of his time, Alphonse Bertillon.⁶

⁴ Ibid., 157.

⁵ Ibid., 158.

⁶ Bertillon died shortly after Peruggia's arrest and Lepine had retired before he came to trial in June 1914. Peruggia was convicted of the theft and ultimately sentenced to seven months and nine days imprisonment for a crime which the court assumed had been committed by him alone. Subsequent commentators have suggested that this was a

We suggest from the evidence presented in this book that in general law enforcement officials in many parts of the world almost certainly remain today as ill prepared and ill equipped as their French counterparts were in the early 1900s when dealing with all forms of art crime. Some indication of this can be found in the fact that clearance rates alone for stolen art masterpieces are said by the US Federal Bureau of Investigation (FBI) to be as low as five per cent of reported offences. While there are a number of notable exceptions, identified in succeeding chapters, law enforcement agencies in large part do not regard art crime either as a separate category of offence, or as one deserving of specialist attention. Art theft of the type described, when it occurs, is also usually subsumed within the category of property crime or larceny making it virtually impossible to obtain systematic and reliable statistical data about the nature and extent of this particular aspect of art crime. The same situation prevails in relation to other aspects of art crime like fraud and forgery which also get swept into more generalized fraud and fakery offence categories.

Just what is encompassed within the term 'art crime' is in itself a matter of some contention as has been stated by a number of criminologists who have studied this topic.8 Criminological interest in and attention to art crime is of relatively recent origin with the first major published English language text on the subject only emerging in the United States (US) in 1994.9 The author of this text, John Conklin, adopted a typology utilized by the International Foundation for Art Research (IFAR) to define art. The IFAR's list comprised fine arts, decorative arts, antiquities, ethnographic objects, Oriental and Islamic art and miscellaneous items including armour, books, coins and medals. The FBI has also adopted an expanded version of this IFAR typology for tracking stolen art objects. The FBI list includes archaeological material as well as stamps, musical and scientific instruments. In

While statistical data about art crime may be in thin and tenuous supply there is sufficient secondary evidence to suggest that it does represent a significant and expanding aspect of the overall crime burden. Much of this secondary evidence is explored in chapters of this book. It remains true, however, that much more

false assumption and various theories have been advanced suggesting Peruggia both had accomplices and was only a minor player in a much more devious conspiracy. See in particular Scotti (n 1).

- 7 Brad Lendon, 'Reward Beats Risk for Art Thieves' *CNN* (2008) http://edition.cnn.com/2008/CRIME/02/14/art.theft/index.html accessed 3 November 2013.
 - 8 See in general Thomas Bazley, Crimes of the Art World (Praeger 2010), Chapter 1.
 - 9 John Conklin, Art Crime (Praeger 1994).
- 10 IFAR, 'Stolen Art Alert' *IFAR* (2013) http://www.ifar.org/stolen_art_alert, php?docid=1190985411> accessed 3 November 2013. See also in general Jonathan Sazonoff, 'Reporting Stolen Property' *Museum Security Network* (2013) http://www.museum-security.org/reporting_stolen_property.html accessed 3 November 2013.
- 11 FBI, 'National Stolen Art File' *FBI* (2013) http://www.fbi.gov/about-us/investigate/vc_majorthefts/arttheft/national-stolen-art-file accessed 3 November 2013.

empirical research still needs to be done across many parameters to document the nature, magnitude and impact of art crime. These parameters should include not only geographic or jurisdictional boundaries but also links with serious and organized crime; money laundering offenses and tax fraud; and the trafficking of weapons and drugs.

Book Structure and Content

We have arranged the book in three parts. Part I contains five chapters devoted to case studies of three forms of art crime – antiquities theft, art theft and art fraud. The studies, which set the stage for what follows in Part II and III, cover different areas of the globe but make it clear that much of art crime has transnational roots and dimensions. In Part II, which comprises four chapters, aspects of criminal law and procedure relevant to art crime are considered including the types of scientific evidence available to assist in prosecuting art fraud; the role played by UNESCO in developing international laws to protect cultural heritage from criminal exploitation; the dilemmas confronting law enforcement when seeking to deal at the international level with the investigation of art crime and the recovery of plundered objects; and the specific problems associated with granting immunity for seizure of works of art on loan across international boundaries. Finally in Part III, five chapters review contemporary efforts at the regional and international level to enhance the scope and calibre of law enforcement efforts in regard to art crime.

Attention is now turned briefly to some of the major themes and issues that are raised by individual chapters in each part of the book.

Part I: Case Studies

In the absence of detailed empirical research regarding so many aspects of art crime reliance often has to be placed upon case studies to illustrate its characteristics. In Chapter 2 Neil Brodie, a highly experienced archaeologist, by means of four case studies considers the problems and issues surrounding the antiquities trade. The first and most dramatic of these case studies involves the story of the now famous Euphronios krater purchased by the New York Metropolitan Museum of Art in 1972 for US\$ 1 million. The krater was eventually identified as being looted from Italy and its recovery and ultimate return to its country of origin forms a gripping tale in its own right. 12 But as Brodie stresses the looting of objects like the Euphronios krater, or less valuable items from sites in Jordan and elsewhere, damages archaeological heritage, thereby compromising or weakening historical

¹² The tale is eloquently told in the book by Peter Watson and Cecilia Todeschini, *The Medici Conspiracy: The Illicit Journey of Looted Objects from Italy's Tomb Raiders to the World's Greatest Museums* (Perseus Books Group 2006).

scholarship. Such looting is now becoming endemic, especially in past and present conflict zones like Iraq, Afghanistan, Libya and most recently Syria.¹³ It is also behaviour which is currently subject to minimal attention from law enforcement because it is usually low on the list of national and international political priorities.

In Chapter 3 Duncan Chappell and Ken Polk turn attention to the 'Peculiar Problem of Art Theft'. As they indicate this is a most puzzling form of crime because above all else a successful theft produces for the criminal an object which is so well known that it is not only impossible to sell but also places the thief at serious risk of being subject to police investigation. Such an outcome was, as has already been described, the fate of Vincenzo Peruggia following his theft of the *Mona Lisa* in 1911, and many other art thieves since that time. ¹⁴ Chappell and Polk discuss a number of different patterns that the theft of art can take with a view to increasing our understanding of this crime and the measures that might be taken to combat it.

In Chapter 4 Duncan Chappell and Saskia Hufnagel examine a number of cases of art fraud occurring in two very different settings – Europe and Australia. Their focus is upon the way in which such crimes are detected, investigated and prosecuted by law enforcement agencies at a time when, largely because of the huge prices many works of art now attract in the market place, the incentive to inject fakes into that market has probably never been greater. As Chappell and Hufnagel suggest, the risks of being detected for producing and selling fake works of art appear quite negligible in the contemporary international art market where those seeking to acquire valuable paintings, sculptures and other forms of cultural heritage are no longer knowledgeable connoisseurs or patrons of artistic endeavour but rather more akin to commodity traders bent upon securing a maximum profit from their activity.

In Chapter 5 Vicki Oliveri makes a detailed comparative study of the investigation of two high-profile art thefts which remain unsolved in two quite different locations – Boston, Massachusetts in the US and Sydney, New South Wales in Australia. The 1990 art theft at Boston's Isabella Stewart Gardner Museum (the Gardner) has been described as 'the biggest, most confounding art heist in American history'. A total of 13 paintings were stolen, valued now at more than \$500 million, by artists of international renown and stature like Rembrandt, Vermeer and Picasso. Despite a major police investigation of the theft, including active involvement by the FBI's specialist Art Squad, those responsible for the theft remain at large and none of the stolen paintings have been recovered. The theft still remains an open, active case and a top priority of the Gardner which

¹³ See, for example, Mathew Bogdanos, 'Thieves of Baghdad: The Global Traffic in Stolen Iraqi Antiquities' in Stefano Manacorda and Duncan Chappell (eds), *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property* (Springer 2011).

¹⁴ For a review of some of these notable thefts and their perpetrators see Sandy Nairne, *Art Theft and the Case of the Stolen Turners* (Reaktion Books 2011).