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Title:
Considering Evidence in Art Fraud

Date:
2016

Citation:
SLOGGETT, R. (2016). Considering Evidence in Art Fraud. Chappell, D (Ed.). Hufnagel, S (Ed.). Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime: Australasian, European and North American Perspectives, (1), pp.121-134. Routledge - Taylor & Francis.

Persistent Link:
https://hdl.handle.net/11343/308858

CONTEMPORARY PERSPECTIVES ON THE DETECTION, INVESTIGATION AND PROSECUTION OF ART CRIME

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

Australasian, European and North American Perspectives

Edited by

DUNCAN CHAPPELL
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ASHGATE

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Published by
Ashgate Publishing Limited
Wey Court East
Union Road
Farnham
Surrey, GU9 7PT
England

Ashgate Publishing Company
110 Cherry Street
Suite 3-1
Burlington, VT 05401-3818
USA

www.ashgate.com

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

The Library of Congress has cataloged the printed edition as follows:
Chappell, Duncan.
Contemporary perspectives on the detection, investigation and prosecution of art crime : Australasian, European and North American perspectives / by Duncan Chappell and Saskia Hufnagel.
pages cm
Includes bibliographical references and index.
ISBN 978-1-4094-6313-9 (hardback : alk. paper) -- ISBN 978-1-4094-6314-6 (ebook) -- ISBN 978-1-4094-6315-3 (epub)
1. Art thefts--Law and legislation. 2. Art thefts--Investigation. 3. Art--Forgeries. 4. Cultural property--Protection (International law) I. Hufnagel, Saskia. II. Title.

K5219.C43 2014
364.16'287--dc23

2014015352

ISBN 9781409463139 (hbk)
ISBN 9781409463146 (ebk)
ISBN 9781409463153 (epub)



Printed in the United Kingdom by Henry Ling Limited,
at the Dorset Press, Dorchester, DT1 1HD

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Neil Brodie graduated from the University of Liverpool with a PhD Archaeology in 1991 and has held positions at the British School at Athens, the McDonald Institute for Archaeological Research at the University of Cambridge, where he was Research Director of the Illicit Antiquities Research Centre, and Stanford University's Archaeology Center. Since February 2012 he has been Senior Research Fellow at the Scottish Centre for Crime and Justice Research, at the University of Glasgow, where he is researching the criminology and economics of the antiquities market as part of the ERC-funded Trafficking Culture project. He has published widely on issues concerning the antiquities market, and was co-author (with Jennifer Doole and Peter Watson) of the report *Stealing History*, commissioned by the Museums Association and ICOM-UK to advise upon the illicit trade in cultural material. He also co-edited *Archaeology, Cultural Heritage, and the Antiquities Trade* (2006, with Morag M. Kersel, Christina Luke and Kathryn Walker Tubb), *Illicit Antiquities: The Theft of Culture and the Extinction of Archaeology* (2002, with Kathryn Walker Tubb), and *Trade in Illicit Antiquities: The Destruction of the World's Archaeological Heritage* (2001, with Jennifer Doole and Colin Renfrew).

Duncan Chappell, an Australian lawyer and criminologist, is currently a Honorary Professor in the Faculty of Law at the University of Sydney, and a Conjoint Professor in the School of Psychiatry at the University of NSW. He is also the past Chair of the International Advisory Board of the Australian Research Council's Center of Excellence in Policing and Security. A past President of the NSW Mental Health Review Tribunal; a former Deputy President of the Federal Administrative Appeals Tribunal; and a former Director of the Australian Institute of Criminology he has also held senior academic posts in Australia, Canada and the US. Chappell has researched and published widely on a range of crime and

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Craig Forrest is a reader in Law and Fellow of the Centre for Public, International and Comparative Law, TC Beirne School of Law, University of Queensland, Australia. He is a member of the International Law Association's Cultural Heritage Law Committee, and in that capacity his recent research has focused on the immunity of art works on loan. He also has a research interest in the protection of the underwater cultural heritage, and served as a member of the South African delegation to UNESCO that negotiated and adopted the 2001 UNESCO Convention on the Protection of the Underwater Cultural heritage. He has acted as an advisor to UNESCO inter-governmental meetings to consider the adoption of this and in 2013 was engaged by UNESCO to draft a Model Law implementing this convention for a number of States in the Caribbean, hosed by the government of St Kitts and Nevis.

Stefan Gruber is an associate professor at the Hakubi Center for Advanced Research of Kyoto University. Previously, he was a lecturer at Sydney Law School and regularly teaches and researches at universities in China. His current research concentrates on sustainable development law and policy, the conservation of cultural heritage, and the illicit trafficking of cultural property and other forms of art crime with a regional focus on East and Southeast Asia.

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Saskia Hufnagel is a qualified German legal professional and accredited specialist in criminal law. She currently works as Lecturer in Criminal Law at Queen Mary University of London. She previously worked as a Research Fellow at the Australian Research Council Centre of Excellence in Policing and Security, Griffith University, Australia, and was a Leverhulme Fellow at the University of Leeds. Her main research areas encompass law enforcement cooperation in Asia, North America, the EU and Australasia, comparative constitutional and human rights law with a focus on terrorism legislation and emergency management and the policing of art crime. Her monograph *Policing Cooperation Across Borders: Comparative Perspectives on Law Enforcement within the EU and Australia* (Ashgate) was published in 2013. Saskia was awarded an LL.M. (2004) and a PhD in Law (2011) by the Australian National University.

Stephen Nall is a lawyer art consultant and exhibition curator in private practice in Sydney and a member of a provincial Local Authority Arts Board. As an art consultant and former gallery proprietor in the Australian art market, he has an intimate understanding of the strengths and weaknesses of the trade in art works and objects. He is a frequent commentator in Australian media reports on art crime.

Patrick J. O'Keefe is Honorary Professor in the School of Law and the School of English, Media Studies and Art History at the University of Queensland. He has been particularly interested in art theft and illicit traffic, advising governments, international organizations and private clients on the implications of these activities. The third edition of his *Commentary on the 1970 UNESCO Convention* will be published in 2014. The second edition of his *Commentary on the UNESCO Convention* on underwater cultural heritage (published February 2014) contains in depth analysis of illicit traffic in such heritage and the concept of "commercial exploitation".

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

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Robyn Sloggett is Director of the Centre for Cultural Materials Conservation, which delivers industry-focused teaching, research and consultancy programs related to cultural preservation. Her current research incorporates art authentication, the scientific and cultural analysis of painting and medium used Australia, art market development and the impact of art fraud, cultural conservation in Southeast Asia, and the preservation of cultural material and archives held in remote and regional communities. In 2003 she was awarded the AICCM's Conservator of the Year Award for 'Services to the Conservation Profession'.

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.