

## **CRIME IN THE ART WORLD**

Edited by Noah Charney

Published by Praeger Press, June 2009

Art crime has received relatively little scholarly attention. And yet it involves a multi-billion dollar legitimate industry, with a conservatively-estimated \$6 billion annual criminal profit. Information and scholarly analysis of art crime is critical to the wide variety of fields involved in the art trade and art preservation, from museums to academia, from auction houses to galleries, from insurance to art law, from policing to security. Since the Second World War, art crime has evolved from a relatively innocuous crime, into the third highest-grossing annual criminal trade worldwide, run primarily by organized crime syndicates, and therefore funding their other enterprises, from the drug and arms trades to terrorism. It is no longer merely the art that is at stake.

This is the first interdisciplinary essay collection on the study of art crime, and its effect on all aspects of the art world. Essayists discuss art crime subcategories, including vandalism, iconoclasm, forgery, fraud, peace-time theft, war looting, archaeological looting, smuggling, submarine looting, and ransom. The contributors conclude their analyses with specific practical suggestions to implement in the future.

This book is of critical importance to anyone involved in the art world, its trade, study, and security. It introduces art crime as a new, interdisciplinary field of study. Both academic and professional authors represent the various spheres damaged by art crime, and present a unified front, working towards the common goal of curbing art crime in the future.

### Contents

**Noah Charney**

**Introduction to *Crime in the Art World***

**Noah Charney**

**Art Crime in Context**

### ARCHAEOLOGY & ANTIQUITIES

**Derek Fincham**

**The Fundamental Importance of Archaeological Context**

Beyond inhibiting criminal activity, why must archaeological excavations remain undisturbed by looters? The placement and orientation of objects in a tomb, for instance, speak volumes to the educated archaeologist—much more than the individual objects found within could provide, if removed from the scene.

**David Gill**

**Homecomings: Learning from the Return of Antiquities to Italy**

In recent months, scores of important antiquities have been returned to their countries of origin, decades after their looting and/or illegal exportation. Most of these works have come back to Italy, thanks to Italy's aggressive activity and prosecution, most notable in the case of the Getty Museum. David Gill details the circumstances and histories of the looted objects and their return to their countries of origin, while also exploring the larger legal and moral issues inherent in the discourse.

**Toby Bull**

**Lack of Due Diligence & Unregulated Markets: Trade in Illicit Antiquities & Fakes in Hong Kong, China**

Believed to be one of the largest illegal businesses in the world, the black-market antiquities trade ranges from the impoverished tomb-raider via organised criminal networks through to the dealers and auction houses in Europe, America and Asia. The worldwide popularity and high prices for Chinese archaeological artefacts have encouraged illegal excavation and smuggling of cultural property. Although Chinese authorities have intensified their efforts to crack down on smuggling and illicit

excavation, it continues practically unabated. This huge demand for Chinese cultural artefacts has caused serious damage to China's cultural heritage. A distinctive feature of the trade in Chinese antiquities is the important role played in the market by the transition ports such as Hong Kong. Hong Kong is seen as the way station for much of China's exported artefacts on their journey to collections abroad. Toby Bull's chapter looks at the nature of the Hong Kong market, the extent of the problem of looted Chinese artefacts, and the issue of the fakes that enter the local Hong Kong market. It also aims to find out whether greater due diligence or some form of regulation could be brought in to help diminish and eventually stop the trade in illicit antiquities.

## THIEVES & FORGERS

### A. J. G. Tjihuis

#### **Who Is Stealing All Those Paintings?**

Tjihuis' chapter examines categories of art thieves. His contribution is particularly interesting, and useful to the dialogue among educated scholars, because his analysis differs in some ways from the opinions of other art crime experts, particularly with regard to the level of involvement of Organized Crime in art crime. He makes the excellent point that most experts are going on hearsay from police about Organized Crime and art crime, with relatively little empirical data and evidence beyond the word of police, undercover agents, and criminals. Tjihuis does not dismiss the notion that most art crime since the 1960s involves Organized Crime at some level, but rather makes the legitimate point that, while we art crime scholars have heard a lot of anecdotal evidence, we have not seen concrete data to back it up.

This is a key point which really highlights the biggest problem with the study and analysis of art crime: lack of data to back up the hearsay. Too much anecdotal rather than empirical evidence means that, for the time being, art crime cannot really be a proper "scientific" field of study, as we must still rely too much on non-empirical evidence. Scholars may analyze based on the data available, which is necessarily a fragment of what is actually happening. We may choose to use anecdotal information to expand upon the limited empirical data, which has been the route of most scholars, for lack of a better option. Tjihuis prefers to stick with the available data sets, however limited, and analyze based only on them. The result is certainly more "scientific" in a proper sense of criminology as social science. It does result in some statements that differ from those of other scholars in this collection (the editor included).

His point is well-taken, and any friendly, respectful, intelligent debate benefits the field in general. Noting the limited empirical evidence to go with the massive anecdotal evidence in the field of art crime is important to underscore--indeed, it is exactly what ARCA and this book is trying to counter. Limited progress may be made unless 1) police worldwide begin to keep good data on art crimes in their jurisdiction, and 2) police make the data available to scholars, who can then conduct better-informed, more scientific research and analysis, to 3) help police in the future.

### Silvia Loreti

#### **The Affair of the Statuettes Re-Examined: Picasso & Apollinaire's Role in the Famed Louvre Theft**

Loreti's important essay uncovers a shocking and heretofore shadowy portion of the story of the Mona Lisa theft, and in the biographies of Guillaume Apollinaire and Pablo Picasso. Her research indicates that, not only did Picasso likely commission the theft of Iberian statue heads, which appear in his 1907 masterpiece *Les Femmes d'Alger (O.J.)*, but he and possibly Apollinaire may have been involved in the theft itself, along with the dynamic and bizarre art thief, Joseph-Honore Gery Pieret. Her work is important not only to the history of art crime, but to the history of art.

### Bojan Dobovšek

#### **Art, Terrorism & Organized Crime**

In this exclusive interview, renowned professor of criminology Bojan Dobovšek, considered the leading expert on Balkan organized crime, details the methods by which organized crime syndicates orchestrate crimes, smuggle goods across borders, and ultimately profit from the theft of art and other illicit goods. Since organized crime took over the majority interest in stealing art, his insight into how organized crime functions is key to understanding why art is stolen, and what happens to it.

## **Kenneth Polk and Duncan Chappell**

### **Fakes and Deception: Examining Fraud in the Art Market**

We know from our field work that the problem is much greater than this record of prosecution would suggest. Understanding why there is so little attention paid to art fraud by the criminal justice system is one of the major purposes of this discussion. The difference between the art experts, with their concern for “authenticity,” and the criminal justice system, with its focus on fraud. Strictly speaking, what the art expert is concerned with is the assessment of the physical element (authenticity). It will be the task of the criminal justice system to gather the necessary information to establish the mental element involving intent and/or dishonesty. For the criminologist, what the foregoing makes clear is that much of art fraud belongs in the “dark figure” of crime. That is, while we have numerous examples from our interviews and observations of fraudulent practices taking place in the art market, only rarely are these grounds for action by the criminal justice system.

## **ART WORLD & CRIME**

### **Dorit Straus**

#### **Implication of Art Theft in the Fine Art Insurance Industry**

The methods and thought-processes of insurance companies often seem mysterious to outsiders. How do insurers function? On what do they base their premiums? How do they evaluate risk? Straus deconstructs for lay readers the role of art crime and insurance in the art community. Readers will come away with a strong understanding of how art is insured, the role of insurance in investigation and security, and how an artwork’s value is determined.

### **Franca Severini**

#### **Thoughts on the Role of the Art Trade in Art Crime**

Severini, an Italian art dealer and art historian, discusses the role of the art trade in preventing art theft, and recovering stolen works.

### **Judah Best**

#### **Trepidations of a Private Art Collector**

Judah Best writes from beneath many hats. He is a distinguished lawyer, a commissioner for the Smithsonian, and an art collector with an impressive private collection. In his short, personal essay Best discusses the pleasures and dangers of art collecting, in a trade woven through with illegal activity.

### **Colonel Giovanni Pastore**

#### **Defending Art**

Presenting the perspective of the police, Colonel Giovanni Pastore looks back on his long career leading the Carabinieri Division for the Protection of Cultural Heritage, universally recognized as the world’s finest, and most successful, art police.

Pastore’s most dramatic point, and the one which will certainly be most controversial to the art trade, is his recommendation that all nations should require the sellers of cultural goods (fine art or antiquities) to provide a certificate of legitimate ownership that a non-partisan, non-profit group should evaluate and deem acceptable. Today, potential buyers need only prove that they did not *know* about an object’s illicit history. Pastore suggests that owners, sellers, and potential buyers should have to actively *prove* that the object they wish to acquire does *not* have any illicit history to it. This would therefore turn the proof of due diligence and good faith from its current passive system to one which required active proof from the potential purchasers and the dealer/provider.

In this way the burden of proof would fall primarily on the seller/dealer. The actual owners would share the duty of proof of legitimate ownership, which should date back as far as possible, to guarantee that their ownership of the object in question is in obedience with the correct provenance standards, which should be made international. Burden of proof would therefore fall primarily on the

seller (who may or may not be the actual owner). Secondary burden of proof would fall on the actual owner, and tertiary burden of proof would fall to the buyer. This forces three checkpoints into each transaction.

It should be noted that all other multi-billion dollar international markets have such standards built-in already. It is only the art trade that has somehow managed to escape strict initiatives, and maintained its centuries-old sense of gentlemen's agreements, codes of silence and anonymity, and clandestine deals. Imagine someone in the real estate market trying to sell a house without a complete ownership history, to prove that the current owners are not squatters, selling a house while the actual owners are on holiday.

Pastore's excellent point should be taken up by an economist with a knowledge of the art trade, to map out how an increase in requirements for legitimate deals would influence the black market. The logical response is that an increase in checks on legitimate deals, making legitimate purchases more complex (and potentially risky) should result in fewer legitimate deals, with more goods flowing into the black market, to avoid these tighter controls.

However the black market in art is so limited, due to the ease of dissemination of information on stolen goods, most art being unique and instantly recognizable, that the illicit fine art market cannot be successfully flooded, as there is such a limited demand for obviously stolen artworks.

The greater danger is in non-recognizable, unregistered antiquities, which have been looted directly from the earth or the sea (the trade in which many experts believe comprises as much as 75% of all criminal income from art crime). The primary market for antiquities is the buyer who would never identify themselves, publically nor privately, as criminal. These buyers, both individuals and institutions, purchase antiquities at full value on the open market, assuming that the objects have a legitimate provenance. Perhaps these buyers do not look too hard to learn if they do not, for to discover a questionable provenance means that they lose their prize purchase. These buyers would not, in the main, turn to a black market, because they do not consider themselves criminal. The goal would be to stifle the gray market in the art trade, forcing buyers and sellers to either prove the legitimacy of the objects they wish to purchase at a legitimate level, or to resort to the black market, which is known to be severely limited in the art trade. The gray zone between completely legitimate and obviously illicit, which most of the trade in stolen or looted cultural goods inhabits, would be eliminated.

This would obviously negatively impact the economics of the art trade. It would therefore be difficult to pass as legislation unless, as Pastore recommends, an international body such as the UN or the EU passes an equivalent of the Geneva Convention on the ethics and trade in cultural goods, making such restrictions required internationally. The result would be that the art trade would make less money and have more work, but that there would be less incentive for the exportation, either illicit or legitimate, of cultural goods, allowing nations (and Pastore stresses the need to protect poorer source nations) to retain their cultural patrimony.

## SECURITY & MUSEUMS

### **Dennis Ahern & Anthony Amore**

#### **Q&A with Two Revolutionary Security Directors**

Dennis Ahern and Anthony Amore rank among the most innovative, and most effective, museum security directors in the world. Ahern is in charge of security for all of the Tate museums (five in all), including the Tate Modern, the world's most visited museum. He has to deal not only with framed paintings and sculptures on plinths, but enormous contemporary installations, many of which are interactive. Anthony Amore is the security director of the Isabella Stewart Gardner Museum, having taken over in the years following the infamous theft. Not only has he improved the security, but he is also part of a new trend in security directors actively investigating a past theft from their institution. This chapter presents an exclusive opportunity from an informed question and answer session with these two major figures in museum security.

### **Stevan P. Layne**

### **Exercises in Futility: The Pursuit of Protecting Art**

Stevan Layne's essay provides a brief introduction to basic security measures that all museums should take, and few do. Too often there is inertia and a sense of laissez-faire about museums, with regard to their security. If nothing has been stolen, then why change? It can be expensive to alter one's security program, but waiting for a theft to give you the impetus for change is closing the barn door after the horse has already run off. Layne explains some cost-effective ways to improve security based on existing assets, without necessarily resorting to expensive new alarm systems and shatter-proof glass. A willingness to change method can be even more effective than shelling out cash for hi-tech security features.

### **Dick Drent**

#### **Exhibition Security: Regular, Customized or Tailor Fit.**

When Dick Drent took over the security of the Van Gogh Museum in Amsterdam, he not only re-evaluated and revamped the museum's systems, but re-invented the way that museums are protected. In this chapter, Drent details the three categories of museum security, related to Construction, Organization, and Electronics. He then deconstructs each category, and presents new methods of security and guard management which correct historical weaknesses and address future concerns. Drent presents a model which may be adopted to other museums around the world. This chapter follows on Stevan Layne's, adding to it a subjective, personal security philosophy that other museums can take as a model, and alter to fit their unique requirements.

## LIBRARIES & ARCHIVES

### **Travis McDade**

#### **The Quiet Crime: An Introduction to the World of Rare Book, Map and Document Theft**

The theft of rare books, maps and manuscripts is a quiet affair. Not only are these offenses against culture committed surreptitiously, the nature of the stolen material means that the crimes often go unnoticed for years. Unlike the theft of a Monet or Degas, which will be noticed almost as soon as it is committed, the disappearance of a *Roman de la Rose* or a Shakespeare folio or a 15<sup>th</sup> century map will often be discovered only by accident, months after the event. Even after discovery, these crimes are treated as minor affairs by ignorant authorities and skittish institutions. McDade's essay details the traits unique to this crime and offers a portrait of the men (and it is almost always men) who commit them. Using data culled from primary legal documents, personal interviews and reports of these incidents, McDade offers a comprehensive introduction to this world, from insider theft to stern federal sentences and suggests ways in which libraries could improve their security for a minimal cost. 3500 words

### **John Kleberg**

#### **Unexpected and Accessible: Threats to University Collections**

John Kleberg's essay touches on an often overlooked source of victimized art. While museums, private collections, galleries, and even the under-protected libraries and churches tend to have some form of security, however basic, and a registry of the valuables on the premises, there are works of art whose location allows them to slip between the cracks of established, catalogued collections. This includes fine art and objects of cultural and historical value that may be on display in a classroom, in a corridor, in a lecture theater, or an office. These objects are often of considerable value, and yet are forgotten in terms of security and cataloguing. Kleberg uses his experience as a university security director to discuss this issue from the perspective of the valuable objects in a university collection that are displayed outside of controlled gallery and archival spaces.

### **Richard Oram & Ann Hartley**

#### **Bringing It All Back Home: Recovery of Stolen Special Collections Materials**

Richard Oram and Ann Hartley's chapter on the legal processes to recover stolen Special Collections materials (rare book, map, and manuscript) is at once about library and archive crime and art law. Exploring a number of high-profile cases, Oram and Hartley discuss the often pain-staking procedure to recover stolen objects, even after the thief is sentenced and the objects are located. Libraries and archives tend to be unprepared for the need to specifically identify objects from their collection once

stolen. For instance, could one page out of a rare printed book be identified as belonging to a specific library's collection, if only the book itself, but none of its individual pages, were catalogued? They bemoan the lack of readily available sources of information on these complex legal issues, and provide an important tutorial for archives of the world, in how not to make the mistakes that their peers have in the past.

## LAW & WAR

### **Judge Arthur Tompkins**

#### **Art Theft: Heralds of Change in the International Legal Landscape.**

Judge Tompkins' chapter provides a smooth segue from the section on Libraries & Archives into Art Law. Using the theft of maps from the National Gallery of Spain as a starting point, he examines what he describes as the "somewhat bleak international legal landscape" in which laws work against cross-border claims for the return of property, and make legal claims difficult to enforce. Tompkins explores laws worldwide, pointing out the stumbling blocks and opportunities for future improvement. His essay functions nicely with the following chapter, by attorney James Hess, on legal cases between two apparently-innocent parties, over an artwork that has an illicit past.

### **James Hess**

#### **Battle Between Two Innocent Parties**

Congratulations -- you successfully locate a long-ago stolen piece of artwork and are anxious to return the piece to the theft victim. Not so fast. When stolen artwork is found in the hands of a bona fide purchaser, finding the piece may be the beginning of a contentious legal battle. Who is the rightful owner – the victim of theft or the good faith purchaser who had no way to know the work was stolen? The thief is long gone, leaving only a confusing maze of conflicting legal theories to "help" resolve the ownership dispute. The frustrating result is that one innocent party will lose; and the moral is that stopping art theft is the only way to avoid this dilemma.

### **Dafydd Nelson**

#### **Economic Woe, Art Theft and Money Laundering – A Perfect Recipe**

Art has always sold well, even during an economic downturn. It will likely take an external, independent regulatory body through which all art transactions must be run, requiring some active proof that the funds used for purchase came from legitimate sources, in order to impede money-laundering through art purchases. While the HMRC and EU have set up good guidelines, the enforcement is left up to the trade being regulated, requiring a level of self-policing that is practically improbable to hope for. An independent regulatory body does not yet exist, nor do active requirements for proof of the legitimate origins of funds to purchase art.

### **Erik Nemeth**

#### **The Artifacts of Wartime Art Crime: Evidence for a Model of the Evolving Clout of Cultural Property in Foreign Affairs**

Nemeth provides an in-depth analysis of art looting during times of war, and the reparations that follow the peace treaties. Through his impressive historical analysis, Nemeth develops a model of phases related to war looting and reparations that is applicable both to the Second World War and the Cold War era, and seems primed to repeat itself in future conflicts. This modelling system, which incorporates criminal, psychological, sociological, and legal components, is poised to become a new standard by which war looting may be evaluated, and the issues in future wars anticipated.

## AFTERWORD

### **John Stubbs**

#### **Why Masterpieces Matter: Some Dogmatic Reflections**

John Stubbs is an award-winning historian. His first book, a biography of John Donne, was lavished with critical praise, hailing him as the next generation's Peter Ackroyd. His essay, along with his background, is dramatically different from that of the other contributors to this volume. He is neither involved in the art world, beyond being an admirer of good art, nor the world of crime prevention and solution. But his essay is a good place to end, because it answers the question that will inevitably arise

when discussing art crime, setting aside the criminality: why should we care? It is a fair enough question. For art lovers, the answer is simple. You should care about art crime because you care about art—that it should be protected, preserved, made available to the public for enjoyment and to scholars for study. But for the large percentage of the populace for whom art does not play an important role, the response to the “why should we care” question is less straightforward. Most of this book answers the question from a criminological perspective. At its most basic level, you should care about art crime because, since the Second World War, most art crime has been committed by Organized Crime, and therefore feeds the other organized criminal activities, from the drug and arms trades to terrorism. If you care about crimes involving drugs, illegal arms, and terrorism, then you should care about art crime. But it is also important to respond, on behalf of art for art’s sake, to the audience who would say that art is not their cup of tea. Incorporating philosophy and Marcel Proust, John Stubbs’ afterword on why masterpieces matter is a wonderful and lucid response to that question.

\* This collection of essays, the first interdisciplinary collection of academic essays on art crime, will illustrate and analyze the problems raised by modern art crime, and provide practical suggestions on how to improve the situation in the future.

\* This collection seeks to establish art crime as a new field of academic study.

\* Not only will authors in the collection represent the voices of these various fields, but each author has been asked to use their knowledge from experience, research, and analysis, to offer practical suggestions for future implementation. Therefore this book is not only interesting for its readers, but contains practical information to be applied immediately.

\* This book is unique in being the first interdisciplinary academic essay collection on the subject. The diversity of authors mirrors the variety of fields effected by art crime, and demonstrates a unified front against a common scourge.

\* This book is of critical importance to anyone involved in the art world, its trade, study, and security. It introduces art crime as a new, interdisciplinary field of study. Both academic and professional authors represent the various spheres damaged by art crime, and present a unified front, working towards the common goal of curbing art crime in the future.