

LAW ENFORCEMENT ISSUES IN ART THEFT

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I remember feeling a bit tired, it was late and it had been a long day. I'd been wanting to catch up on the international scene and was scanning through the articles section on the Museum Security Network's website, when this story about art theft caught my eye. For a change its focus wasn't an incident in North or South America, Africa or Europe. What struck me about the article was the issues raised had quite a familiar ring to them. It spoke of the 'under reporting of art theft' and acknowledged that 'the full extent of the trade in stolen art would be difficult to determine'. It noted that 'a rise in forgery and theft reflected a recognition of the money to be made in this "shadow side" of the art world'. The author (Chuan, O.H., 1997) went on to add:

Few steps have been taken to meet the problem head on. Many works held by museums are stored away so that thefts are discovered only during infrequent inventories. Many thefts go unreported because owners doubt the police will be able to help. When thefts are reported, they usually receive little international publicity. With many of the artists unknown outside the country until recently, there is no ready network for validating the ownership of paintings.

In the story a representative from a well known auction house added 'Unlike in Europe, there is no database to tap into' (Iskandar, D.,1997). If you think the story was referring to Australia, you're wrong, but you could be forgiven for thinking that. The nation referred to in the story was our northern neighbour, Indonesia. The story was about the theft and eventual recovery of some 36 paintings which had been stolen from their National Museum. Some were identified in an auction catalogue and seized in Singapore and remainder in Jakarta. The article serves well to highlight a number of issues, not all of them about art, but it's a good place to start.

In dealing with art theft, law enforcement agencies in particular are confronted by many issues which include criminality, computer crime, co-operation with each other and commercial organisations, culture, database technology, evidence, globalisation, identification, information, intelligence, inter-relationships of crime, investigation, jurisdiction, legislation, management, markets, modus operandi, motivation to commit crime, organised crime, crime prevention, recovery, restitution, training liability and valuation to name but a few. To try and address all those issues in such a short space of time is obviously beyond the scope of this paper. I'll try and give you a brief idea of the dimensions of the problem, some trends, characteristics of art and cultural property related crime and address the salient issues of information, training, and use of computerised databases. I'll be speaking about heightening public awareness and crime prevention aspect in greater detail tomorrow.

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 in Australia using a combination of statute and common law (Australian Bureau of Statistics, 1999). The law enforcement community responsible for investigation of crime includes Austrac, Australian Customs, the Securities Commission and Taxation Office, the Interpol National Central Bureau (NCB), Federal and State Police Services and the National Crime Authority (NCA). In Australia today we have nine separate police services totalling in excess of 42,300 sworn officers (Australian Bureau of Statistics, 1999). We have yet to establish a specialist art and cultural property investigation unit in any State or allocate a single officer to that task on a full time basis.

Today police in Australia at the strategic planning level are placing greater emphasis on the 'Globalisation' of crime. As far as art and cultural property is concerned, this is nothing new. The history of civilisations is full of examples of the plunder of cultures and their art.

The attitude 'To the victor the spoils' has been perpetuated to this day. According to Special Agent Tom Baker of the FBI, 'Part of the internationalisation of crime is the phenomenon of art theft across borders. Art theft and related crime are almost always international' (1996).

Malcolm Kenwood from the Art Loss Register confirmed as much at this years Interpol conference when he said 'In 1998, 25% of our recoveries were in another country from the origin of theft. The figure this year is likely to be significantly higher and underpins the ease with which property can be transported (1999). In the art world 'globalisation' has been a passé term for centuries. What has changed are the values of art and cultural property and the speed with which it can be disposed of. They've both increased exponentially over time. For those in art and cultural property crime, they provide motivation and opportunity. Clearly, criminals are placing greater emphasis on moving works out of the country of theft in order to exploit local inadequacies in other locations.

We know 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 Columbian cocaine cartels have been identified as being involved. They can be conclusively linked to drugs and arms dealing', those involved are dangerous and they are very capable of violence (Hill C. 1995). The Russians are known to traffic in art and cultural property through over 40 gangs of émigrés who are living in the west. The motivation to steal art and cultural property has resulted in other serious crime including murder, robbery and deprivation of liberty. With an 'annual dollar value in art and cultural property theft being exceeded only by trafficking in illicit narcotics, money laundering and (illegal) arms trafficking' (Interpol, 1998).

Increasing the difficulty in policing this type of crime is the trend voiced by Colonel Bykovtsev, a senior investigator with the Russian Interior Ministry. He noted that criminals were becoming 'better prepared with their escape plans and sales venue ready with thefts often in response to orders'. The criminals are better educated and he expected to see 'an increase in pinpoint contract crimes' (1999).

So where do we fit in? We can certainly point to numerous examples which indicate that some of the trends evident overseas are occurring here. We've seen examples of theft of significant works and entire collections. Tony Reichardt, who was formerly a director of Marlborough Galleries had 250 graphic works stolen from his home. The theft included works by R.B. Kitaj, Barbara Hepworth, Victor Passmore, Graham Sutherland and John Piper. There is also the case where an entire exhibition of 27 paintings and graphic works by Grace Cossington Smith were stolen. Samuel Smorgon was another to suffer at the hands of three men and a women. The thieves tied up the house keeper before stealing paintings by Roy De Maistre, Camile Pissaro, Marc Chagall, Grace Cossington Smith, Arthur Boyd and Ray Crooks as well as jewellery, rare coins and porcelain. In the first two cases, none of the stolen works have been sighted or recovered.

In the latter case, only six of the works were recovered. They were found in the bell tower of St Mary's and St Joseph's cathedral by a cleaner. They were duly handed over to the Police who failed to recognise them, thinking they were the work of art students. We've also been witness to property such as the 'Rustici Neptune' replica which was stolen from Lord Sainsbury's house in August 1997, appearing for sale locally only a comparatively short time later. Within two months it was purchased by a local Brisbane collector through the secondary market. Losses art and cultural property here fall into both categories, planned and spontaneous. They also reflect the movement of less valuable works in quantity in a very business like approach to ensuring turnover, through the secondary markets here and overseas. Markets recently identified include those in the Middle East and Central America.

According to Lynne Chaffinch from the FBI's Violent Crimes and Major Offenders Section, the United States however remains, the primary market for stolen art (Cremers T., 1999). Indeed, the situation there lead Peter Spero, a prominent US Attorney to utter a note of caution by saying 'art theft is so pervasive today that chances are that any client who owns an object of art may be holding stolen property' (1998).

The fact that art theft goes under reported has already been mentioned. Last year the Assistant Director of General Crime at Interpol further emphasised the scale of the deficit when he stated in the International Criminal Police Review (1998) that the available 'figures in no way reflected the real losses suffered by member countries'. My research indicates that there may be a significant underestimation of the extent of art theft in Australia. Therein lies what must be our first priority and challenge, to establish an accurate picture of the true extent of the problem. To that end there is a need for a crime victim survey to be conducted throughout the art and cultural property industry along with members of the general public to assist in identifying the dimensions of the problem. Part of the problem is and continues to be a disparity of databases being used within Australia and overseas. If we are serious about establishing an accurate picture, we may also need to re-examine past crime reports in order to obtain valid information.

The perception that the police may be unable to help in the event of art or cultural property being stolen is very concerning. The police are after all, the primary agency responsible. We need to do more to address this belief which appears to indicate a lack of confidence in their capabilities, on the part of those members of the community affected by it. While obviously we're not unique in that respect, in our case we've probably contributed to the perception to a certain degree. Many is the time that I've cringed over the years reading in the paper of instances of art theft only to see police quoted as saying 'but we don't know anything about it'. From my perspective it is an indicator of a training liability that needs to be addressed. It also highlights one of the characteristics of art and cultural property. Most, when confronted by it, fail to recognise its value.

That liability, the need for an increased awareness of all aspects of art and cultural property related crime falls most heavily on the shoulders of the officers in our police and Customs services. They are the ones most likely to be confronted by stolen property in their professional capacities. Art theft as an investigation is rarely simple. It is often linked to other offences such as receiving, fraud, extortion, smuggling and money laundering. The more complex the investigation, the greater the level of experience and training required to address the liability. The liability could be addressed in joint training involving formal courses for investigators specialising in this area, including the opportunity to participate in tertiary courses where possible. A more basic level for other officers could be completed using contemporary distance learning techniques.

The net result of addressing this training issue would be an increase in the rate of reported crime by victims, a more accurate picture of the true extent of the problem, an increased clear up rate of offenders and recovered property. In doing so, it should also create a deterrent affect and promote a greater degree of confidence.

We have already seen the first arrests resulting from attempts to sell stolen art over the Internet this year. That occurred when two teenage clerks who were believed to be involved in the theft of over USD\$100,000 worth of animation images tried to sell it using the eBay Web site. Interestingly, it was the New York State Police Computer Crimes Unit which is only 4 years old, that handled the investigation. It serves to emphasise the necessity for increased awareness amongst law enforcement agency personnel and encourage the use multi-disciplinary investigative units to increase effectiveness.

The potential in this area is staggering. With all the major auction houses now 'On line', it creates another area that may require a commensurate level of resources and effort to police it. The American research company Jupiter Communications was quoted in an article in the London Daily Telegraph forecasting Internet auctions generating USD\$1.9 billion in revenue by 2002 with 6.5 million shopping by on line auction by then (Milner, C., 1999).

The challenge posed may prove difficult for police as computer forensic officers are commanding salaries in private enterprise that the Services appear unable to match. The end result may be that police services establish an even closer relationship with commercial organisations in order to fulfil their role. Even so, with only days in which to check sources prior to property going to auction, who ever takes on the role, will be hard pressed. It reinforces the old adage that for information to be useful, it has to be timely. It also leads us to the use of databases in combating art and cultural property theft and related crime.

Presently most of the specialised art and cultural property investigation units operate specialised databases. They record on them case details and imagery, if available, of the stolen property. Unfortunately, there seems to be very little in the way of standardised formatting of information fields. Very few of the databases have the capability to 'talk' to each other. Clearly, if we are to be effective, we need to have the capacity to exchange information and intelligence rapidly from point to point and globally. The 'Global Retrieval, Access and information System for Property items', also known as the GRASP (1999) database project was designed to address this liability. It permitted the already developed national systems in place throughout Europe (Europol) to continue being used to input data while permitting searching of all networked databases. While such a system is only as strong as its weakest link, the need to have a system with similar, if not expanded capabilities is imperative.

The use of such a system might have prevented the Queensland Art Gallery from purchasing William Dobell's "Study for the Cypriot" which had been stolen from the National Gallery of Victoria in 1961, from a London dealer. Indeed, such a system if accessible to police and Customs would assist in improving the rate of detection of offences and offenders, the seizure and recovery of property as well as an increased deterrent effect. Such a system if fully developed and accessible to members of the industry might also be used to alert galleries of significant risks to property which could be used in their risk management assessment. Knowing that thieves are targeting a specific type of property and had gained entry using a similar method, such as through skylights on four occasions would have to be beneficial. It might have proved useful for the National Gallery to know that work by Dale Chihuly was

stolen from the Delaware Art Museum earlier this year in May. It certainly would've enabled the local investigating officer to locate and search for information that may have assisted the investigation here.

The availability of such a system could also be used as part of the "Due Diligence" process. Certainly from a police perspective, a legislated process which required both buyer and seller to make verifiable enquiries about the details of a work would go a long way toward impeding and deterring art and cultural property related crime. As we approach the next century, you would think that with such a heavy emphasis on risk management and accountability, our law makers would be embracing a concept that was auditable and gave confidence to the buyer, the seller and the industry. Certainly, the challenge is there for us to play a part in ensuring that our industry remains a strong and vibrant one within the global market. Who can say where the industry will find itself in the long term. Certainly the next twelve months will prove challenging as a result of the Olympics where there are bound to be eyes looking for opportunity with collections, especially those accessible to the public. The next couple of years should prove quite interesting from a law enforcement perspective as we begin to implement strategies to address these issues.

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