



No. 170

Art Crime

Marianne James

When art and crime mix, a wide spectrum of illegal behaviours come onto the screen—forgery and fraud, theft and extortion, money laundering, and document and identity fraud. These are also important issues of threats to the integrity of cultural heritage, as well as the import and export of antiquities and other items of cultural heritage.

International art theft has been estimated to be worth as much as US\$6 billion per year (International Foundation for Art Research 1995). Australia, with its small art market and geographical isolation, has its own unique dynamics, and art crime here is mainly concerned with forgery and theft of paintings. Forgery can have a significant impact on the art market. It instils a lack of confidence in investors and, when publicised, can depress the sale of the particular artist or school that is subject to the forgeries. When international markets lose confidence, this could be particularly disastrous for Aboriginal communities, as the art work is often the source of their economic livelihood.

The art industry, as part of the luxury goods industry, is also an attractive industry to money launderers. As it can be difficult to determine the value of a painting, illicit funds can be used to buy an item of considerable value and the true value unstated. There are challenges for law enforcement because of the specialised nature of the work and the particular knowledge of art required by police who work in this field. In December 1999, the Australian Institute of Criminology ran Australia's first conference on art crime. This paper explores all these issues surrounding art crime and its prevention.

Adam Graycar
Director

Art is one of the most profound expressions of our creativity and one of our most lasting legacies. Throughout history, art has been a reflection of the cultural, social and political aspects of all societies. In Australia, painters, in particular, have made a significant contribution to our cultural life. Artists, such as Glover, von Guerard and Martens, through the Heidelberg school to Nolan and Boyd, and more recently Whiteley and Williams, to name only a few, have put Australia on the world stage through the quality of their paintings. Art has, therefore, not only contributed to the cultural life of Australia, but to the commercial life as well. The art market, however, consists of a wide range of different kinds of art apart from paintings. This includes photographs, sculptures, works in glass, ceramics, antiquities and works on paper (that is, prints, drawings, and watercolours).

Art crime is not a new phenomenon. Stories of fakes, forgeries and stolen cultural treasures have been a part of the history of the world for centuries (Greenfield 1995). The improved accessibility of art and the acceptance of contemporary art as an investment have contributed to the upward trend in art crime over the last few decades when private ownership has become more prevalent. Reports of stolen art received by the International Foundation for Art Research more than tripled in the late 1970s. Combined with the quantity of anecdotal reports published in newspapers and law enforcement and art journals, it appears that criminals have also found art to be an increasingly useful avenue for profit making, by engaging in theft, forgery and money laundering (Aarons 1998).

**AUSTRALIAN INSTITUTE
OF CRIMINOLOGY**

trends
&
issues

in crime and criminal justice

October 2000

ISSN 0817-8542

ISBN 0 642 24186 4



Australian Institute
of Criminology
GPO Box 2944
Canberra ACT 2601
Australia

Tel: 02 6260 9221

Fax: 02 6260 9201

For a complete list and the full text of the papers in the Trends and Issues in Crime and Criminal Justice series, visit the AIC web site at:

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Theft

International art theft has been estimated to be valued at between US\$2 billion and US\$6 billion per year (International Foundation for Art Research 1995). Estimates suggest that US\$200 million worth of antiquities are smuggled out of Turkey yearly, primarily taken from burial sites and ancient cities (Doxey 1996). The government of the People’s Republic of China estimates that 40,000 tombs were robbed in 1989 and 1990, and gangs managed to smuggle out huge statues 1000 years old or more (WuDunn 1992). Italy recorded 230,000 art thefts from 1970 to 1990, British losses were estimated at US\$1.5 billion a year and the Czech Republic said it was losing about 10 per cent of its national patrimony per year to theft and smuggling (Blumenthal 1996). The 1990 theft of 12 paintings from the Isabella Stewart Gardner Museum in Boston has been estimated to be valued at US\$300 million. They were stolen by thieves posing as police officers who gained entry to the museum (Boston Police 2000). The paintings, which included the only known seascape by Rembrandt as well as one of the few extant paintings by Jan Vermeer, have still not been recovered. These incidents are all extrapolations from thefts reported to major police organisations such as Interpol.

In Australia, thefts have included Picasso’s *Weeping Woman* from the National Gallery of Victoria in 1986, ten paintings by leading Australian painters from a Sydney gallery in 1990 with a total value of A\$555,000, and a collection of 29 Hans Heysen paintings from the Hahndorf Academy in Adelaide in 1995—these were conservatively valued at A\$600,000. In addition, there have been thefts of multiple works valued at between A\$400,000 and A\$3.35 million from private collectors—Joseph Brown in 1978, the Smorgon

family in 1988 and Mark Stanley and Albert Tucker in 1998 (Maslen 1998). One of the better known incidents involves the theft from an art gallery in Melbourne in the 1970s of an entire exhibition of works by Grace Cossington-Smith, consisting of 27 paintings and works on paper, none of which have been recovered.

Thefts such as those listed above can have a significant impact on both private collectors and galleries. For instance, the total value of art sales by Australian commercial galleries in 1996–97 was A\$131 million, with each gallery selling on average A\$287,000 worth of art (Australian Bureau of Statistics 1998) and one theft can therefore have a significant impact on a gallery’s viability, even if insured.

To combat art theft, the art community and the insurance industry established the Art Loss Register in 1991 with offices in New York, London and Cologne in Germany. This is a permanent computerised database of stolen and missing works of art, antiques and valuables, and operates on an international basis to assist law enforcement agencies. The public as well as law enforcement can register stolen art. On average, the Art Loss Register records approximately 1200 items per month, and since its inception it has helped recover over US\$100 million in stolen art (Kisluk 1999).

However, as is the case with all crime, there is a low reporting rate for art theft. A great deal of the stolen art is unreported to such central bodies as Interpol and perhaps not even to the local law enforcement authorities, particularly in developing countries (Kisluk 1999). The recovery rate for stolen art reported to the International Foundation for Art Research, Interpol and the FBI has been estimated to be as low as 10 per cent and conviction of criminals for crimes involving art is even lower (Aarons 1998).

Fakes and Frauds

Younger and less well-known artists over the centuries have found that there was money to be made by reproducing the works of better known artists. One notable forger during the 1930s and 1940s was van Meegren, who specialised in the paintings of the 17th century Dutch master, Vermeer. Van Meegren did not copy Vermeer originals, but created paintings in the artist’s style such as “Supper at Emmaus”. This painting was declared to be one of Vermeer’s finest works until years later when it was discovered to be a fake. Van Meegren was eventually convicted of forgery in 1947 after selling the supposed Vermeers to the Germans during the occupation of Holland (Conklin 1994).

In 1999, John Drewe was convicted in a London court of two charges of forgery and one of conspiracy to defraud for the sale of 15 forged paintings of 9 modern masters. These masters included Giacometti, Braque, Chagall, Matisse, and Klee. All of these had been sold through Sotheby’s, Christie’s and Phillips. While Drewe did not actually produce the forged paintings (this was done by artist John Myatt, whom Drewe had specifically approached), he was the master of authenticating Myatt’s work by creating fraudulent provenances (Baker 1999). (Provenance details the history of the work of art from the point of creation through its exhibitions, sales and current ownership—provenances can carry details of sales even if the work is withdrawn prior to sale.) In fact, the major factors that distinguished Drewe were his knowledge of how the art market worked and the depth of his skill in creating detailed, but false provenances for the paintings he placed onto the market. Over the years, Drewe was able to use his notable negotiation skills and money, to work his way inside such organisations as the Tate

Gallery, the Victoria and Albert Museum and the Institute for Contemporary Art, and actually modify their records, including both computer and hard copy files, so that when a prospective buyer consulted these files, apparent “proof” of the provenance of a painting could be found (Polk 1999).

In Australia, fraud and forgery are often more serious crimes than theft for dealers and individual artists. However, no statistics are available to reveal the extent of art fraud, either in the production and sale of fakes, or fraud committed against dealers and collectors (Aarons 1998). The most infamous example of fraudulent art in Australia can be found in the revelations of artist Will Blundell that in mid-1998 he had painted numerous so-called “innuendoes” which were replicas of works by major Australian artists such as Streeton and Whiteley. Blundell alleged that others had introduced the “innuendoes” into the market as works by the more famous artists. This left many investors with tens of thousands of dollars tied up in paintings by Blundell when they thought they had a Streeton or Whiteley. One collector is reported to own six “Whiteley” nudes which had been valued at \$94,000—they are now worthless (Aarons 1998). In 1999, a major Melbourne art dealer revealed that she had been deceived by 3 faked paintings and further estimated that art fraud costs buyers millions of dollars a year (Maslen and Daly 1999). The Conservation Centre of the Ian Potter Museum at the University of Melbourne which carried out the scientific tests on these paintings proved they were not authentic, and also estimates that there are at least 15 known fakers whose works are on the Australian market (Sloggett 1999).

The lack of confidence and uncertainty experienced by investors when the existence of fakes is publicised can depress sales of the particular artist or school that is the subject of

forgeries. In fact, in the round of auction sales held a few weeks after the Blundell forgery revelations, a large number of works attributed to well-known Australian artists in whose style Blundell claimed to have painted, failed to sell. It is unlikely that all the paintings offered for sale were by Blundell. Rather, public confidence in the authenticity of these artists’ works was lacking (Aarons 1998).

Indigenous Art

The Aboriginal art industry, with a turnover of hundreds of millions of dollars every year, constitutes a major component of the Australian art market, particularly in terms of the overseas demand for Aboriginal works (Polk 1999). Works by Aboriginal artists are occasionally stolen. These have included a Gloria Petyarre which was taken in a burglary from a major metropolitan gallery, and also a large number of “Hermannsburg School” watercolours which were stolen from a garden shed in a suburb of Ballarat (Polk 1999).

The question of theft can, however, take different forms when it comes to Aboriginal art. There have been a number of noted examples where thematic material from Aboriginal artists has been taken without respecting the ownership rights of the artist. Under current Australian law, this is likely to be interpreted as a “copyright” problem and dealt with through a civil process. Nonetheless, the appropriation of artistic material without permission or payment to the artist can be seen clearly as a form of theft (Polk 1999). Australian copyright law arguably fails to protect Indigenous artists in the same way that it protects European artists (Newstead 1999).

The issue of faking seems to have more relevance in the context of the Aboriginal art market. Over the past two or three years, the Aboriginal art market has been the subject of

considerable media attention which has raised questions about the authenticity of Aboriginal art. In particular, the copies of works of well-known artists such as Clifford Possum were produced by fakers hoping to cash in on the established reputations of such artists (Alder 1999). Another situation of faking arises when an artist signs works produced by others. This can occur, for instance, when the artwork is produced by other family members and the painting then signed by the more well-known artists, or when a single artist’s signature appears on a piece which others have also worked on (Alder 1999).

The latter two examples generate extreme complexities in the authentication of some Aboriginal art. The issue of provenance is not as clear cut as in other art markets. There is a fundamental conflict which arises when Aboriginal understanding of their work is placed in the context of the expectations of the non-Indigenous art market. From an Aboriginal perspective, if the artist approves of a family member painting a work that draws upon the artist’s form/style, or use of motifs, or storyline, the product may still be conceived of as the artist’s *responsibility*. It is an issue of cultural context of the art production, not individual effort (Alder 1999).

Aboriginal art centres play an important role in the authentication of Aboriginal art, particularly in remote communities. They protect consumers as well as providing a valuable resource and support for the artists themselves. By publishing catalogues and issuing certificates as well as providing artist’s curriculum vitae, profiles and statements, the centres provide valuable tools for the verification of the work in the marketplace. Beyond these standard practices, they can also have close relationships with the artists (Dayman 1999). The art centres therefore play a significant role as intermediaries

and advocates between the local culture and knowledge and the non-Indigenous art market (Alder 1999). They are in an excellent position to advise the Aboriginal community about the non-Indigenous art market—its expectations and ramifications of certain practices, and to ensure that they are fully informed in relation to the situations of exploitation which are often related to authenticity issues (Alder 1999).

Money Laundering

Art lends itself to money laundering. Money laundering occurs when luxury goods are purchased for the purpose of converting illicit cash into “clean” assets, together with concealing the source or use of the funds (National Crime Authority 1991). The source of the “dirty” money is concealed when assets are purchased and then hidden or disguised. There is no requirement for art dealers to hold any form of licence, nor are art valuers required to have any qualifications. An art dealer can open an art gallery in any location at any time and can remain open for as long a period as is desired. Prices for art can be set at a price determined by the dealer and altered over time. The only restriction on the price set for a piece of art is the amount people are prepared to pay (National Crime Authority 1991).

As with other luxury items, art can be attractive to the money launderer because of the dearth of controls in the industry, the high value of quality art, and difficulties associated with determining the true value of art unless an experienced valuer is used. There is also an active market for quality art and no cash reporting requirements. The case outlined below came to the attention of the National Crime Authority and involved the systematic purchase of art over a period of time.

A narcotics importer is believed to have laundered illicit

proceeds through expensive artwork purchased in Australia and overseas. He allegedly began his art purchases with a \$60,000 painting, but over time began to purchase less obviously expensive art. Art was purchased with the expectation of a value increase and because it was unlikely to raise the suspicion of authorities in Australia. He became a recognised buyer overseas and dealers there would look for appropriate investments for him. Art bought overseas was allegedly paid for in cash (National Crime Authority 1991).

In this particular case, the police investigators did not recognise the value of the art in the suspect’s possession when a warrant was executed. It was not until receipts for some art purchases were found that police began to take note of activity in this area. This case illustrates that art could be attractive to persons wanting to launder money because authorities are not trained to recognise the value of quality art. As there are virtually no controls in the industry, hypothetically, art could be purchased by persons wanting to launder illicit funds by almost any means without raising the suspicion of authorities (National Crime Authority 1991).

Art can also be transferred overseas to an international market not concerned about the origins of funds used to purchase art, but concerned with the quality of the art on offer. The transfer of art into or out of the country could not be expected to raise the suspicions of customs staff, nor could they be expected to judge accurately the value of art leaving or entering the country. In addition to the open market for art, quality stolen art could be transported out of the country, sold overseas and the funds repatriated to Australia (National Crime Authority 1991).

It is also known that overseas crime related to art and cultural property is significant, as is its inextricable relationship to major and organised crime. Groups as diverse as the

American, Italian and Russian Mafia, the IRA and Colombian cocaine cartels have been identified as being involved. They can be conclusively linked to drugs and arms dealing, and those involved are dangerous and capable of violence (Hill 1995).

Law Enforcement

In Australia, the States and Territories have the powers to enact their own criminal laws, with the Commonwealth having the power to enact legislation in relation to its responsibilities under the Constitution. As a result, there are nine different systems of criminal law operating using a combination of statute and common law. The law enforcement community responsible for the investigation of crime includes Austrac, Australian Customs, the Australian Securities and Investments Commission, the Taxation Office, the Interpol National Bureau, Federal and State Police Services and the National Crime Authority. There are, however, no specialist art and cultural property investigation units (Hanley 1999).

In some countries where the art market is not as established, for instance in parts of Asia and Africa, many thefts go unreported because owners doubt the police will be able to help, and when the thefts are reported they usually receive little international publicity (Hanley 1999). Also, art theft and related crime are almost always international (Baker 1996).

However, traditional investigating methods—interviewing witnesses, identifying suspects and obtaining statements—are almost ineffective in the investigation of art fraud. This is because the investigative trail tends to lack documentary evidence, which conventional fraud inquiries rely upon. And merely because a victim is prepared to report art fraud to the Police Service, it does not mean that they are prepared to sign a statement or an affidavit

(Baker 1999). However, the inclusion of “organised fraud” in the *Telecommunications (Interception) Act 1979* allows Police to obtain crucial electronic evidence in fraud matters, and this is an effective investigative tool when undertaking art fraud investigations. Evidence can be acquired that would not have been obtained normally.

The forensic side of art fraud is still under-developed. The University of Melbourne is currently establishing an art register which will support future investigations into art fraud. However, forensic evidence is only a segment of all the evidence that will be required for a successful investigation and prosecution (Sloggert 1999). A National Fraud Database is also being developed by the Australian Bureau of Criminal Investigation (ABCI). This will enable information to be shared by law enforcement agencies and will include areas such as money laundering and art fraud (McCartney 1999).

While there is evidence that indicates that some of the trends evident overseas are emerging in Australia, there are still often circumstances which are peculiar to Australia. For instance, in December 1996, the New South Wales Police Drug Enforcement Agency placed an undercover operative within a drug ring in Sydney. During the course of this investigation it became obvious that not only was an illicit drug ring operating, but that the group were also in possession of stolen paintings. These paintings were later discovered to be the stolen Hans Heysens referred to earlier in this paper. The price being asked for these paintings was \$60,000 (Baker 1999). During the investigation, it transpired that when the paintings were originally stolen, they were immediately removed from their frames which were thrown into the Murray River, en route to Sydney. The paintings were then rolled and stored in a self-storage garage in western Sydney for

approximately two years. It was also revealed that the thieves were prepared to destroy the paintings because they were just “too hot” to retain (Baker 1999).

Crime Prevention

When assessing steps which can be taken to protect the Australian art market from both theft and fraud, situational crime prevention is most relevant. Situational crime prevention refers to interventions designed to reduce the opportunities for crime and increase the risk and difficulty of offending. Three components of this approach which need to be considered are: the pool of motivated offenders; the nature of the opportunities for such crime; and the presence of capable guardians, that is, individuals who have the position and capacity to prevent the criminal behaviour from occurring (Polk 1999).

Whereas in some other kinds of crime, for instance street crime, it may be important to consider how to reduce the supply of motivated offenders, there is probably little which can be done to reduce the pool of those who might be motivated to engage in art crime. Prevention efforts in terms of art crime should therefore be concentrated on closing off as much as possible the opportunities for individuals to gain access to illegal art goods, and/or to move such goods successfully onto the market. One example of this would be to create an Art Loss Register system in Australia for the recording of all stolen art works, similar to that operating in New York, London and Cologne in Germany. If such a register were available to dealers and auction houses, and further, if the art consumers knew of its presence as well, then the routine checking of works would quickly identify stolen material, and thereby close off access to the art market of such illegal works.

Another kind of register that could be of assistance is one that collates the works of established

artists, including the images. These could provide a bank of material against which the claims of any work might be compared. Databases already exist for some artists. It would therefore be necessary to assess the best ways of increasing access to such files for the purpose of assessing the claims of a nominated work (Polk 1999). A register of all material that has been withdrawn from either sale or auction would be another useful crime prevention initiative. This would alert dealers to the background of particular works and also provide a file that could then be correlated with existing files of past auctions. This type of register would, however, be more contentious (Polk 1999).

Another example of reducing the opportunities for crime would be to put into place effective design features that prohibit entry or access to buildings containing art and cultural heritage (Polk 1999).

In terms of fraud, the scientific work being undertaken by institutions such as the Ian Potter Museum of the University of Melbourne is essential. Given their extensive files of material on known fakers working in the Australian market, it would be relatively easy to identify a nominated work as a fake, and thereby restrict the opportunity for that work to enter the market through either a legitimate dealer or a major auction (Polk 1999). Moreover, capable guardianship could be put into the hands of the dealers themselves. In Australia, there are only a relatively small number of dealers who work consistently at the high end of the secondary art market and it is important that they closely observe all movements in the art market (Polk 1999).

Conclusion

While art crime generally includes the theft and forgery of paintings, photographs, sculptures, works in glass, ceramics and antiquities and also the

propensity to engage in money laundering, it is mainly the theft and forgery of paintings which is of concern in Australia. The unique character of Australian paintings, the small size of the art market and its geographical isolation protects Australia from much of the dynamics which operate internationally.

However, even though the art market in Australia is vigorous and, in general, relatively free of illegal activity, it is precisely because of the small size of the art market that there is a need to consider in more detail the possible impact of theft and forgery. For instance, in the case of forgery, rumours of suspect works of established artists circulate rapidly and this can have a devastating effect both on the sale of artwork by the same artist as well as on the dealer. In terms of Indigenous art, allegations of forgery can also be disastrous, particularly the effect on the international market which may lose confidence as a result. For many Aboriginal communities, the sale of their artwork has become a significant part of their economic survival.

Art theft in Australia also presents its own set of unique problems. The main one is that in such a small art community, specialised knowledge of the art market is needed, and it is therefore very difficult to sell the stolen paintings. The outcome of this could well be that artworks of significant historical and national importance are destroyed.

It is for all these reasons that a dedicated approach to art crime is needed within law enforcement agencies in Australia.

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Marianne James
is a Research Analyst with the
Australian Institute of Criminology.



General Editor, Trends and Issues in Crime and Criminal Justice series:
Dr Adam Graycar, Director
Australian Institute of Criminology
GPO Box 2944
Canberra ACT 2601 Australia
Note: Trends and Issues in Crime and Criminal Justice are refereed papers.