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Letter from the Editor

With winter comes the fourth issue of *The Journal of Art Crime*, the first peer-reviewed academic journal on the interdisciplinary study of art crime.

We at ARCA and at The Journal are pleased to reflect back on a successful summer, full of innovations. The second season of ARCA's MA Program featured twenty-seven students and several new faculty members, running smoothly and now firmly established for the future. Applications are open until January for the summer of 2011 session, at www.artcrime.info/education.

The Journal of Art Crime has undergone some changes, as we are now publishing the print edition in collaboration with Amazon, making the acquisition of back-issues easier, and speeding up the printing process. In this issue, we are pleased to present not only our renowned regular columnists, but a number of new contributors, both established professors and professionals, and also a number of graduates of our MA Program, truly embodying the interdisciplinary, and all-inclusive, activities of ARCA in educating for the better protection of cultural heritage.

ARCA's annual conference on the study of art crime was a great success this summer. Speakers enjoyed a full conference hall of eager attendees, with the new venue of a gorgeous 16th century palazzo in the center of Amelia. In addition to our award recipients, Dr Lawrence Rothfield, Dick Drent, and Howard Spiegler, we were honored to host other renowned guests, including Marc Masurovsky of the Holocaust Art Restitution Project, Jane Milosch of The Smithsonian, Chris Marinello of the Art Loss Register, Colonel Giovanni Pastore of the Carabinieri, Stefano Alessandrini of Italy's Archaeological Group, and even the Attorney General of Italy, Maurizio Fiorilli. The abstracts from the conference may be found in this issue.

Finally, I am pleased to introduce ARCA's new co-directors, Joni and Derek Fincham. Taking over for Terressa Davis and Erin Linn, whose services were invaluable over the past year, Joni Fincham will be running the business and management side of ARCA, while her husband Derek Fincham will take the helm of the academic and research endeavors. I am thrilled to work with the Finchams and the rest of ARCA's staff, and look forward eagerly to the year ahead.

Thank you heartily for your support, and we hope that you enjoy this issue.

Best Wishes,

A handwritten signature in black ink, appearing to be 'NC' or 'Noah Charney' in a stylized, cursive script.

Noah Charney

Letter from the New Directors of ARCA

Joni Fincham is the new Managing Director of ARCA. Joni oversees the daily operations of the organization and is responsible for the continued development of projects and business enterprises which promote ARCA's mission. She brings six years of experience working in strategic development and marketing for cultural nonprofit organizations and social enterprises to her role as Managing Director. She holds an MBA from Loyola University New Orleans and degrees in Strategic Communications and French from the University of Kansas.

Derek Fincham is the new Academic Director of ARCA. Derek is responsible for the educational and research enterprises of the organization. Derek is an Assistant Professor at South Texas College of Law. His research focuses on the intersection of law with art and antiquities. He holds a Ph.D. in cultural heritage law from the University of Aberdeen, and a J.D. from Wake Forest University. He maintains a weblog at <http://illicit-cultural-property.blogspot.com/>.

Dear Readers,

We are honored to have the opportunity to lead ARCA and build on its strong foundation. It is truly impressive that such a young organization has successfully started the *Journal of Art Crime*, developed and administered a master's program, organized international conferences, published the edited *Art and Crime* volume, and hosted numerous talks and events—all within its first three years. ARCA's achievements have made a significant contribution to the fields of art crime prevention and cultural heritage protection, a terrific legacy that we are excited to continue and enrich.

We want to thank Noah Charney, the Board of Trustees, advisors, staff, and volunteers for their dedication and support; without all their hard work, ARCA would not have been able to achieve all that it has. We also want to thank all the readers of the journal and members of ARCA for your support and generosity. Your continued involvement is integral to our continuing and future projects.

The organization's fourth year ushers in an exciting time for ARCA, and we are eager to develop projects that will sustain ARCA and make it an even greater organization. These are just a few of the projects we have in the works over the coming months. First, the ARCA blog will see several changes to better serve as the journal's online companion. Second, in the coming year, we plan to redesign the ARCA website which will include a member network to facilitate better communication amongst members, journal subscribers and alumni. Summer 2011 will also mark the invitation of the first *ARCA Writers in Residence Program*. Two accomplished experts in the field of heritage protection and art crime will be invited to spend six weeks researching and writing in lovely Amelia, Italy, alongside our master's program students. We believe these new developments and programs will further the success of ARCA.

We welcome the challenges and opportunities ahead and encourage your participation in the future of ARCA.

Sincerely,
Joni Fincham & Derek Fincham

Revolutionizing Security in the Art World One Photograph at a Time: Photomacrography and its Application to Protecting Cultural Property

Lauren Cattey

Abstract

Photomacrography, high resolution close-up photography, is an important tool within the art world. The goal of photographing works in very close detail is to illustrate clearly the distinguishing features found on every single object. These photographic results can be used not only for analysis of the work of art, but as a protective layer of security. By demonstrating how photomacrography is used within the art world today and discussing how it should be used in the art world tomorrow, this known photographic process transforms itself from a tool for observation, documentation and analysis to a much needed security service to identify and protect cultural property for future generations.

Keywords: art, collector, conservation, cultural property, digital photography, forensic science, insurance, investigation, loss prevention, macro photography, museum, photomacrography, restoration.

Introduction

The art world is a highly faceted, complex system. Shining like a diamond, each facet represents a different area of expertise creating an aura that attracts people from all walks of life. Unfortunately, among those attracted to the sparkle of the art world are criminals. Art crime is not rare. In fact, it is estimated that it grosses six to eight billion dollars a year.¹ Luckily, there is a growing dedication to protect the art treasures in existence today and secure them for future generations.

One way to protect the integrity and authenticity of a work of art is to document its inherent features with photomacrography. The goal of photomacrography is to capture its subject in extreme detail to clearly illustrate its distinguishing features. While these photographic results are often used by conservators and art historians to analyze a work of art, the photomacrographs can and should also be used as a protective layer of security. By demonstrating how photomacrography is used within the art world today and discussing how it should be used in the art world tomorrow, this known photographic process transforms itself from a tool for observation, documentation, and analysis to a much needed security service to identify and protect cultural property.

Literature Review

Photomacrography, while common in practice, has little research specifically dedicated to its scientific uses. After conducting a thorough investigation, it is evident that besides the how-to books found, the only other scholarly inquiries mentioning photomacrography are in the scientific fields of biology, forensic science, and art conservation. Even within these fields, little is written. In the majority of the publications that do exist, this photographic process is present in the study of, to photograph a work of art, for example, but with little mention as to the importance of these close-up images. Only the field of conservation has published works describing the benefits of using photomacrography. However, these two studies date from 1973 and 1996. Since the digital age is upon us, this leaves out the new advancements in technology that have occurred in the last decade. Not only does digital photography improve the quality of the images and the ease of obtaining them, but it is also more cost effective. Museums have already transitioned to digital photomicrography, but the research is not there to back up this change.

Another gap within the research of photomacrography is its application to security precautions, specifically for the art market. Photomacrography is a noninvasive layer of security needed within the art world. Until now, there have been no scholarly publications connecting photomacrography

to securing works of art. The purpose of this association is to grab the attention of the art world, opening the door for more research into photomacrography and its application to protecting and securing art for the future.

What is Photomacrography?

While the term “photomicrography” may be foreign, the product of this photographic process is familiar. The larger-than-life image of a bee and the magnified center of a flower (Figures 1 and 2) are typical examples of photomacrography. Photomacrography simply refers to a technique used to photograph a subject at life-size or larger. The camera captures what the human eye may not see and magnifies it up to forty times its actual size.²

Photomacrography should not be confused with two other forms of highly detailed imaging: close-up photography and photomicrography. In close-up photography, there is no magnification involved. It portrays subjects at one-twentieth of their size up to life-size.³ In contrast, photomicrography creates an image with a magnification greater than 50 times the original size of the subject.⁴ As the name implies, a microscope is needed to capture this image.

In order to create an image with such definition, photomacrography requires specialized equipment and a meticulous photographer whose overriding concern is to obtain the maximum amount of image detail at the time the photograph is taken.⁷ When done correctly, the results are profoundly clear images of details that often go unnoticed. Not only does a high-resolution, magnified image make beautiful art, but it also becomes a useful tool, lending itself to many areas of expertise for documentation, research, and analysis.

Photomacrography in the Art World —Today

One specific area of expertise that finds photomacrography extremely valuable is the art world. Art is a unique field in which every object is a puzzle. It is up to the viewer to solve it and often there is more than one solution or no solution at all. The amount of information compacted on the surface and beneath it is endless. Therefore, no detail, no matter how small, should be overlooked. In order to gather all of these

2 Stan Sholik and Ron Eggers, *Macro and Close-up Photography Handbook* (North Mankato, MN: Amehst Media, 2000) p. 8.

3 Michael R. Peres and John G. Delly, “Photomacrography and Close-up Photography,” Rochester Institute of Technology (16 November 2009).

4 Peres and Delly, “Photomacrography and Close-up Photography”.

5 Figure 1: Mark Plonsky, bee, “Fine Art Photography” 2008 (16 November 2009).

6 Figure 2: Mark Plonsky, flower, “Fine Art Photography” 2009 (16 November 2009).

7 Sholik and Eggers, *Macro and Close-up Photography Handbook* 68-69.

1 “ARCA” (14 October 2009).

clues, conservators and art historians use various techniques to document and analyze works of art. Photomacrography is one of these techniques. Using this photographic process, conservators can “record information about the artist’s materials and painting technique and document inscriptions.”⁸ Art historians then interpret these findings. Photomacrography is often used by conservators because it is an unobtrusive method of analysis that allows for the study of minute components without altering or jeopardizing the original work of art.

Currently, major public and private institutions utilize photomacrography as a means to document and analyze important contributions to the art world. In the summer of 2007, the J. Paul Getty Museum launched an impressive new feature on their website in conjunction with the Courtauld Institute of Art and the Royal Collection. Developed by a paintings conservator and a paintings curator, Yvonne Szafran and Anne Woollett respectively, at the Getty Museum, “Cranach Magnified” is a project that allows visitors of the site “to compare macroscopic details” of paintings by sixteenth century German Renaissance painter Cranach the Elder.⁹ The concept originated upon analysis of the Getty’s own Cranach painting, *Faun and His Family with a Slain Lion*. Szafran and Woollett observed, in the painting’s background, a man running downhill, “whose actual size is one-third of a centimeter.”¹⁰ An investigation of the quality and style of Cranach’s brushstrokes and level of detail made it certain that he was the perfect artist to photograph macroscopically.¹¹

This type of in-depth analysis provides many benefits for the art world and its enthusiasts. First, the access “Cranach Magnified” assures is unrivaled (Figures 3 and 4). So often, works of art are protected behind glass, stanchions, or both. Many times, they are on display halfway around the world or not on display at all. Using photomacrography, the Getty Museum produced a new way to interact with works of art. Viewers are able to get closer to Cranach’s paintings than if they were standing directly in front of them. It also allows side-by-side comparison of works that are in separate collections, which is the main objective of “Cranach Magnified.”

Even though it allows greater access, another advantage of the use of photomacrography is that it inversely diminishes the paintings’ exposure to damage. “Many forms of fine art are fragile by the nature of their materials and are vulnerable

to obvious and subtle forms of damage.”¹² By decreasing the amount a work of art is handled by conservators, curators, and scholars, it directly decreases the risk for these types of damages. Photomacrography allows for the constant display of art without any risk involved and the photographic process to capture these images is also unobtrusive and harmless.

Woollett, passionate about this innovative technology, suggests an additional benefit of photomacrography. She proposes that “there is no reason we can’t take the same principles and create a focused study of the painting techniques of other artists.”¹³ Actually, this technology can go further than paintings. It can easily be adapted and modified for all techniques, all artists, and all media. All the photographer has to do is change what is in front of the camera. The Getty Museum’s clever and resourceful use of photomacrography connects artworks, from three different international collections, putting them at the viewer’s fingertips for analysis, comparison or pure enjoyment.

Another revolutionary collaboration in the art world is the recent duo of Peter Paul Biró and Nicholas Eastaugh. Through their company, Art Access and Research, these art detectives use cutting-edge technology to take photomacrography one step further than simple analysis. Biró and Eastaugh propose using photomacrography as an alternative security method, describing it as “a non-invasive technique where highly detailed images are taken, the microscopic features of cracks and brushstrokes, becoming an ‘internal barcode.’”¹⁴ They recognize the limitations of tagging works of art with DNA and microdot tags and RFID methods, for security reasons vary from “the need to avoid removal of tags and issues over whether materials applied conform to strict conservation criteria.”¹⁵ Because of Biró and Eastaugh’s expertise in fine art analysis using forensic science techniques, they understand that high resolution imaging captures features of the work of art that do not change, without damaging the original work. By having magnified images of a work of art along with Biró and Eastaugh’s analysis, they can match the craquelure pattern, brushstrokes, signature or any “unique identifier” in order to verify the painting (Figures 5-7).¹⁶ This deters the possibility of a fake or forgery being passed off as an original, especially under the auspices of authentic and legitimate papers. Biró and Eastaugh are taking a known photographic process and transforming it into a layer of security much needed within the art world.

8 Katherine Ara, “Paintings Conservation and Restoration” (16 November 2009).

9 “The Getty Launches New Web Feature...,” *J. Paul Getty Press Releases*, 2009 (19 November 2009).

10 “The Getty Launches New Web Feature...,” *J. Paul Getty Press Releases*, 2009 (19 November 2009).

11 “The Getty Launches New Web Feature...,” *J. Paul Getty Press Releases*, 2009 (19 November 2009).

12 “AXA Art Insurance Corporation” (13 November 2009).

13 “The Getty Launches New Web Feature...,” *J. Paul Getty Press Releases*, 2009 (19 November 2009).

14 “Art Access & Research” (14 October 2009).

15 “Art Access & Research” (14 October 2009).

16 “Art Access & Research” (14 October 2009).

Types of Security Used in the Art World

Like so many other industries, as new adaptations of science and technology are applied, the art world continues to grow. No longer only encompassing art history, now the world of art pushes its boundaries every day, requiring experts from all career paths. In order to protect art for future generations, security has become an important component that factors into daily decisions regarding its preservation. With the demand of high-tech security increasing in the art market, it is no wonder that all sorts of new gadgets have been invented. Technologies to tag art, such as microdot tags, Radio Frequency Identification (RFID) tags, and Global Positioning Systems (GPS), provide methods to track a work of art if it ever became missing or was stolen.¹⁷ But even these advanced technologies are not perfect. They must be small enough to go unnoticed and they must be applied according to conservation recommendations.¹⁸ Also, they must be cost effective. Photomacrography, while not a new concept, could be the future for protecting art.

Before discussing how photomacrography can be used as a layer of security for a work of art, it is important to understand the other security measures used today. The three most common systems to tag a work of art that exist in today's market are microdot tags, RFID tags, and GPS. Microdot tags are an art identification and anti-theft security system consisting of the application of a dot, one millimeter in diameter, on an asset. This microdot contains its own code, essentially offering a unique DNA which is registered on a secure national database for law enforcement access.¹⁹ Microdots are applied using a water-soluble, ultraviolet (UV) sensitive adhesive. This adhesive cures after twenty-four hours and is extremely difficult to remove without significant damage to the object. Often sold in sets of 50 for around \$115, with the recommendation of placing at least five microdots on each object, DNA microdots provide a valuable and relatively inexpensive tool for the recovery of missing or stolen assets.²⁰

Another popular security technology often used in the art world is RFID tags. The purpose of RFID tags is to identify and track assets using radio waves. These tags come in two parts, an integrated circuit for storing and processing information and the antenna for receiving and transmitting signals.²¹ The antenna attaches to the asset with either permanent acrylic glue or double-sided adhesives. Once attached, the RFID tags can be connected to an alarm system, warning security personnel if an object has been disturbed. However, the antenna attached to the object is not GPS and therefore, can only track the

object's location within the sensor's range. Known security problems do arise even within the RFID sensor's range. The first, called "collision," occurs when there are too many RFID tags in one area interfering with the signals.²² The second, "pick-rate," refers to the time delay of the signal being sent from the antenna to the sensor. Due to the antenna having to be attached externally, the location of the tag is visible, and since signals are transferred using radio frequency, they can be illicitly tracked. Finally, while the cost of an RFID tag may be just a few cents, "implementing a fully functional RFID system incurs multiple costs, including tags, readers, printers, middleware, infrastructure, consulting, system changes, implementation, training, change management, and service provider fees. In most cases, companies are looking at investments that can easily reach into millions of dollars."²³ While not a perfect layer of protection, if the budget permits, RFID tags are a worthwhile device to monitor and track missing and stolen assets.

The final option to tag a work of art is through GPS. GPS, a U.S.-owned utility, "provides users with positioning, navigation, and timing services" for any object equipped with a GPS tracking device. With the advancement of real-time GPS tracking systems, users are able to view data live, allowing law enforcement to detect an item's whereabouts quickly, no matter the location. This is a valuable tool should a work of art ever go missing or be stolen. Already used by law enforcement, GPS is a simple and familiar device that could potentially create leads when the trail runs dry. For less than \$500, which covers the system and the service subscription, GPS could protect fine art by acting as a deterrent or assisting in the recovery of a lost or stolen object. Similar to the microdot and RFID tags, this tracking system also uses permanent glue to attach itself, and therefore the owner risks damage to the object. Also, it is not invisible and therefore could potentially be removed. All three of these security tracking systems—microdot, RFID, and GPS—are successful ways to monitor and locate items. However, when the items are priceless objects, with strict conservation rules, such as fine art, extra precautions must be considered when deciding on what type of security to us.

Photomacrography in the Art World—Tomorrow

Photomacrography can and should be another viable security option for the art world. As soon as the market that uses photomacrography as a layer of security is expanded, the capability of this technology is limitless. Expanding the market of photomacrography can be done by increasing what objects

17 "Art Access & Research" (14 October 2009).

18 "Art Access & Research" (14 October 2009).

19 "DataDot USA" (30 November 2009).

20 "DataDot USA" (30 November 2009).

21 "RFID Tags – Applications, Manufacturers, and Information for Radio Frequency Identification" (30 November 2009).

22 "RFID Tags – Applications, Manufacturers, and Information for Radio Frequency Identification" (30 November 2009).

23 Larry Shutzberg, "Scoping Out the Real Costs of RFID," *Information Week*, 2004 (30 November 2009).

are photographed, recruiting new clientele for this service, and creating new reasons for using photomacrography, but remembering always to remain budget conscious.

Paintings are not the only works of art collected. In fact, a vast majority of many collections consists of works on paper. For example, the National Gallery of Art in Washington, D.C., boasts an impressive collection of almost 100,000 works on paper consisting of prints, drawings, and illustrated books.²⁴ Whether it is a print, map, drawing, photograph, or three-dimensional object, no matter the material, photomacrography is a useful tool necessary for documenting the features of any work of art. It does not have to be a rare, one-of-a-kind object. In fact, photomacrography can help distinguish between less rare objects, such as works that come in a series. By photographing all distinguishing marks, such as inscriptions, signatures, damages, repairs, or anything that makes an item unique, photomacrography captures the individuality of an object that may come in a series of 100 or more, something the naked eye might miss. Similar to documenting the serial number on your electronics, photomacrography records the distinction between one collector's lithograph and another's, aiding in identification and proof of ownership concerns.

Unlike the RFID and microdot tags or GPS security methods, whose only purposes are to track the location of art and trace the rightful owner, the uses for high resolution digital photomacrographs of a work of art go beyond just a layer of security. As already discussed, these images are a useful tool to study and compare works of art. This cuts back on the handling of the object, helping to preserve its physical integrity but also keeps the work accessible. This is the reason museums have already started using photomacrography to document the art in their collections.

Whether for a large public institution or a small private collection, these digital images kept on file, double as a photographic inventory list. No matter the size of the collection, it is always important to keep a detailed record of all items owned. Not only do these images provide an inventory, but because they are digital, the computer creates a highly organized list that can be searched easily searched; a convenience that is needed to manage a growing collection.

Within this inventory, photomacrographs of the collection document every work of art's distinguishing marks as well as overall condition. This provides an extremely practical tool should any misfortune ever occur. If the work is ever damaged, lost, or stolen, the insurance company "will need a thorough description of the object, including photos from the owner's inventory," to initiate the claims process.²⁵

"This description will help the insurance company and the appraiser to determine the object's current market value."²⁶ If the object is damaged, photomacrographs will aid the restorer by showing detailed images of the object and of the artist's technique to use in comparison.

Criminals' awareness of the existence of these photographs should act as a deterrent, protecting the collection from theft in the first place. However, if the object is one that is lost or stolen, the photomacrographs not only prove ownership, but also provide digital photographs that can be distributed effortlessly as visual assistance to an investigation. By having these images, not only can the investigator identify the object when it is found, but he or she can also deter the offer of a fake or forgery, or discredit a simple misidentification. This is extremely important if the object is one from a series, such as a print, where more than one version exists.

Because of the plethora of applications that photomacrography can offer to the art world, ranging from the analysis of a work of art to its protection, it is clear that individuals, businesses, and institutions will find a need for this resource to serve their individual art collections. As more clients turn to photomacrography for documentation and as a layer of security, more works of art will be protected, especially the vulnerable collections that are not covered by state-of-the-art security systems, such as the collections at major museums.

Private collectors will want photomacrographs for multiple reasons. If they intend to insure their art objects against damage or theft, the insurance company will require photographs for documentation and appraisal purposes. Because these images provide an "internal barcode," as Biró and Eastaugh indicate, even if the art is not insured, they will provide recognition as well as proof of ownership in the event of missing or stolen art. This is especially important in cases involving private collectors whose lost art is not found until decades later, when they may no longer be alive.

For a more every day use, the photomacrographs provide an accessible inventory list. As technology becomes more advanced, owners are able to search, organize, share, and enjoy the works of art within their private collection by simply opening the photographic inventory list on their computer. The high resolution images could also aid in the resale of a work of art. They add to the provenance and could be passed on to the next owner, ensuring the artworks authenticity. Also, for restoration or cleaning purposes, the images provide a detailed reference for the conservator or restorer in order to maintain the artist's original style and technique.

24 "National Gallery of Art" (21 November 2009).

25 "AXA Art Insurance Corporation," (13 November 2009).

26 "AXA Art Insurance Corporation," (13 November 2009).

Collections housed in public institutions that provide unlimited access to patrons are often the most vulnerable. Libraries, archives, and churches all have priceless art objects both on display and for scholarly use that must remain available to the community. Also, these institutions often do not have large budgets to protect what they have with expensive security systems. Photomacrography provides a method for these institutions to catalog their inventory, keeping track of the items they own, while also documenting important identifying markers and overall condition of these objects. If these institutions could set up a system like the Getty's "Cranach Magnified" project, this could also reduce the handling of the actual works of art, limiting the art's vulnerability for misplacement, damage, or theft, while still maintaining the accessibility required by the institutions' patrons. In the event that an object does go missing, as with the private collector, the photomacrographs will assist in object identification and proof of ownership concerns when the object is recovered.

Other organizations that will find the existence of photomacrographs valuable are businesses within the art world, such as fine art dealers, auction houses, appraisers, and insurance companies. These businesses thrive on the authenticity of the works of art they assess and sell to the secondary market. They require their experts to perform due diligence and to only sell and/or appraise objects with clear and good title. Photomacrographs of a work of art presented for resale help establish the history and provenance of that object. The high resolution images also convey the work's condition and, since they are digital images, are easy to share with the companies for evaluation. The more information the businesses within the art world know, the better it is for everyone involved, including the buyer.

Finally, photomacrography could be an invaluable tool for law enforcement. When filing the theft with the police, the owner of stolen art should turn over copies of the high resolution images for two reasons: First, so the investigator knows what he or she is looking for, and second, to add into an international photographic database for the use of law enforcement. Because art is often found where the artist, name of the work, and even origin are indistinguishable, investigators could use this database to browse by image, search by description, and sort out potential matches in an effort to identify the work of art that has been found. Investigations must be warranted, and with "the frequent difficulty of positively identifying the works stolen," especially when the law enforcement effort is long-term, must validate "whether the property is authentic and valuable enough to justify the investigation."²⁷ With photomacrographs of the missing or

stolen work of art, law enforcement no longer has to guess at the authenticity of the object and therefore can dedicate their time to the investigation. Once found, the work of art could be identified down to its craquelure pattern or brushstrokes, inherent details that cannot be changed, truly verifying that the missing object has been recovered.

Storage

Because photomacrographs are a layer of security, how these images are handled and stored is an important factor that must be considered. Discussion with museums that use photomacrography in their conservation departments, disclosed that they had various techniques of storing their images; however, there were some commonalities. Photomacrographs are either stored digitally on the museums intranet system or in personal folders, on CDs or DVDs, or printed and stored in the archives department.²⁸ Necessary precautions should be considered when storing these images. They are private documents containing highly sensitive information and should only be shown to trusted individuals, when required. Also, the stored images must also be maintained over time. CDs and DVDs do not last nearly as long as the work of art will, and the technology is bound to change as it improves. Therefore, backing up the files should be considered as years pass. Once photomacrographs of a work of art are produced, protecting the images, just like protecting the actual object, must be a priority.

Conclusion

The process of photomacrography has existed for some time now. It is currently applied in the art world as an extremely valuable method to access, analyze, document, and compare works of art. However, it is not being used to its fullest potential. Photomacrography should be adopted as a viable protective layer to secure cultural property. When photomacrographs become part of a security system, art crime is deterred and the integrity of the work is safeguarded. It is evident that this photographic process could create a new industry within the security and art worlds, revolutionizing how works of art are accessed and protected today and in the future.

27 Bonnie Burnham, *Art Theft: Its scope, its impact and its control* (International Foundation for Art Research, 1978), p. 38.

28 "Inquiry about High Resolution Photography," E-mail Interview. (13 November 2009).

Images



Figure 1. Mark Plonsky, bee, “Fine Art Photography” 2008 (16 November 2009).



Figure 2. Mark Plonsky, flower, “Fine Art Photography” 2009 (16 November 2009).



Figure 3. *Faun and his Family with a Slain Lion*. J. Paul Getty Museum.

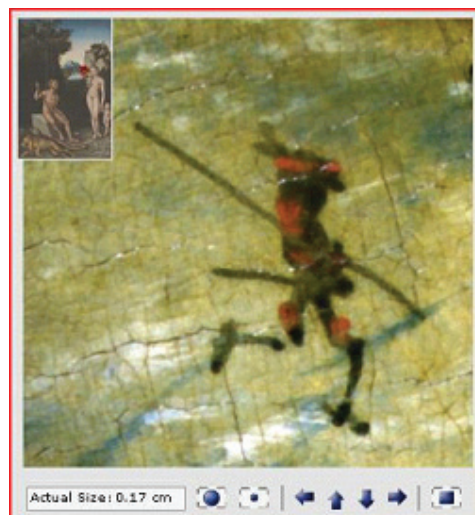


Figure 4. *Close-up of figure 4*. J. Paul Getty Museum.



Figure 5. “Art Management Group” (14 October 2009).

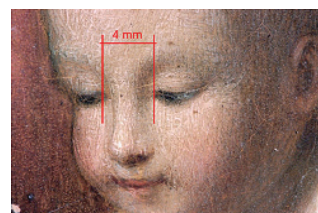


Figure 6. “Art Management Group” (14 October 2009).



Figure 7. “Art Management Group” (14 October 2009).

Bibliography

- Ang, Tom. *Digital Photography Masterclass*. New York: DK, 2008. Print.
- ARCA: Association for Research into Crimes against Art. Web. 14 Oct. 2009. <<http://artcrime.info/index.htm>>.
- Art Access & Research, Web. 14 Oct. 2009. <<http://artaccessresearch.com>>.
- Art Management Group, Web. 14 Oct. 2009. <<http://www.artmanagementgroup.com>>.
- AXA Art Insurance Corporation, Web. 13 Nov. 2009. <<http://www.axa-art.com>>.
- Biro, Peter Paul, "Forensics and Microscopy in Authenticating Works of Art." *Royal Microscopical Society* 1 (2006): 1-17. Print.
- Biro Fine Art Restoration, Web. 17 Aug. 2009. <<http://www.birofineartrestoration.com>>.
- Burnham, Bonnie. *Art theft: Its scope, its impact and its control*. International Foundation for Art Research, 1978. Print.
- Canfield, Jon. *The Digital SLR Guide: Beyond Point-and-Shoot Digital Photography*. 1st ed. Berkeley: Peachpit, 2006. Print.
- Cole, Simon A. "A little art, a little science, a little 'CSI'" *New York Times*. 31 Dec. 2006, Web. 14 Oct. 2009.
- Constant, Alan, *Close-up Photography*, 1st ed. Maryland Heights: Focal, 2000. Print.
- DataDot USA, Web. 30 Nov. 2009. <<http://www.datadotusa.com/index.htm>>.
- Davies, Paul H., *The Complete Guide to Close Up & Macro Photography*. Devon: David & Charles, 1998. Print.
- Digital-Imaging and Optical Digital Data Disk Storage Systems: Long-Term Access Strategies for Federal Agencies. *Digital-Imaging and Optical Digital Data Disk Storage Systems: Long-Term Access Strategies for Federal Agencies*. The National Archives at College Park, 14 July 1994, Web. 13 Nov. 2009. <<http://www.archives.gov/preservation/technical/imaging-storage-report.html#ack>>.
- "Fine Art Insurance: Insuring Your Art." *PicassoMio*, Web. 13 Nov. 2009. <<http://www.picassomio.com/owners-manual-art-after-you-buy/fine-art-insurance-insuring-your-art.html>>.
- "Fingerprint Tech IDs Leonardo da Vinci." *Fox News*. 13 Oct. 2009, Web. 14 Oct. 2009. <<http://foxnews.com/story/0,2933,565000,00.html>>.
- Foster, Giraud V., and Norman J. Barker. "Close-up Photography of Archaeological Objects," *Journal of Field Archaeology* 23.3 (1996): 369-75. *Jstor*, Web. 17 Nov. 2009. <<http://www.jstor.org/stable/530488>>.
- Global Positioning System, Web. 01 Dec. 2009. <<http://www.gps.gov>>.
- "GPS Tracking Systems May Have Prevented Art Heist." *LandAirSea*, Web. 01 Dec. 2009. <<http://www.landairsea.com/gps-tracking-blog/gps-tracking-systems-may-have-prevented-art-heist/>>.
- Gulbins, Juergen. *Digital Photography from the Ground Up: A Comprehensive Course*. Santa Barbara: Rocky Nook, 2008. Print.
- Halepis, Harriette, "Tracking Fine Art," *Rocky Mountain Tracking*. 5 Apr. 2009, Web. 1 Dec. 2009.
- "Inquiry about High Resolution Photography," E-mail interview, 13 Nov. 2009.
- Jacobs, Lou. *Secrets of Close-Up Photography*, Cincinnati: Writer's Digest Books, 1997. Print.
- Johnson, Meryl, and Elisabeth Packard, "Methods Used for the Identification of Binding Media in Italian Paintings of the Fifteenth and Sixteenth Centuries," *Studies in Conservation* 16.4 (1971): 145-64. *Jstor*, Web. 17 Nov. 2009. <<http://jstor.org/stable/1505494>>.
- Keck, Sheldon, and Robert L. Feller, "Detection of an Epoxy-Resin Coating on a Seventeenth-Century Painting." *Studies in Conservation* 9.1 (1964): 1-8. *Jstor*, Web. 17 Nov. 2009. <<http://jstor.org/stable/1505115>>.
- Kim, John. *40 Digital Photography Techniques*, San Francisco: Sybex, 2003. Print.
- King, Annabelle, "Whodunit?" *Montreal Gazette*, 12 Oct. 2000, Web. 17 Aug. 2009. <www.birofineartrestoration/Gazette.htm>.
- Lerner, K. Lee, and Brenda Wilmoth Lerner, "Photography: World of Forensic Science," *ENotes*. Gale Cengage, 2006, Web. 13 Nov. 2009. <<http://www.enotes.com/forensic-science/photography>>.
- Long, Ben. *Complete Digital Photography*. 4th ed. Boston: Charles River Media, 2007. Print.
- "Macro photography," *Wikipedia*, 8 Nov. 2009, Web. 13 Nov. 2009. <http://en.wikipedia.org/wiki/Macro_photography>.
- Marceau, Henri. "Conservation and Technical Research," *The Philadelphia Museum Bulletin* 35.184 (1940): 3-15. *Jstor*, Web. 17 Nov. 2009. <<http://jstor.org/stable/3794794>>.
- Milburn, Ken. *Buying Options Digital Photography: Expert Techniques*, 1st ed. Sebastopol: O'Reilly Media, 2004. Print.
- "Microdot & DNA Property Marking & Asset Identification System from Insight Security," *Security Products UK*. Web, 23 Nov. 2009. <<http://www.insight-security.com/prm-microdot.htm>>.
- "Museum Conservation Institute: Taking Care." *Smithsonian Institution*, Web. 13 Nov. 2009. <http://www.si.edu/mci/english/learn_more/taking_care/index.html>.
- National Gallery of Art, Web. 21 Nov. 2009. <<http://www.nga.gov>>.
- Peres, Michael R. *Focal Encyclopedia of Photography*, 4th ed. Maryland Heights: Focal, 2007. Print.
- Peres, Michael R., and John G. Delly, *Photomacrography and Close-up Photography*, Rochester Institute of Technology, Web. 16 Nov. 2009. <<http://encyclopedia.jrank.org/articles/pages/1173/Photomacrography-and-Close-Up-Photography1.html>>.
- Plonsky, Mark, *Bee*. 2008, Photograph. *Fine Art Photography*. Web, 16 Nov. 2009. <<http://www.mplonsky.com/photo>>.

- Plonsky, Mark, *Flower*. 2009. Photograph. *Fine Art Photography*. Web, 16 Nov. 2009. <<http://www.mplonsky.com/photo>>.
- RFID Tags – Applications, Manufacturers, and Information for Radio-Frequency Identification, Web, 30 Nov. 2009. <<http://www.rfidtags.com/>>.
- Sanger, David. “Extreme Close-up Photography and Photomacrography,” *American Antiquity* 38.2 (1973): 210-15. *Jstor*, Web, 17 Nov. 2009. <<http://jstor.org/stable/279369>>.
- Schumacher, Mary L. “A stroke of genius from artist, expert.” *The Journal Sentinel* [Milwaukee, WI] 15 Oct. 2009, Final ed., 1A sec.: 1A+. Print.
- Security Industry Association*, Web, 21 Nov. 2009. <<http://www.siaonline.org>>.
- Sholik, Stan, and Ron Eggers, *Macro and Close-Up Photography Handbook*, North Mankato, MN: Amherst Media, 2000. Print.
- Shutzberg, Larry, “Scoping Out the Real Costs of RFID.” *Information Week*, 1 Nov. 2004, Web, 30 Nov. 2009. <<http://www.informationweek.com/news/global-cio/showArticle.jhtml?articleID=51201525>>.
- Spring, Gale E., *Photomacrography*. RMIT Scientific Photography, 11 Feb. 2006. Web, 16 Nov. 2009. <<http://www.a-p-s.org.au/pdfs/articles/macro.pdf>>.
- The Art Management Group*, Web, 21 Nov. 2009. <<http://www.artmanagementgroup.com>>.
- The Getty Launches New Web Feature that Allows Visitors to Get Up Close to the Work of Lucas Cranach the Elder*, *The Getty Press Releases*, J. Paul Getty Museum. 28 June 2007, Web, 19 Nov. 2009. <http://www.getty.edu/news/press/center/cranach_magnified_062807.html>.
- Thornes, Robin, Peter Dorrell, and Henry Lie, *Introduction to Object ID: Guidelines for Making Records that Describe Art, Antiques and Antiquities*. Los Angeles: Getty Research Institute for the History of Art and the Humanities, 1999. Print.
- van der Reyden, Dianne, 1994, Preservation Processing Steps for Paper-Based Collections. *Issues in Art and Archaeology IV*, Material Research Society.
- van der Reyden, Dianne, 1994. Preservation Responsibilities: Material Care and Materials, Science for Paper-based Research Collections, *Materials Issues in Art and Archaeology IV*, Material Research Society. 352:63-69.

Art Fraud: Deflecting Prosecutorial Intervention Away from the Defective Art Product

John Daab

Abstract

Historically, art crime consisted of looting, stealing, and burglarizing museums and creating art forgeries, to name a few. Scholars have recently broken down the category into street and white-collar art crime types. For example, the common museum burglaries fall under the street type while art forgery and art fraud are found in the white-collar realm. The notoriety of the break in is hyped by the mass media in their various presentations. Art crimes of this sort are definite, often leaving a trail. Ultimately, the culprits are captured by tips or forensic examination such as fingerprints, burglar tool matching, and so on. In the case of art fraud or forgery, which Starnes has characterized as the “invisible crime,” such definitiveness or clarity of criminal act is often missing (2002). Such indivisibility combined with factors hindering prosecution allows the art criminal to push the envelope to the point that this form of white collar crime becomes a noncrime. The study below offers an identification of the factors and the consequences surrounding white-collar art crime, leading to a suggestion that art fraud is a gold mine for the white-collar criminal.

Keywords: art crime, art fraud, forgery, forensics, white collar crime, fakes.

Introduction

The FBI reported recently that white-collar crime costs the United States about 300 billion dollars a year (FBI, 2010). Contained within this statistic is about 13 billion dollars in art crime. The problem with the statistics regarding art crime is that it is not clear to what extent art fraud is defined or clearly understood, since most prosecution falls under the mantra of wire and mail fraud. More significantly, we tend to understand art fraud as fraud regarding paintings, lithographs, sculptures, and so on. To understand the nature of art fraud it is necessary to provide a more telling definition of how the law regards the nature of art and art fraud. Most importantly, art fraud is the type of crime whereby intelligent criminals can commit the crime without fear of prosecution and incarceration. The key in moving beyond the law is to make the crime a non-crime.

What Is Art

According to the IRS, “The term “art” includes paintings, sculpture, watercolors, prints, drawings, ceramics, antique furniture, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects” (IRS, 2010). Paragraph 2, of the Tangible Personal Property Valuation Guidelines, Internal Revenue Manual, broadens the above definition of art and other related personal property items as follows, “Personal property includes but is not limited to paintings, watercolors, prints, drawings, sculpture, ceramics, furniture, decorative arts, antiques, textiles, carpets, silver, rare manuscripts, historical memorabilia, antiquities, ethnographic art, collectibles, gems and jewelry...” (IRS, 2010). If one visits a museum the items found in the different parts of the building will parallel the IRS definition of what constitutes art (Wiki, 2010). Although the definition and practice form an artistic reality, it is not always clear that all selling and buying points geographically reflect this cohesion. The NYPD in New York may identify a stolen or fraudulently transmitted ceramic artifact worth thousands as art, but in Germany it may be identified as simply a dish. This presents a problem in establishing the numbers of art crime.

Art Crime and Its Duality

Art crime, like crime in general, may be broken down to a street and white-collar version (Ball, 2002). The street version has to do with a burglary of art, a robbery of art, looting, and receiving and selling stolen art. It is carried out by thuggish individuals who more than likely have no appreciation for the art, or just need to garner some cash in exchange for their booty. White-collar art crime has to do with art fraud, which consists of fakery, forgery, reproductions to secure money (you can copy but if you sell it as the work of the artist it is fraud). The legal conditions of art fraud are a function of a given state, or federal guidelines (California Consumer Laws, 2010).

For the most part art fraud begins with a statute outlining the conditions of misrepresentation, benefit to the fraudster, and loss to the victim. The culprit in the street version may carry a firearm; the white-collar criminal will carry a pen and know about what constitutes frauds and what does not. Art fraud is not committed by thugs but by well-respected and trusted individuals who exist on a high level of the social scale. This isn't to say that these individuals chose to be from the elite crust, but that the circle they travel in will normally be found within that higher circle (Mason, 2005).

The street version consists of basically stealing a piece of art and selling it to make money or incur social status. The white-collar version is such that the victim has been duped but really does not know it because the crime of fraud is an invisible crime. You just bought or won at auction a Dali print that is a copy developed by someone who can copy and sell it for a high price because the market is unregulated (Hill, 2006).

The differences between street and white-collar art crime are not clear and unequivocal. It is not necessarily the case that Gardner-type heists are always carried out by thugs, nor that art fraud is always carried out by society types. John Drewe, the famous forger, was alleged to have been involved in the murder of a woman while carrying out his frauds (Salisbury, 2009). The recent art thefts in France did not involve any violence usually associated with street crime (Davis, 2010). It is also not always clear that what seems to be art fraud will be identified as art fraud and not as something else. The Ely Sakhai case seemed to be a clear-cut one of art fraud (Thomson, 2005). The fraudster hired the fakers, paid them with checks he signed, and was eventually caught when one of his unwary customers was notified by the auction house that the consigned work was a forgery. Rather than charge Sakhai with art fraud, the U.S. prosecutor went the route of wire fraud since Sakai used the mails in the carrying out of the fraud. Sakai is now completing a 4-year sentence (US Attorney, 2005). For the most part very few art fraud cases are prosecuted. The International Foundation for Art Research (IFAR) data suggests that only 20% of art fraud prosecution takes place (2010). 80% of art fraud cases are prosecuted under the wire and mail fraud statutes (IFAR, 2010). The underlying difference between the types is that art theft is a crime that has the visual components of a crime—broken locks or windows, missing items, or paintings cut from their frames—while art fraud is more of a pickpocket crime: you don't know that you have been taken until you realize that what you have bought as authentic is missing its authenticity. Starnes has described art fraud as the invisible crime. You will never know that you have been a victim unless someone tells you (2002).

Art Crime and Its Costs

ARCA notes that 6 to 8 billion dollars of art crime takes

place throughout the year worldwide (ARCA, 2010). This figure might be higher if one uses the Hoving formula or the Rembrandt findings approach. Hoving noted that during his tenure as director of the Metropolitan Museum of Art, the MET uncovered the fact that at least 40% of the works found in the museum were of questionable authenticity (1997). Scholars involved in assessing approximately 700+ alleged Rembrandt works noted that 50% were of questionable authenticity (Atkins, 2002), 33% (Seinstra, 2007), and 10% in Brown's examination of 12 works (2006). The translation of these scholarly investigations is that of the 26 billion dollars of art sold during 2008, 20+ billion dollars was possibly inauthentic or questionably authentic. Note here that 26 billion dollars constitutes the reported art exchanging hands (Kinsella, 2008). What is absent here is a clear identification of street crime art thefts and white-collar crime art fraud breakdowns. Further, much of art crime consists of visual arts, such as paintings, lithographs, and sculptures, being stolen, looted, or forged, and not very much about ceramics, glass, collectibles, furniture, and other categories outlined as art. One might easily argue that art crime's invisibility severely limits assertions of its extent. But, whether 8 billion or 20 billion dollars of fake art, there is reason to believe that white-collar art crime is rampant, costly, and uncontrolled.

White-Collar Crime

If any event provides a solid backdrop to the issue of white-collar crime it would be the Madoff ponzi scheme of 65 billion dollars (Markopolos, 2010). The fraud was costly to many investors, and provided the picture for the excesses of uncontrolled crime taking place via criminals who use a pen rather than a gun. White-collar crime starts with a basic population that is indifferent and trusting, who really do not care whether what they are buying is real or fake (BBC 2007). It proceeds with an unclear understanding that so called nonviolent crimes are really not high up on the scale of legal violations and failure to practice due diligence in the products purchased (Ball, 2002). The products could be stock and bond investments, real estate, or personal property consisting of art. Much of the population has been conditioned to believe that the men in white are the good guys and there are governmental agencies, such as the FBI state agencies under the Attorney Generals, watching over us. The Madoff reality suggests that the government and its regulatory agencies are not watching. Why is government not significantly involved in the protection of the consumer from the white-collar criminal?

History and Philosophy of Policing: Prevent and Control Street Crime

To begin with, police forces are dedicated to the prevention and control of street or violent crime. The guys and gals in blue have almost no training in investigating, apprehending,

prosecuting, or jailing criminals who engage in crimes promulgated by those wearing a white collar. Yell rape, robbery, murder, or assault and the neighborhood police arrive in minutes; call it embezzlement, art fraud, or extortion and the police may or may not arrive (Ball, 2002), (Simpson, 2002).

No Training in White-Collar Crime

Neighborhood police forces are trained to prevent street crime. Police academies train their rookies to apprehend murder, robbery, rape, and assault criminal acts not someone who is committing stock, bond, or real estate appraisal fraud. Rookie police officers are trained to respond to victims of violent crime or crimes involving property through burglary, robbery, or some form of bodily attacks such as rape, murder, or assault, to name a few (Ball, 2002).

White-Collar Crime Processing

The typical mode of filing a fraud, scam, extortion, or embezzlement complaint is through a state or federal agency. The FBI requires an amount of \$2,000 or more to investigate, state agencies and the Federal Trade Commission require that hundreds of complaints are lodged before any action is taken against the perpetrators. It really comes down to a cost/benefit analysis. If the investigation will provide greater benefits over costs investigation will follow (Morris, 2005).

The Complexities of White-Collar Crime Investigations

The fundamental quest in white-collar crime investigations has to do with identifying the perpetrator. Who actually did the deed or was the controlling agent in the deed? Given that white-collar crime takes place within the confines of large organizations made up of many levels of responsibility, tracking down the controlling party is difficult and at times insurmountable. Establishing who really spearheaded the ugly deed is at times impossible, especially when corporations resort to trifurcating the carrying out of crime into different outsourced organizations. What started out as a clear case of fraud ends up with an entity merely distributing products from a warehouse. Who then was responsible? More importantly, what does the policing agency do when the crime is outside its jurisdiction or, for that matter, outside any jurisdiction (Alpert, 2000).

Outmanned and Outmaneuvered

It is evident that within the prosecutorial agencies, as exemplified by the Madoff crime spree fiasco, some agency personnel really do nothing, even when the evidence stares them in the face. The fundamental problems in white-collar prosecutorial action have to do with money, intelligence, and manpower. Agencies are on a budget and use their personnel

sparingly, and those who are used are competing with defense attorneys who know every loophole to keep the trial from happening. There might be 10 attorneys representing the white-collar criminal and a few prosecutors working to prosecute (Ball, 2002)

No Deterrence

Criminologists have noted that even if the white-collar criminal is prosecuted there is very little chance that the prosecution will result in a trial or conviction. If the unlikely outcome is jail time, the culprit will do little time in jail, which many have labeled country clubs. The white-collar criminals also have a wonderful array of reduced jail time cards that allow them to resort to disability claims and so on to be released. The absence of hard time, soft time, or no time at all allows many observers to comment that white-collar crime has no deterrent effect on the would be criminal (Friedrichs, 2004).

Identifying the Perpetrator and Establishing Intentionality

Mens Rea or intentionality means identifying if the person committing a crime did it purposely or by accident. Although difficult to establish in street crime, it is next to impossible to ascertain in white collar crime. This follows from the fact that white-collar crime is usually corporate and trying to nail down the perpetrator is usually met with levels and degrees of responsibility. The head of the company can easily respond to responsibility by arguing that he or she had no knowledge of the crime. Those actually involved note that it occurred as the result of computer direction and they have no control over the computerization of corporate divisional structures and how they work. Each division has its own claim of innocence making it time consuming, costly, and without success. The problematic identification of the guilty party makes the ascertainment of intentionality academic (Martin, 2003).

Summary

White-collar crime can be understood via the following constructs:

1. White-collar crime takes place within a milieu consumer indifference, trust, and laziness to practice due diligence.
2. While society members recognize street crime as unacceptable, white-collar crime escapes moral approbation.
3. It is carried out by those who are socially connected and in fact wear a white collar as opposed to a blue collar.
4. Crimes of the white-collar variety are not undertaken with a gun or knife but with a pen.
5. Most policing agencies are not trained or experienced to arrest or prosecute white-collar criminals.
6. Funding is minimal for white-collar policing and prosecution.

7. White-collar policing agencies are usually outmanned and outmaneuvered compared to defense attorneys representing the white-collar felon.
8. The deterrence effect for white-collar crime is minimal.
9. Incarceration modalities are substantially different for the white-collar criminal.

The fundamental conclusion regarding white-collar crime is that it is rarely policed, hardly prosecuted, and, if incarceration results, criminals serving time will enjoy a country club environment rather than the proverbial "big house."

Art Fraud, the White-Collar Criminal's Gold Mine

Although art fraud is rarely prosecuted there is still the possibility of getting caught and being charged with the crime. As was noted earlier white-collar criminals know their way around the system. Bernard Madoff was committing fraud for over 10 years before a Certified Fraud Examiner, acting independently, finally woke up the SEC. To understand how art fraud takes place let us examine two case histories, one successfully prosecuted and one presently going through the court system.

Case Study 1: Sakhai

Ely Sakhai ran an art gallery for many years, selling to an upscale clientele in New York City. One of his clients decided to place a painting purchased from Sakhai in a Christie's auction. When both Christie's and Sotheby's offered the exact same painting *Vase de Fleurs* by Paul Gauguin in their auction catalogues at the same time, it became evident that one of them was a fake. Both paintings were sent to a Gauguin expert who quietly noted that the Sakhai painting was "not right," meaning it was a fake. "Sakhai was arrested on March 9, 2004, pursuant to a federal complaint charging him with wire and mail fraud in violation of 18 U.S.C. §§ 1341 and 1343" (Levine, J, 2006). Sakhai processed his frauds under the following scenario: He purchased relatively unknown authentic works or photos of them. He hired artists to reproduce them in every detail, including aging the works by coating and altering them and provided forged documentation (provenance) using the original documentation of the authentic painting and copying it. He also provided a certificate of authenticity that the work was original. Sakhai operated his forgery scheme for 13 years and sold many of his works to foreign clientele who could not speak English. His works were sold through foreign auction houses to establish legitimacy and he always kept the authentic work off the market until the forgeries were sold. Over the 13-year period it is alleged that 12 million dollars in forgeries were sold with many still in the hands of the unwary. Sakhai's crime followed the art fraud paradigm of selling to the unsuspecting, using customer trust because he was a reputable dealer, selling beyond prosecutorial jurisdiction

(foreign) establishing legitimacy through experts (auction houses), forging provenance (documentation), and providing copied certificates of authenticity. He also used a second tier of legitimacy by having phony Citibank employees attest to the authenticity of the works.

Case Study 2: Selling Questionable Art on the High Sea—A Composite Case Study¹

Over the last 3 years, 400+ complaints and 6 class action suits are slowly moving through the court against galleries selling art at sea. The galleries have been accused of selling art of questionable authenticity and value. In this case study we observe the morphing of the old art fraud paradigm into a more complex, revenue-protecting and consumer-unfriendly process. FAR (2007) and Berelson (2009) report that, over many years, the various cruise ships have participated in allowing auctioneering on board to resemble a giant scam. German art forgery police have asserted that works brought to them for investigation were forgeries. Various art experts have concurred. Appraisers for the works have noted that the works that were appraised in the hundreds of thousands may be worth far less than was originally thought. Some are even considered worthless.

The process involved in selling the works is as follows: Customers on board are notified that an art auction will take place under a company different from the supplier of the art and the cruise line. Those interested are to assemble in a given area. The art is advertised as highly valuable by accredited appraisers. The values are provided prior to the auction. Allegedly the customers are not provided available access to research sites to confirm value. That would not help anyway, since the customers are fed alcohol prior to the auction. Customers are also provided a non-returnable item credit card to purchase the art—if the item is broken or not as it was presented, you are stuck with it. Items purchased cannot be returned. Art works are also sold “as equal,” “embellished,” and “mixed media.” Note here that “as equal” may mean anything and everything; not even close to what was paid. Further, embellished and mixed media and one-of-a-kind are difficult to appraise since there are no comparable items to generate an opinion of value. Many items sold are covered by wrapping or large frames, preventing the buyer a closer examination to detect imperfections. Items are not available for possession at sea but arrive at the home of the buyer.

The systemic responses to customer complaints consist of stone-walling, monies never returned if imperfect,

complaining customers on board ships are removed at first port, hitting customers who complain officially with litigation to prevent them from complaining. Note here that no government intervention has taken place except that ex-government investigators defend the alleged fraud perpetrator in legal proceedings, and complainants are sued under various defamation laws. The president of the auction house provides certificates of authenticity for works provided. Additionally, outside sources provide provenance documents for the works. Most of the provenance documents have been questioned by experts recognized by Christie's and Sotheby's. The auction house uses appraisers to authenticate which is against appraisal organization standards (Soucy, 1994). Some of the auction house authenticators have claimed certified expertise from Christie's and Sotheby's but those auction houses have noted that they have no recognition of the appraisers in question. Although the unanimous verdict in a recent jury trial went against the cruise line seller, the seller's attorneys were able to vacate the verdict through an appeal to the same judge presiding over the case.

The morphing and expansion of the old art fraud paradigm seem to have inculcated old world patterns into their system and added some new practices to prevent revenue loss (figure 1) and deflect prosecution (figure 2) They are:

1. Similar to case study 1, in selling outside the U.S. jurisdiction selling questionable art at sea precludes the involvement of any U.S. jurisdiction.
2. The use of alcohol to soften awareness adds another dimension to selling to the non-English speaking clientele of Sakhal by closing off an immediate perception of any details of fakery.
3. Stonewalling customer complaints is not an unusual structure to prevent returns. Throwing customers off a ship to silence a complaint prevents any complaint discourse.
4. Suing complaining customers is an extrapolation of current legal trends to prevent critics from presenting facts and data about an issue. Product defamation via a SLAPP² suit has even been used by alleged terrorists to prevent citizens from responding to “if you see something say something.”
5. The use of a non-return credit card works on the perception of consumers that, like most credit cards, they can return items failing to operate or provide the service purchased.
6. “As equal to” leaves the consumer without any redress due to the ambiguous nature of the wording.” As equal to” has very little specific meaning enabling the seller to provide almost anything. Legally it allows the seller tremendous

² Strategic Litigation Against Public Participation (SLAPP) is recognized by legal scholars as a process to prevent critical discourse about public activities. It is used not to resolve legal issues but to stifle speech or public comment. It has been described as one of the greatest threats to first amendment freedoms. While 26 states have consumer protection laws against such suits (defamation), 26 do not.

¹ The above composite case studies are based on data reported by Fine Art Registry, police files, auction house documents, and court records. No allegations or assertions of wrong doing are being stated or implied. The investigator is utilizing the facts as a didactic for learning.

leeway in what it provides.

7. Mixed media or embellished works are not genuine fine art categories. As such they have questionable value and questionable authenticity.
8. The ability of plaintiff attorneys to turn around a unanimous jury verdict is indicative and confirming of the power of the sellers of inauthentic or questionably authentic art.

(Please see Figure 1: Creating and Maintaining Revenue Protection with the Bogus Art Product, and Figure 2: Deflecting the Defective Product from Prosecutorial Intervention)

Discussion of Case Studies

The two case studies fall neatly into the white-collar crime category and are demonstrative of ease of carrying out art fraud and the difficulty of prosecuting those perpetrating the crimes.

Preempt Prosecutorial involvement

In the first case, the felon worked the foreign base, keeping the crime out of U.S. jurisdiction and dealt with foreign law, which may not have any jurisdiction. In Case 2, the alleged fraudster took it out to sea where jurisdiction is significantly problematic since it is necessary to identify where the fraud took place and if any nationality has jurisdiction. Note here that crimes at sea are rarely prosecuted (Cruise Bruise. 2010), (Berelson, 2009).

Confuse the Interaction

In Case 1, the felon used language disparity to confuse the sale. Inasmuch as those in the United States do not understand art authenticity and fraud laws, those in foreign countries will have a difficult time asserting that what they bought was a fake. In Case 2, the seller used the issue of expertness to create an open ended controversy. Art experts ruling on authenticity become warring partners. “X” says it is; “Y” says it is not. The work has an issue or controversy about its genuineness. Issues or controversies are not evidence to support or refute. The buyer cannot reclaim his or her money because there is no closed decision about the authenticity of the work based on the disagreement between the experts. No incontrovertible evidence exists to support the work being a fake, therefore there is no reason to return the product.

Holding Back the Art Exemplar

Forensic science is a science of matches. It uses accepted samples as exemplars to match up with samples of possible matches. To establish a match or non-match an exemplar must be available. To prove a fake one must match the fake with the exemplar and demonstrate that the fake is not similar to the

exemplar. No exemplar, no establishment of fake. The felon in Case 1 held back the exemplar so that no fake assertion could take place. In Case 2, the use of Dali works with so many exemplars (700) held back a fake call since it could not be established that the auction works violated the exemplars since there were so many (Langessen, 2008), (Catteral, n.d.). This is a significant point because exemplars and the failure to meet them automatically deny authenticity. Exemplars do not establish authenticity because documentation and connoisseurship must be involved to provide credence to a work as being authentic. Exemplars do however revoke authenticity if the sample does not satisfy scientific standards. If the paint pigments on a work do not confirm that the work satisfies the time of the paint pigment production, the work is automatically found to be technologically uncorroborated and hence inauthentic.

Forging Provenance

Case 1 used forged provenance documents to prove that the works were from the hands of the artist. In the Drewe/Myatt case Drewe actually ripped pages out of the archive and inserted new pages to prove that his forgeries were real (Salisbury, 2009). In Case 2, it was alleged that documents establishing the hand of Dali were supposedly forged from sources unrecognized as links to the Dali oeuvre (Fine Art Registry, 2009).

Certificate of Authenticity

In both cases, Certificates of Authenticity were provided to establish genuineness. In Case 1, they were copied from existing certificates. In Case 2, the president of the firm selling the works signed them. Seller certificates of authenticity represent a conflict of interest especially if they come from an individual without any art background.

Strategic Litigation Against Public Participation (SLAPP) Suit

Organizations and individuals, in response to any criticism of their products or services, have recently resorted to bringing suit against those who complain. The goal is not to win in such litigation but to silence the opponent. This enhancement of stonewalling and removing the complaining party can be seen the use of defamation suits. The argument of the plaintiff is that criticism resulted in loss of revenue by defaming the product or the service. The normal time resulting from these suits is about 40 months and much money spent on defense. In 26 states those hit with such a suit may countersue; in the other 26 states the defendant merely suffers the loss of time and money.

Trifurcating Responsibility

Case study 2 utilized many parties in the selling of the fake art. The law requires that intentionality be demonstrated in carrying out the fraud. The setting up of various companies to handle the alleged fake selling makes it difficult or impossible to nail down the guilty party. It would not be unreasonable to have those in charge of all the operations or the companies handling the questionable art argue a “Who’s on first” response. Even if the art was inauthentic, it would be difficult to name one individual as the guilty party. Internet sellers of products argue that even if items are fake or stolen, they are not responsible because all they are doing is acting as a distributor.

The New Art Fraud Paradigm: The Perfect Crime

Through systemic processing of various structures and processes the art fraudster depicted in the second case study has been able to stay clear of prosecution. Case study 2 dramatically provides evidence that despite 400 + complaints, 6 class action suits and one unanimous jury verdict against the defective product manufacturer no prosecutorial agency is currently involved in addressing the complaints. One could understand the difficulties faced by the prosecution: experts disagree on the identification of the works as fakes, the locale of the alleged crime is beyond prosecutorial jurisdiction, the as equal to proviso in the contract nullifies in some sense what the buyer bought, how does one determine who is the responsible or guilty party, to what extent did alcohol preempt due diligence on the part of the buyer, and a host of other factors complicating prosecution. Prosecutorial agency managers are also aware that complicated cases use much of an agency’s time and money with the result that the costs outweigh the benefits. The Federal Trade Commission will only investigate cases effecting hundreds to thousands of individuals. The FBI may consider cases only above \$2,000. Crimes at sea have an almost minimal prosecution effort even with the most heinous of crimes. Selling fakes at sea in many respects amount to a perfect crime. It is so complicated, amorphous, potentially time consuming, and seemingly devoid of the common conditions of fraud that it is a crime that is close to a non-crime.

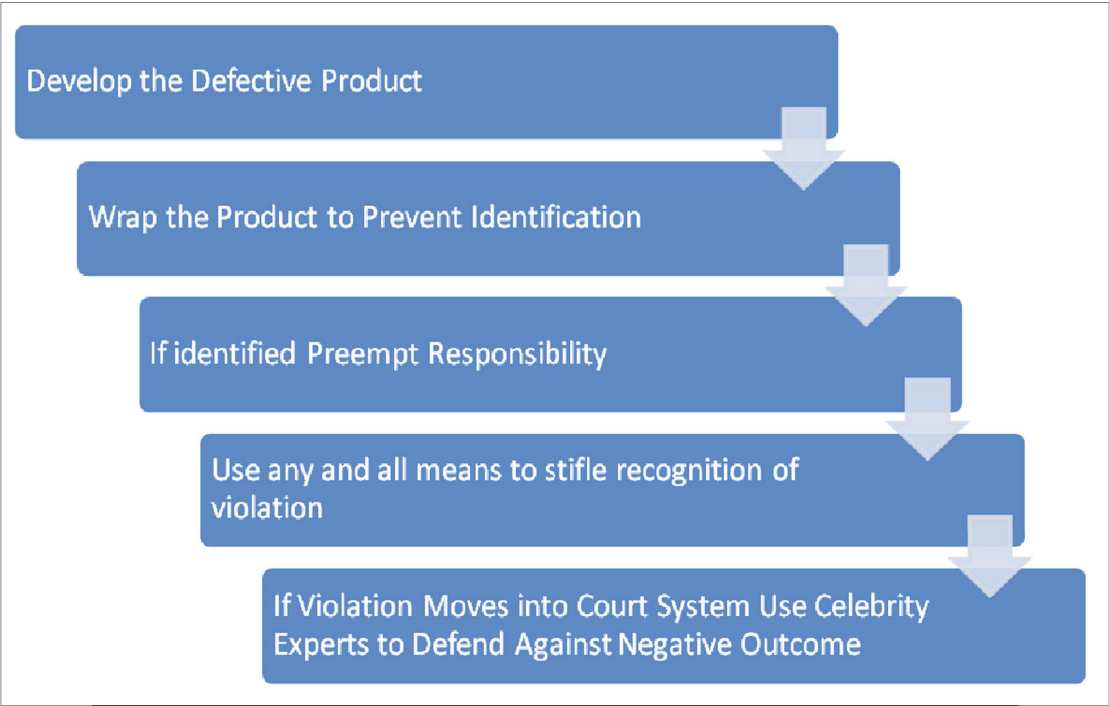


Figure 1. Creating and Maintaining Revenue Protection with the Bogus Art Product



Figure 2. Deflecting the Defective Product from Prosecutorial Intervention

Selected Bibliography

- September 22, 2010 from <http://www.artcrime.info/facts.htm>
- Atkins, D. (n.d.). Artist's mind—the Rembrandt problem—attributions and misattributions. Association for Research in Crimes against Art
ARCA (2010). Art crimes facts. Retrieved on September 25, 2010.
<http://www.mystudios.com/artists-mind/volume-07-2002.html>
- Ball, R., Gaines, L., & Shichor, D. (2002). *Readings in white-collar crime*. Chicago: Waveland Press.
- Barrett, J. (1996). "Crimes involving art." *Journal of Criminal Law & Criminology*, 87(1), 334-358.
- BBC. (2007). *UK consumers happy to own fakes*. Retrieved August 22, 2008.
<http://news.bbc.co.uk/2/hi/business/6910710.stm>
- Berelson (2009). *Cruise ship art auctions: scams, fraud or bargains*. Retrieved on September 25, 2010.
http://dba-oracle.com/t_cruise_art_auctions_scam_fraud.htm
- Brown, C. (2006). *Rembrandts assessed: Since 1992, only one of the 12 paintings in the Wallace Collection once attributed to Rembrandt has been accepted as a wholly authentic work*. Retrieved May 6, 2008. <http://www.highbeam.com?DocPrint.aspx?DocId=1G1:156135567>
- California Consumer Laws (2010). *Fraud Statute*. Retrieved on September 22, 2010.
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1565-1590>
- Catterel, L. (n.d.). *The great Dali art fraud—an update*. Retrieved on September 25, 2010. <http://www.dalifraud.com/>
- Conklin, J. (1994). *Art crime*. Westport, CT: Praeger.
- Copi, I. (1967). *Symbolic logic*. New York: Macmillan.
- Cosby, P. (2001). *Methods in behavioral research*. London: Mayfield.
- Cruise Bruise (2010). Retrieved on September 24, 2010. <http://www.cruisebruise.com/>
- Daab, J. (2005, May/June). "Art fraud forges ahead." *Fraud*, 19(3), 20.
- Daily News (2008). *Feds say Bernard Madoff's \$50 billion Ponzi scheme was worst ever*. Retrieved on September 22, 2010. http://www.nydailynews.com/news/ny_crime/2008/12/13/20081213_feds_say_bernard_madoffs_50_billion_ponz.html#ixzz10Gb5HWfK
- Davis, L. (2010). *The French job – Paris art theft carried out by lone robber*. Retrieved on September 21, 2010.
<http://www.guardian.co.uk/world/2010/may/20/paris-art-theft-picasso-matisse>
- Etherington-Smith, M. (1992). *Dali: A biography*. London: Sinclair-Stevenson.
- FBI, (2010). Retrieved on September 24, 2010. <http://www.corporatepolicy.org/issues/crimedata.htm>
- Foster, L. (2003, April 25). Art buyers urged to be aware as Internet auction fraud soars. *Financial Times*, p. 12.
- Friedrichs, D. (2004). *Trusted criminals. White collar crime in contemporary society*. California: Wadsworth Thompson
- Harvard Art Museum. (2004). *Provenance research*. Retrieved July 7, 2008.
<http://www.artmuseums.harvard.edu/provenance/servlet/webpublisher.WebCommunication?ia=tr&ic=pt&t=xhtml&x=prov>
- Hill, C. (2006). *Art brokers: Let the buyer beware*. Retrieved August 8, 2007.
http://fineartregistry.com/articles/hill_cindy/art_brokers_12-23-2006.php
- Hoving, T. (1993). *Making the Mummies Dance*. New York: Simon and Shuster.
- Hoving, T. (1997). *False Impressions*. New York: Simon and Shuster.
- Hoving, T. (2006). *The Curator Game*. New York: Simon and Shuster.
- IFAR (2010). Case law and statistics. Retrieved on September 22, 2010. <http://www.ifar.org/>
- Indianapolis Museum of Art. (n.d.). *Collections provenance research project*. Retrieved August 23, 2005.
<http://www.ima-art.org/provenance.asp>
- IRS (2010). *Valuation Assistance for Cases Involving Works of Art*. Retrieved on September 20, 2010.
http://www.irs.gov/irm/part4/irm_04-048-002.html
- Judd, C., Kidder, L., & Smith, E. (1991). *Research methods in social relations*. Chicago: Holt, Rhinehart, and Winston.
- Karp, J. (2002). *Online art fraud*. Retrieved November 11, 2002.
<http://www.techtv.com/cybercrime/internetfraud/story/0,23008,3317451,00.html>
- Kinsella, E. (2008). *25 billion and still counting*. Retrieved on September 22, 2010.
http://www.artnews.com/issues/article.asp?art_id=2487
- Langessen, S. (2008). *Dali and i: The surreal story*. New York: St. Martin's Press
- Levine, J. (2006). *Case Study of Federal Criminal Investigation and Prosecution Involving Art Forgery*. Retrieved on September 21, 2010.
http://www.abanet.org/intlaw/calendar/spring2006/papers/Levine_221.pdfnn
- Markopolos, H. (2010). *No One Would Listen*. New York: John Wiley
- Martin, E. (2003). *Oxford Dictionary of Law*. Oxford: Oxford University Press.
- Mason, C. (2010). *The Art of the Steal*. California: Berkeley Publishing

- Morris, R. & R, Stevens. (2005). *The Art fraud virus*. Pennsylvania: Infinity
- Nachmias, C. (1992). *Research Methods in the Social Sciences*. New York: St. Martin's Press.
- Phillips, D. (2008). "Fraud and forgery concerning Dali prints." Retrieved on August 8, 2008.
<http://www.salvadoralifakes.com/articles/dali-prints-forgery.php>
- Salisbury, C. Sujo, A. (2009). *Provenance*. New York: Penguin
- Seinstra, F. (2007). *Web catalogue of Rembrandt paintings*. Retrieved on September 24, 2010.
http://staff.science.uva.nl/~fjseins/RembrandtCatalogue/r_stats.html
- Simpson, S. (2002). *Corporate crime, law, and social control*. Cambridge: University of Cambridge Press.
- Soucy, P. & J. Smyth, (1994). *The Appraisal of Personal Property*. Washington, DC: American Society of Appraisers.
- Spencer, R. (2004). *The Expert versus the Object*. New York: Oxford University Press.
- Starnes, R. (2002). "Inside the Murky World of Art Forgery." *The Ottawa Citizen*, p. A-10.
- US Attorney, (2005). *Manhattan art dealer sentenced to 41 months in federal prison for multimillion dollar art forgery scheme*. Retrieved on September 21, 2010. <http://www.justice.gov/usao/nys/pressreleases/July05/sakhaisentence.pdf>
- Van de Reyden, D. (1996, September). *Identifying the real thing*. Northeast Document Conservation Center. Retrieved December 22, 2002.
<http://www.scmre.org/analysis.htm>
- Wiki (2010). *Museum Art Definition*. Retrieved on September 20, 2010. http://en.wikipedia.org/wiki/Museum#Art_museums

The Postwar Fate of Einsatzstab Reichsleiter Rosenberg Archival and Library Plunder, and the Dispersal of ERR Records¹

Patricia Kennedy Grimsted

Abstract

Alfred Rosenberg was one of Nazi Germany's most successful "looters." The Einsatzstab Reichsleiter Rosenberg (ERR), organized specifically for plunder under his direction, seized cultural property across Nazi-occupied territories. This article traces what happened to the ERR's hoard of books and archival materials that ended up at war's end in the ERR evacuation center headquartered in Ratibor (now Polish Racibórz), in Upper Silesia. In contrast to the treasures found in the Western occupation zones of Germany and Austria, a large part of the property in Silesia fell into Soviet hands. Thus plundered a second time, it was held in secret for decades. Only recently has it been possible to find and identify the displaced books and archives, and to raise the issue of restitution.² The author also addresses the issue of where and why the ERR's own records were scattered, as well as current efforts to identify them and make them more accessible to researchers electronically on the Internet.

Keywords: Nazi art theft, ERR, Rosenberg, Hitler, World War II, art looting, Einsatzstab Reichsleiter Rosenberg.

1 Editorial Note: This article was originally published in *Holocaust and Genocide Studies* 20, no. 4 (2006): 278–308; PDF file at <<http://www.iisg.nl/archives-and-restitution/err-ratibor-pkg.pdf>> and is reprinted here with permission of the journal editors and Oxford University Press. The second part of the article dealing with the dispersed ERR records has here been updated and significantly revised in anticipation of the author's book-length compilation *Reconstructing the Record of Nazi Cultural Plunder: A Survey of the Dispersed Archives of the Einsatzstab Reichsleiter Rosenberg (ERR)* (Amsterdam: International Institute of Social History – IISG/IISH) in association with the Netherlands Institute of War Documentation (NIOD), to be issued electronically in November 2010: <<http://www.iisg.nl/publications/digipub.php#respap>>. Some details have been drawn from or parallel the introduction to that volume.

This article continues the author's "Roads to Ratibor: Library and Archival Plunder by the Einsatzstab Reichsleiter Rosenberg," *Holocaust and Genocide Studies* 19, no. 3 (2005): 390–458. It is closely related to her earlier study, "Twice Plundered or 'Twice Saved'? Identifying Russia's 'Trophy' Archives and the Loot of the Reichsicherheits-Hauptamt," *Holocaust and Genocide Studies* 15, no. 2 (2001): 191–244, covering the parallel archival plunder by the Reichsicherheits-Hauptamt and their captured archives from Western Europe that ended the war in Silesia and were taken to Moscow by Soviet authorities thereafter. The latter was updated in Russian translation as "Dvazhdy zakhvachennyye ili 'dvazhdy spasennyye'? Rozysk rossiiskikh 'trofeinykh' arkhivov i dobycha Glavnogo upravleniia imperskoi bezopasnosti," *Sotsial'naia istoriia. Ezhegodnik* 2004 (2005): 401–55. Grimsted's counterpart later study of the RSHA library plunder appeared as "Sudeten Crossroads for Europe's Displaced Books: The 'Mysterious Twilight' of the RSHA Amt VII Library and the Fate of a Million Victims of War," in *Restitution of Confiscated Works—Wish or Reality? Documentation, Identification and Restitution of Cultural Property of the Victims of World War II. Proceedings of the International Academic Conference Held in Liberec, 24-26 October 2007* (Prague, 2008), pp. 123–80.

A list of abbreviations follows the text. Citations to Soviet-era archives give fond (record group), opis' (inventory within fond) and delo (or file) numbers. Transliteration from the Cyrillic generally follows Library of Congress practice. Ukrainian place names are rendered according to current Ukrainian usage.

2 In addition to "Roads to Ratibor: Library and Archival Plunder by the Einsatzstab Reichsleiter Rosenberg," *Holocaust and Genocide Studies* 19, no. 3 (2005): 390–458—PDF file at <<http://www.iisg.nl/archives-and-restitution/err-ratibor-pkg.pdf>>; see also Patricia Kennedy Grimsted, "Tracing Patterns of European Library Plunder: Books Still Not Home from the War," in *Jüdischer Buchbesitz als Raubgut: Zweites Hannoversches Symposium*, ed. Regine Dehnel (Frankfurt am Main: Vittorio Klostermann, 2006) = *Zeitschrift für Bibliothekswesen und Bibliographie* 88 (2006): 139–67, and earlier Grimsted publications listed at <<http://www.iisg.nl/archives-and-restitution/bibliography.php>>. Ernst Piper's impressive biography of Rosenberg appeared after my "Roads to Ratibor" went to press: Alfred Rosenberg: *Hitlers Chefideologe* (Munich: Karl Blessing Verlag, 2005). Piper devotes chapter IX (pp. 462–508) to "ideological rearmament in the shadow of war," with brief coverage of Rosenberg's Hohe Schule, the Institute for Research on the Jewish Question in Frankfurt, and the ERR. While Piper fills in important background on Rosenberg's political career and varied activities, the book does not add significant coverage of the ERR and hardly mentions the Ratibor center. Piper subsequently contributed a brief essay on the ERR in *Raub und Restitution: Kulturgut aus jüdischem besitz von 1933 bis Heute*, ed. Inka Bertz and Michael Dormmann (Berlin: Wallstein Verlag; Jüdisches Museum Berlin, 2008), pp. 113–19, but a more detailed study of the ERR and its exploits throughout Europe is still overdue. For expanded and updated details about Nazi archival plunder in Western Europe (including the ERR and the RSHA) and the fate of the captured Western European archives Soviet authorities seized at the end of the war, see the Grimsted introductory chapters and reports by archivists from Western European countries, in *Returned from Russia: Nazi Archival Plunder in Western Europe and Recent Restitution Issues*, ed. Patricia Kennedy Grimsted, F. J. Hoogewoud, and Eric Ketelaar (UK: Institute of Art and Law, 2007; paper edn with an updated Introduction by Grimsted, Fall 2010).

I. THE POSTWAR FATE OF ERR LIBRARY PLUNDER

Western Restitution—Most “Books Go Home from the War”

ERR library loot that ended the war in Germany was generally returned by the Western Allies to the country of origin, and thence to the prewar institutions, owners, or their successors—to the extent they could be located and their claims legitimized. The Offenbach Archival Depository (OAD) outside Frankfurt am Main, characterized as the “American antithesis to the ERR” and “the biggest book restitution operation in library history,” served as a centralized American restitution facility for many collections plundered by the ERR and other agencies. Between its March 1946 opening and its closure in April 1949, OAD processed more than three million displaced books and manuscripts, along with related ritual treasures.³ These included loot the ERR had collected from Jewish and other sources all over Europe for the Institute for Research on the Jewish Question (IEJ) in Frankfurt and Hungen, Masonic collections stored elsewhere, and many of the books brought together by the Reichssicherheitshauptamt (RSHA) that survived the bombing of Berlin. (Figures 1 and 2)

Several shipments came into OAD from the Banz/Staffelstein area, representing materials that the ERR managed to evacuate from Ratibor and Berlin toward the end of the war.⁴

3 See Leslie I. Poste’s article, “Books Go Home from the Wars,” *Library Journal* 73 (1948): 1699–1704. Poste served with the Army Monuments, Fine Arts & Archives (MFA&A) team after the war. Still the most detailed account of the OAD operations is his *The Development of U.S. Protection of Libraries and Archives in Europe during World War II* (Fort Gordon, GA: U.S. Army Civil Affairs School, 1964), a revision of his dissertation (University of Chicago, 1958). Poste devotes a chapter to OAD, pp. 258–301, including a chart of out-shipments by country, pp. 299–300. Poste’s quoted statement about OAD is repeated on p. 310. See also Donald E. Collins and Herbert P. Rothfeder, “The Einsatzstab Reichsleiter Rosenberg and the Looting of Jewish and Masonic Libraries during World War II,” *Journal of Library History* 18, no. 1 (1983): 21–36; and F. J. Hoogewoud, “The Nazi Looting of Books and Its American ‘Antithesis’: Selected Pictures from the Offenbach Archival Depot’s Photographic History and Its Supplement,” *Studia Rosenthaliana* 26, no. 1–2 (1992): 158–92, which reproduces selected photographs from the albums illustrating OAD operations (those albums are now available with the OAD records at Footnote.com (see note 3)).

4 Remaining Offenbach files are scattered within the OMGUS (Office of Military Government for Germany, U.S.) records in the U.S. National Archives, as described in *Holocaust-Era Assets: A Finding Aid to Records at the National Archives at College Park, Maryland*, comp. Greg Bradsher (Washington, DC: NARA, 1999; updated edn: <<http://www.archives.gov/research/holocaust/finding-aid/index.html>>), especially p. 519. The most important collection of OAD reports and correspondence, including the photographic albums of OAD operations and albums with images of library markings found on the books, is now available in NARA Microfilm Publication M1942; the digitized images of those documents are not available at Footnote.com. The accompanying finding aid gives background and folder lists: M1942. Records Concerning Records Concerning the Central Collecting Points (“Ardelia Hall Collection”): Offenbach Archival Depot, 1946–1951 (Washington, DC: NARA, 2003).

Although OAD returned nearly 300,000 books to the USSR, Russian publications have only recently started to acknowledge this restitution from the West, but even in 2000 a leading Russian specialist was still claiming that only a third of that total reached the Soviet Union.⁵ An internet exhibit by the United States Holocaust Memorial Museum (USHMM) features reminiscences of the first director of OAD, Seymour J. Pomerence, providing a vivid sense of the OAD mission.⁶ (Figure 3)

Lately we have learned more about the Jewish books that were not returned to their countries of origin. Many of them had identifiable stamps or other ownership markings, including many from Eastern Europe and the Baltic countries. They were not returned because their original institutions had been liquidated or moved into emigration, because of the feared antisemitism in the postwar Stalinist regime, or because those dealing with them did not know the appropriate languages or did not make adequate efforts to identify their provenance. The YIVO Institute of Jewish Research from Vilnius, on the other hand, was legally reestablished in New York. They sent a representative to help identify books and thereby received many of the library collections from Vilnius.

In other cases Jewish books were not returned to their prewar homes because zealous Jewish scholars and intellectual leaders were anxious to build up Jewish library reserves in Israel or to “save” abandoned Jewish books from war-torn Europe and to redistribute them to Jewish institutions across the seas, while in some cases representatives from many Jewish libraries abroad were rushing to Europe to establish claims. Today, as Jewish communities in Europe are more

5 Official transfer papers and documents related to the OAD transfers to the USSR are reproduced in *U.S. Restitution of Nazi-Looted Cultural Treasures to the USSR, 1945–1959: Facsimile Documents from the National Archives of the United States*, comp. Patricia Kennedy Grimsted; CD-ROM (Washington, DC: Government Printing Office (GPO), 2001; prepared in collaboration with the U.S. National Archives). A recent study of postwar Soviet library retrieval erroneously claims only 100,000 books were received from American authorities in Germany: see Aleksandr M. Mazuritskii, *Knizhnye sobraniia Rossii i Germanii v kontekste restitutsionnykh protsessov* (Moscow: Moskovskii gosudarstvennyi universitet kul’tury i iskusstv, 2000), 86. Mazuritskii repeats the figure in several other publications. See Grimsted, “Pokhishchennye natsistami knigi vozvrashchaiutsia s voyny: Zabytaia istoriia britanskoi i amerikanskoi bibliotechnoi restitutsii v SSSR” [Plundered Books that Came Home from the War: Forgotten U.S. and British Library Restitution to the USSR], *Istoriia bibliotek. Sbornik nauchnykh trudov* 6 (St. Petersburg: Rossiiskaia natsional’naia biblioteka, 2006), 242–93; from a presentation for the Section on the History of the Book at the conference of the Russian Association of Librarians in St. Petersburg, 25 May 2005.

6 At <<http://www.ushmm.org/oad>>, with links to images and bibliography. See also Pomerence’s 1996 Amsterdam conference presentation: “Offenbach Reminiscences and the Restitutions to the Netherlands,” in “The Return of Looted Collections (1946–1996): An Unfinished Chapter.” Proceedings of an International Symposium to Mark the 50th Anniversary of the Return of Dutch Collections from Germany, ed. F. J. Hoogewoud, E. P. Kwaadgras, et al. (Amsterdam: IISH, 1997), 10–18.

concerned with their prewar legacy, and more are well reestablished in Eastern Europe, many are calling into question the postwar American policy of “redistribution” of “heirless” Jewish books and other Judaica to Jewish communities in the United States and Israel. Considerable research on the subject was undertaken by the U.S. Presidential Commission on Holocaust-Era Assets, but further clarification was challenged by the difficulty of locating all of the widely dispersed books.⁷ Israeli professor Dov Schidorsky has recently investigated the issue of those that went to Jerusalem after the war in a Hebrew-language study published in 2009.⁸

A different category of books and archives not returned to their countries of origin went to the Library of Congress Mission, and some were siphoned off by U.S. intelligence (G-2). Some of those considered of “operational value” never even reached Offenbach; of those that did, intelligence agents removed slightly over 5,000 items from the restitution pipeline. The most famous case was the 500 files of the “Smolensk Archive,” first seized by the ERR from the Communist Party Archive of Smolensk Oblast’. These were signed over to G-2 and flown to the Pentagon. Transferred to the U.S. National Archives in the 1950s, they were long available for purchase on microfilm, but the original files were finally returned to Russia only in December 2002. In fact the Soviets had found most of the archive themselves (five freight cars), but often wrote as if the Americans had taken all of it. In 1963, they refused an early American offer to return the 500-plus files in Washington, afraid that claiming them would amount to acknowledging the “mistakes” of the Stalin regime documented therein.⁹

The two major ERR caches of library books that ended up under Western Allied control in Austria were also immediately restituted to their homelands. In mid-May 1945 the British discovered over half a million books in the Monastery of Tanzenberg and neighboring depots in Austrian Carinthia, which the ERR had taken from all over Europe for the Central Library (Zentralbibliothek) of the Hohe Schule (ZBHS),

Rosenberg’s planned university for the Nazi elite.¹⁰ The British authorities kept captured German staff under house arrest in Tanzenberg and forced them to re-sort the books for return to the countries of seizure.¹¹ Parts of several of the Rothschild libraries were among the two consignments to France—591 crates (ca. 70,000 volumes) in May 1946 and another 879 crates in July. Most of the 975 crates that went home to the Netherlands contained materials from the International Institute of Social History in Amsterdam.¹² Another 557 crates with a total of about 55,000 volumes were transferred to Soviet authorities in May 1946, another twelve crates coming later to bring the total (by the close of British operations in Tanzenberg, mid-October 1948) to 569 crates.¹³ Thanks to the efforts of Austrian historian Evelyn Adunka, more information has been surfacing about the fate of books from Tanzenberg that were turned over to Austrian libraries in Vienna; many of those volumes not returned to their owners subsequently were sent to Jerusalem.¹⁴ (Figures 4a and 4b)

Finding the collection brought together in Villa Castiglione (Grundlsee) for Hitler’s Linz Library, American authorities transferred most to the U.S. Central Collecting Point in Munich to be returned to the countries from which they had been stolen or dubiously “purchased.” Some of the materi-

10 See the reports furnished to the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas (Roberts Commission), NACP, RG 239, NARA Microfilm Publication M1944, roll 71 (AMG 146) and roll 73 (AMG 164), and roll 85.

11 The initial official British reports gave few details: Leonard Wooley, *A Record of the Work Done by the Military Authorities for the Protection of the Treasures of Art & History in War Areas* (London: HMSO, 1946), 39–40; see too the report of the British Committee on the Preservation and Restitution of Works of Art, Archives, and Other Material in Enemy Hands, *Works of Art in Austria (British Zone of Occupation): Losses and Survivals in the War* (London: HMSO, 1946), 4. Records of the British Tanzenberg operation, with a classification of books returned to various countries, are available in Foreign Office files in The National Archives—in Kew.

12 Documentation from the British restitution from Tanzenberg are found in TNA, FO 1020, files 1793, 2549, 2878, and 2879, among others. See the British MFA&A, “Preliminary Report on Zentralbibliothek der Hohen Schule (NSDAP)” (1 July 1945), and “Progress Report on Zentralbibliothek der Hohen Schule (NSDAP), Tanzenberg” (up to 25 Aug. 1945), TNA 1020/2793. Gabriela Stieber, “Die Bibliothek der ‘Hohen Schule des Nationalsozialismus’ in Tanzenberg,” in *Carinthia I: Zeitschrift für geschichtliche Landeskunde von Kärnten* 185 (1995): 343–63, was the first to utilize the British files in TNA, FO 1020.

13 Regarding British restitution to the Soviet Union, see Grimsted, “Rare Books from Voronezh to Tartu and Tanzenberg: From Nazi Plunder and British Restitution to Russian ‘Lost Book Treasures,’” *Solanus* 18 (2004): 72–107; Grimsted, “Knigi iz Tsarskogo Sela vozvrashchaisia domoi s voyni,” in *Kniga: Issledovaniia i materialy*, ed. I.N. Tarasenko (Moscow: Nauka, 2005), 72–94; and Grimsted, “Pokhishchennye natsistami knigi vozvrashchaisia s voyni.”

14 See especially, Evelyn Adunka, *Der Raub der Bücher: Plünderung in der NS-Zeit und Restitution nach 1945* (Vienna: Czernin Verlag, 2002), and several subsequent articles, including “Die Zentralbibliothek der Hohen Schule in Tanzenberg,” in *Die Österreichische Nationalbibliothek stellt sich ihrer NS-Vergangenheit*, ed. Murray G. Hall, Christina Köstner, and Margot Werner (Vienna: Österreichische Nationalbibliothek, 2004), 71–81.

7 A brief digest is presented in the Commission report, *Plunder and Restitution: The U.S. and Holocaust Victims’ Assets: Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report* (Washington, DC: GPO, 2000), pp. SR-137–SR-210.

8 See his earlier English-language report, Dov Schidorsky, “The Salvaging of Jewish Books in Europe after the Holocaust,” in *Jüdischer Buchbesitz als Raubgut*, 197–212.

9 See the bilingual article by Grimsted, “The Return of the ‘Smolensk Archive’, From a Tool for Nazi and American Sovietology to a Pawn in International Restitution Politics,” in *Vozvrashchenie “Smolenskogo arkhiva”/The Return of the “Smolensk Archive,”* ed. Marianna Tax Choldin, Karina Aleksandrovna Dmitrieva, Ekaterina Iur’evna Genieva, and Patricia Kennedy Grimsted (Moscow: ROSSPEN, 2005), 127–90. Earlier details appear in Grimsted, *Odyssey of the “Smolensk Archive”*: Communist Records in the Service of Anti-Communism (Pittsburgh, 1995; = Carl Beck Papers no. 1201).

als gathered for the Linz Library, however, eventually went to the Austrian National Library.¹⁵ As an additional albeit much smaller example in Austria, thirty crates of books and some scientific equipment from Smolensk, found by American authorities in the House of Nature (Haus der Natur) near Salzburg, were restituted directly to a Soviet officer there in December 1945.¹⁶

Soviet Non-Restitution in the East—Few “Books Go Home from the War”

Nazi loot seized from Western Europe ending up in the East had a very different postwar fate than Soviet cultural property handled by the British and Americans. Two weeks after the Yalta Conference, Stalin issued orders to establish a Special Committee on Reparations and a Trophy Administration under Marshal Zhukov, for the organized transport of extensive unilateral reparations or spoils of war, from whole factories to pianos, furniture, and wine—450,000 railroad cars by the end of 1945. Even today in the eyes of Russian “patriotic” politicians, Stalin’s signature on such orders, still classified top secret but now widely known thanks to Pavel Knyshevskii, legitimizes Soviet cultural plunder at the end of the war.¹⁷ Many of the sources regarding the cultural property Soviet “trophy” brigades brought home from Germany and Eastern Europe are still not available for research. Since glasnost and the collapse of the USSR, some of the “beautiful loot” is emerging from the secret depositories;¹⁸ the tens of millions of trophy books taken to the USSR from 1945 to 1948 are gradually

being identified.¹⁹ The opening of ERR records in Kyiv and Moscow in 1990 greatly advanced knowledge of ERR plunder throughout Europe. Our detailed knowledge of the books plundered by the ERR in Western Europe, and that ended the war in Ratibor in Upper Silesia, became possible only after that. (Figure 5)

The Fourth Ukrainian Front of the Red Army liberated the Ratibor area in February 1945, but no reports have surfaced to suggest that they found any of the ERR library and archival loot there. In early March 1945, a Soviet trophy brigade from the Committee on Arts (predecessor of the Ministry of Culture), led by Moscow Art Theater director Colonel Boris Filipov, arrived in Silesia. The brigade, which included Major Andrei Chegodaev, a well-known art historian from the Pushkin Museum of Fine Arts, was attached to the First Ukrainian Front. Its mission was to search castles and other repositories for cultural treasures that could be transported to the Soviet Union before civilian administration in Upper Silesia was handed over to Poland later that spring. First assigned to the industrial city of Beuthen (now Polish Bytom), 14 kilometers north of Kattowitz, and then to nearby Gliwice (now Polish Gliwice), the brigade was attached to the Trophy Administration under Maksim Saburov, where he represented Stalin’s Special Committee on Reparations.²⁰ The Filipov Brigade sent back by rail hundreds of thousands of books (along with other loot) in several large echelons. None of the available documentation, however, suggests that any of those books had been looted by the ERR.²¹

At the end of February 1945, the Red Army found an echelon the ERR had abandoned at the Pless (now Polish

15 See the recent report of Murray Hall, “The Untold Story of the ‘Führerbibliothek’ in Linz and the Role of National Library in Vienna,” in *The Future of the Lost Cultural Heritage* in Český Krumlov, 22–24 November 2005, to be published in *The Future of the Lost Cultural Heritage: The documentation, identification and restitution of the cultural assets of WW II victims*. Proceedings of the international academic conference in Český Krumlov (22–24.11. 2005), ed. Mečislav Borák (Prague: Documentation Centre for Property Transfers of the Cultural Assets of WW II Victims, Institute of Contemporary History, Czech Academy of Sciences, Tilia Publishers, 2006).

16 A memorandum in OMGUS records certifies to the transfer, NACP, RG 260, USACA, MFA Lists, Receipts, and Reports, box 1 (claims file Russia #1, now available on microfilm, M1927, roll 2). Related documentation is reproduced in *U.S. Restitution of Nazi-Looted Cultural Treasures to the USSR*.

17 See Pavel Knyshevskii, *Dobycha: Tainy germanskikh reparatsii* (Moscow: Soratnik, 1994; also available in German translation). Knyshevskii’s revelations were first made in a sensational press account by Radio Liberty correspondent Mark Deich, “Podpisano Stalinym: ‘Dobycha, tainy germanskikh reparatsii,’” *Stolitsa* 29 (191) (1994): 18. Knyshevskii presents the text of Stalin’s order (GKO, No. 7590ss; 25 February 1945; RGASPI, fond 644/1/373, fols. 48–51) and related documents with little commentary; as of Fall 2010 it is still classified. See also Konstantin Akinsha, “Stalin’s Decrees and Soviet Trophy Brigades: Compensation, Restitution in Kind, or ‘Trophies’ of War?” in *Spoils of War v. Cultural Heritage: The Russian Cultural Property Law in Historical Context*, = *International Journal of Cultural Property* 17, no. 2 (2010): 195–216.

18 See Konstantin Akinsha and Grigorii Kozlov with Sylvia Hochfield, *Beautiful Loot: The Soviet Plunder of Europe’s Art Treasures* (New York: Random House, 1995).

19 See Grimsted, “Tracing Trophy Books in Russia,” *Solanus* 19 (2005): 131–45. A selection of documents from the most important trophy library brigade was published in German translation, ed. Klaus-Dieter Lehmann and Ingo Kolasa, *Die Trophäenkommissionen der Roten Armee: Eine Dokumentensammlung zur Verschleppung von Büchern aus deutschen Bibliotheken* (Frankfurt am Main: Vittorio Klostermann, 1996) = *Zeitschrift für Bibliothekswesen und Bibliographie*, special issue no. 64). See Grimsted, *Trophies of War and Empire: The Archival Heritage of Ukraine, World War II, and the International Politics of Restitution* (Cambridge, MA: Harvard University Press for the Harvard Ukrainian Research Institute, 2001) for an overview of postwar trophy shipments to the USSR and literature regarding displaced cultural treasures and restitution issues.

20 Akinsha and Kozlov, in *Beautiful Loot*, devote a chapter to the operations of the Filipov Brigade in Silesia (pp. 105–11) with several quotations from the Filipov diary in Rossiiskii gosudarstvennyi arkhiv literatury i iskusstva (RGALI), fond 3002/1/3 and 4.

21 Filipov’s retrospective comments about his trip mention Ratibor in passing; RGALI, 3002/1/4, fol. 46; he also checked off a schematic map of Ratibor on pages from a printed German regional map—RGALI, 3002/1/3, fol. 101. Apparently he found nothing worth reporting there. On the Filipov Brigade, the sites they visited, and the cultural property they sent to Moscow see Grimsted, *The Odyssey of the Turgenev Library from Paris, 1940–2002: Books as Victims and Trophies of War* (Amsterdam: International Institute of Social History, 2003; IISG Research Papers no. 42); electronic version: <<http://www.iisg.nl/publications/respap42.pdf>>, chapter 7.

Pszczyna) railway station. Although the German owners remained in the elegant castle of Pless during the war as a cover, top ERR staff were billeted there and it housed some of the substantial ERR library operations as a major satellite of the ERR Ratibor center. Undoubtedly due to the fact that the conglomeration of abandoned materials included approximately four freight-car loads of the Smolensk Archive, a report of the recovery went to the Communist Party Central Committee in Moscow.²² By the end of April 1945, almost five full freight cars of the Smolensk CP Archive were shipped home from the nearest mainline railroad junction 6 kilometers south of Pless.²³

Thanks to that same March 1945 report, we know the echelon abandoned by the Germans in Pless contained an even larger quantity of library books, periodicals, and other archival materials plundered by the ERR from western Soviet lands, including “approximately 100,000 books in 580 crates... from Riga, Reval [Tallinn], Pskov, and Vilnius” and “about 80,000 volumes of journals packed in 660 crates... from the libraries of the Belorussian Academy of Sciences and the Lenin Library of the B[elorussian] SSR... the transport of all of which would require some 10 to 12 railroad freight cars.”²⁴ While the Smolensk CP Archive was rushed home immediately, the books—a lesser priority—were moved to join the plundered books from Ratibor that the Germans had stashed in immense warehouses in the Kattowitz (now Polish Katowice) suburb of Myslowitz (then still German; now Polish Mysłowice) on the main east-west rail line 50 kilometers north of Pless.²⁵

The first person to find the large hoard of books from Ratibor was apparently Boris Ia. Shiperovich, an editor and bibliophile who later headed the Propaganda Division of the

“Sovetskii pisatel” publishing house in Moscow. Serving in a special Red Army unit to “save” displaced books, Shiperovich and his colleagues discovered two huge warehouses in Kattowitz (actually Myslowitz) with “hundreds and thousands of crates” marked with German alphanumeric labels: “I’ve never seen so many books,” he exclaimed. He identified many crates from Belorussia—with stamps of the Library of the Academy of Sciences—and some from the Lenin Library in Minsk. He spoke of many French and Polish editions, “incunabula, imprints of the 16th and 17th centuries,” and others in “Hebrew, Slavonic, and Latin.” Reporting his discovery to Marshal Konstantin Rokossovskii, he then visited Kattowitz several times with Lieutenant General [Andrei] Okorokov, then chief of the Red Army Political Administration (GlavPU) in Silesia. If we can believe Shiperovich’s memoir, the Red Army had not found the warehouses earlier or arranged the crates of books into the elaborate labyrinth he described.²⁶

Shiperovich’s published memoir avoids mention of foreign “trophies.” In private letters from the front to his friend literary critic Anatolii Tarasenko, however, Shiperovich noted “book collections taken from various places by the Nazis,” and expressed regrets that he did not discover the books earlier because, “many materials had already been looted.” He was able to rescue and load “two cars with foreign books, including books from the library of the Rothschilds.” Subsequently, he and the colleagues helping him open selected crates found “the library of the Duke of Orleans [Comte de Paris or duc de Guise] and [those of] other important people who knew how to love books.” Both of those named had been plundered by the ERR from France or Belgium. Shiperovich mentioned sending a few interesting books to his friend Tarasenko by various couriers.²⁷ (Figure 6)

The Germans probably had packed and moved many of the books to Myslowitz as they were leaving Ratibor. Since Myslowitz was itself on the major east-west rail line, and yet somewhat removed from the center of Kattowitz, it would

22 A report by the head of the Chief Political Administration of the Red Army (GlavPU RKKA) intelligence service, I. V. Shikin (1 March 1945) to G. M. Malenkov, TsK VKP(b), RGASPI, 17/125/308, fols. 11–12; G. F. Aleksandrov and I. V. Shikin to G. M. Malenkov, TsK VKP(b) (1 March 1945), RGASPI, 17/125/308, fols. 14–17. The reports were published by Valerii Shepelev, “Sud’ba ‘Smolenskogo arkhiva,’” *Izvestiia TsK KPSS*, 1991, no. 5, pp. 135–36; I thank Shepelev for acquainting me with the original file.

23 The shipment left from the railroad junction of Czechowice-Dziedzice, although one Soviet Russian report suggested it was Dresden. See full documentation in Grimsted, *Odyssey of the Smolensk Archive*, 44–48. See also Grimsted, “The Return of the ‘Smolensk Archive.’” (The documents cited were not available before 1990, but Russian archivists and politicians still claim that all of the “Smolensk Archive” had been taken to the U.S. Actually only 541 files were removed by U.S. intelligence from the Offenbach Archival Depot in 1946.)

24 Shikin to Malenkov (1 March 1945), RGASPI, 17/125/308, fols. 11–12; and Aleksandrov and Shikin to Malenkov (1 March 1945), RGASPI, 17/125/308, fols. 14–17; published by Shepelev, “Sud’ba ‘Smolenskogo arkhiva.’”

25 For a recent illustrated description of Mysłowice, see Lech Szaraniec, *Górny Śląsk, Małopolska—Południowo-zachodnia, północno-zachodnia, Śląsk Opawski, Dolny Śląsk: Zabytkowe ośrodki miejskie* (Katowice: Muzeum Śląskie, 1992), 193–98.

26 Boris Shiperovich, “Spasenie knig,” *Al’manakh bibliofila* (1973): 57–59 (the text is dated 1971). Shiperovich’s mission in Silesia is confirmed in the memoirs of Anatolii Kuz’mich Tarasenko, edited by his widow Mariia Belkina: “Glavnaia kniga,” *Novyi Mir* 11 (1966): 214–15. More details about Shiperovich and the Myslowitz warehouse in relation to developments in Silesia at the time are provided in Grimsted, *Odyssey of the Turgenev Library*, chapter 5, “Silesian Sojourns and Book Transports to Moscow.”

27 Shiperovich’s letters to Tarasenko from February 1945 through 1947 confirm that he was there in the Army and actively involved with the displaced books. RGALI, fond 2587 (Anatolii Kuz’mich Tarasenko papers)/1/760. The quotations here are from an undated letter (ca. 1945) with no army postal number (possibly filed out of sequence), fols. 79–82. Obviously, since Shiperovich’s mail was going through the military censor, specific references to where he was and what he was doing were prohibited. Reference to “the library of the Duke of Orleans” refers to the library of Jean, comte de Paris, duc de Guise, a collection that the ERR confiscated from his estate near Brussels; the ERR had also seized many books belonging to various members of the Rothschild family and other distinguished French collections.

have been an appropriate storage place. Possibly the warehouses Shiperovich found had earlier been used as a transit point for ERR book shipments from East and West. A Belorussian soldier from Mohilev wrote home that he had found books with stamps from Belorussian libraries in the Myslowitz (Kattowitz) warehouse in mid-June 1945.²⁸ Perhaps he had been with Shiperovich or was in the unit that General Okorokov had ordered to sort the books.

By July 1945, GlavPU workers, who had been sorting the crated books, were able to estimate 1,200,000 volumes in Russian and foreign languages, bearing stamps from six Soviet libraries in Mohilev, Pskov, and Riga. The Red Army report listed a seventh Russian-language collection as coming from the Turgenev Library [in Paris].²⁹ Evidently, sections covering the books from Western sources were omitted from the version of that report published by the Russian State Library (RGB) in 2000; unfortunately the full original text and contiguous army reports are still not open for research.³⁰ The mention of the Turgenev Library in this account further confirms that this was the ERR loot from Ratibor.³¹

28 His handwritten note (17 June 1945) addressed to the Lenin Library in Minsk is found in the National Archive of Belarus, among the NBB library records, fond 546/2/4, fols. 20–21. I am grateful to NBB librarian Liudmila I. Stankevich for pointing me to this file, and to the National Archives for furnishing me a copy.

29 Fragments of the report by Major V. Pakhomov (GlavPU RKKA), “O bibliotekakh, obnaryuzhennykh voiskami Krasnoi Armii,” are published as doc. no. 169 in *Biblioteknoe delo v Rossii v period Velikoi Otechestvennoi voyny (iun’ 1941–mai 1945)*, comp. A. L. Divnogortsev, ed. V. A. Fokeev et al. (Moscow: RGB “Pashkov dom,” 2000), 274–75; the archival reference cited is TsAMO, fond 32 (GlavPU RKKA), opis’ 11302/327, fols. 383–384v. The fragments published deal only with the retrieval of books confiscated by the Nazis from Soviet libraries: the reference to the Turgenev Library is the only mention of a plundered Western library. Divnogortsev assured me he did not have a copy of the complete original. The same document (with neither names nor date and with a variant reference) is cited by Mazuritskii, *Knizhnye sobraniia Rossii i Germanii*, 72, but Mazuritskii told me he saw only the fragments of the document in RGB before it was published and did not have access to TsAMO.

30 My request to TsAMO for a copy of that specific document was not answered, but the acting director of the Archival Service of the Ministry of Defense, S. Kamenichenko (letter of 28 June 2002), claimed that “they have no documentation relating to the retrieval of libraries and archives.” I have been informed from other sources that the records of fond 32 (GlavPU RKKA) and its Trophy Administration have not been declassified and processed for research. Colleagues in the Russian State Library (RNB) in Moscow also tried to obtain a copy of the document for me in connection with my research on the Turgenev Library, but TsAMO refused them as well in both January and June 2003.

31 The Myslowitz warehouse is also mentioned in a later brief report on the Turgenev Library by Margarita Rudomino, then the director of the All-Union Library for Foreign Literature in Moscow (VGBIL, now re-named in her honor), who had headed the library group in a Soviet trophy brigade sent to Germany by the Committee on Cultural-Educational Institutions under the Council of People’s Commissars of the RSFSR (May 1945–October 1946). The quotation is from a brief segment on the Turgenev Library, “Turgenevskaiia biblioteka v Lignits (Pol’sha),” no. 31 in Rudomino’s large report “Spisok bibliotek, obsledovannykh predstaviteliami Komiteta kul’tury

After finding the German loot from Ratibor, the Red Army used the Myslowitz warehouses to consolidate other books found in the area and prepared an echelon for the USSR. Some 4,735 wooden crates and 2,305 cardboard containers were waiting in a warehouse until an estimated forty railroad wagons could be arranged for transport. The July 1945 Red Army report also references other books that the ERR presumably had tried to evacuate from their Ratibor center and its subsidiaries. It confirms the “approximately 150,000 books and 100,000 periodical volumes found in Pless from... Novgorod, Pskov, Vitebsk, Brest, and Pinsk.” It mentions 20,000 books from Belorussian libraries found twenty kilometers northwest of Ratibor in Schönhein (now Polish Chrosty).³² (Figure 7)

Much farther west, 32,500 books from Soviet repositories were found (including some looted by the ERR from the Ukrainian Academy of Sciences and the Novgorod Historical Museum) in Gröditzberg (now Polish Grodziec), near Goldberg (Złotoryja), thirty kilometers west of Leignitz (Polish Legnica).³³ The palace and castle on the Gröditzberg estate of the former German ambassador to the USSR, Herbert von Dirksen, had been a retreat for German Foreign Minister Joachim von Ribbentrop during the war. Starting in 1942, it was one of the evacuation sites for books from the Staatsbibliothek in Berlin and for library and art treasures from the Breslau Museum, under the direction of Günther Grundmann.³⁴ For almost 2 years, the ERR Ratibor center had been sharing books with the Osteuropa-Institut in Breslau, which had also been evacuated to the Dirksen estate. Possibly the ERR had evacuated some books from Ratibor to Gröditzberg on the way back to Germany.

Full shipping documentation is not available for many of the echelons from Silesia. Books found in Gröditzberg and other western areas probably were sent to the USSR in a Sep-

v Germanii za period 1-go ianvaria–1 maia 1946 goda,” GA RF, A-534/2/1, fol. 137–137v (original ribbon copy, fols. 131–138; copy in A-534/2/10, fol. 182–182v). A facsimile of the Turgenev Library coverage appears in Grimsted, *Odyssey of the Turgenev Library*, Appendix III. A German translation of the entire document is published in *Die Trophäenkommissionen der Roten Armee*, doc. no. 20, pp. 127–43 (Turgenev Library, p. 141). Based on other documents in the same file, I attribute the report to Rudomino.

32 Pakhomov, “O bibliotekakh, obnaryuzhennykh voiskami Krasnoi Armii,” 275. The castle in the village of Schönhein was one of the destinations mentioned in a German report about shipments from Belorussia destined for the ERR Ratibor center.

33 Ibid., 275.

34 Ibid. Grodziec (west of Legnica [now Polish Legnica]) is confirmed as the palace of former Ambassador von Dirksen—an Internet reference confirms the wartime evacuation site under the direction of Professor Grundmann, with the Baroque palace to house books and library materials from Breslau, and the castle to house r books from the Staatsbibliothek in Berlin. The article also mentions Soviet plunder in 1945: “Tajemnica ambasadora Dirksena (Tajemnica zamku w Grodźcu):” <http://www.turystyka.riders.pl/pl/miejscza_tajemnicze/index.php3?Action=1&nr=10>.

tember 1945 echelon from Schwiebus (now Polish Świebodzin, ca. 70 kilometers east of Frankfurt am Oder). According to a report by Trophy Library Brigade leader Margarita Rudomino, approximately 300,000 volumes “collected, during the fighting, by the 2nd Trophy Command of the 33rd Army”—comprising both retrieved Soviet books and “trophy literature collected on Polish territory.”³⁵

In late October or early November 1945, an echelon of 54 freight cars left Myslowitz for Minsk with the books from Ratibor and Pless. Trophy Library Brigade leader Margarita Rudomino later explained, “Because most of the books in the warehouses had been looted by the Nazis from Belorussian libraries... the remaining literature was shipped to... the Public Library of the Belorussian SSR.”³⁶

It is doubtful that Rudomino was involved personally with the Myslowitz echelon—she was reporting a year later on the Soviet “recovery” of the Turgenev Library from Paris and how it happened that some of its books had gone to Minsk.³⁷ Some 60,000 of the Russian-language books from the Turgenev Library were taken to the Officers’ Club in Legnica, the Red Army headquarters in Silesia. Shiperovich headed the library there starting in December 1945, and in March 1946 he was sent to Moscow on a secret mission to transport some of the choicest Russian émigré books and manuscripts from the Turgenev Library to the Lenin Library (GBL, now RGB). One of Shiperovich’s letters (presumably from near Myslowitz) recorded “fifty-seven wagons steaming away to Minsk.”³⁸ Half a century later, a Belarusian library director confirmed in a letter that a shipment “reached Minsk by train in the autumn of 1945—fifty-four freight cars carrying about one million books.” (Figure 8)

35 Rudomino [signed], “Kratkie itogi raboty” (Berlin, September 1946), GA RF, A-534/2/1, fol. 57 (cc in fol. 54); German translation in *Die Trophäenkommissionen der Roten Armee*, doc. no. 26, p. 164. That transport is also mentioned in other reports in the same file, fol. 21 (cc in fol. 60) and fol. 91. Details about many of the echelons from Silesia appear in Grimsted, *Odyssey of the Turgenev Library*, chapter 5, and the Grimsted article “Silesian Crossroads for Europe’s Displaced Books: Prisoners of War or Compensation?” in *The Future of the Lost Cultural Heritage*, 133–69.

36 [Rudomino], “Turgenevskaja biblioteka v Lignits (Pol’sha),” in “Spisok bibliotek, obsledovannykh...,” GA RF, A-534/2/1, fol. 137–137v (see note 30).

37 Regarding Rudomino’s participation, see her memoir account, Margarita I. Rudomino, *Moia biblioteka*, ed. with commentary by Adrian V. Rudomino (Moscow: “Rudomino,” 2000), 189–221. Although considerable documentation is given for Rudomino’s participation in the brigade, her visit to Silesia is not mentioned. Her son Adrian Rudomino (who served in Legnitz after the war, when his mother was in Germany) told me she did make a quick trip to Silesia in an army helicopter, but he found no additional documentation among her papers.

38 Shiperovich to Tarasenzov, undated letter [1945], RGALI, fond 2587/1/760, fol. 80. In another undated letter with “New Year’s Greetings,” Shiperovich mentions finding two crates of contemporary English-language literature, although he “had not been able to get them, so they went to Minsk,” fol. 84.

Many books originally from Soviet libraries were internally displaced instead of returning home after Soviet retrieval. Some of the books from other Soviet republics that arrived in Minsk with that same fall 1945 transport reportedly were returned to their homes. Other books, including many rare volumes from other Soviet libraries, such as those in the Baltic countries, were not. Understandably, in the immediate postwar period, the Soviet library world was hardly prepared for systematic restitution and redistribution. It had its hands full just getting bombed-out libraries operational again, and finding censors to weed out “degenerate” foreign books, so they could accession the rest. Despite greater possibilities for research in Ukraine during the past decade, librarians in Kyiv still do not know what happened to the hundreds of thousands (if not million) books from Kyiv and Kharkiv that went to Ratibor in ERR shipments. So far there have been no indications that all of those came with the postwar transport to Minsk.³⁹

Today the Rare Book Department in the National Library of Belarus (NBB) has an extensive card catalogue—and now an electronic library database—with provenance indications based on book stamps and other markings. One finds there books from Pskov and Smolensk, and from the former imperial palaces in suburban St. Petersburg, most of which undoubtedly arrived with the shipment from Ratibor and were not sorted out and sent on.⁴⁰ Besides, all arriving books in foreign languages, and especially “trophy” books, had to clear the Glavlit censors. Since censors who knew the Baltic languages were scarce in Minsk, many incoming books of Baltic origin had to be put aside. Those in other foreign languages had to be inspected before shipment or before they could be given to readers.⁴¹

Such obstacles may explain the presence in Minsk of some of the more than 6,000 rare volumes from Julius Genss’s world-class art history and bibliophile collection, which was fought over by the SD and ERR in 1942 in Tallinn. The large part that ended the war in Pless arrived in Minsk via Myslowitz, but Genss’s daughter in Moscow today still has not been able to determine how many of her father’s books remain in

39 From a letter by National Library director Galina N. Oleinik to Frits J. Hoogewoud (June 1993), quoted by Hoogewoud in “Russia’s Only Restitution of Books to the West: Dutch Books from Moscow (1992),” in *The Return of Looted Collections*, 72–73. Oleinik did not indicate any more details about the shipment or its point of origin. Hoogewoud kindly showed me the original letter; in 2003 I found an out-going copy and related documentation in a file in the Rare Book and Manuscript Department of the National Library of Belarus (NBB), thanks to Tat’iana Ivanovna Roshchina.

40 My remarks here are based on my own research in the card files in the National Library of Belarus (NBB) in September 2003.

41 Censorship procedures became apparent during my research in the Glavlit records in Moscow (GA RF fond 9425). A report from Belorussia from 1949 appears in 9425/1/625. More details appear in Grimsted, “The Road to Minsk.”

Minsk. In the 1950s Soviet courts refused to return the library to Estonia. Only since Belarus's independence have many of the rare books from the Genss collection been made available to readers in the Academy of Sciences Library in Minsk, but that library now claims to have only 1,000 out of the earlier 6,000 taken by the ERR. A few more volumes are now in the Rare Book Department of the NBB; all of them bear *ex libris* and stamps to the effect that they had gone through the ERR unit in Estonia.⁴² (Figure 9)

Western Trophy Books on the Road to Minsk

None of the contemporary Soviet reports mentioned above (or at least the available portions) present the whole picture. In fact, only a little over half of that Ratibor consignment (via Mysłowice), or approximately 600,000 books and periodicals, originated in Belorussian libraries plundered by the ERR. The other half of the echelon—more than half a million books that the ERR had plundered all over the European continent and collected in Ratibor and its environs—became Soviet “trophies.” Accessioned by what is now the NBB, most of them were hidden away in special collections (*spetskhrony*) inaccessible to the public for half a century. Only recently has the truth emerged about this largest remaining concentration of displaced books from Western Europe.⁴³

In 1989, 240 books with stamps of the Petliura Ukrainian Library in Paris were “returned” to Kyiv from Minsk. Obviously, they had been shipped there via Ratibor and Mysłowitz. Under the Soviet regime no one would have considered returning them to their real home in Paris.⁴⁴ In 1992, however, the All-Russian State Library for Foreign Literature (VGBIL) returned 650 Dutch books to the University of Amsterdam. Dutch librarians tracing their migration learned that the books had come to Moscow from Minsk. They learned this from a

letter from then-director of the Belarus National Library, Galina Oleinik, acknowledging that they had come from Silesia in an echelon of 54 freight cars. Amsterdam librarians discovered that a few of the Dutch-language books actually bore ownership markings of looted Belgian collections, and one was a Dutch New Testament with a stamp of the Turgenev Library. When it was returned to Paris, the latter thanked Dutch colleagues for the first book—out of 100,000 confiscated by the Nazis in 1940—to have come home. A Dutch librarian immediately suspected that those books had been sent to Minsk via Ratibor, but why had only 650 books been returned to the Netherlands, when Russian and Belarusian library sources suggested between 12,000 and 20,000 (another source suggested 40,000) Dutch books had transferred from Minsk to Moscow?⁴⁵ Those Dutch books were of no interest in Minsk, and could not even be accessioned because no censor there could read Dutch, and so gradually they had been transferred to Moscow. To be sure, when Minsk library director Oleinik wrote to Amsterdam in 1992, she did not reveal that another half million books from many Western European countries had arrived with the 650 Dutch ones. (Figure 10)

In 1999, an article about the “Involuntary Journey of Books from Paris to Minsk” appeared in English and Russian in *Spoils of War: International Newsletter*. The author, Vladimir Makarov, a retired Belarusian professor of French philology, did not reveal (and actually did not know) how many books were involved. He mentioned books with dedications to Léon Blum, Georges Mandel, Jean Zay, and other French Jewish political leaders, along with journalists such as Louise Weiss; books with autographs of French writers such as André Gide, André Malraux, and Paul Valéry; books with stamps of major Jewish libraries in Paris; as well as books from the Turgenev Russian Library.⁴⁶ Earlier Makarov had published several other intriguing essays about the French books he found in Minsk, with dedications and ownership markings from prominent French libraries, including the Rothschilds, among many other leading French Jews.⁴⁷ Makarov did not know

42 See Inna Gens, “Istoriia odnoi biblioteki,” *Lekhaim, Ezhemesiachnyi literaturno-publisticheskii zhurnal* 4 (132) (April 2003): 48–53. “Ukradennia biblioteka,” *Iksha. Al'manakh. Proza. Stili. Memuary. Dokumental'nye rasskazy* 1 (1997): 130–46; Inna Gens, “Ukradennia biblioteka,” *Korolevskii zhurnal* 13 (1998): 38–42. Inna Gens kindly met with me in Moscow and has been in correspondence with me about her father's library and his postwar efforts to recover his collection. The family still would like to see the library returned to Estonia in her father's memory. I examined her father's books in NBB and photographed the bookplates.

43 See my counterpart article, “The Road to Minsk for Western Trophy Books,” *Libraries and Culture* 30, no. 4 (2004): 351–404; electronic version: <http://muse.jhu.edu/cgibin/access.cgi?url=/journals/libraries_and_culture/v039/39.4grimsted.pdf&session=93519577>; Russian version: “Trofeinye knigi iz Zapadnoi Evropy: Doroga v Minsk cherez Ratibor (Ratsibuzh). Ograblenie bibliotek ERR (Operativnym shtabom Reikhsliatera Rozenberga),” in *Matieryaly tretikh mizhnarodnykh kniaznychykh chytanniaiu “Kniha Belarusi: Poviaz' chasoï”* (Minsk, 16–17 verasnia 2003 g.) (Minsk: Natsyianal'naia bibliiateka Belarusi, 2005), 39–90.

44 See Grimsted, “The Postwar Fate of the Petliura Library.” When I was researching that article more than a decade and a half ago, colleagues in Minsk neglected to tell me that more books from the Petliura Library were there. I was able to examine some in September 2003.

45 Frits Hoogewoud, “Russia's Only Restitution of Books to the West: Dutch Books from Moscow (1992),” in *The Return of Looted Collections*, 72–74. See also the exhibition catalogue for the books returned: *Nederlandse boeken—slachtoffers van de oorlog: Tentoonstellingscatalogus van de boeken uit het fonds van de VGBIL aanhorig bij de Nederlandse bezitters Amsterdam, Universiteitsbibliotheek, September 1992*, comp. and ed. M. F. Pronina et al. (Moscow: Rudomino, 1992). An annotated copy of the catalogue is held in the Bibliotheca Rosenthaliana, Amsterdam University Library. A few copies of the original Russian version were also produced: *Niderlandskie knigi—zhertyy voyny: Katalog vystavki knig iz fondov VGBIL, prinallezhashchikh vladel'tsam iz Niderlandov*, 15–28 iunia 1992 g. See more details in Grimsted, “The Road to Minsk.”

46 Vladimir Makarov, “Involuntary Journey of Books from Paris to Minsk,” *Spoils of War: International Newsletter* 6 (February 1999): 25–27 (also published in Russian).

47 Vladimir Makarov, “Avtografy sud'by,” *Evropeiskoe vremia* 10 (1993): 12–13, also published as a separate pamphlet, *Avtografy sud'by* (Minsk: Institut inostrannykh iazykov, 1993). Vladimir Makarov, “Avtografy sud'by,”

how or by what route the books had arrived in Minsk, but he realized they had been confiscated from Paris and then transported from Germany to Minsk. Today, he laments that when he served in Paris as Soviet Belorussian delegate to UNESCO in the 1960s, he was unable to return them to their owners or heirs in France.⁴⁸

In 2003, I was able to confirm how many Western trophy books had arrived in Minsk. Contemporary documents, including postwar library directors' reports in Minsk and Glavlit censorship files in Moscow, clearly label them "trophy" books retained in Minsk as "compensation" for wartime library losses. Only preliminary details have been established about the 400,000 books that were accessioned by the National Library of Belarus after the war. An international library conference held in Minsk in September 2003, was the venue for my initial report about the "Road to Minsk for Western Trophy Books" and their earlier migration at the hands of the ERR.⁴⁹ We now know more about the roads that took those Western books to Ratibor, where they ended the war in the company of many hundreds of thousands from Belorussian and Ukrainian libraries. That, and the fact that the Red Army had no inclination to sort them out, determined the last leg of their journey to Minsk.⁵⁰

Appropriate restitution of archives—at least those of Soviet provenance—was much more systematic. Most of the archival materials that arrived with the Mysłowice echelon were, following Soviet instructions, turned over to Belorussian archival authorities under the NKVD (later MVD). We know that the ERR took parts of the Dnipropetrovsk Communist Party Archive to Ratibor in October 1943, and that some of it arrived in Minsk, but we do not know what happened to the rest.⁵¹ Some 10,453 file units, including "party chronicles,"

were transferred from Minsk to Kyiv in 1946.⁵² Dnipropetrovsk archivists still complain that many of the plundered files were not recovered.⁵³ German wartime documentation and other foreign archives that were part of the same transport to Minsk eventually were forwarded to Moscow, where they joined other Soviet captured records in the former Special Archive (TsGOA SSSR). Most of the materials in that archive from France, Belgium, Luxembourg, and the Netherlands finally returned home during the past dozen years—the French in 1994 and 2000, the Belgian in 2001, and the latest batch of Dutch Jewish and Masonic files in 2003, as did some Masonic files from Luxembourg.⁵⁴

Some of the ERR-plundered books at Ratibor—even some Western books—escaped the November 1945 transport to Minsk. Many had been pilfered from the Mysłowice warehouses before Shiperovich and his trophy library brigade found them. We also know that 60,000 books from the Turgenev Library were transferred from Mysłowice to the Officers' Club at the Red Army Headquarters in Legnica in December 1945, and that many of those went directly to Moscow, while other émigré editions were burned in Legnica. Some of the Turgenev Library books went to another officers' club in Pechi on a military base in Minsk Oblast' whence some eventually were transferred to the Lenin Library (GBL) in Moscow in 1951.⁵⁵ (Figure 11)

Thanks to research by Belgian specialists, we know that the Poles found other books and archives from the ERR Ratibor center. Between August 1954 and January 1955, a secret

Vsemirnaia literatura 6 (1998): 134–43, and "Velikoi artistke, pochtitel'no...," Vestnik Minskogo gosudarstvennogo lingvisticheskogo universiteta, seriia 1: Filologiya 4 (1998): 157–64. Karina Dmitrieva at VGBIL kindly provided me copies of several of Makarov's other articles that had not been known abroad. When I met Makarov in Minsk in 2003, he generously shared copies of several additional ones.

48 Makarov showed me the extensive card files he has compiled of the French autograph inscriptions and ownership markings on books he found in Minsk libraries. He told me he had not found anyone else so concerned about the provenance and fate of those books.

49 My initial brief report was presented at the Third International Bibliophile Readings: "Kniha Belarusi: Poviaz' chasou," at the National Library of Belarus (NBB), Minsk, 16–17 September 2003; an expanded version is published in Russian in the conference proceedings (see Grimsted, "The Road to Minsk"). I am very grateful to NBB colleagues for facilitating my research about Western trophy books in Minsk, and especially Tat'iana Roshchina, who until 2003 headed the Department of Rare Books, and is now senior bibliographer in that department.

50 I did not meet anyone in Minsk other than Professor Makarov who thought those books should have gone home.

51 "Doklad o rabote arkhivnykh organov BSSR za 1 polugodie 1946 g." (Minsk, 22 July 1946), GA RF, 5325/2/1558, fol. 137. According to an unpublished Russian source, the archive was found in Ratibor, so perhaps more de-

tails are given in the subsequent letter from GAU UkrSSR to GAU SSSR (19 July 1957) (which he cites as Arkhiv GAU 19s/129, fols. 106–111); but that file is still classified. These details about return of the Dnipropetrovsk archive were earlier documented in Grimsted, *Odyssey of the Smolensk Archive*, p. 22.

52 Hudzenko, who then directed the Ukrainian Archival Administration (under the NKVD), noted at a meeting of local Party archival leaders at the end of October 1946 that "some 10,000 units from the Dnipropetrovsk Party Archive were taken to Germany and are now in Belarus," Stenogramma respublikanskogo soveshchaniia zaveduiushchikh partarkhivami obkomov KPb/U (30–31 October 1946), RGASPI, 71/6/251, fols. 63–64; see also remarks by the Dnipropetrovsk representative (fol. 98); mention is made of the recovery of some "party chronicles," newspapers, and library materials (fol. 103).

53 A letter from the Ukrainian Branch of the Institute of Marxism-Leninism mentioning the materials seized by the Nazis and subsequently returned to Ukraine was found in local party files in the Derzhavnyi arkhiv Dnipropetrovs'koi oblasti, fond 19/5/110, fol. 55; as cited by Dmytro Meshkov in his compilation Dnipropetrovs'ki arkhivy, muzei ta biblioteki v roky Druhoi svitovoï viiny: Anotovanyi perelik dokumentiv i materialy (Kyiv, 2000). At the September 1994 conference in Chernihiv on displaced Ukrainian cultural treasures during World War II, Meshkov reported that only a small part of the files plundered by the Nazis were returned.

54 See the reports about archival restitution to France, Belgium, the Netherlands, and Luxembourg in *Returned from Russia*.

55 RGB Archive, opis' 25, no. 221; see more details in Grimsted, *Odyssey of the Turgenev Library*, postscript.

historical commission under the Institute of Party History of the United Polish Workers' Party (Communist Party) examined a 48 ton trove that had been transferred to Warsaw from Cracow, with a reported "445 crates of printed and archival materials of Dutch and Belgian origin and 263 bales of various periodicals." No specific details have surfaced as to where they were found, but presumably it was in Mysłowice or the Ratibor area. The materials in the so-called "Dutch Collection" (in fact, they are both Dutch and Belgian) were distributed to various libraries and research institutes. Some 162 dossiers had been presented to the Institute of Marxism-Leninism in Moscow in July 1949, and more were presented in 1959. That would explain the presence even today of files of the Belgian Labor Party, documents of Belgian peace movements, and some papers of Belgian socialist leader Emile Vandervelde (1888–1936) in what is now the Russian State Archive of Social and Political History (RGASPI) in Moscow. The presence of Vandervelde library books in Minsk suggests the likelihood that those archival materials too were from Ratibor. Belgian specialists also identified Vandervelde papers in the former Special Archive (TsGOA) in 1992, but it was not known if those arrived in Moscow from Minsk or Warsaw. They had earlier documented their plunder by the ERR from Belgium. As an exemplary gesture of archival restitution during the communist period, the Polish Communist Party, in 1956, returned 192 crates of socialist materials to the Netherlands (including a few of Belgian provenance).⁵⁶ That year saw many paintings of the Dresden Gallery and other rare books and manuscripts returned from the USSR to East Germany, as well as a number of important restitutions from Moscow to Warsaw.

During a visit to Poland in the mid-1990s, Belgian colleagues found many more books and archives from socialist collections that had been incorporated into various collections within the archives of the Central Committee of the Polish United Workers' Party and the Central Archive for Modern Records (Archiwum Akt Nowych), and, in the case of books and periodicals, in the Library of the Sejm (Parliament). They recognized documentation of provenance in several Belgian sources that they knew had been captured by the ERR, including materials of the Secretariat of the Second International, which, under Friedrich Adler's leadership, had been located in Brussels. They found that indications of origin such as stamps and registration numbers sometimes had been cut away, but in other cases annotations or other revealing markings still were

present.⁵⁷

Belarussian libraries still are missing another million books that, according to ERR reports, were plundered and shipped to the Ratibor area by the ERR. Ukrainian libraries are missing between one and two million. The Paris, Brussels, and Amsterdam books that I identified in Minsk thus far are only the tip of the iceberg.

II THE DISPERSAL AND REINTEGRATION OF ERR RECORDS

Many of its own working and administrative files that the ERR did not succeed in evacuating or destroying were left behind in the countries it was forced to quit. Many outgoing ERR documents have been incorporated into various record groups of German agencies of occupation in different countries, or of the Allied governments that occupied Germany. Responding to the recent heightened interest in the fate of art confiscated and displaced as a result of World War II, with the accompanying upsurge of costly law suits and claims, museum curators have taken a special interest in the ERR and its records, an important resource for provenance research.⁵⁸

The ERR succeeded in evacuating at least some of their records and card files from Ratibor (December 1944–January 1945). Those they could, they took to Schloss Banz on the estate of Baron Kurt von Behr, who had directed the ERR Paris office, to be hidden there and in several other neighboring locations near Staffelstein, Bavaria. Chief of Ratibor research operations Gerd Wunder took away with him many of his own office files from Ratibor, and some books saved from the Ostbücherei. He set up a working office in Staffelstein.⁵⁹ Those materials were mixed in with records taken there from

57 Figures are not available, but some samples found in Warsaw were reported by Michel Vermote in his talk at the 2000 VGBIL conference in Moscow, "War Trophies in Perspective: The Fate of Looted Collections from Belgium," available electronically with the proceedings, "Mapping Europe: Fate of Looted Cultural Valuables in the Third Millennium Moscow, VGBIL, 10–11 April 2000," <<http://www.libfl.ru/restitution/conf/vermot.html>>. More detailed reports are available in Amsab Institute of Social History (Ghent), and I am grateful to Michel Vermote and Wauter Steenhout for sharing them with me.

58 For more details about resources regarding art looting in ERR and related postwar Western restitution records, see The AAM Guide to Provenance Research, comp. Nancy H. Yeide, Konstantin Akinsha, and Amy L. Walsh (Washington, DC: American Association of Museums, 2001). I am grateful to the contributors of many sections of that guide, and to personal advice from several of the authors, in connection with the presentation that follows.

59 See especially Wunder's detailed report on the evacuation from Ratibor, in his "Meldung an den Stabsführer" (Staffelstein, 23 February 1945), BArch, NS 30/50. See more details in Grimsted, "The 'Smolensk Archive'," in Vosvrashchenie "Smolenskogo arkhiva"/The Return of the "Smolensk Archive."

56 These Polish developments are documented by Jacques Lust, Evert Maréchal, Wouter Steenhout, and Michel Vermote, *Een zoektocht naar archieven: Van NISG naar AMSAB* (Ghent: Amsab, 1997), pp. 96–101. See also the account by Józef Stępień, "Losy akt Międzynarodowego Instytutu Historii Socjalnej w Amsterdamie w świetle informacji komisji powołanej do zbadania 'archiwum holenderskiego' z lutego 1955 r.," *Teki archiwalne*, seria nowa 3 (25) (1998): 317–24. I thank Belgian and Dutch colleagues for alerting me to this.

ERR headquarters units that had remained in Berlin. U.S. Army MFA&A officers found and removed several batches of ERR files from Banz.⁶⁰ Some were transferred to a U.S. Army document center in Bamberg, and then to the larger G-2 center in Fechenheim (near Frankfurt).⁶¹ Others were taken to Bayreuth, and thence to Nuremberg to be processed for war crimes trials, before many of them were shipped to the Captured German Records Center in Alexandria, Virginia.

Late in the war, the ERR sent many of its remaining Paris records along with art plundered from French Jewish collections to various ERR art repositories in Bavaria or nearby Austria. Others ended the war in the salt mines of Altaussee, where they were recovered by U.S. MFA&A officers amongst the art treasures there. One particularly important group of ERR records, including the inventories and card files with meticulous provenance research and photographs of individual works of art processed in the Jeu de Paume in Paris (found by U.S. MFA&A officers in the ERR repository of Neuschwanstein, Bavaria), was taken to the U.S. Central Collecting Point in Munich (MCCP).⁶²

The ERR shipped cultural treasures from the Eastern Front to designated repositories in Bavaria, where they, along with inventories and related documentation, were likewise found after the war by the MFA&A. For example, the castle of Colmberg, near Lehrberg (Landkreis Ansbach), was the principal repository for shipments of art (paintings, icons, furniture, decorative arts) from northwest Russia, particularly Pskov and Novgorod, the imperial palaces in suburban Leningrad (Gatchina, Pavlovsk, and Peterhof), and also Kyiv.⁶³ Art and archeological treasures from Ukraine and the Crimea went to the ERR repository of Höchstädt, and some of the original ERR inventories were preserved with the remains of U.S. restitution files in the Bundesarchiv in Koblenz. They were also found after the war by the MFA&A, together with

hand-drawn guides to the castle storage areas.⁶⁴

The most extensive “restitution research files” were organized at the MCCP under the U.S. Office of Military Government (OMGUS). When the specialists processing the materials prepared “property cards” for the individual art objects, they sometimes used the ERR photographs rather than making new ones, and used ERR inventories of art works in preparing restitution case files. As a result, many of the relevant ERR wartime documents became incorporated into American restitution files. When the Central Collecting Points were closed down, many of their records were incorporated into OMGUS records for transfer to the United States. They subsequently became integral components of OMGUS records, now held in the U.S. National Archives in College Park, Maryland (NACP, RG 260). Many of these were microfilmed before transfer. In 2000, Greg Bradsher of the National Archives produced an extensive Guide to Research on Holocaust-Era Assets, providing details of many such records in the NACP.⁶⁵ In recent decades, NARA has microfilmed most of the OMGUS restitution records from the different collecting points, including a separate microfilm publication of the ERR card files and remaining photographs in College Park.⁶⁶ Starting in 2009, NARA started making some two-and-a-half million documents among those records even more widely available through digitization and Internet display by the vendor Footnote.com. By the fall of 2010, the NARA records from Offenbach (OAD) and Wiesbaden CCP were already searchable in full text, and more were scheduled to follow soon.⁶⁷

60 For example, an MFA&A report (8 December 1945) describes many materials removed from Banz, BArch-K, B 323/550.

61 Thus, according to an OMG-Bavaria Property Control Branch report (5 February 1947), 150–200 folders of ERR records, including Hauptamt correspondence files, had been removed from Banz castle to the Bamberg collecting point for transfer to the Frankfurt Document Center along with index cards and lists of books—BArch K, B 323/328.

62 A copy of the monthly MFA&A report (29 August 1945) is found in NACP, RG 260, Property Division, AHC. Several reports are published as an appendix to Craig Hugh Smyth, *Repatriation of Art from the Collecting Point in Munich after World War II: Background and Beginnings with Reference especially to the Netherlands* (Maarswsen, The Hague: Gary Schwartz, SDU Publishers, 1988). In addition to Munich there were CCP in Marburg, Wiesbaden, and Offenbach (OAD).

63 See, for example, the inspection report on Colmberg Castle (Landkreis Ansbach) by James T. Tillinghast (14 August 1945), and the memorandum with enclosures of Frank P. Albright (15 February 1946), BArch-K, B 323/495. Original Nazi inventories of some of the Pskov icons have been preserved in the same file, while copies of those for Kyiv icons reside among the ERR and RKU records in Kyiv.

64 Inventories and other documentation covering the holdings found in Höchstädt are preserved in BArch-K, B 323/91 and 495, and related documents in 498. Another copy of some of these materials, transmitted by Edwin C. Rae, MFA&A (19 February 1946), is found in NACP, RG 260, Records of the Property Division, M1946/roll 66, and roll 133. Most of those shipments to Höchstädt were under the direction of Dr. Rudolf Stampfuss and Dr. Walther Hülle of the ERR Special Operational Unit for Prehistory (Sonderstab Vorgeschichte). The Germans even brought seven Soviet specialists with the shipments via Cracow, including the archeologists Valeriia Kozlovskaya and Petro Kurinnyi from Kyiv and Vadym Shcherbakivskyi from Prague. Unfortunately, some of these castles were also used immediately after the end of fighting to billet troops, and were poorly guarded, with long delays before the collections could be moved to the Munich Collecting Point. That would explain why many reports of theft and vandalism survive. For more detail about the repositories used for shipments from the Eastern Front see Grimsted, introduction to *U.S. Restitution of Nazi-Looted Cultural Treasures to the USSR*.

65 Greg Bradsher, *A Guide to Research on Holocaust-Era Assets* (Washington, DC: NARA, 2000). An updated electronic version with selected documentary publications appears on the NACP website: <<http://www.archives.gov/research/holocaust/finding-aid/index.html>>.

66 For example, NARA Microfilm Publication M 1943 (with pamphlet introduction): ERR (Einsatzstab Reichsleiter Rosenberg) Card Files and Related Photos, ed. Greg Bradsher and Tim Mulligan (Washington, DC: NARA, 2005).

67 See the chart of the series of NARA Microfilm Publications for the Ardella Hall Collection within RG 260 (OMGUS), in the introduction to that Record Group in Grimsted, *Reconstructing the Record of Plunder*, Section 9.1.5.

Residual CCP files stayed in Munich, together with copies of the microfilms and/or printouts from them, for the German restitution office, known as the Trust Administration for Cultural Assets, or TVK (Treuhandverwaltung für Kulturgut) that continued restitution operations in Bavaria until 1962. Those files were transferred in 1992 to the Bundesarchiv in Koblenz, where they are now held as a separate record group (Bestand B 323). This explains why many ERR files of correspondence, seizure reports, inventories, and photographs are now found among the MCCP records in Koblenz, not always duplicating those among the OMGUS records (RG 260) in NACP. While some duplication is found, sometimes originals are found in Koblenz, with copies in NACP or vice-versa. But because restitution activities continued longer in Munich after the OMGUS records were withdrawn, we find original ERR inventories and many more ERR photographs in Koblenz rather than in NACP. In 2009, the Bundesarchiv completed a detailed new finding aid for the Koblenz B 323 records, which is now available on its Koblenz website, and digitized versions of many of the ERR documents themselves are now being processed for Internet display joined to descriptions in the new finding aid.⁶⁸

The ERR records that were captured by the U.S. Army after the war as part of what was known as the Rosenberg Collection (with the exception of those incorporated in other record groups) were all microfilmed in Alexandria, Va., before their return to the Federal Republic of Germany in the 1960s. Still widely available, those microfilms are awkward to use and today can be confusing, despite the availability of a printed descriptive English language guide. An initial correlation table with the U.S. signatures and microfilm finding was included in the German finding aid prepared in 1968, but the U.S. films are not used today in Germany. Before their return to Germany, those records had not been processed according to their offices of creation, and the NARA microfilm series was titled as if all of the documents were from the Rosenberg-led Ministry for Occupied Eastern [i.e., Soviet] Territories (Reichsministerium für die besetzten Ostgebiete—RMbO).⁶⁹ Since they have been completely reprocessed in Germany,

and documents from elsewhere appropriately integrated with what is now the ERR record group (NS 30) in the Bundesarchiv, researchers will now want to consult the new online German finding aids with the documents themselves attached.⁷⁰

Today the Bundesarchiv has brought together many of the other remaining archival records of the various other Rosenberg agencies in its Berlin-Lichterfelde facility and processed them according to their agency of provenance. These now include both those that were returned from the United States to West Germany in the 1960s (earlier held in the Bundesarchiv-Koblenz) and those that were held in East Germany (GDR). Already in the 1960s, the Bundesarchiv had acquired copies of some of the ERR files held at the YIVO Institute for Jewish Research in New York City (now its Berlin collection, YIVO RG 215), but it has not yet acquired copies of those held in other countries.

While the ERR files themselves now comprise a separate record group (Bestand NS 30), many ERR or ERR-related documents are found with the records of other Rosenberg agencies. The ERR's parent agency was the so-called DBFU (Dienststelle des Beauftragten des Führers für die Überwachung der gesamten geistigen und weltanschaulichen Schulung und Erziehung der NSDAP), which translates as the Führer's Deputy for Supervising the Entire Spiritual and Ideological Training of the NSDAP. Rosenberg was appointed to this post in 1934, and has used the office to build up an extensive network of ideological and cultural activities of which the ERR was an operational offshoot. DBFU records were now classed in the Bundesarchiv as NS 15. Since the DBFU was also the parent agency for the Hohe Schule, many of the remaining files of the Hohe Schule, its Central Library, and its various institutes are found in that group of records, including the Institute for Research on the Jewish Question, or IEJ (Frankfurt and Hungen).⁷¹ Many ERR planning, personnel, and correspondence files are interfiled in the Bundesarchiv with records of the Rosenberg Chancellery, the Dienststelle (or Kanzlei) Rosenberg (NS 8). In addition to the ERR record group (NS 30), the Rosenberg Chancellery records are now also now available on the Internet, linked to a recent improved

68 The 2009 finding aid for B 323 is available at <http://startext.net-build.de:8080/barch/Midosasearch/B323-52029_Version_online/index.htm>. See the coverage for the TVK records in BArch-K, B 323 in Grimsted, *Reconstructing the Record of Plunder*, Section 3.2.1.

69 The microfilm series was produced from the temporary record group (EAP 99), now listed as T-454. See "Guides to German Records Microfilmed at Alexandria, VA" no. 28: Records of the Reich Ministry for the Occupied Eastern Territories, 1941–45, prepared by the Committee for the Study of War Documents, the American Historical Association (Washington, DC: National Archives, 1961). A supplement was issued in 1996, including a small group of Rosenberg files found later in NACP and added to EAP 99 (including scattered ERR documents): "Guides to German Records," no. 97: Records of the Reich Ministry for the Occupied Eastern Territories (Reichsministerium für die besetzten Ostgebiete) and Other Rosenberg Organizations, Part II, pamphlet with microfiche finding aid: (Washington, DC: NARA, 1996).

70 See the introduction by Jana Blumberg to the revised finding aid for NS 30, prepared since the records were consolidated in Berlin: <<http://startext.net-build.de:8080/barch/Midosasearch/NS30/index.htm>>, which serves as an online data link for individual documentary files. The introduction to the 1968 Bundesarchiv finding aid for NS 30 includes a correlation table for the U.S.-produced microfilms: "Vorläufiges Verzeichnis des Bestandes NS 30, Einsatzstab Reichsleiter Rosenberg," typescript (Koblenz: Bundesarchiv, 1968); a copy is available in the USHMM.

71 Jana Blumberg has likewise compiled revised finding aids for the DBFU (NS 15) <<http://startext.net-build.de:8080/barch/Midosasearch/NS15-21930/index.htm>>. Technically the Hohe Schule was not part of the ERR, although the ERR was its main supplier of books and other research materials, and often Hohe Schule staff were simultaneously serving in ERR Special Command (Sonderkommando) units.

finding aid.⁷² Those records now held in Berin-Lichterfelde, however, include few files relating to ERR art looting. The ERR files mentioned above that came to the Bundesarchiv with the TVK records, together with postwar OMGUS restitution records, remain in Koblenz, and are now all incorporated into those voluminous TVK restitution records (B 323).⁷³

Most important in France are the newly opening French restitution records in the Archives of the Ministry of Foreign and European Affairs (Ministère des affaires européennes et étrangères—MAEE), which are beginning to make it more possible to trace the fate and restitution of French Jewish art and library collections plundered by the ERR. When the admirable French handbook appeared for research with sources related to displaced cultural assets, *Guide des recherches dans les archives des spoliations et restitutions* in 2000, the French compiler could not legally have access to the Quai d'Orsay archives.⁷⁴ Ten years later, however, the forthcoming international survey of ERR and related archives can describe much more of that documentation. French restitution agency records themselves, however, so long closed to the public, have yet to be fully processed with publicly accessible finding aids. Now with the 2009 reopening of the MAEE archives in their new facility in La Courneuve, and the 2008 French archival law lowering the period of closure to fifty years, at least some of these crucial sources have already been opened for public research. As of late 2009, for example, one major group of long-closed French claims files are publicly available with a newly created finding aid, and many of them are being prepared for Internet availability.⁷⁵

A few scattered ERR and ERR-related documents have been surfacing recently in the Archives Nationales in Paris. Some that were used for postwar French collaboration trials are hence incorporated into court records, which are subject to more restricted use in France. We know from British occupation records from Austria that British MFA&A officers passed on to French authorities some ERR library documentation found in Tanzenberg. Thus copies of two ERR lists of libraries that had been confiscated in Paris recently surfaced in the Archives Nationales among French library restitution files. However, in that case the versions of the ERR lists of Paris library seizures surviving among British records from Tan-

zenberg in the British National Archives (long known as the PRO, Public Records Office) are much more complete—with important hand additions—than the copy transferred to the French.⁷⁶ Nonetheless indicative of the problem of dispersed ERR files in many countries, the most complete ERR reports of library seizures in France and Belgium have recently surfaced among the ERR records in Kyiv.⁷⁷

The British reported finding in Tanzenberg some additional files, including shipping documents, principally relating to the Central Library of Hohe Schule (ZBHS). Although the British turned over a few of those documents to the French, the subsequent fate of the rest has not been determined. Two ZBHS acquisition registers were discovered in the University Library in Vienna in 2004, but the remaining materials that the British turned over to the Austrians have not surfaced; quite possibly they were not preserved.⁷⁸ Ironically, a British officer in Austria in September 1945, sent a note to his Soviet counterpart in the ACA (Allied Commission for Austria) informing him “that all books removed from Russia by the EINSATZSTAB ROSENBERG were sent to a clearing centre at RATIBOR in SILESIA. Other books may be found there, together with valuable records and catalogues. If such records are found, it is requested that they may be made available for scrutiny by Major Hayward, the British officer in charge at Tanzenberg.”⁷⁹ What the British officer did not know when he wrote those lines was that the ERR had already evacuated or burned most of their records from Ratibor.

What the British officer also did not know was that Soviet trophy scouts had already found another major group of ERR records from Ratibor that are today in Kyiv, together with some files from the ERR Berlin operations and the ERR Working Unit (HAG) in Belgium and Northern France, among others. Quite possibly, these came from several different sources, including some evacuated from Ratibor, but details are lacking. A partially declassified report from the files

72 See the recent finding aid for the Rosenberg Chancery (NS 8) records <<http://startext.net-build.de:8080/barch/MidosaseARCH/NS8-25406/index.htm>>, compiled by Jana Blumberg, which also provides a direct link to the digitized records themselves.

73 See note 67.

74 *Guide des recherches dans les archives des spoliations et des restitutions*, edited by Caroline Piketty, with Christophe Dubois and Fabrice Launay (Paris: La documentation française, 2000; Mission d'étude sur la spoliation des Juifs de France), On-line edition: <<http://lesrapports.ladocumentation-francaise.fr/BRP/014000425/0000.pdf>>.

75 See the coverage of the newly opened series (RA 1–RA 69) in Grimsted, *Reconstructing the Record of Plunder*, Section 2.1.1.6.

76 “Paris Libraries of Jewish Ownership Confiscated by the ERR, March/June 1941” (16 August 1945), TNA, FO 1020/2793. A handwritten note in the file explains: “extracted from a file of reports by Dr. Gerhard WUNDER, found at Tanzenberg and forwarded by Major [John] Hayward, 16 Aug. 45. A copy has been sent to the French.” Sophie Coeuré kindly sent me an earlier version she found recently in the Archives Nationales, F 17/17996.

77 A group of retrospectively typed confiscation list, with a covering memorandum signed by Karl Brethauer (Berlin, 21 January 1942), is preserved with the ERR records in Kyiv: “Paris Einsatzstellen aus Schildes Kartothek,” TsDAVO, 3676/1/172, fols. 274–76, together with other lists, fols. 273, 283, and 277–82, and the Brethauer memo bound later on, fol. 324. The list includes ERR code numbers with the number of crates for each owner, often with the date and address of seizure. The fate of Dr [Gerhard] Shilde's Paris card file is unknown.

78 Ingrid Ramirer graciously kindly showed me the two fragmentary ZBHS registers recently discovered in the Vienna University Library.

79 “Russian books at Tanzenberg, Land Kärnten,” ACA (British Element), J. W. Goodison to M. Gavrilov, Public Enlightenment Division, ACA (Soviet Element) (Vienna, 19 September 1945), TNA, FO 1020/2794, doc. 28A.

of the Soviet Military Administration in Germany (SVAG/SMAD) suggests that some Rosenberg documents were found in the province of Brandenburg, but further information is not available because the rest of the document is still sealed off in brown paper.

A Ukrainian trophy brigade in Germany seized a major group of ERR files that were shipped directly from Dresden to Kyiv in November 1945. Transferred to the Secret Division of the Central State Historical Archive (TsDIAK) in Kyiv, and processed in 1947–1948, they remain today in Kyiv (Central State Archive of Highest Agencies of State Authority of Ukraine, TsDAVO), with the ERR Paris and Belgian library reports mentioned earlier. A small group of additional files were reportedly transferred to Kyiv from Latvia. Subsequently, several other diverse groups of files not of direct ERR provenance, and some not even from Rosenberg operations, have been added to the main group of ERR records in TsDAVO (fond 3676).⁸⁰ In addition, the same archive in Kyiv now also holds the related files of the Provincial Administration of Archives, Libraries, and Museums (Landesverwaltung der Archive, Bibliotheken, und Museen, LV ABM), directed by Georg Winter, under the Reich Commissar of Ukraine. The LV ABM was a successor institution to the ERR under civilian administration, but actually it took over ERR staff, who continued to function under ERR auspices, sometimes competing with civilian authorities, but often assisting plunder and transport to the Reich, especially when they were forced to retreat in the fall of 1943.

The existence and extent of the ERR materials in Kyiv was virtually unknown for half a century, and only since 1990 have they been open to researchers. Those records include many files with important documents about ERR activities in Belgium, France, and other European countries, including the Balkans and Italy, in addition to occupied areas of the USSR—Ukraine, Belorussia, some parts of Russia, and the 1939-annexed Baltic countries. In the summer of 2010, quality color digitization was completed of all the ERR records in Kyiv (TsDAVO), and under sponsorship of the Conference on Jewish Claims Against Germany (Claims Conference), TsDAVO launched those files on its own website September 1, 2010. The files are linked to user-friendly descriptions from a finding aid so far only in a Russian-language database system, but eventual plans call for access in other languages.⁸¹

Some additional but much more scattered files from ERR operations in several countries now are held by the Russian State Military Archive (RGVA) in Moscow, formerly the separate Special Archive (Osobyi arkhiv—TsGOA SSSR). Most

of those fragmentary ERR files now in Moscow first arrived in Minsk, presumably from Ratibor, with the shipment from Myslowitz. They were forwarded to Moscow in 1955–1956. The ERR fond now in RGVA (fond 1401k) also contains a major collection of Rosenberg historical monument registration cards for the occupied Soviet areas; these too were found in Poland after the war and transferred to Moscow. Long held in a Glavarkhiv safe, they finally were added to the fond in the Special Archive in the mid-1990s. The cards covering historical cultural monuments in Russia, Belorussia, and Ukraine have been published in facsimile with Russian translations.⁸² Some 300 cards from the Baltic republics were not included in that publication but remain in RGVA. Another 150 ERR cultural registration cards are found in the separate ERR fond in Vilnius, mainly from Estonia and Lithuania, which it will be important to integrate with those in RGVA. The documents in Riga, which do not constitute a separate fond, are reports and communications the ERR sent to other German occupation agencies in Latvia.

Today many of the most important ERR documents relating to cultural plunder remain incorporated into various series of the widely dispersed records of the International Military Tribunal (IMT) in Nuremberg, where Alfred Rosenberg was interrogated, tried, and hanged for war crimes in October 1946. Most remaining files of Rosenberg operations in the cultural sphere were processed for the trial under the direction of Colonel Robert G. Storey, Chief of the Documentation Division, Office of United States Counsel for the Prosecution of Axis Criminality, initially in the Paris office. Storey himself presented a report on the plunder of “art treasures” at the international trial.⁸³ Hence, not surprisingly, the Nuremberg “PS” (Paris Storey) series held in the U.S. National Archives (NACP) includes many original ERR documents relating to cultural plunder, especially in Western Europe.⁸⁴ Documents used as evidence by the IMT were assigned exhibit numbers, sequentially under the code for the country introducing them—Great Britain (GB), France (FR),

82 Mikhail A. Boitsovyi and Tat'iana A. Vasil'eva, eds. and comps., *Kartoteka “Z” Operativnogo shtaba “Reikhsliiter Rozenberg”: Tsennosti kul'tury na okkupirovannykh territoriiakh Rossii, Ukrainy i Belorussii, 1941–1942* (Moscow: Izd-vo Moskovskogo universiteta, 1998) = *Trudy istoricheskogo fakul'teta MGU 5* (ser: “Istoricheskie istochniki” 1).

83 In addition to copies within the trial records (NACP, RG 238), a copy of the Storey report, together with a few of the documents related to cultural plunder from the PS series, is retained within the Ardella Hall Collection, NACP, RG 260 (OMGUS), CCP Restitution Research and Reference Records, M1946/rolls 84 and 133. Many of the ERR documents in the Storey series are available on microfilm (NACP T988), and some appear in the trial publications.

84 A selection (but far from all) of the individual documents in the PS series are listed in the published Yad Vashem finding aid *The Holocaust: The Nuremberg Evidence*, part one: Documents: Digest, Index, and Chronological Tables, prepared by Jacob Robinson and Henry Sachs (Jerusalem, 1976), 132–57, with references to published versions of the documents listed, but unfortunately lacking trial exhibit reference numbers.

80 See more details in Grimsted, *Trophies of War and Empire*, pp. 323–27, and in *Reconstructing the Record of Plunder*, Section 7.1.

81 See *Reconstructing the Record of Plunder*, Section 7.1.

the Soviet Union (USSR), and the United States (USA).

Copies of all those documents, translated into several languages, remain with the trial records in the National Archives of each of the participating countries. The proceedings of the IMT have been published in their entirety in *The Trial of the Major War Criminals Before the International Military Tribunal, Nuremberg (Blue Series)*, which was also issued in French and German. Now available in digitized format, the Blue Series also includes most of the documents used as exhibits by the prosecution (most of them published only in their original German), as well as selected documents from the pre-trial series.⁸⁵ Selected documentation and proceedings from the trial appears in English translation in the Red Series.⁸⁶ However, the ERR and ERR-related documents within the IMT records are scattered and can be accessed only via an IMT exhibit number or their pre-trial document number (PS, NO, etc.).⁸⁷

According to agreement after the trials, the originals were supposed to be deposited at the International Court of Justice in The Hague, but a recent investigation did not yield any original ERR documents there.⁸⁸ NARA archivists have recently been cooperating with the Bundesarchiv and have already found many more original ERR documents among U.S. IMT records.⁸⁹

While official French records from Nuremberg remain in the Archives Nationales in Paris, many of the Rosenberg documents submitted but not used for the trial went to the Centre de Documentation Juive Contemporaine (CDJC) after the trials. Now part of the Shoah Memorial in Paris, CDJC accordingly now has one of the most extensive collections of original and copied ERR documents, as well as documents

from other Rosenberg operations.⁹⁰ During the postwar decades, the CDJC produced elaborate finding aids that greatly aid search of the Rosenberg Collection in Paris. Recently, the CDJC Rosenberg Collection has been digitized, and the card catalogues are being reprocessed in a database system; so far, however, only a small selection have been launched on the Internet.⁹¹

To summarize, the most significant groups of extant ERR records have ended up today in Germany (divided between BArch Berlin and Koblenz), in Kyiv (TsDAVO), in Paris (at the AMAEE, La Courneuve, and CDJC), and in Washington, D.C. (NACP, College Park, MD). Smaller groups of highly fragmented files remain in Moscow (RGVA, most received from Minsk), Vilnius, Amsterdam (NIOD), and New York City (YIVO). A few stray documents have been reported in other countries, including Latvia. Copies of many ERR documents have been collected in Israel and are available for research in Yad Vashem. More microfilm copies have been brought together by the USHMM.

Given the extent to which the records of the Einsatzstab Reichsleiter Rosenberg (ERR) are crucial for identifying provenance of objects of cultural plunder, tracing migration routes, and often, for establishing restitution claims, a multinational survey of ERR and ERR-related records remaining in 29 repositories in nine countries has just been completed and will soon be launched on the Internet. The project gained research and publication support as part of an international ERR project that started in 2005 by the Claims Conference in association with the Bundesarchiv,⁹² with the aim of making the records more widely accessible. Depth of coverage in the Survey varies, according to the extent and complexity of ERR and related documentation located. Even

85 International Military Tribunal, *Trial of the Major War Criminals before the International Military Tribunal, Nuremberg*, 14 November 1945–October 1946, 42 vols. (Nuremberg: International Military Tribunal, 1947–1949); (Blue Series); German edn: *Der Prozess gegen die Hauptkriegsverbrecher vor dem Internationalen Militärgerichtshof*, 1947–1949, 42 vols.; French edn: *Procès des grands criminels de guerre devant le Tribunal militaire international, Nuremberg*, 14 novembre 1945–1er octobre 1946, 42 vols.; on-line version (English edn): <http://www.loc.gov/r/rfd/Military_Law/NT_major-war-criminals.html>. Vol. 24 also includes a “Document Key,” pp. 1–20, with Nuremberg document numbers and their corresponding exhibit numbers and indicates whether a document is published in vols. 25–42.

86 Office of the United States Chief of Counsel for Prosecution of Axis Criminality. *Nazi Conspiracy and Aggression*. 10 vols. Washington, DC: GPO, 1946–1948. (Red Series); on-line version: <http://www.loc.gov/r/rfd/Military_Law/NT_Nazi-conspiracy.html>.

87 See more details of the Grimsted coverage of the IMT records in NACP, RG 238, see *Reconstructing the Record of Plunder*, Section 7.1.7.

88 I appreciate the assistance of the archivist at the International Court of Justice in The Hague in clarifying the arrangement and providing access for me to the IMT records.

89 Samples of these documents are listed along with other details about the ERR documents in IMT records in Grimsted, *Reconstructing the Record of Nazi Cultural Plunder*, Section 9.1.7.3.

90 That explains why a large portion of the Rosenberg documents in Paris have “pull slips” referencing their extraction from the large collection of Rosenberg files found by the Americans, taken to the United States, and returned to Germany in the 1960s.

91 Card files in the CDJC reading room provide document-by-document resums as well as name, subject, and geographic indexes. See the selected coverage by Joseph Billig, Alfred Rosenberg dans l’action idéologique, politique et administrative du Reich hitlérien: Inventaire commenté de la collection de documents conservés au C.D.J.C. provenant des archives du Reichsleiter et Ministre A. Rosenberg (Paris, 1963 = “Les inventaires des archives du Centre de Documentation Juive Contemporaine, Paris,” vol. 1). Selected documents on cultural plunder from the CDJC Rosenberg Collection are published in French translation in Jean Cassou, ed., *Le pillage par les Allemands des oeuvres d’art et des bibliothèques appartenant à des Juifs en France*: Recueil de documents (Paris, 1947; CDJC. Série “Documents,” no. 4).

92 Patricia Kennedy Grimsted, *Reconstructing the Record of Nazi Cultural Plunder*. The larger international ERR project was planned and initial imaging made possible by the Claims Conference in cooperation with the Bundesarchiv, with Patricia Kennedy Grimsted as project consultant. Initial black and white imaging in TsDAVO (Kyiv) in 2005 and 2006 resulted in a microfilm collection for commercial distribution undertaken by Primary Source Microfilms, Inc.

beyond a guide, this reference compendium in some cases serves as a finding aid with selective file-level and, often, document-level identification, because many of the ERR materials found were not adequately described as such in their holding institutions. While we survey surviving documents of ERR provenance themselves (and often with those now attached to them), we must recognize that many of these ERR wartime documents have been torn from the circumstances of their creation (and the records of their creating offices), analyzed, and in some cases even amended in their use for postwar restitution efforts. The related wartime documents that are included encompass records, not only those of ERR provenance, but also others, for example, that are technically of provenance in the Rosenberg Chancellery and the DBFU (its actual parent agencies under the NSDAP).

The Survey should help overcome the problem of locating ERR documentation, but research in the records of ERR plunder is still seriously hampered by their wide dispersal, including, often, their incorporation into many different groups of records in many different archives. The international politics of restitution make it impossible for the ERR files to be physically consolidated in Germany, where they could best be appropriately processed for research. For example, neither Ukraine nor France would consider turning over to Germany the large collections of ERR records from all over Europe that have been held in archives in Kyiv and Paris for the last 60 years: hence, the need to bring together virtually as many of the scattered ERR records (and related files) as possible in electronic form. Initially the Claims Conference planned to bring the remaining ERR records together in a virtual reconstruction with a systematic electronic finding aid, as had been suggested by this author in a seminar at the United States Holocaust Memorial Museum in 2000.⁹³ However, such an ambitious plan for virtual integration into a single international database system proved too expensive and administratively complicated to realize. (Figure 12)

Even as digitization was starting to get underway, several of the holding repositories in the United States, Germany, and France, and most recently, Ukraine, initiated their own digitization projects, often involving larger groups of records incorporating ERR documentation. In some cases, particularly in France and Germany, those efforts were inspired by the Claims Conference ERR project, and in Germany and Ukraine the projects were assisted by digitization funded by the Claims Conference. Larger digitization efforts by individual repositories overtook the consolidation plan for a single reconstructed group of records.

The Holocaust Era Assets Conference held by the Czech Republic (June 2009), as part of its presidency of the European Union, brought together representatives of 47 countries and some 24 nongovernmental organizations. Of relevance here, Working Groups at the Conference were devoted to Art-Looting and Judaica, the latter including library books as well as ritual silver, Torah scrolls, and other Judaica. In the opening Archives Panel for the Working Group on Art-Looting, Deputy Archivist of the United States Michael Kurtz, who directs the National Archives facility in College Park MD (NACP) announced NARA plans for expanded Internet launch of some 2.5 million records relating to Holocaust-era looted cultural property through the vendor Footnote.com. He further announced an international initiative for an Internet portal bringing together contributions from the national archives of France, Germany, and the United Kingdom with those of the National Archives of the United States on that subject. At that same panel, the participating archivist now in charge of the French restitution records from the Archives of the French Ministry of Foreign and European Affairs (MAEE), Anne Georgeon-Liskenne announced plans of her repository to launch more digitized files on the MAEE website, and the present author reported on the forthcoming ERR Archival Survey.⁹⁴

A mock-up of the projected International Portal for “Records Relating to Holocaust-era Looted Cultural Property” is already displayed on the NARA website a year later, with current postings from France, Germany, and the United States. In the German case, two of the three separate records groups containing major components of ERR files (most of them digitized for the Claims Conference project) have already been publicly available on the Bundesarchiv website for the past year, and the third is currently being added.⁹⁵ As of September 1, 2010, the Ukrainian archive TsDAVO signed up to participate in the International Portal, with the launch of its extensive “ERR Collection,” approved by the Bundesarchiv as the formal proprietor of those German wartime records.⁹⁶

In the meantime, notes about the increasing digitization and Internet availability have been added to the description of those relevant records in the forthcoming ERR Archival Survey, due to be launched in November 2010. At the same

94 Michael Kurtz spoke as Chair of the panel; the reports of Grimsted and Anne Georgeon-Liskenne appear on the conference website: <<http://www.holocausteraassets.eu/en/working-groups/looted-art>>. I also presented a related report for the Judaica Working Group, which can also be accessed on the same website.

95 See the NARA announcement for the portal: <<http://www.archives.gov/research/holocaust/international-resources>>.

96 The ERR collections in Kyiv were launched on the Internet at the website of the Central State Archive of Highest Agencies of Power and Government of Ukraine (TsDAVO) – <<http://www.tsdavo.org.ua>>. See the newspaper note by the British Ambassador to Ukraine, Leigh Turner at <http://www.kyivpost.com/news/opinion/op_ed/detail/81263/#ixzz0ym5AILyP>.

93 I first submitted a proposal for the project at the request of Wesley A. Fisher in 2000, when he was Director of International Programs and later Director of External Affairs at the United States Holocaust Memorial Museum, after a seminar on the ERR that I presented as a visiting fellow.

time, the ERR Archival Survey itself has been invited to join the International Portal. The electronic publication of the Survey with data gathered over the past two decades has now been expanded to describe not only ERR but related documents held in each repository. Its function is accordingly being adapted as an integrating guide to accompany and facilitate electronic access to the ERR files described within component record groups, including those currently being launched on the Internet by holding repositories in many countries and linked by the NARA International Portal.

As another component of the cooperative ERR project, sponsored by the Claims Conference to increase access to the ERR records of plunder, a database has been launched in October 2010, covering over 19,000 individual works of art from over 200 confiscated French and a few Belgian Jewish collections processed by the ERR in its horrendous operation at the Jeu de Paume in occupied Paris. The database has been compiled under the direction of Marc Masurovsky at the United States Holocaust Museum in Washington, D.C., from the more than 17,000 ERR registration cards held by NACP along with the more than 16,000 ERR photographs that remain in the Bundesarchiv-Koblenz and some additional ones in NACP.⁹⁷ The database provides search capability for the individual objects covered by the original ERR cards and images, as well as a facility to browse by collections of the victimized owners, with the ERR codes assigned for the collection-level authority file. The recently launched database is still being expanded with additional data from ERR inventories, shipping papers, and related claims dossiers from French MAEE sources. Ultimately it will be possible to trace the fate and eventual repatriation and restitution of art objects to owners or heirs from the confiscated collections. As an aide to provenance research, and to the claims of families and heirs, the database will provide a key to the many art objects involved in this dreadful cultural atrocity that was but one small part of the Holocaust. Today, while the records of Nazi cultural plunder are widely dispersed, research and reference efforts such as these pilot projects in the archival world should provide an example of how displaced files can be reunited in a contemporary virtual environment. (Figure 13)

* * *

Meanwhile in Polish Silesia, some of the buildings that the ERR occupied in Ratibor (Racibórz) are still in ruins today. Those that survive or have been rebuilt bear no traces of the ERR wartime presence. Local inhabitants have no idea about

the estimated two million looted European library books and other cultural treasures that were sequestered there during the war, or even the names of the streets the Germans had imposed during their occupation. Neither do they know the name of the ERR or its wartime functions. Not even the local museum had any information about the ERR's one-time presence in the city. During my last visit in 1999, with Polish colleagues, we suggested to the municipal museum the planning of an exhibit about the pivotal role their city served in wartime cultural displacements. Perhaps the documentation gathered for this article and its predecessor on ERR wartime library operations could serve as a first step. More than 20 years ago a well-researched article entitled "The Einsatzstab Reichsleiter Rosenberg and the Looting of Jewish and Masonic Libraries during World War II" did not mention Ratibor as a destination for ERR loot.⁹⁸ Obviously at that time, with many archives still closed, we too could not have known about the millions of books the Germans left in Mysłowitz warehouses or the November 1945 Red Army echelon to Minsk. Yet two decades later, even the most recent major biography of Alfred Rosenberg, with a chapter on the ERR, touches on Ratibor only in passing.⁹⁹

Contemporary documentation and postwar interrogations cited in my earlier article, "Roads to Ratibor," suggest that there were upwards of two million books and an untold quantity of archives gathered by the ERR in Ratibor and its satellites in the vicinity including Pless. The owners of those half million plundered books from Western Europe and the Balkans that subsequently went to Minsk (together with another half million plundered from Soviet libraries) never even knew their books had survived and been "saved" by the Red Army. For half a century, many of those books were relegated to "secret/classified" collections (spetskhran) for foreign books as inappropriate for Soviet readers. Others were destroyed by the censors at different times. Yet all were counted as "compensation" for Soviet losses in the war, and librarians in Minsk repeat that justification today.¹⁰⁰ But how could books plundered from Western European collections—many from victims of the Holocaust—compensate for Belorussian losses and German destruction? (Figure 14)

Many of the half-million displaced Western books that were transported to Minsk from the Ratibor area have yet to be identified by provenance. Some of the Hebrew books were never even processed; others were reportedly destroyed or stolen. The only books from Ratibor that have gone home from

97 "Cultural Plunder by the Einsatzstab Reichsleiter Rosenberg: Database of Art Objects at the Jeu de Paume" on the Internet at: <<http://www.errproject.org/jeudepaume/>>, a joint project of the Claims Conference and the USHMM with the cooperation of the Bundesarchiv, the Archive Center of the French Ministry of Foreign and European Affairs, and the U.S. National Archives and Records Administration (NARA).

98 Collins and Rothfeder, "The Einsatzstab Reichsleiter Rosenberg and the Looting of Jewish and Masonic Libraries."

99 Piper, Alfred Rosenberg, chapter IX.

100 Many librarians in the National Library and other libraries in Minsk have told me this. Disinclined to restitution, they nonetheless have assured me they would be willing to cooperate in a project to identify the provenance of "their" books and to learn more about their wartime history.

Russia (in 1992) were 650 Dutch books that had earlier been transferred from Minsk to Moscow. As for the rest, some of their owners perished in the Holocaust and others have since passed away, but even today the Rothschild family or the heirs of Léon Blum, Georges Mandel, or Louise Weiss may well not know that some of the treasures from their family libraries traveled the “involuntary journey” on the roads to Ratibor and then to Minsk.

Abbreviations used in text and notes

BArch	Bundesarchiv (Federal Archives), Berlin-Lichterfelde
BArch-K	Bundesarchiv, Koblenz
CDJC	Centre de Documentation Juive Contemporaine (Center for Contemporary Jewish Documentation), Paris
DBFU	Dienststelle des Beauftragten des Führers für die Überwachung der gesamten geistigen und weltanschaulichen Schulung und Erziehung der NSDAP (Führer's Deputy for Supervising the Entire Spiritual and Ideological Enlightenment of the NSDAP)
ERR	Einsatzstab Reichsleiter Rosenberg
Glavarkhiv	Glavnoe arkhivnoe upravlenie (Main Archival Administration), alternately, and earlier usually, GAU
IISH/IISG	International Institute of Social History (Internationaal Instituut voor Sociale Geschiedenis), Amsterdam (Dutch IISG)
MFA&A	Museums, Fine Arts, and Archives (Division of Supreme Headquarters Allied Forces in Europe and OMGUS—British and American monuments officers)
MVD	Ministerstvo vnutrennikh del (Ministry of Internal Affairs), before 1946 NKVD
NACP	U.S. National Archives, College Park, MD, administered by NARA
NARA	National Archives and Records Administration
NBB	Natsyianal'naia bibliiateka Belarusi (National Library of Belarus)
NIOD	Nederlandsinstituut voor Oorlogsdocumentatie (Netherlands Institute for War Documentation), Amsterdam, formerly RIOD
NKVD	Narodnyi komissariat vnutrennikh del (People's Commissariat of Internal Affairs), after 1946 MVD
OAD	Offenbach Archival Depot (under OMGUS)
OMGUS	Office of Military Government, United States
TNA	The National Archives of the United Kingdom, formerly Public Record Office (PRO), London (Kew)
RAN	Rossiiskaia Akademiia nauk (Russian Academy of Sciences)
RGASPI	Rossiiskii gosudarstvennyi arkhiv sotsial'no-politicheskoi istorii (Russian State Archive of Social and Political History), formerly Central Party Archive
RGB	Rossiiskaia gosudarstvennaia biblioteka (Russian State Library), Moscow, formerly V.I. Lenin State Library (GBL)
RGVA	Rossiiskii gosudarstvennyi voennyi arkhiv (Russian State Military Archive), Moscow, now also includes holdings from the former TsGOA SSSR
RKU	Reichskomissar Ukraine (Reich Commissar Ukraine)
RMbO	Reichsministerium für die besetzten Ostgebiete (Reich Ministry for the Occupied Eastern Territories)
RNB	Rossiiskaia natsional'naia biblioteka (Russian National Library), St. Petersburg
RSHA	Reichssicherheitshauptamt (Reich Security Main Office)
TsDAVO	Tsentral'nyi derzhavnyi arkhiv vyshchikh orhaniv derzhavnoi vлады Ukraïny (Central State Archive of Highest Agencies of State Authority of Ukraine), Kyiv (formerly TsDAZhR URSR)
TsDIA URSR	Tsentral'nyi derzhavnyi istorychnyi arkhiv URSR (Central State Historical Archive UkrSSR), Kyiv, after 1958 – u m. Kyivi (often TsDIA-K, now TsDIAC) (Russian, TsGIA)
TsGOA SSSR	Tsentral'nyi gosudarstvennyi osobyi arkhiv SSSR (Central State Special Archive of the USSR), Moscow now part of RGVA, earlier (1992–1999): TsKhIDK—Tsentr khraneniia istoriko-dokumental'nykh kollektsii (Center for the Preservation of Historico-Documentary Collections)
USHMM	United States Holocaust Memorial Museum

Images with Captions



Figure 1. The arrival hall at the Offenbach Archival Depot (OAD) From the album "Offenbach Archival Depot: Photographic History," NACP, Still Pictures, RG 260—POAD—II.



Figure 2. Arrival at OAD of truck from Staffelstein with Russia, Dutch, French books, and other books (318 cases). Dutch restitution officer, Major Graswinckel, his driver, and car. From the album "Offenbach Archival Depot: Photographic History," NACP, Still Pictures, RG 260—POAD—II.

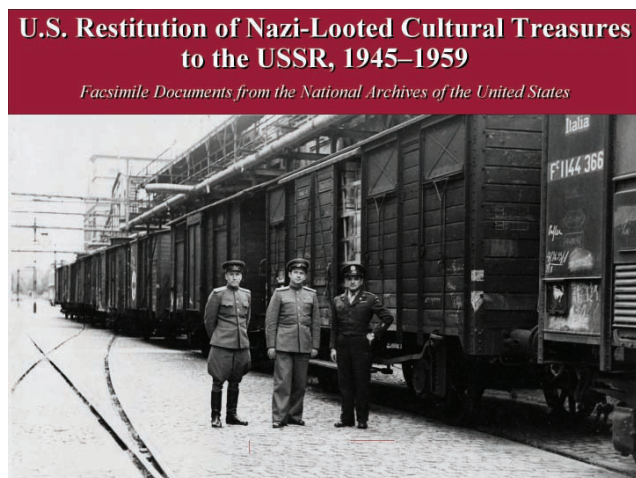


Figure 3. Cover of U.S. Restitution of Nazi-Looted Cultural Treasures to the USSR, 1945-1959, with images of train and Soviet officers.

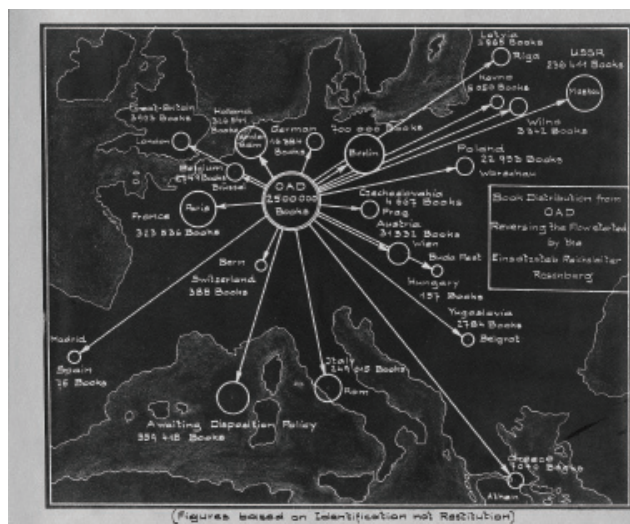


Figure 4a. Map showing distribution of books identified for restitution from the Offenbach Archival Depot (OAD). From the album "Offenbach Archival Depot: Photographic History," NACP, Still Pictures, RG 260—POAD—II.

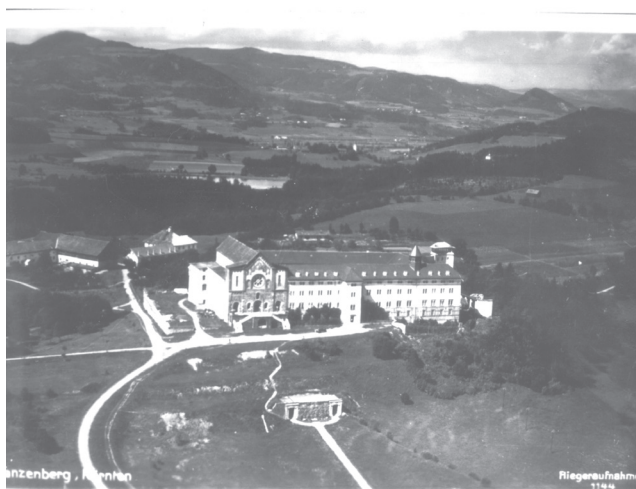


Figure 4b. The Monastery (Stift) of Tanzenberg (near Klagenfurt, [Kärnten] Carinthia), the evacuation center for ZBHS, from a war-time postcard in the ERR files now in Kyiv. Original in TsDAVO, 3674/1/2, folio 300 (courtesy TsDAVO).

Figure 5. The cover of the sensational book *Dobycha* [Loot] by Pavel Knyshchevskii (Moscow: "Soratnik," 1994), featuring a background picture of Winston Churchill, Franklin D. Roosevelt, and Jozef Stalin seated at the conference in Yalta, February 1945. The book contains the texts of many of Stalin's decrees establishing the Trophy Administration and the Trophy Brigades, along with the authorizing decrees for some of their loot and related texts. The author, a military historian, who died a year after the book appeared, had special access to the former Communist Party and military archives, but most of the documents cited are still classified in Russia.

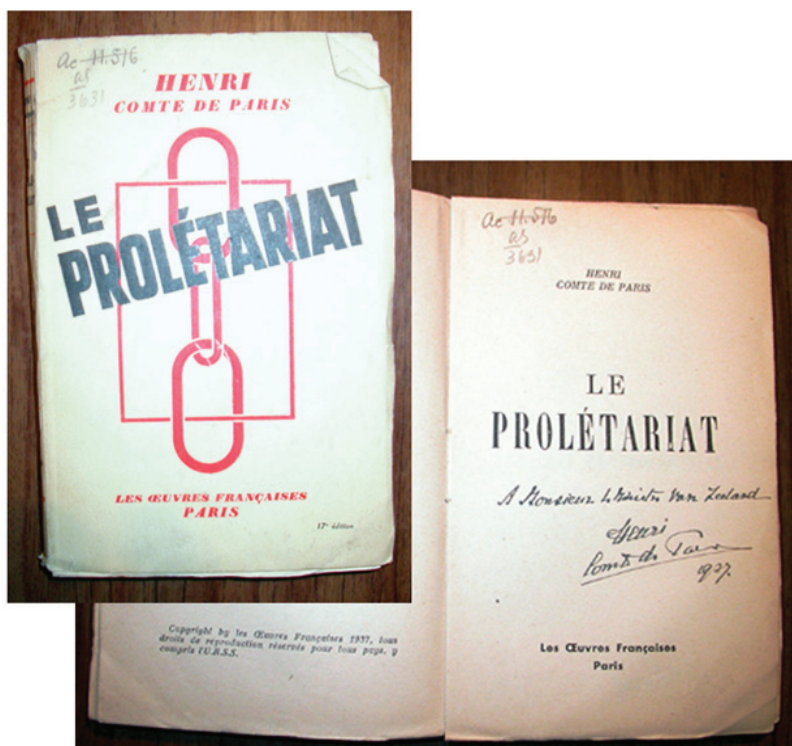
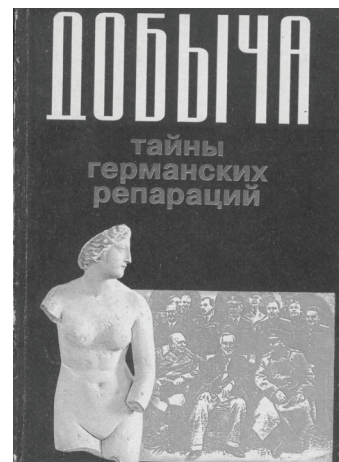


Figure 6. Cover and title page of a book by Henri, Comte de Paris (duc de Guise) and inscription by the author from a copy now in the National Library of Belarus, that arrived in Minsk in November 1945. Photograph by Patricia K. Grimsted.

The Road to Minsk (via Ratibor) for Western 'Trophy' Books



Figure 7. “The Road to Minsk (via Ratibor) for Western ‘Trophy’ Books”
Map prepared by Natalia Maslova under the direction of Patricia K. Grimsted.



Figure 8. Three of the many different book stamps used at different times by the Turgenev Russian Library in Paris (late 19th–early 20th c.), these, probably when it was located at 20, rue de la Glacière. From Grimsted, *The Odyssey of the Turgenev Library from Paris* (Amsterdam, 2003), Appendix 7 (available at <http://www.iisg.nl/publications/respap42.php>).



Figure 9. From the bibliophile library of Julius Gens, Tallinn (Reval). Title page opening *Angliiskii i frantsuskiia graviury XVIII veka* [English and French Engravings of the 18th Century] (1914) with a stamp of the State Library of the Belarussian SSR and registration numbers, together with enlarged stamp of the ERR office in Reval (Tallinn), and enlargements of Gens' ex libris (insert left) and a stamp of the Estonian State Art Museum (insert lower right). (now in Rare Book Department, NBB). Photographs by Patricia K. Grimsted.

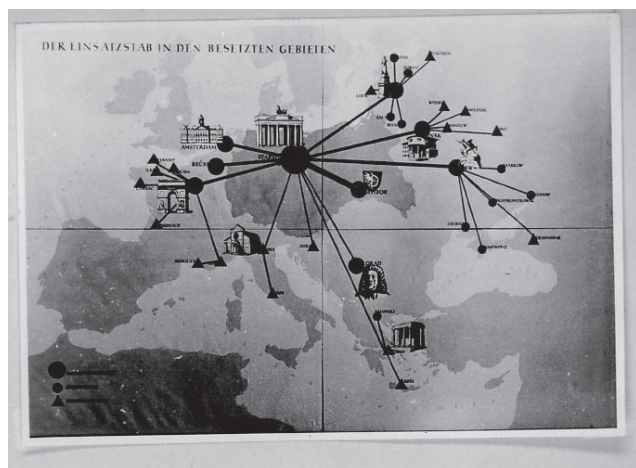


Figure 11. A schematic map prepared by the ERR, showing their sources of library and archival plunder, probably for a 1944 exhibition in their Silesian evacuation research and library center in Ratibor (now Polish Racibórz). From an original wartime photograph. (Barch NS 30/1 -95/25/14). Courtesy of the Bundesarchiv.



Figure 10. Title page of the autobiography of Marc Chagall, *Ma Vie* (French translation by Bella Chagall), with illustrations by the author. The front end paper (insert) bears an autographed dedication "to the Turgenev Library from the author, Paris 1933." The stamp below is from the Turgenev Library—"Bibliothèque russe Tourguenev, 9, Rue du Val-de-Grace, 9." At the time the photograph was prepared, the book was reportedly held in the National Library, but its present location has not been verified. From a photograph privately presented to the author with permission to publish.

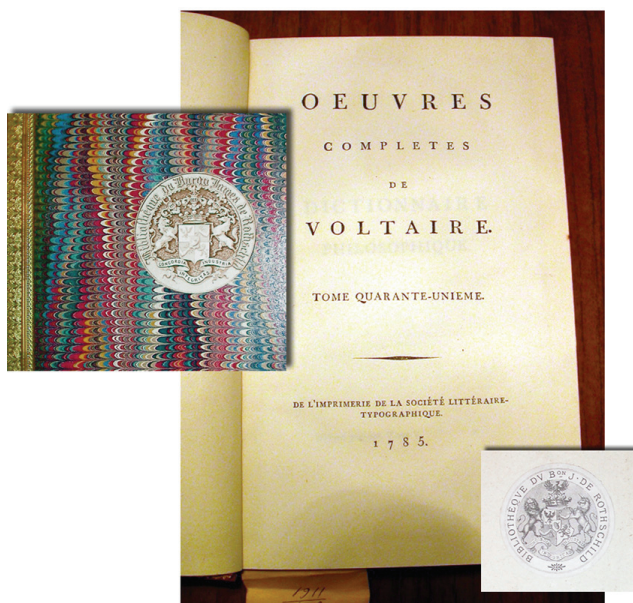


Figure 12. A leather-bound, hand-illustrated volume 41 of the Works of Voltaire (1785) from the library of James, Baron de Rothschild, in Château de Ferrières-en-Brie, France. The heraldic book plate (insert) is on a marbled end paper; a variant (insert lower right) is found later in the volume. (Now in Rare Book Department, National Library of Belarus). Photographs by Patricia K. Grimsted



Figure 13. Plaque Rose Valland Plaque honoring Rose Valland and her heroic efforts at Jeu de Paume in Paris during the war. http://de.wikipedia.org/wiki/Rose_Valland

Odyssey of the Turgenev Library



Figure 14. “The Odyssey of the Turgenev Library from Paris”

Map prepared by Natalia Maslova under the direction of Patricia K. Grimsted

Art Restitution of Nazi-era Looted Art: A Growing Force in Art and Law

Jennifer Ann Minton

Abstract

Art restitution is one of the few ways to make reparations to the many victims of the treacheries of World War II. Victims of Nazi-era art theft and their heirs should be able to successfully bring actions in the United States to recover their possessions as this is usually one of the last options available for recovery. Claims concerning art restitution should be heard in U.S. courts and the statute of limitations and the U.S. Department of State's Statement of Interest should not be used to preclude adjudication on the merits of these cases. The Court should assert their independence and refuse to dismiss these cases. Recent art restitution settlements and the U.S. Supreme Court's current involvement shed light onto this topic and help the victims of art theft reclaim what rightfully belongs to them.

Keywords: art, restitution, crime, Nazi-era looted art, World War II, U.S. State Department, Malevich, Altmann.

Introduction

It is believed that Nazi Germany and the Soviet Union plundered an estimated 650,000 pieces of art during World War II.¹ In the dying days of World War II, the Soviet Union raided Germany and other enemy territories for art troves and thus indirectly looted tremendous amounts of art confiscated by the Nazis from the Jews. How can a victim of an art crime find restitution in a postwar landscape? The war mentality of “to the victor go the spoils” ran rampant, causing artwork to move underground and to switch hands often. An entire barter commerce system developed as a result of the cultural raids and much of the looted art was intended to become part of Hitler’s Fuhrer art museum in Linz, Austria. Once a piece resurfaces, what happens when the rightful owners step forward and makes a demand for their property? Recent art restitution cases have been transforming the way courts view legal disputes over stolen artwork. Survivors of the Holocaust and heirs to these looted works are seeking art restitution services and bringing action in the United States Federal Courts.

Art restitution is one of the few ways to make reparations to the many victims of the treacheries of World War II. After the War, art began reappearing in the United States in droves. Cultural hotspots such as New York and California have seen the most art traffic, which explains why these states have the most progressive case law concerning art crimes and restitution. With the fall of the Berlin Wall, the opening of Eastern Europe, and access to Internet databases, cases have literally been coming out of the woodwork as masterpieces are being tracked down. Many works have been returned to the rightful owners or their heirs but the legal path has proved arduous. In an area of law that is gaining momentum and press coverage, victims and their heirs now bring actions to recover their possessions into the U.S. judicial arena.

Crimes committed during World War II occurred more than half a century ago; therefore bringing suit is often the only option. The passage of time has become the most difficult issue, the statute of limitations clock often running out on the claimant. In the art restitution cases discussed, the property in question is the artwork of Kazimir Malevich, the father of Suprematism, Gustav Klimt, and Lucas Cranach the Elder. When the request for the work is made and that request is refused, the court system is the only option left to a victim or heir of looted art. This analysis examines how the cases are adjudicated, what this means for the future of art crimes, and what transpires after the artwork is discovered.

Who rightfully has ownership of the artwork is often dependent upon whose law applies. An heir may be successful

recovering the pilfered art but if a U.S. court dismisses the case, a successful claim will be even less likely in a European court. This is an important factor in art crime investigations involving works that were stolen from European Jews during World War II. Once the artwork is discovered, the challenge then becomes finding the proper channels for restitution. Usually the only evidence plaintiffs have is poor documentation so they must rely on the courts to determine the rightful owner. If the parties cannot settle a claim for the return of the art, only a court has the power to decide between the two claims. This piece will examine the judicial system’s treatment of looted art and the journey the rightful owner must take to have their work repatriated to them. There are moral and philosophical considerations in determining the legal owners of Nazi-era looted art, and keeping that in mind, this piece examines current court cases and what that means for the future of art restitution. The *Altmann*, *Malevich*, and *von Saher v. Norton Simon Museum of Art* cases shed light on the future treatment of art restitution claims in the United States. The U.S. Supreme Court’s request for a briefing on the *Norton Simon Museum* case has the potential to push art restitution cases further into the spotlight. The following pages discuss the rise of Nazi-era art restitution claims, judicial hurdles, U.S. State Department’s involvement, relevant casework that has made art restitution a stronger area of litigation, and new developments, which could aide the heirs of looted artwork.

Art Restitution: An Attempt to Rectify Victims of Art Looting

Efforts by the United States and Germany to complete restitution claims were stymied by the Cold War. Stuart Eizenstat, a former Deputy Secretary of Treasury, helped to introduce efforts to resolving issues of reparation. In a 2001 keynote address to Fordham University School of Law, Eizenstat described the reparation efforts best when he said, “The end of the Cold War freed up energies, opened up archives in the former Iron Curtain countries, permitted people behind the Iron Curtain, which was then lifted, to travel to the West, to look for bank accounts; new democracies were brought into power interested in helping what I call the ‘double victims of World War II,’ those who were victims of both Nazism and Communism, and who were largely uncompensated by German payments in the past.”² Whether the pieces were taken by the Nazis or sold to finance their escape, the survivors and heirs are stepping forward to reclaim them.

Once investigations began, one discovery led to many more complex issues. Eizenstat describes how the silence was broken. “Swiss banks led to German cases, to Swiss cases, to French cases, to art, to insurance, and one issue after another

1 Kelly Crow, *The Bounty Hunters*, WALL ST. J., Mar. 23, 2007, at W1.

2 Stuart Eizenstat, Esq. Fordham International Law Journal, 25 Fordham Int’l L.J. 205, 2001.

began to emerge.”³ Works that were looted from the Jews by the Germans were then again stolen by the Soviet Red Army or even Allied Forces and put into treasure troves. If one studied the provenance of a piece originally looted during WWII it would become a connect-the-dot game involving captors and the trophies they claimed.

In 1998, the Washington Principles, an agreement signed by 44 countries, including the United States, was until recently the most extensive effort to restore looted art to the rightful owner.⁴ In December 2002, in response to the Washington Principles, the Commission for Looted Art in Europe, based in the United Kingdom, created a central registry to facilitate restitution of Nazi loot. The Central Registry holds information on more than 20,000 objects from more than 12 countries, as well as historical and current documentation from more than 40 countries.⁵ There are now over a dozen Internet databases that list stolen or missing works, many of which changed hands during the World War II years.⁶ Some countries, Poland for example, had already begun to form catalogs of stolen cultural items before World War II ended. Unfortunately because of the suppression of Eastern Europe, these claims were put on the back burner for nearly five decades.

Art restitution cases directly affect the museum industry when a work’s provenance comes into question. Opponents to these lawsuits argue that they are having negative impacts on the museum industry, removing masterpieces from the public eye, leaving gaping holes in collections worldwide. For example, the Detroit Institute of Arts and the Toledo Museum of Art have had their van Gogh and Gauguin challenged respectively.⁷ Even the Museum of Modern Art in New York, and the National Gallery of Art in Washington, D.C., got into a tangle of legal discussions with Polish and Ukrainian institutions over Albrecht Durer drawings. Museums are being more cautious in accepting works for exhibits if there may be reason to believe that the provenance is in question and will lead to a lawsuit. Some high-end auction houses and museums have formed departments specifically to curtail selling potentially looted works. Provenance or ownership researchers have been hired to track the history of suspect pieces. In the latest move by the Getty Museum, the Getty Research Institute (GRI) does just this, provenance research, searching for evidence to establish ownership history.

The Race against the Clock and the Good Faith Purchaser

In addition to the time commitment and exorbitant costs of pursuing a claim, the legal standards across the international spectrum are in no way uniform. The timeliness of when an action is made has often become the outcome determinate of art restitution cases. Some circuits of the U. S. court system are more flexible on the statute of limitations for a crime that occurred more than 50 years ago while foreign courts usually bar these claims. For this reason, the statute of limitations makes the U.S. court system a more attractive forum than the European courts. Other forums will also dismiss claims based on the statute of limitations having run out. Some U.S. courts, like New York and California, hold that the clock only starts running once the artwork is discovered and the original owner makes a demand upon the purchaser, whether they purchased the artwork in good faith or not. The Second Circuit (NY) is one of the frontrunners for art restitution cases. New York is a hotbed for the art world and hosts hundreds of collections each year although the Ninth Circuit (CA) has proven to be a more successful forum for issues involving art restitution.

Once a reasonably prudent claimant discovers the artwork the clock will run for 3 years. If a claimant is lucky, the particular piece of art surfacing will be newsworthy enough to be written up thereby alerting the rightful owner or heir of its existence. A legal action must be brought within that timeframe. If the demand on the artwork is refused, the clock begins to run for 3 years. As recent as this past September, California Governor Schwarzenegger signed into law a new art-theft bill that gives claimants seeking the return of stolen art another arrow in their quiver. The new law allows for the statute of limitations to run for 6 years instead of just 3. This bill was intentionally written so as not to infringe upon foreign policy issues that are governed by Federal law and not state law.

Basic property law also makes the United States a more attractive forum. European courts usually favor good faith purchasers, or a present day possessor who didn’t know the work was looted, over victims of art theft. In the United States, you cannot pass on property with bad title and you cannot keep property even if you bought it in good faith. Progressive decisions by California and New York courts have declared that “accrual” begins when the owner proceeds against one who innocently purchased the property in good faith. A painting that disappeared during World War II easily could have passed from one person to another and finally ended up on an auction room floor or have become part of a collection in a museum. A good faith purchaser could then be subject to litigation by the alleged rightful owner. This clearly causes commercial and legal problems when the rightful owner bringing claims of replevin (an action for the recovery of property taken) or seeks damages in conversion against a

3 Eizenstat, 25 Fordham Int’l L.J. 205 at 208.

4 The Washington Principles was a product of the Conference on Holocaust-Era Assets held in Washington, D.C. in 1998. The purpose was to resolve issues relating to Nazi-confiscated art, recognizing that among participating nations there are differing legal systems and that countries would act within the context of their own laws.

5 Julia Parker, *World War II and Heirless Art: Unleashing the Final Prisoners of War*, 13 Cardozo J. Int’l & Comp. L. 661 (2005).

6 Kelly Crow, *The Bounty Hunters*, WALL ST. J., Mar. 23, 2007, at W1.

7 DeWeerth v. Baldinger, 836 F.2d 103 (3rd Cir. 1987) and Guggenheim v. Lubell, 569 N.E. 2d 426 (N.Y. 1991).

good faith purchaser. Once a demand is made on the property the statute of limitations clock could begin to run.⁸ Foreign courts, for example, in Switzerland, sit on the opposite end of this spectrum viewing that all purchasers of property, stolen or not, acted in good faith, making a New York court far more attractive from the claimant's perspective. Once they have filed suit, claimants must turn their attention to the U.S. State Department and diplomacy issues.

The U.S. State Department: A Hindrance to Claimants

In the past, the U.S. courts have been reluctant to adjudicate issues that involve foreign relations. It is necessary to understand the State Department's role in art crimes in order to know what tools the defendant may use. Many times, the looted art in question is loaned to the United States by foreign countries. The State Department is often more helpful to the defendant in order to preserve diplomatic relations with foreign countries. The State Department is able to grant the defendant immunity. In layman terms, the artwork they are loaning to the United States cannot be taken into custody while it is on U.S. soil. The State Department plays the role of protector of diplomatic relations by playing down the victim's ownership rights and granting immunity to the artwork.

For instance, if the Executive Branch has entered into a treaty or even an Executive Agreement (when Senate confirmation is not needed), the Courts will most likely follow the State Department's advice, which comes in the form of a written "Statement of Interest." It is a standard policy for the State Department to submit the Statement, as the U.S. government's diplomatic arm. The Statement is submitted to the court, advising the role the court should take if the action involves foreign policy. Because usually the artwork in question is on loan from a foreign country, it almost always involves foreign policy. Most often the State Department encourages the court to dismiss the case on non-justiciability grounds because in not doing so, the court could very well be encroaching upon foreign policy such as agreements the United States has made with other countries. Usually the Statement recommends that the action be dismissed so as to avoid diplomatic embarrassment, which could harm international relationships.

In the past, the actions for art restitution have fallen victim to the Statement of Interest. In deciding whether to review the merits of a case, the U.S. judicial system will defer to the U.S. government. The U.S. Federal Courts may think an art restitution case could hurt foreign relations and decide to dismiss it. The Court essentially says if it did not dismiss such a claim, it would not be able to avoid embarrassing the U. S. government. It could not undertake this claim "...

without expressing lack of respect due coordinate branches of government...or the potentiality of embarrassment from multifarious pronouncements by various departments on one question."⁹ The State Department has continued to argue for "dismissal on any valid legal ground" if there would be foreign relation implications.¹⁰ If the court reviews the merits of a case involving looted artwork, this hardly seems to be an issue that would cause embarrassment to a branch of the United States government or harm diplomatic relations.

The U.S. government entered into an agreement aimed at achieving "legal peace" with post- WWII Germany.¹¹ The "Remembrance, Responsibility, and the Future" Foundation was formed, which began to define the State Department's influence on whether the judicial branch should review the merits of a reparation claim.¹² Defendants may request that the State Department submit a Statement to the court in hopes of obtaining immunity from seizure of the artwork and having the lawsuit dismissed. The State Department depends on the defendant to do his/her own provenance research and does not fact check on their own. If the provenance of the artwork is not proven or even convincing (claims of competing ownership must be noted), this will not bar them from protection by the Statement. It is important to be aware of the past treatment of the State Department's submitted Statement in order to understand the current treatment in art restitution cases. The following cases are examples of the court leaning on the Statement of Interest in reparation issues, though not involving looted artwork; they shed some light on how a court would rule when faced with art restitution claims.

In a case arising out of New Jersey in 2006, the Third Circuit affirmed the dismissal of a survivor's claims against German corporations for compensation for Nazi-era war crimes.¹³ *In re: Nazi Era Cases Against German Defendants Litigation v. Schering*, the reparation issue involved Holocaust-era insurance claims. The Department of State had issued a Statement of Interest that said it would be in the court's best interest to dismiss the case because of a previous Executive Agreement between the United States and Germany appointing any reparations to be handled by the German Foundation.¹⁴ The court found a constitutional commitment to the executive branch in the issue of war reparations.

9 Baker v. Carr, 369 U.S. 186 at 217 (1962).

10 *Nazi Era* at 380.

11 Ungaro-Benages v. Dresdner Bank, 379 F.3d 1227, 1231 (11th Cir. 2004).

12 The German Foundation ("Foundation") was the product of an executive agreement, the result of a cooperative effort between the U.S. and Germany. The German government asked Deputy Secretary of the Treasury Stuart E. Eizenstat to help resolve the numerous class action lawsuits pending in U.S. courts. *In re Nazie Era Cases*, 129 F. Supp. 2d at 378.

13 *In re: Nazi Era Cases Against German Defendants Litigation*, *Simon Rozenkier v. AG Shering*, 196 Fed. Appx 93 (3rd Cir. 2006).

14 *In re: Nazi Era Cases*, 196 Fed. Appx. at 95 (2006).

8 DeWeerth v. Baldinger, 836 F.2d 103, 106 (3rd Cir. 1987).

The court found that the government's State of Interest was persuasive because of possible retribution in foreign policy for judicial determinations. Circuit Judge Alan Louire authored the opinion noting:

...the United States government's long-standing foreign policy commitment to resolving reparations claims arising out of World War II and the Holocaust at the governmental level, coupled with the more recent creation of the Foundation, the signing of the Agreement, and the filing of the Statement of Interest in this case, together provide such a basis.¹⁵

They concluded that the Executive Agreement, the Statement of Interest, the long standing foreign policy commitment between the United States and Germany, and the creation of the Foundation were basis enough to dismiss the claims under a non-justiciable political question.¹⁶ This court agrees with the Ninth Circuit's decision in *Alperin v. Vatican Bank*, in which the court held that slave labor claims would raise a political question and should be deferred to the "Foundation" but that property claims against the Vatican Bank should not. The Ninth Circuit allowed the property claim to proceed, good news for art restitution plaintiffs.¹⁷

Claims concerning art restitution should be heard in U.S. courts and the Statement of Interest should not be used to preclude adjudication on the merits of these cases, especially when violations of international law in stolen property are alleged. While the Department of State's role is to aid the Executive Branch in foreign relations, courts should not so easily discard cases because a Statement of Interest is submitted suggesting a dismissal. The State Department is no doubt worried about political repercussions if a foreign museum sends its collection to the United States only to be met by a restitution lawsuit.

Private Lawsuits as an Alternative for Victims Pursuing Claims

As survivors of World War II become fewer, their heirs are bringing action in court to reclaim what belonged to the family. Just to bring a timely claim and beat the Statute of Limitations clock is obstacle ridden. In *Republic of Austria v. Altmann*, plaintiff Altmann was ultimately successful in recovering six Gustav Klimt paintings.¹⁸ Maria Altman fought for 7 years to

recover the Klimt paintings. Her aunt had been a subject of Klimt's portraiture work. In 2004, the Supreme Court upheld the Ninth Circuit denying the Republic of Austria's motion to dismiss based on sovereign immunity. However, the holding was narrow and case specific. It focused on the Foreign Sovereign Immunity Act (FSIA) and whether Austria had immunity because the claim was based on conduct that happened before the Act's enactment.

Foreign states, including the Republic of Austria, had used the FSIA as a defense because of the immunity it granted them. *Altmann* argued that publications and advertising by the Austrian Gallery fell under "Commercial Activity" of the FSIA, removing immunity granted to them under the Act. The defendants then argued that the activity pre-dated the FSIA so it was not applicable. The Court said that the FSIA did apply to pre-1952 conduct, therefore stripping the defendant of its immunity. Austria could not be immune as it was complicit in the expropriation of the Klimt paintings.¹⁹

Though the holding was narrow, this is a positive development for those looking to the U.S. courts to handle their claims for looted artwork. However further progress for restitution in the court stopped at the Court's decision to remand to a California District Court as the parties agreed to arbitration in Austria.²⁰ Ending in a settlement, *Altmann* advances the reparation of Nazi-looted art claims.

Malevich v. City of Amsterdam begins over 80 years ago with the story of Russian avant-garde artist Kazimir Malevich and spans from Germany to the Soviet Union to the United States where action was finally brought. This art restitution case has recently become more important in the future of restitution cases not because of the outcome, but because it acted as a trailblazer for future cases involving Nazi-looted artwork. Now deceased, Malevich's works were on loan to the United States as part of a collection owned by the Stedelijk Museum in Amsterdam. The founder of Suprematism (modernism's first completely abstract painting style), Malevich's work often had underlying political messages. In the 1920s he was invited to exhibit his work at the Great Berlin Art Exhibition. During the exhibition he was forced to return to St. Petersburg and his work was left with friends in Germany. War separated the two countries and Malevich died in 1935, his pieces scattering across Europe. Some of his works were kept in safe keeping in Amsterdam, since the Nazis had banned such art as "degenerate."²¹ The heirs of the artist seek the return of the artwork.

¹⁵ *Id.* at 102.

¹⁶ Justice Alito heard oral argument in this case but was elevated to the United States Supreme Court on January 31, 2006. The opinion was filed by a quorum of the panel and Honorable Lourie was sitting by designation.

¹⁷ *Id.* at 100.

¹⁸ Maria Altmann, a Viennese Jew and sole surviving heir of her family, brought suit to recover against an Austrian Gallery to recover the paintings stolen by the Nazis.

¹⁹ *Republic of Austria v. Altmann*, 541 U.S. 677, 677 (2004).

²⁰ Sue Choi, Comment, *The Legal Landscape of the International Art Market After Republic of Austria v. Altmann*, 26 NW. J. INT'L L. & BUS. 167, 174 (2006).

²¹ Carol Vogel, *The Modern Gets to Keep Malevich Work*, N.Y. TIMES, June 19, 1999, at B7.

Only after the fall of the Soviet Union did Malevich's family bring suit to reclaim the works. In an earlier case, in 1999, the Museum of Modern Art in New York reached a settlement with Malevich's heirs in regards to pieces they have held since 1935.²² The most recent lawsuit by Malevich's heirs centers around 14 pieces on loan to New York's Solomon R. Guggenheim Museum. This case involves paintings that had been lent by the City of Amsterdam ("the City") to museums in the United States. The paintings have continued to switch hands until just recently, stemming from World War II. In 2003, the artwork in question was exported to the United States to be part of a temporary exhibition in New York City and Houston. Because of diplomatic protocol, the paintings were immune to seizure, therefore the Malevich heirs sued the City of Amsterdam for the return of these pieces.

The U.S. District Court for the District of Columbia ("the Court") denied the City of Amsterdam's motion to dismiss the case on jurisdictional grounds. The court ruled this was a commercial activity, which removes the issue from an exception to the Foreign Sovereign Immunity Act (FSIA).²³ Foreign states are not immune when rights in property have been taken in violation of international law and the property is present in the United States (the situs requirement) in connection with a commercial activity carried on in the United States by the foreign state.²⁴ The activity of loaning the paintings was a "commercial activity", removing immunity from the City of Amsterdam.²⁵

Though the case did not revolve around a treaty or executive agreement, the court could have very well sunk this case, ruling the claim unjusticiable because it involved a World War II claim. The State Department's filed Statement of Interest favored the City of Amsterdam, voicing concern that the works were protected by the immunity clause of the FSIA. The Court says the Statement of Interest "presented the Court with something of a dilemma..." because the U.S. Government's opinion is "entitled to great weight."²⁶ Yet, it also notes that "establishing jurisdiction for certain

claims against a foreign sovereign are both clear and not inconsistent," and that the focus should be on the cultural exchange, not foreign policy.²⁷

The court elaborates on the cultural exchange by discussing the meaning of the immunity and jurisdictional statutes of the Mutual Educational and Cultural Exchange Program. The court says the meanings of these statutes are "more clearly perceived" by the Plaintiffs.²⁸ What the statutes do provide is if the pieces are brought into the United States then, they are subject to litigation. The statutes say a litigant cannot seize the property while on U.S. soil or serve judicial process on the receiving museum (in this case the Guggenheim and the Menil Collection). The plaintiffs did neither, which was key in moving the case past these technical defenses. These factors made the City's reliance on the Statement of Interest misplaced. The works in question only needed to be "present" in the United States when the suit was filed. The Malevich heirs filed suit at the appropriate time. The Court continued to say that just because the works are immune from seizure they are not immune from a suit for alleged conversion.²⁹ Essentially the Malevich heirs had to wait until the proper moment to file suit.

In 2007, the D.C. Circuit court decided the "commercial activity factor."³⁰ The bottom line was whether the contract made by the City of Amsterdam could be made by a private person therefore removing its immunity (quoting Texas Trading, 647 F.2d at 309). The court found that the contacts were enough to establish the City as a private person conducting commercial activity. It is the nature of the activity, contracting for the pieces and shipping them to the United States, not the purpose, which in this sense would be cultural and educational. Any private person may submit a painting and contract with a museum. The MoMA is full of pieces on loan including the Malevich pieces that were on display. This essentially would fall under "trade and traffic in commerce".³¹ The court found it was a "commercial activity" in both the public and private arena because the parties contemplated a potential sale of the works.

The facts show that in the past the collection was in the midst of a sale agreement, resulting in a loan contract between Mr. Sandberg, the previous Director of the Stedekijk Museum in Amsterdam and Mr. Haring, a longtime friend of Malevich. The City had received consideration for the contract in the form of an agreed monetary amount and had scheduled its own employees to transport the paintings to the United States

22 Alexander Dörner, director of the Provinzial museum (which was later renamed the Landesmuseum) in Hannover kept works by Malevich hidden until they were smuggled into the U.S. via the Netherlands. (Vogel, N.Y.Times, June 19, 1999, at B7).

23 Foreign Sovereign Immunity Act, 28 U.S.C. 1602 (2005). The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

24 Under 28 U.S.C.S § 1605, (a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case (3) in which rights in property taken in violation of international law are in issue and that property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state.

25 The court relied on *Republic of Argentina v. Weltover, Inc.* in determining the commercial character of the loan.

26 Malewicz at 311.

27 *Id.* at 311.

28 *Id.* at 311.

29 Malewicz at 312.

30 Malewicz v City of Amsterdam, 517 F. Supp. 2d 32 (2007).

31 Malewicz v. City of Amsterdam, 362 F. Supp. 2d 298, 42 (2005) citing *Republic of Argentina v. Weltover, Inc.*, 504 U.S. 607, 119 (1992).

The City's Motion to Dismiss was denied and the parties would go to trial. Their patience seemed to have paid off, but a settlement was reached before going to trial. Again, no cut and dry decision came from the courts but the parties decided to settle and walk away. The Malevich heirs received five paintings while the city kept the remaining pieces along with the titles. One could argue that the heirs preserved the Malevich legacy and came out on top, but this case didn't provide the legal waves in art restitution it could have. A more useful lesson learned was how the Malevich party navigated the U.S. judicial system, playing a figurative cat and mouse game with the paintings. Again, the costs and stresses of litigation over looted art ended in a settlement.

The most recent development in the American courts has put art restitution cases in the direct purview of the U.S. Supreme Court, promising that in the future more attention will be given to the subject in general. In October of 2007, the Los Angeles U.S. District Court dismissed a case, *von Saher v. Norton Simon Museum of Art*, involving a 480 year old diptych "Adam and Eve" by Lucas Cranach the Elder. The claimant, Marei Von Saher of Connecticut, heir of a Jewish art dealer who lost the artwork to the Nazis in World War II, had sued California's Norton Simon Museum for the diptych. The dismissal was based upon the reasoning that the California law extending the statute of limitations intruded on the federal government's powers to resolve war claims. The Ninth Circuit also sided with the Norton Simon Museum, saying that the law was an attempt for California to establish a Holocaust restitution forum, which is not a state responsibility. Upon the claimant's appeal to the highest court, the Supreme Court neither accepted nor declined to hear the case, but instead asked the Solicitor General to submit a brief on the government's view of the issue. The issue is whether future suits are decided on the merits of the case (who the rightful owner is) or the timeliness in which the action was brought. This could change the way future art restitution cases are decided, potentially setting aside the statute of limitations.

Conclusion

The struggles an art restitution plaintiff must overcome in order to bring a successful claim are difficult enough without their case being dismissed because of procedural pitfalls, namely the statute of limitations or a Statement of Interest. Reclaiming one's property should not be lumped into the foreign policy arena in which the State Department could encourage the argument that the Courts should dismiss it because of diplomatic sensitivity. Art restitution cases should be litigated and a plaintiff's efforts should not be frustrated by the Executive Branch's powers of conducting foreign relations. If the plaintiffs have proven that the artwork is in fact rightfully theirs, treaties and executive agreements should not affect an individual's claim. A defendant's request for a

State Department opinion, to be used as possible grounds for dismissal, should not be granted if the only justification for it is because the claim involves an action arising from a war time era. The U.S. courts should adjudicate these cases.

Though there have been such successes as *Altmann* and *Malevich*, future cases will continue to be discarded or shelved unless the U.S. judicial system moves in an independent direction. The Solicitor General's briefing on the *van Saher* appeal is due in the next few months and how the Supreme Court Justices read the government's view of the matter will be instrumental to the future treatment of art restitution cases. Their guidance on such matters as the statute of limitations could remove some of the roadblocks claimants currently face. Those who were victims of the Holocaust or Stalinist repression should be able to have their day in court to reclaim what rightfully belongs to their family.

The Skylight Caper: The Unsolved 1972 Theft of the Montreal Museum of Fine Arts

Catherine Schofield Sezgin

Abstract

This paper will examine published articles on Canada's largest art theft, the 1972 unsolved theft of the Montreal Museum of Fine Arts, compare the information to interviews with two principals involved with the museum and the investigation. It explores the ideas proposed in the last four decades as to who may have committed the theft and the alleged whereabouts of 17 missing paintings, including paintings by Rembrandt, Corot, Rubens, and Courbet and 39 pieces of jewelry and silver. This article describes the history of museum thefts in Canada, how the crime was committed, and some characteristics that may have made this museum and these paintings a target for crime.

Keywords: Montreal Museum of Fine Arts, largest art theft in Canada, The Skylight Caper

Canada's largest unsolved art theft occurred in Montreal at the end of the summer on Labor Day in 1972. That weekend, headlines in local newspapers told of Rudolf Nureyev dancing with the National Ballet in Ottawa; Bobby Fischer and Boris Spassky playing their last chess moves at the World Championship in Iceland; and Mark Spitz announcing his immediate retirement from swimming after winning six gold medals at the Olympics in Munich. Early Monday morning, three thieves stole \$2 million worth of art from the Montreal Museum of Fine Arts. The day after the art theft, terrorists killed 11 Israeli athletes in Munich. Although we know what happened afterward—Nureyev died from AIDS in 1993, Fischer lost his American citizenship, and those responsible for the Olympic massacre were hunted down and killed by Israeli agents—the whereabouts of the 18 paintings, including one by Rembrandt, or the 39 pieces of jewelry and silver stolen more than 35 years ago, remain elusive.

Police reports on this art theft are closed to the public. Information about it and subsequent efforts to ransom the paintings was gathered from published newspaper articles and interviews with Bill Bantey, the museum's spokesman on the day of the robbery, and Alain Lacoursière, a retired police officer and art crime investigator.

Art theft in Canada became noticeable in 1954 when the Art Gallery of Toronto was robbed twice. In the first theft, Krieghoff's *Basketmaker* had been stolen and returned after the promise of immunity. A few months later, thieves stole Peter Paul Rubens' *Elevation of the Cross*. Although Rubens' painting was found abandoned nearby, the robbery was interesting because the thieves had avoided setting off the alarm system while moving about the art gallery for at least an hour. Entry had been gained through a window not connected to the alarm. And like the Montreal heist, the window faced a main street and someone had to climb 20 feet to the window by using projecting bricks as hold and foot holds.¹ Five years later at the Art Gallery of Toronto, thieves stole six works (by Franz Halls, Rembrandt, Peter Paul Rubens, and Renoir) worth \$1,500,000 from the Art Gallery of Toronto.² The insured paintings were returned three weeks later and no one mentioned if a ransom had been paid.

At the time of the 1972 robbery, the Montreal Museum of Fine Arts was located in a 60-year old three-story building of granite and marble on Sherbrooke Street, a main road running laterally through Montreal. The west wall of the museum faced the Church of St. Andrew and St. Paul. After midnight, a man with picks on his boots—similar to equipment worn by electricians to scale telephone poles—climbed up a tree

and jumped on to the roof of the museum.³ He found a long construction ladder and lowered it to two accomplices on the ground so that they could join him on the roof.⁴

They walked around the roof to a skylight that had been under repair for two weeks. The skylight was usually hooked up to an alarm, but a plastic sheet placed over the alarm had neutralized it.⁵ The thieves opened the skylight and slid down a 15-meter nylon cord to the second floor.⁶

It was now 1:30 a.m.⁷ One security guard was completing his rounds and walking to the kitchen for a tea break when the intruders ordered him to get down onto the floor and lie on his stomach.⁸ When the guard did not move fast enough, one intruder fired two shots from a 12-pump shotgun into the ceiling.⁹ Two guards on the main floor heard the noise but were quickly overpowered by the thieves.¹⁰ All three were bound, gagged, and brought into a lecture hall on the first floor.¹¹

According to a journalist citing the police reports after the theft, the guards said they saw two long-haired men, about 5'6" tall, wearing ski hoods and carrying sawed-off shotguns.¹² One spoke French, the other, English. But they heard another French voice of a man they never saw.¹³

One thief stood over the guards while the other two thieves spent 30 minutes¹⁴ collecting paintings and objects into the shipping department.¹⁵ At first, the thieves tried to exit through the same skylight with a system of improvised pulleys, but it was too time-consuming so they decided to leave through the garage.¹⁶ Using one of the guard's keys, the thieves had opened the museum's panel truck.¹⁷ However, when they left with the first load through a side entrance, one of the thieves triggered that door's alarm.¹⁸ The three men grabbed only half

3 Lacoursière, Alain interviewed in Montreal on November 19, 2009.

4 Germain, Georges-Hérbert. *A City's Museum: A History of the Montreal Museum of Fine Arts*. Montréal, Quebec, Canada: The Montreal Museum of Fine Arts, 2007.

5 Bantey, Bill. "Stolen paintings mystery lingers, 35 years later." *The Gazette*, September 1, 2007.

6 "Trésor volé au Musée des beaux-arts." *La Presse*, May 29, 1994.

7 Bantey

8 Lamoureux, Serge. "18 toiles et 39 objets d'art dérobés au Musée des Beaux-Arts." *Montréal-Matin*. Tuesday, September 5, 1972.

9 Lacoursière interviewed in Montreal on November 19, 2009.

10 "Montreal Museum Looted of Art Worth \$2 Million." *The New York Times*, September 5, 1972.

11 Parker, Luana. "Art worth \$2 million stolen from museum." *The Gazette*, September 5, 1972.

12 Parker

13 Parker

14 Bantey

15 Finn, Patrick. "World alert for missing Montreal art." *The Gazette*, January 6, 1973.

16 "Trésor vole au Musée des beaux-arts." *La Presse*, May 29, 1994.

17 Lacoursière interviewed in Montreal November 19, 2009.

18 Parker

1 McLeave, Hugh. *Rogues in the Gallery*. 1981.

2 McLeave.

of the selected paintings, stuffed jewelry into their pockets, and escaped on foot, running down Sherbrooke Street.¹⁹

An hour passed before one of the guards freed himself.²⁰ In compliance with the existing policy, the senior security officer telephoned the museum's director of public relations, since the museum's president, director, and security director were on vacation; and Bantey told him to call the police.²¹ Bantey arrived a few minutes after the local police officers.²²

It was now 3 a.m.²³ Bantey and Ruth Jackson, curator of decorative arts, created a list of the 18 stolen paintings and 39 pieces of jewelry and decorative art objects, estimating the loss at \$2 million. The stolen paintings included a 10-by-15 ½ inch landscape oil on panel, *Evening Landscape with Cottages*, by Rembrandt valued then at \$1 million and works by Jan Brueghel the Elder; Jean-Baptiste-Camille Corot; Gustave Courbet; Honoré Daumier; Eugène Delacroix; Narcisse-Virgile de la Peña; Thomas Gainsborough; Jan Davidsz de Heem; Jean-François Millet; Giovanni Battista Piazzetta; Peter Paul Rubens; and François-André Vincent.

The thieves had left behind expensive broken frames, smashed showcases, and in their haste to leave, paintings by El Greco, Picasso, Tintoretto, and Rembrandt.²⁴

Bantey held a press conference on Monday, attended by local journalists, national radio reporters, and reporters from the national and international wire services. The news of the theft and the names of the stolen paintings were published in newspapers throughout Canada and the United States the following day. For months, no more was published about the theft as police investigators followed suspects and the museum officials quietly negotiated with the thieves for the return of the paintings.

After the theft was discovered, the local police alerted Interpol, the international police agency, and all points along the Canadian-American border to prevent the stolen art from leaving Canada.²⁵ Police also notified the Art Dealers Association and the International Art Registry.

The police photographed the crime scene at the museum. No fingerprints were found. No weapons were found. A week later, some suspects were identified and the investigation

focused on five art students.²⁶ Despite surveillance, no arrests were made. "For fifteen days, the police followed five suspects, night and day," Lacoursière said. But he doesn't think the students had organized the crime. "This crime was organized with a guy in charge who was 35 to 40 years old."

A few days after the theft, the museum director, David Giles Carter, received a call from one of the thieves. Following instruction from the caller, who was described as having a nasally voice and a European accent, the museum recovered a small pendant outside a telephone booth near McGill University.²⁷

"Carter gave the thief the nom de guerre 'Port of Montreal' because those words appeared on a brown envelope the museum director received from the robbers containing snapshots of the works to prove they had them in their possession."²⁸

Through additional communications by mail and telephone, the thieves demanded a ransom of 25 percent of the value of the stolen art—\$500,000—but later lowered the figure to \$250,000.²⁹ The art collection of the Montreal Museum of Fine Arts, gathered over the past 112 years from some of the wealthiest families in Canada, was insured for almost \$8 million.³⁰

The museum director requested proof that the robbers still had the paintings. The museum's security director was told to go to a locker in Montreal's central train station where he found a painting, *Landscape with buildings and wagon*, by Brueghel, which was given to Ruth Jackson to be put away for more than 10 years until the institution could afford another frame.³¹ The painting has been reattributed to the School of Jan Brueghel the Elder and returned to the walls of the museum.

A few weeks later, a Montreal police officer, pretending to be an insurance adjuster, waited in a field in a nearby jurisdiction to exchange \$5,000 for one of the paintings. However, a local police cruiser, unaware of the rendezvous, drove by the drop site and spooked the bandits.³² Carter received an angry call from the thieves the next day claiming that they had seen the police trap.³³

"It could have all been a smokescreen," Lacoursière said in 2009. "The meeting was set up in a field with no houses

19 Email from Alain Lacoursière, August 4, 2009.

20 Bantey.

21 Email dated April 9, 2010, Bill Bantey.

22 Ibid.

23 Delean, Paul. "Great art heist haunts museum, police." *The Gazette*, August 21, 1982.

24 Finn.

25 "Huge Art Haul: Montreal loot totals \$2 million." *The Ottawa Citizen*, September 5, 1972.

26 Lacoursière interview, November 19, 2009.

27 Bantey.

28 Bantey.

29 Bantey.

30 Finn.

31 Delean.

32 Delean.

33 Delean.

around. The thieves could have seen the cops moving into the set-up. In 1972, few cars would have been passing by and it would have been easy to spot four to five cop cars. They (the thieves) never tried again, so it was a smokescreen. Look, when the museum first asked for proof that the thieves had the paintings, the one painting that was returned was a fake.” He is referring to the painting that has been re-attributed from Jan Brueghel the Elder to the School of Brueghel.

Lacoursière said that the paintings could have been divided up and sold in Europe. “It takes a long time for items to be entered into the Interpol database.”

Plus, Lacoursière said, no everyone in the art market wants to give information to police. The paintings were not marked with the name of the museum.

“The theft could have been done to fulfill an order for stolen paintings and then the ransom was asked as a smokescreen.”

The insurance company posted a \$50,000 award for information leading to the arrest of the thieves or the recovery of the art.³⁴ The paintings were not returned, and more than 20 insurance companies, led by Marine Office of America, paid \$1,945,300 to settle the museum’s claim arising from the theft.³⁵ If the paintings had been found after the insurance payment, the museum would have been offered the first option to purchase the paintings from the insurance companies.

The police investigation of the ladder or the nylon ropes used in the robbery provided no leads. The thieves’ method of entering the museum—through a skylight under repair—led the police to believe that the thieves represented an experienced international ring.³⁶

Since 1960 in the South of France, criminal networks from Corsica or Marseilles had stolen paintings and held them for ransom. In January 1960, an art dealer’s home outside of Nice had been robbed of 30 paintings. Two months later, thieves climbed up the building of a museum in Menton to steal seven paintings. The next month, thieves broke a window of a restaurant and stole 20 paintings. In July 1961, thieves climbed a fence to steal 57 paintings from a collection in Saint Tropez. The following month, thieves stole eight paintings by Paul Cézanne from a guarded temporary exhibit. Most paintings were found months later upon payment of ransom.³⁷

In September 1971, Vermeer’s *The Love Letter* had been

stolen from the Fine Arts Museum in Brussels and recovered although no ransom was paid.³⁸ Within eight months, Rembrandt paintings were stolen from the Musée des Beaux-Arts in Tours, France, and from the Worcester Art Museum in Massachusetts.

The Montreal Museum of Fine Arts had been robbed previously. In 1933, a thief had hidden in the museum the night before and passed 14 paintings by Canadian artists on to an accomplice through a window in the women’s washroom.³⁹ A ransom note demanded \$10,000 for the return of the paintings.⁴⁰

Three months later, half of one of the paintings was mailed to La Presse, the other half to The Star. An accompanying note said that if 25 percent of the paintings’ value was not paid as ransom, the works would be returned “in jigsaw” parts.

Then police got an unexpected break. A small-time burglar by the name of Paul Thouin was arrested while breaking into a railway freight car. Under questioning, he confessed to the Museum theft. He even led police to the paintings, wrapped in a tarpaulin and newspapers and buried in a sandpit a meter below ground in a wooded area near the village of L’Epiphanie.

“The prospect of another jail term was evidently too much for Thouin. That night, he swallowed a dose of strychnine that he had concealed in the heel of his shoe and died in a police lock up.”⁴¹

The thief had shot and killed a policeman when he was discovered robbing the Canadian Pacific warehouse.⁴²

In 1960, thieves attempted a robbery of the Montreal Museum of Fine Arts during an exhibition of works by Vincent van Gogh, but the attempt failed and the “unsuccessful” thieves escaped.⁴³

A few days before the Skylight Caper on Labor Day weekend, another theft was committed. “Police say there are similarities between the two. On August 30, three hooded and armed men stole paintings worth an estimated \$50,000 from the home of Mrs. Agnes Meldrum at Oka, about 20 miles west of Montreal. They had climbed 600 feet up a steep bluff from a motorboat on the Lake of Two Mountains. They wore hoods

34 Finn.

35 Delean.

36 Finn, Patrick. “Alert goes world-wide for stolen art works.” *The Gazette* (Montreal). January 8, 1972.

37 McLeave.

38 Houpt, Simon. *Museum of the Missing*. p. 95.

39 Bantey, Bill. Unpublished article, 2007.

40 Bantey, Bill. Unpublished article, 2007.

41 Bantey, Bill. Unpublished article, 2007.

42 Germain.

43 Bill Bantey to the Associated Press, *The Los Angeles Times*?, September 5, 1972.

and gloves; two of them spoke French, the other, English.”⁴⁴ The premises broken into was the summer home of the wife of a Montreal moving company owner, Meldrum the Mover, based in Notre-Dame-des-Grace (NDG), the English-speaking neighborhood of Montreal.⁴⁵

In 1972, the Montreal police officer heading the investigation believed the heist was local in origin.⁴⁶ In the 1950s, Montreal was a “wide open city of sin” with “bars and strip joints everywhere downtown.”⁴⁷ In the 1960s, the separatist movement—the political drive to empower the French-speaking majority in Quebec and to secede from Canada—attracted a terrorist group that delivered letter bombs to wealthy English-speaking residents of Montreal and bombed federal buildings and monuments. In 1970, a kidnapped British diplomat was exchanged for political prisoners and transportation to Cuba. When a kidnapped provincial cabinet minister was murdered, Canada’s prime minister sent in the military to control the city. At the time of the theft, criminal organizations in the city included a group of French-Canadian mobsters; the Irish West End gang that controlled Montreal’s seaport; and an Italian Mafia.⁴⁸

Some art students from the École des beaux-arts east of the museum were suspected of involvement in the theft and the police had them under surveillance for a few weeks.⁴⁹ Tension between the French-speaking students and the English-speaking museum administrators had been public for years. The investigation provided no leads to the thieves or the paintings.

A few months after the theft, a columnist for *The Gazette* claimed that a few of the paintings were in the United States and the rest in the homes of collectors in the wealthy Ville de Mont-Royal.⁵⁰ Two people were interrogated before Christmas in 1972 with no result.⁵¹

However, police arrested no suspects and nothing came from questioning the workers repairing the skylight at the museum.⁵² Although the intruders knew that the alarm on the skylight had been disabled, they were not aware of how not to trip off the alarm on the side entrance. They also did not know that the alarm was not connected to any source outside of the museum building or they would not have abandoned half of

the paintings and their plans to escape in a panel truck.

“No one on the museum staff was involved,” Bantey said in 2010. “If there was any inside information, it probably emanated from the people working on the skylight repairs.”

“In fact, two New York detectives have been reported⁵³ as saying that it looked to them like ‘an inside job,’ a phrase local museum officials regard as a sweeping comment and not particularly helpful: it could mean anything from a person who ‘talked unwittingly at a bar to active collaboration,’ a museum official countered.”⁵⁴

Bill Bantey, a journalist who had covered crime in Montreal during the 1950s and 60s, was of the opinion that there was no justification for suspecting the West End Gang despite a “Port of Montreal” stamp on one of the envelopes sent by the thieves. “The West End gang was into drugs and this theft was specialized in that it required some knowledge of art as they took the right pieces,” Bantey said. “The Mafia was interested in prostitution and drugs.”

Almost all of the 18 stolen paintings had been published years before the theft in handbooks and exhibition catalogues of the museum’s collection. Thieves could have selected the paintings without having visited the museum.⁵⁵ In anticipation of the 1967 World Exposition in Montreal, the museum organized a traveling exhibition from January 1966 through April 1967, visiting eight galleries in North Carolina, Florida, Pennsylvania, Ohio, and New York. About half of the stolen paintings were highlighted in the exhibition catalogue, *Masterpieces from Montreal: de Heem’s Nature morte; Corot’s La Rêvuse à la fontaine; Courbet’s Landscape with rocks and streams; Delacroix’s Lionness and lion in a cave; Diaz de la Peña’s The Sorceress; Thomas Gainsborough’s Portrait of Brigadier General Sir Thomas Fletcher; de Heem’s Nature morte au poisson; and Piazzetta’s Portrait of a Man*. In 1969, the museum showed *Rembrandt and His Pupils* to celebrate the 300th anniversary of the artist’s death. In 1970, the museum exhibited *From Daumier to Rauault*, including Delacroix’s painting of the lion in the cave, Daumier’s *Head*; Corot; Millet’s *Portrait of Madame Millet* and *La Baratteuse*; Diaz de la Peña’s *sorceress*; and Courbet’s *landscape*. Both exhibitions produced publications including information or images about the paintings. Only the two Brueghel paintings, Peter Paul Rubens’ *Head of a Young Man*, and two portraits by François-André Vincent had received scant attention in publications or exhibitions.

44 Parker.

45 Bantey, Bill. “Questions and Answers.” Email, December 5, 2009.

46 Delean.

47 Hugh Doherty.

48 de Camplain, Pierre. “The Mafia of Montréal: A Short History.” <http://gangerinc.tripod.com>

49 Lacoursière.

50 Bruce Taylor, columnist, *The Gazette*, December 4, 1972.

51 Lacoursière.

52 Bill Bantey, interview, Montreal, November 17, 2009.

53 Saturday Review of Arts, December 1972. The detectives were members of the city’s art squad.

54 Finn

55 Delean.

The other 39 pieces of jewelry and silver were more portable than valuable. On the day of the theft, Bill Bantey said at the press conference: “They (the thieves) did show quite discriminating taste, however, in terms of paintings, though as far as the objects are concerned, they could do with more art and historical training.”⁵⁶ Stolen items included an 18th century gold watch once owned by the wife of the first mayor of Montreal, Jacques Vigor; a 19th century French blue enamel latch box set with diamonds; and 17th century Spanish jewelry, a gold and emerald pendant on a woven gold chain and a seed pearl necklace with a diamond pendant.

Physically, the paintings had something in common with the stolen jewelry—they were small and easy to carry or trade on the art market.⁵⁷ The paintings could be appropriate for decorating a private home—the pairs of Corots, Millets, and Brueghel landscapes could be hung together in a room.⁵⁸

Art as a valuable commodity had not escaped the attention of the local newspapers. The Montreal Star reported in 1969 that “Wide Demand for Art Sends Prices Soaring.” Picasso and Josef Albers could not produce enough art to satisfy the demand and the limited inventory was driving up prices.⁵⁹ A year later, Quebec papers bragged that the Montreal Museum of Fine Art would be exhibiting glorious French paintings from its collection, including such artists as Daumier, Delacroix, and Courbet.⁶⁰ The museum’s intruders did not have to have degrees in art history to understand that valuable paintings could be found in the heart of Montreal and that local collectors were interested in paying for them.

In the months after the theft, Bill Bantey prepared a bilingual circular, *Attention: Stolen*, identifying the stolen paintings’ images and measurements. In January 1973, this information was circulated throughout the international art market to notify art dealers and collectors that these paintings belonged to the museum in Montreal. Instead of keeping the theft quiet, museum officials chose to publicize the loss in hopes of “frustrating any plans the underworld might have for selling the works on the sly.”⁶¹

“The idea is to see that the items become so well catalogued and so well known that it would be unlikely that any collector or museum buyer could innocently purchase them.”⁶²

The day after the museum theft, newspapers throughout North America had published the news and identified most or all of the paintings. However, the news of the museum theft was overshadowed the following news day with headlines reporting the deaths of Israeli athletes by Palestine Liberation Organization terrorists. Even locally, the big story in Montreal was of a deliberately set fire at a nightclub over Labor Day Weekend that had killed 37 people and injured another 54, many critically. Until the museum circulated *Attention: Stolen*, no other articles had been written about the theft of the paintings. Over the years, an occasional article covered the theft, but journalists were either not privy to newsworthy events or nothing of substance happened despite a \$50,000 award posted by the insurance company for information leading to the arrest of the thieves or the recovery of the art.⁶³

In May 1973, the museum closed for 3 years to renovate and expand the 113-year-old institution.

In the summer of 1973, someone contacted a member of the museum’s board of directors and promised that for \$10,000 the anonymous caller would divulge the location of the paintings.⁶⁴ A Montreal insurance adjuster, André DeQuoy, stepped in and when the anonymous caller demanded money up front, the adjuster said he would pay for information but not stolen goods.⁶⁵

But the museum wasn’t quite so firm. DeQuoy said museum officials agreed to make available \$10,000 if he would deliver it. DeQuoy agreed. He set out one afternoon at 2 p.m. with the money in an envelope. He went first to a designated phone booth downtown, then, was sent to others at Blue Bonnets racetrack, on St. Laurent Boulevard, and near the Henri-Bourassa Metro station. It was there that the caller told DeQuoy that he had spotted the police tail, and that he would notify police headquarters to get rid of the unmarked “protection.” Thirty minutes later, DeQuoy got another call at the same booth from his mystery source saying police had been called off. He was instructed to return to his office. Once there, he was called again and the phone booth marathon resumed. It went on until 4 a.m. with DeQuoy going to and from 11 telephone booths across the island [of Montreal]. He was finally told to leave the money at the foot of a sign in a vacant lot on St. Martin Boulevard. DeQuoy followed instruction and returned to the phone booth near Henri-Bourassa station awaiting the call that would lead him to the paintings. He also called the police, filling them in on his activities of the past several hours.

56 “Montreal Museum Looted of Art Worth \$2 Million.” The New York Times, Sep. 5, 1972.

57 Darties, Bernard, Paris. *Le Colombo d’Art*, CBC documentary, 2007.

58 David Giles Carter interviewed, Time magazine, September 18, 1972.

59 Ballantyne, Michael. “Wide Demand for Art Sends Prices Soaring.” Montreal Star, August 28, 1969.

60 “French Art at the Museum.” Montreal Star, March 21, 1970.

61 Finn.

62 Finn.

63 Finn, Patrick. “World alert for missing Montreal art,” The Gazette, January 6, 1973.

64 Delean.

65 Delean.

“This time, however, the public phone didn’t ring. DeQuoy returned to his office, where a call came through around 8 a.m. He was told the artworks were at a motel in Laval [outside of Montreal]. Police were called and combed the building. Nothing was found.”⁶⁶

With a “substantial” part of the proceeds from the insurance claim, in 1975 the museum purchased a large painting by Peter Paul Rubens titled *The Leopards*. On the 35th anniversary of the theft, the painting was withdrawn from exhibit as experts now found that the work was not by Rubens but by assistants from his studio and confined the oil on canvas to the museum’s storage space.⁶⁷

For a decade after the theft, police and insurance files on the case remained open.⁶⁸ The return of the Brueghel painting and an Indian pendant and the attempted ransoming of the paintings were not published in the newspaper for a decade.⁶⁹ As one police officer explained, “for years we thought our chances of recovery were better keeping everything quiet. We didn’t want media reports scaring anybody off. But now our hopes are small. Maybe this will stimulate interest and produce something.”⁷⁰

In 1982, certain information was verified but “nothing came of it.”⁷¹

Twenty years after the theft, a television show highlighting the theft estimated the value of the missing paintings at \$20 million and reported that the insurance companies that had paid out on the claim were offering \$100,000 reward for the paintings.⁷²

In 1999, Alain Lacoursière, working for the police, offered \$1,000,000 for information about the paintings but “nothing happened.”⁷³ A police officer for more than 25 years, Lacoursière added art crime investigations to his duties as a fraud detective in 1994.⁷⁴ An art historian, Lacoursière made it a habit to visit art galleries and auction houses to develop contacts and leads to stolen art works. In 1998, he was introduced by an art dealer to a collector known here as “Smith,” who said he had been an art student at the École des beaux-arts in 1972. Smith told Lacoursière that the French-speaking art students and the mostly English-speaking

museum administrators did not get along. For example, Smith told Lacoursière, the student would be kicked out of the museum every afternoon so that the staff could enjoy their tea —before the museum’s posted closing time.

Lacoursière said that he felt Smith knew a lot about the museum theft. He asked Smith if he’d been one of the students investigated by the police following the robbery. Smith denied being under surveillance, but Lacoursière said he found Smith’s responses in general to be “highly suspicious.” For example, Smith told Lacoursière that the nylon ropes used in the theft were not gray, as Lacoursière believed, but yellow such as the ropes used at the French-speaking art school. Lacoursière said he checked the dossier for that information, then contacted one of the retired police officers who told him that neither photos nor descriptions of the rope had been publicly released. Suspicions raised, Lacoursière said he investigated Smith’s background and found that after 5 years of schooling, Smith had purchased a house and a woodworking company.

“One year after leaving school, where did he get a quarter of a million dollars to buy a house and a company?” Lacoursière asked. Lacoursière could not determine the source of Smith’s funds. Smith even told Lacoursière that someday he would tell him something about the theft. In 2007, when Lacoursière was featured in a Radio-Canada documentary, *L’colombo d’art*, he visited Smith at his home. On camera, Lacoursière offered a million dollar check to Smith for the museum’s stolen paintings but Smith just laughed and invited the film crew into his home to show that the paintings were not there.

Lacoursière, now retired, had reviewed the police reports on the museum theft while on the police force. “A couple of weeks before the theft, two guys with sunglasses and cigarettes sat on chairs on the roof, sitting and watching, claiming that they worked at the museum,” Lacoursière said. “But after the theft, no one could find the chairs.”

Asked to speculate on the whereabouts of the paintings, Lacoursière said, “The paintings could have been destroyed, but then there’s Smith with his new money. Plus, criminals have discovered uses for paintings and other art.”

Lacoursière said that the Montreal police have found art at the home of a member of the Hell’s Angels who said he regularly received stolen art and sold it to the Italian mafia at 10% of the estimated value. In Montreal, Lacoursière said, the Italian Mafia use art dealers to launder money, faking provenances with ‘dead owners’ from the exclusive neighborhoods such as Westmont, adjacent to the Montreal Museum of Fine Arts.

If it was the Mafia, Lacoursière said that the police won’t

66 Delean.

67 Bantey, Bill. “The Replacement Fund.” Canwest News Service. 2007.

68 Delean.

69 Delean.

70 Delean.

71 Delean.

72 “Le crime parfait,” Montréal ce soir. 1992. <http://archives.radio-canada.ca>

73 Interview, November 19, 2009.

74 “Unit of RCMP and Quebec cops focused on art theft.” The Canadian Press, January 31, 2009.

know until a boss dies or the paintings are found in Costa Rica, a favorite spot for criminals of the West End gang to spend the winter. However, if paintings are in Central America, Canadian police have no rights to search the homes.

“When the Quebec police call the police in Costa Rica to ask for cooperation with a search warrant, the police there do not cooperate,” Lacoursière said.

The paintings could have even been sold through small dealers, Lacoursière speculates. Before 1985, even Christie’s and Sotheby’s did not check Interpol’s database or any other police agency for stolen art, he said.

“They could have been resold, but they have not reappeared on the open market,” Lacoursière said. “The paintings could still be in a collection. But then the owners may know the paintings are stolen and cannot be publicly sold.”

Lacoursière has tracked many leads over the years, including ‘a promising one’ from a junkie in Vancouver who knew all the information in the newspapers but was unable to answer two questions whose answers had been held back by the police. Other rumors involved a sailboat in Italy, two men from Montreal in Nice, and a tunnel in Italy—but nothing has ever led to the paintings.

Bill Bantey also speculated about the missing paintings. “There’s a theory that they [the paintings] are in South America,” Bantey said. “Don’t ask me to justify it. I’ve heard several people I respect say that.”

In 2009, Bantey said that most people have forgotten about the museum theft. “Everyone forgot about the theft except for the insurance companies,” Bantey said. “Like a death in the family, you have to let it drop.”

Paul Lavallée, the current administrative director for the Montreal Museum of Fine Arts, said in an interview in November 2009, that the 1972 theft was significant and continues to have an impact on the museum. “This is a collector’s museum,” Lavallée said. “We do not have the funds to purchase comparable paintings at current market prices. Even if the paintings were recovered and the insurance company was to offer the paintings to the museum for less than market prices, we would be strapped for funds to recover the paintings.”

Sir William Van Horne, builder of the transcontinental railroad in Canada, purchased Rembrandt’s *Landscape with Cottages*, also known as *Evening Landscape with Cottages* or *The Farm*. Widely shown in the United States and Canada, the small oil on canvas was given to the museum by his

daughter, Adele van Horne, who lived in a mansion within walking distance of the museum. The stolen Rembrandt and Delacroix’s *Lionness and lion in a cave* were two of about 60 paintings bequeathed to the museum in 1945. Lady Davis, the former wife of a tobacco baron, donated François-André Vincent’s portrait of a man and a woman. Miss Olive Hosmer, whose family long supported the museum, bequeathed Jean-François Millet’s signed portrait of his first wife who died after only a few years of marriage; Thomas Gainsborough’s 1763 *Portrait of Brigadier General Sir Thomas Fletcher*; and Corot’s *Juene fille accoudée sur le bras gauche*. Lady Allan, wife of H. Montagu Allan, a banker and ship owner, gave the museum in 1958 Gustave Courbet’s *Landscape with Rocks and Stream*, his work painted the year he fled to Switzerland after the fall of the Paris Commune when he was held responsible for the cost of rebuilding the Vendôme Column in Paris.

Works Stolen from the Montreal Museum of Fine Arts

Jan Breughel, the Elder, Flemish, 1568 – 1625

Landscape with vehicles and cattle

Oil on copper, 7 ½ x 10 ½ inches

Landscape with buildings and Wagon

Oil on copper, 7 ½ x 10 ½ inches

Jean-Baptiste-Camille Corot, French, 1796 - 1875

La rêveuse à la fontaine

Oil on canvas, 25 ¼ x 18 ¼ inches

Alfred Robaut, *L'Oeuvre de Corot*, 1905, vol. III, p. 36, no. 1341 (illus. p. 37)

H. Hubbard, *European Paintings in Canadian Collections*, 1962, p. 151 (dated 1860-70)

Jeune fille accoudée sur le bras gauche

Oil on canvas, 18 ½ x 15 inches

Alfred Robaut, *L'oeuvre de Corot*, 1905, vol. III, p. 36, no. 1340

R. Hubbard, *European Paintings in Canadian Collections*, 1962, p. 151

Gustave Courbet, French, 1819-77

Landscape with rocks and stream

Oil on canvas, 28 7/8 x 36 1/8 inches, 1873

R. Hubbard, *European Paintings in Canadian Collections*, 1962, p. 151

Honoré Daumier, French, 1808-79

Head

Oil on panel, 13 ¾ x 10 3/8 inches

Ferdinand-Victor-Eugène Delacroix, French, 1798 – 1863

Lioness and lion in a cave, dated 1856

Oil on canvas, 15 ¼ x 18 3/16 inches

Alfred Robaut, *Delacroix*, 1855, no. 1308 (illus.)

R. Hubbard, *European Paintings in Canadian Collections*, 1962, p. 152

R. Huyghe, *Delacroix*, New York, 1963, p. 489, pl. 331

Narcisse-Virgile de la Peña. French, 1807-76

The sorceress

Oil on canvas, 12 7/8 x 9 ¼ inches

Thomas Gainsborough. English, 1727-88

Portrait of Brigadier General Sir Thomas Fletcher, circa 1763

Oil on canvas, 29 7/8 x 24 15/16 inches

Jan Davidsz de Heem. Dutch, 1606-84

Still Life: Vanitas

Oil on cradled panel, 12 7/8 x 16 ¾ inches

Valentiner, W. R., *Art Quarterly*, Summer 1955, p. 160

Handbook of the Montreal Museum, 1960, p. 63

Still life with a fish

Oil on canvas, 20 x 17 5/8 inches

R. Hubbard, *European Paintings in Canadian Collections*, 1955, p. 151

Jean-François Millet. French, 1814-75

La baratteuse

Oil on panel, 11 ½ x 6 ½ inches

Portrait de Madame Millet

Oil on canvas, 13 3/8 by 10 1/2 inches

Giovanni Battista Piazzetta, Italian, 1682 – 1754

Portrait of a Man, possibly a self-portrait

Oil on canvas, 18 1/16 x 15 inches

Handbook of the Montreal Museum, 1960, p. 76

Harmensz Rembrandt van Rijn., Dutch, 1606 - 1669

Landscape with cottages

Oil on panel, 10 x 15 1/2 inches

Hofstede de Groot, 1918, vol. vi, p. 433, no. 950

F. Lugt, *Mit Rembrandt in Amsterdam*, 1920, p. 120

Bredius, *Paintings by Rembrandt*, 1936, no. 453

Peter Paul Rubens. Flemish, 1577 – 1640

Head of a young man

Oil on canvas or paper, transferred to cradled panel, 21 x 16 1/2 inches

Valentiner, "Rubens Paintings in America", *Art Quarterly*, 1946, vol. IX, P. 156, no. 27

R. Hubbard, *European Paintings in Canadian Collections*, 1956, p. 149

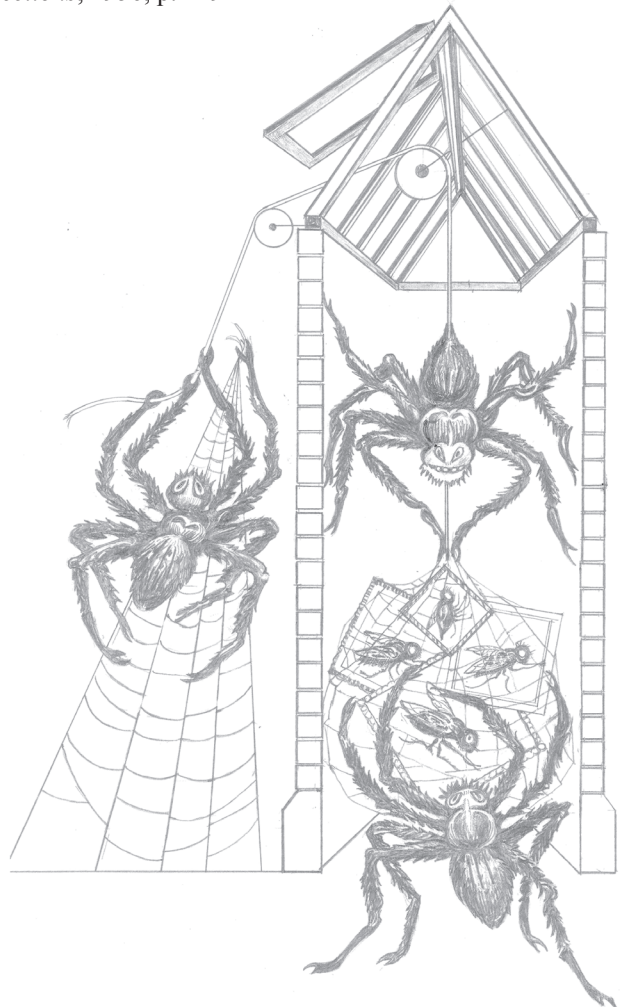
François-André Vincent, French 1746 – 1816

Portrait of a lady

Oil on canvas, 12 15/16 x 9 11/16 inches

Portrait of a man

Oil on canvas, 12 15/16 x 9 11/16 inches



Museum Skylight Heist on the Fly
Bill Lyle

Bibliography

Books:

- Bantey, Bill. *World Expo 67*. The Gazette, 1967.
- Boser, Ulrich. *The Gardner Heist*. HarperCollins Publishers, New York, 2008.
- Conklin, John E. *Art Crime*, Praeger Publishers, Westport, CT. 1994
- Germain, Georges-Hébert. *A City's Museum: A History of the Montreal Museum of Fine Arts*. Montreal, Quebec, Canada. Montreal Museum of Fine Arts. 2007.
- Haupt, Simon. *Museum of the Missing: A History of Art Theft*. Sterling Publishing Co., New York
- McLeave, Hugh. *Rogues in the Gallery*. David R. Godine, Publisher, Boston, 1981.
- The Montreal Museum of Fine Arts Guide*, 2007

Articles:

- David Giles Carter interviewed, Time magazine, September 18, 1972.
- "Alert goes world-wide for stolen art works," *The Gazette*. January 8, 1973.
- "Montreal Museum Looted of Art Worth \$2 Million," Special to *The New York Times*, September 5, 1972.
- "Sotheby's To Offer a Restituted Painting by Jean-Baptiste-Camille Corot," *Artdaily.org*, March 13, 2010.
- "Trésor volé au Musée des beaux-arts." *La Presse*, May 29, 1994.
- "Unit of RCMP and Quebec cops focused on art theft." *The Canadian Press*, January 31, 2009.
- "Vols d'oeuvres d'art – Art Alerte se propage," www.ledevoir.com, January 24, 2006.
- Associated Press. "Thieves With Eye for Paintings Take \$2 Million in art," *The Los Angeles Times*, September 5, 1972.
- Ballantyne, Michael. "Wide Demand for Art Sends Prices Souring," *The Star*, August 28, 1969.
- Bantey, Bill. "Replacement canvas is not really a Rubens after all." *The Gazette*, September 1, 2007.
- Bantey, Bill. "Stolen paintings mystery lingers, 35 years late." *The Gazette*, September 1, 2007.
- Bantey, Bill. "A Treasured Possession." Unpublished. September 1, 2007.
- Bruemmer, Rene. "Quebec police crack down on art forgery." *The Gazette*, January 27, 2009.
- de Camplain, Pierre. "The Mafia of Montréal: A Short History." <http://gangerinc.tripod.com>. Champlain is a Royal Canadian Mounted Police (RCMP) intelligence analyst.
- Canadian Press. "Huge art haul: Montreal loot totals \$2 million," *The Ottawa Citizen*, September 5, 1972
- Cédilot, André. "Alain Lacoursière: 'Le Colombo de l'art.'" *La Presse*, October 5, 2008.
- Cushing, Glenn. "Painting by Corot Purchased by Musée d'Art et d'Histoire in Geneva." www.artknowledge.com, June 9, 2010.
- DeLean, Paul. "Great art heist still haunts museum, police." *The Gazette*, August 21, 1972.
- Finn, Patrick. "World alert for missing Montreal art." *The (Montreal) Star*, January 6, 1973.
- Held, Julius. "Rubens's Leopards – a milestone in the portrayal of wild animals." M27, the museum's quarterly publication. Winter 1975. The Montreal Museum of Fine Arts.
- Janigan, Mary. "Our Fair concludes with happy smiles." *The Gazette*, September 5, 1972.
- Lacoursière, Alain, and Talbot, Jean-François. "Partnerships: A solution to the illicit trafficking of art (conclusion of the 2004-2007 Sûreté du Québec pilot project)."
- Lamoureux, Serge. "18 toiles et 39 objets d'art dérobés au Musée des beaux-arts." *Montréal-Matin*. September 5, 1972.
- Lopez, Jonathan. "Gross False Pretences." *Apollo Magazine*, November 30, 2007. www.apollo-magazine.com
- MacDonald, L. Ian. "Montreal this morning," *The Gazette*. December 16, 1975.
- Parker, Luana, "Art worth \$2 million stolen from museum." *The Gazette*, September 5, 1972.
- Skene, Cameron. "Art theft ranked as fourth-largest criminal enterprise." CanWest News Service, Montreal, September 1, 2007.
- Sozanski, Edward. "Theft of Confidence," *Inquirer art critic*, Philadelphia Inquirer, May 25, 1999.

Websites:

- Interpol Stolen Art Database.
- Newspaper Museum. <http://members.tripod.com/~Hughdoherty/index.htm>

Broadcasts:

Art heist at the Montreal Museum of Fine Arts.

The CBC Digital Archives Website.

Canadian Broadcasting Corporation.

Last updated: March 11, 2008.

http://archives.cbc.ca/arts_entertainment/visual_arts/clips/12177/

[Page consulted on Sept. 24, 2009.

CBC Radio, "The World at Six", September 4, 1972. 2:24 minutes.

Radio-Canada. "Le crime parfait." *Montréal ce soir*. September 1, 1992. 5 minutes.

"Le Colombo de l'Art, CBC Documentary, 2007.

CBC News: the fifth estate – Crime Pays – Gerald Maticks.

Radio-Canada. "Les gangsters de l'art," *Enjeux*, Television, February 12, 1996. 17 minutes.

Correspondence:

Letter from Mrs. John Nicholas Brown, Company of Military Historians, to Mrs. J. Portell, Montreal Museum of Fine Arts, October 15, 1965.

Letter from A. P. de Mirimonde, Paris, to Pauline E. Gravel, Montreal Museum of Fine Arts, October 12, 1966.

An Empty Frame: Thinking about Art Crime “Palm Tree Justice for Derelict Guards”



The Mohamed Mahmoud Khalil Museum has been undergoing close scrutiny by many after the theft in August of “Poppy Flowers,” by Vincent van Gogh. There were few visitors at the Khalil museum on August 21st. The thieves seemingly made sure to strike during the warm afternoon when the security staff would be praying, or perhaps even be tired from their fast during the days of the holy month of Ramadan. The thieves used a box cutter to slice the canvas from its frame and leave the museum. Not only were the guards tired or praying, but there may have been only ten other visitors at the museum that day. Other security measures also failed. The alarms at the museum were not working, and only seven of a total of 43 security cameras were working. There are indications these breakdowns are not unique to the Khalil Museum. Egyptian businessman Naguib Sawiris has offered a \$175,000 reward for any information leading to the recovery of the work.

The Khalil Museum is located in Cairo, near the Giza area of Egypt. It was a palace in the early part of the 20th century, but was dedicated as a museum in 1971. It houses works by Gauguin, Monet, Renoir, Rodin, and van Gogh, making it one of the best collections of 19th and 20th century art in the Middle East. Thefts have been taking place there with alarming regularity. “Poppy Flowers” was stolen in 1978 and recovered later in Kuwait. The BBC has reported that in 2009, nine 19th century works by Ibrahim Pasha were stolen and found, 10 days later, dumped near the museum.

Hadeel Al-Shalchi reported for the Associated Press that the Egyptian Museum’s guards were sleeping, talking on their cell phones, or praying with their Quran rather than actively observing visitors to the museum. In response to the utter breakdown of security at the Khalil, Egypt and its Culture Ministry have taken a number of surprising steps. Mohsen Shalaan the head of the Culture Ministry’s fine art department was arrested for negligence. Culture Minister Farouk Hosni ordered three other museums closed because their security cameras were not working properly. The Culture Ministry has also announced the creation of a central control room in Cairo that will collect video feeds and information from the security rooms in all of Egypt’s museum security rooms. Yet these measures will come too late to protect “Poppy Flowers.” As Ton Cremers, founder of the Museum Security Network says, the investment in security systems should be dead simple, “The value of the van Gogh is \$40 (million) to \$50 million . . . A complete security system of that museum would be \$50,000, and to keep it running would cost \$3,000 a year. ... Need I say more?”

Egypt’s interior minister announced soon after the theft that a Museum employee was behind the crime. Habib al-Aldo claimed “a museum employee participated in the theft or stole it himself.” Even given difficulties with translation from Arabic into the English press, scant evidence for this assertion other than the “location and placement inside the museum” has been given. This has not stopped the Egyptian criminal system from acting swiftly.

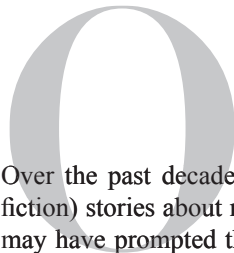
Eleven employees of the culture ministry have been charged and convicted with criminal negligence after the theft. They have been sentenced to serve three years in prison. One of the convicted is Deputy Culture Minister Mohsen Shalan. Shalan had asked the culture minister for \$7 million to upgrade security at a number of museums, including the Khalil museum. He was only given \$88,000. Also convicted was Reem Bahir, the museum's director. It seems the museum had reduced the number of guards on duty, and the cameras were not in working order. These are certainly grave flaws, yet do they merit three years in prison—a sentence that may far exceed the penalties imposed on actual thieves in a number of other nations?

These sentences signal the public blaming of a select group of individuals. They were surely a shield put in place for arguments by other nations that Egypt does not know how to care for objects that are repatriated—such as the bust of Nefertiti. Yet art thefts occur in every nation, as the pages of this Journal can attest. What good will jailing the culture ministry's employees do? It will certainly draw the derision of a number of commentators (this one included) that Egypt is far better at jailing individuals than protecting its art. Holding these officials criminally liable in most other nations would have required that they have actually been involved in the theft. Here it merely appears as if they were denied funding, or at worst did a spectacularly poor job of monitoring the Khalil museum. In either case, it seems terribly unlikely that jailing these individuals will prohibit future thefts. The better solution, irrespective of technology measures, is a well-trained set of guards who are alert and actively monitoring the museum. Lack of visitorship and even outdated security may contribute, but the real fault here lies with Egypt's culture ministry's inability to set proper standards for the protection of its holdings. The result is a damaged and missing work. No amount of jailing poorly performing employees will remedy that injustice.

Fine Art Crime Digest May–October 2010

- In late May, five paintings by Picasso, Matisse, and others were taken from the Museum of Modern Art in Paris. The thief may have entered the museum late at night through a rear window.
- Just one day after the Paris theft, in Marseille, two men stole a number of works, including a lithograph by Picasso, from a private home and attacked the owner of the works.
- Though it was not a new theft, a settlement was reached in the “Portrait of Wally” case in which the Leopold Museum in Vienna, and the successors in interest of Lea Bondi Jaray agreed to end the civil forfeiture dispute that had been ongoing since 1998. The work will return to Austria, in exchange for the payment of \$19 million, and an explanatory note will accompany the display of the painting indicating its history and wrongful taking.
- In July, a work that may or may not be by Caravaggio, was recovered by police after it was stolen from a Ukraine museum in July of 2008.
- A stolen work by Candido Portinari, “The Burial” was recovered by Brazilian police only two weeks after it had been stolen from the Contemporary Art Museum of Pernambuco in Brazil.
- Eighteen paintings were stolen from a home in a prosperous Sydney suburb while the owners were away.
- Late in August, Italian police seized as many as 500 counterfeit works. The pieces included forgeries of works by Matisse and Magritte. The investigation involved the close monitoring of online transactions and close consultation with art historians.
- In September, works by Roy Lichtenstein and Joaquin Torres-Garcia were returned to the government of Brazil, not because they were stolen, but rather because their past owner, disgraced Brazilian banker Edemar Cid Ferreira, had smuggled the works out of Brazil and wrongfully sold them in the United States after a judge in Brazil ordered him to surrender his unlawfully gained assets.
- The three men who stole works from the Paris flat of Pablo Picasso's granddaughter were sentenced in Paris to 4 years, 4 years, and 7 years respectively.
- In October, the Italian court ruled the limitations period for the prosecution of the antiquities crime had expired, thereby ending the five-year trial of Marion True.

Security & Safety Reflections “Tracking and Tracing of Stolen Art Objects”



Over the past decade we have heard an increasing number of impressive, scientific (or perhaps science fiction) stories about minuscule tags that enable the tracking and tracing of stolen art objects. These stories may have prompted the armed robbers of the Munch Museum in Oslo to smash the frames of both stolen paintings, the famous *Scream* and *The Madonna* by Munch, on their escape towards the getaway car. Track and trace equipment could have been hidden in the frames of both paintings. Couldn't it?

Thanks to the smart, but not always very trustworthy, marketing of a UK-based company, RFID (radio frequency identification) has entered into the security arsenal of some museums. The very appealing story is that the movement, whether or not illicit, of objects will be noticed immediately, and that the route of an object can be traced within, or even outside, the building. However, those museums that were convinced to use this technique only use the first option: movement detection. The option to track and trace objects is far less simple than often suggested. The RFID signal finds its way through walls, floors and ceilings, so this may lead to incorrect information about the exact location of an object. Exact location of objects is only possible when the signal of the RFID tag attached to the object is received by at least two, or preferably three, receivers per museum room. This requires a huge financial investment for a very small benefit. Those museums that installed RFID security systems use less than a handful of receivers to detect motion. The location of the objects is registered via the unique code of the tag, and the RFID system is integrated in a security management environment with cameras and communication techniques. Tracking and tracing via RFID when an object is moved through the building is possible, but is never in use because of the financial and technical disadvantages. There are no known incidents in which a thief was stopped thanks to a sophisticated track and trace security system based on RFID.

The tracking and tracing of objects outside of buildings is a lot more complex than popular scientific publications suggest. It is possible, and it is in use to secure expensive cars, and in logistics environments such as freight containers. This never works with minuscule tags that thieves will not be able to detect. Tracking and tracing needs a system, whether this is GSM, GPRS, RF, GPS, with enough of a power supply to facilitate communication between tags and receivers.

One must make a distinction between active and passive tags. Active tags do have a power supply, a battery, that allows communication within a track and trace environment for a limited time. Present batteries make it possible to stretch this time to as long as one month. A Dutch university is following birds on their annual trip from Europe to Africa. This is possible thanks to a small radio transmitter attached to the bird's body that is powered by a solar cell. This cell generates enough power for a brief communication once every 24 hours. It is obvious that this system is not adequate to track and trace stolen museum objects.

Passive tags, ranging from simple barcodes to sophisticated RFID, need handheld readers, such as those used by logistics companies, or antennas built into detection gates, such as one might find in retail stores. These passive tags can be extremely small, the pipe dream of museum directors, but by no means enable global tracking and tracing. That remains a science fiction story, not yet come true.

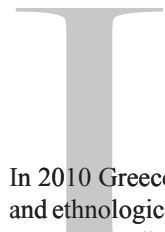
Radio frequencies can be tampered with, especially when the frequency used is the 433 MHz band. This bandwidth is also used to open and close garage doors, and for children's toys. In Europe the 868 MHz band is reserved for security applications. Siemens Switzerland developed an RFID system using the 2.4 GHz band. The RFID technique most used within museums is developed and sold by Wavetrend in South Africa. Wavetrend uses the 433 MHz bandwidth which makes this technique ill-suited for high security environments such as museums with valuable collections.

All in all, tracking and tracing of stolen objects is only possible when active, power-supplied tags can be used that are difficult to detect and remove by criminals.

How about this scenario: criminals remove an easily-traceable active tag from a museum object after they manage to get out of the museum, and throw this active tag in the mailbox of a rival criminal, or even the museum director. Even more interesting: what will happen if they ship the tag via UPC or FedEx to another continent. One needs very little fantasy to think of the confusion this will evoke.

Context Matters

“Greece and the U.S.: Reviewing Cultural Property Agreements”



In 2010 Greece made a formal request to the United States to impose “import restrictions on archaeological and ethnological material from Greece dating to the Neolithic Period through the mid-eighteenth century.” The request was “submitted pursuant to Article 9 of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property as implemented by the Convention on Cultural Property Implementation Act.”

Greece stated the situation against the background of a thriving market in recently surfaced antiquities. It also drew attention to thefts from churches and monasteries. As recently as May 2010, two life-sized stone statues were seized near Corinth in the Peloponnese as the result of a police surveillance operation. The reported involvement of foreign nationals suggests that there had been an intention to export the statues from Greece and sell them on the European market.

There has also been a claim in the Greek press about three pieces acquired by a North American university museum. For example, a Minoan larnax, acquired in 2002, was decorated inside with a distinctive fish motif. The same funerary chest seems to feature in the photographic dossier (and receipts) from a dealer based in Basel, Switzerland (The same dealer seems to have been the source for the return of some 4,000 objects, filling three trucks, to Italy.). Interestingly other public and private collections in North America have acquired Minoan funerary chests in recent years. Such items were almost certainly derived from Bronze Age cemeteries on the island of Crete as they were not a type of object that tends to be found outside the island. The full collecting histories of the larnakes have yet to be disclosed.

Yet Greece is not just concerned about classical antiquities. In early 2010, Swiss authorities returned a series of Byzantine frescoes to Greece. They appear to have been stolen in 1978 from the PalaioPanagia Church in Steni, on the island of Evia. They were recovered during police raids on a warehouse facility in Basel; the facility appears to have been owned by the same couple who are linked to the Minoan larnax.

There has been considerable opposition to the notion that coins should be included within the terms of the MOU (Memorandum of Understanding). Yet there is concern within archaeological circles that coins are being removed from archaeological sites in Greece. In 2005, a coin dealer based in London (but also with an office in Lancaster, Pa.) handed over a silver denarius of Brutus to the Greek embassy after two Greek nationals were detained as they tried to leave the United Kingdom. In the fall of 2009, a silver octodrachm issued by the king of the Bisaltai in Northern Greece was seized from a dealer in Switzerland following an auction in Zurich where it was sold for approximately 77,000 euros. The Greek authorities identified the coin by photographic evidence.

Both these numismatic companies were (and continue to be) members of the International Association of Professional Numismatists (IAPN) based in Brussels. It should be noted that the IAPN retains a lobbyist in Washington, D.C. and has been involved with a Freedom of Information Act (FOIA) request relating to CPAC (Cultural Property Advisory Committee, see *JAC* Spring 2010, 85). The IAPN also appears to be opposed to the proposed MOU with Greece.

The statement from the Greek Government includes mention of the raids on the island of Schoinousa that yielded a major archive of images: “The international dimension is demonstrated by the case of two prominent antiquities dealers with a gallery in London. In their storerooms at Schoinousa, a remote island in Greece, thousands of objects of unknown origin were found, according to press releases because the case is still pending.” This is a reference to the warehousing facilities of Robin Symes and the late Christos Michailidis. The photographic archive has yet to be exploited in the way that the Medici Dossier, seized in the Geneva Freeport, has been used. However, at least one piece in the Museo Arqueológico Nacional, Madrid, features in the Schoinousa archive. Indeed Bonhams withdrew three Roman funerary sculptures from one of its London antiquities sales in 2010 after they were recognized in these images; mud could still be seen on the surface of the statues.

North America has had a distinguished link with the archaeology of Greece, in large part through the American School of Classical Studies at Athens (ASCSA). CPAC now has the opportunity to restrict the movement of archaeological material that may have been derived from illicit investigations of sites in Greece.

Reference

Details of the request from the Hellenic Republic can be found at:
<http://exchanges.state.gov/media/office-of-policy-and-evaluation/chc/pdfs/grpubsum0810.pdf>
(last accessed September 24, 2010).

News

This covers the period March 2010– August 2010

Egypt

A Third Intermediate Period coffin belonging to Imesy has been handed over to Egyptian authorities. It had been seized in October 2008, after arriving at Miami Florida from Ireland. The coffin had been consigned by a Barcelona *galerista*, Félix Cervera, proprietor of Arqueología Clásica. The gallery was, at the time, a probationary member of the International Association of Dealers in Ancient Art (IADAA). (The same gallery had been named in the Italian Operation Ghelas that investigated objects from Sicily and southern Italy.) The gallery was unable to provide documentation showing the coffin’s full collecting history. The purchaser appears to have been Joseph A. Lewis II from Richmond Va.

Greece

Two archaic marble kouroi were seized near Corinth. There is a strong possibility that they were found at Tenea. This seems to have been part of a surveillance operation on two Austrian nationals.

Greece has made a request to the U.S. to impose import restrictions. This has raised issues for unresolved material from Greece that has been identified from the Becchina and other archives.

Italy

The Morgantina silver hoard was put on display in the Museo Nazionale Romano in Rome. The items had been acquired from Robert Hecht by New York’s Metropolitan Museum of Art in 1981, 1982, and 1984. Malcolm Bell’s excavations at Morgantina appear to have discovered the location of part of the hoard, conveniently

dated by a modern Italian coin dating to 1978. The hoard will be placed on permanent display in Palermo.

Journalist Fabio Isman has identified material in the National Museum of Archaeology in Madrid that appears in various photographic archives including the Medici Dossier and the Schoinousa Archive. The pieces were acquired from the Várez Fisa collection. Among the dealers linked to the material is Galerie Nefer. Several of the pieces were apparently restored by Fritz Bürki whose name has been linked to some of the material returned to Italy from North American collections. A study of the Madrid catalogue, *La Colección Várez Fisa en el Museo Arqueológico Nacional* (2003), shows that 62 percent of the pieces have no stated collecting histories.

Operation Andromeda uncovered further links between London-based dealer Robin Symes and Switzerland. In June, some 337 antiquities, worth 15 million euros, were returned to Italy and placed on display in the Colosseum. Among them were 10 Roman frescoes from Pompeii as well as Athenian pottery and Etruscan bronzes. It appears that the objects were linked to the Japanese dealer Noryioshi Horiuchi who supplied material to the Miho Museum in Japan. Horiuchi also appears to have had business links with Gianfranco Becchina. The seized stock is apparently in the neighborhood of 20,000 items, though it is unclear what will happen to the balance.

Japan

Details of approximately 50 acquisitions made by the Miho Museum were revealed in the trial of Robert Hecht in Rome. Lord Renfrew has discussed the policy of the museum in the summary of his paper presented at the International Meeting on Illicit Traffic in Cultural Property organized by the Ministero per i Beni e le Attività Culturali, in Rome (December 2009).

Operation Andromeda has revealed additional information about the supply of material to the Japanese market.

Turkey

A team of looters seem to have used power tools to break into what appears to be a royal tomb, perhaps of the father of Mausolus, near Milasa in ancient Caria in western Turkey.

United Kingdom

The April sale of Antiquities at Bonhams (London) saw a number of lots withdrawn. A Roman statue that had first surfaced via Sotheby's (December 1986) was identified from a Polaroid image in the Medici Dossier. Three Roman limestone busts that had surfaced on the London market in 1998 were identified from the Schoinousa Archive (Robin Symes) and were withdrawn. An Anglo-Saxon cross shaft from Northamptonshire was withdrawn after concerns were raised by the Council of British Archaeology (CBA) and the Church of England. In addition, the Hellenic Ministry of Culture asked questions about a Hellenistic gold wreath that was reported to have surfaced via a Swiss private collection.

United States

Max G. Bernheimer of Christie's gave an interview about the ethics of selling antiquities, stating "Provenance has always been important, and in light of recent repatriation issues, it has become paramount." The statement appears to have come in response to reports in the Dutch Press (and subsequently *The Wall Street Journal*) that three lots (an Apulian rhyton, a Canosan terracotta, and a marble statue of a youth with cockerel) in the May sale of Antiquities in New York were featured in the Medici Dossier. The statue first surfaced through Sotheby's in London in 1992 (this information was omitted from the initial catalogue entry), the terracotta in 1984, and the rhyton in Sotheby's New York in 1994. Paolo Ferri was quoted in *The Wall Street Journal*: "We want to repatriate those objects." Although Christie's returned three lots in 2009, a decision was made to continue with the sale.

Sales in New York seem to have picked up after a poor performance in 2009. Over \$26 million worth of antiquities were sold at Sotheby's and Christie's. This half-yearly figure exceeds the total for 2005, 2006, and 2009.

Italian authorities are investigating the links between several North American museums and Edoardo Almagià. Reports were made in *The New York Times* that a curator at the Princeton University Art Museums was under investigation. Among the pieces identified in the report is an Attic krater fragment acquired in 1997 and attributed by Michael Padgett to Euphronios. Almagià has been linked to two Etruscan pieces returned to Italy from the Cleveland Museum of Art.

Italy has been making a number of loans to North American museums in the wake of the return of 120 or so antiquities. The most recent recipient has been the Cleveland Museum of Art with four items from Reggio di Calabria and Paestum. Other museums that will benefit include Boston's Museum of Fine Art and New York's Metropolitan Museum of Art. The Indianapolis Museum of Art has borrowed funerary sculpture from Rome.

Lessons from the History of Art Crime

“The Art World Wants to Be Deceived: Issues in Authentication and Inauthentication”



In this issue we examine authentication methods from a variety of angles, from art fraud to faking van Goghs, from microphotography to fingerprinting, and the concerns raised by these methods. In considering these issues, this column will examine methods of authentication—this may be seen as an extension of my review of *A Real van Gogh* later in this issue, as well as an addition to the other scholarly commentaries printed here.

Connoisseurship

There are three ways to authenticate art. The first, as mentioned, is a stylistic analysis, also called connoisseurship. Connoisseurship used to be the primary method of authenticating art. An expert would develop an intrinsic familiarity with an artists' *oeuvres* through seeing and studying every one of their extant works. The ability to recognize an artist's hand was used to determine the authenticity of newly discovered works purported to be by that artist, as they came on the market. Connoisseurs are decidedly unscientific, indeed, often dismissing science as merely the default authentication method for those insufficiently knowledgeable. Experts took obvious pleasure in their ability to recognize authenticity, which they often claimed was unique, preternatural. A British slang term for connoisseurs was “divvies,” as in those capable of “divining” the authenticity of mysterious works through their personal communion with them. Connoisseurship is a bit of a dinosaur these days, a parlor trick, taught only at The Courtauld Institute in London, the world's premiere art history school (full disclosure: I studied at the Courtauld, and was taught connoisseurship, which I still thoroughly admire as a method). Science and provenance research have superseded it as the main tool of authentication. And yet the mystique of the connoisseur, and a preference to rely on the word of an expert (be he a fake or authentic expert himself) still pervades the art world today. And millions of dollars, as well as professional reputations, still ride on the word of these pseudo-mystics.

Experts will examine brushstroke, application and thickness of paint, the way artists painted certain recurring themes (Vermeer's pearls were painted with exactly one stroke), the content of the work (did Caravaggio ever paint a *Deposition*?), and a more evasive “feeling” that one gets from a work. The example frequently mentioned is that connoisseurs recognize an authentic work the way you might recognize a friend of yours in the middle of a crowded square. You just *know*.

This doesn't sound very scientific, and it isn't. However this was the preferred method of authentication for centuries, until the 20th century. But one of the problems with so-called art expertise is that there has never been a national or international standard that determines who can be called an expert. There is no equivalent, for example, of Medical School standards or of the Bar exam. Some “experts” have never even studied art formally. It was only in the mid-19th century, with the development in German universities, that one could study art history in an academic setting. Art expertise was generally passed down from artist to pupil, from

collector to inheritor, and only later from professor to art history student. Not only could anyone be an expert, but anyone could dole out the invaluable Certificates of Authenticity, papers that accompanied an artwork and assured the potential buyer of its legitimacy. Whether the provider of the Certificate was, in fact, truly an expert was less important than having the Certificate to accompany the work. Certain very famous experts could guarantee a lucrative sale if they provided a Certificate. Most famous perhaps was Bernard Berenson, who worked with the great dealer Joseph Duveen. Their relationship was marked with a waft of conflict of interest—for Berenson was paid a commission, a percentage of the sale price of each artwork he authenticated. It was, therefore, in Berenson's interest to find each work to be as rare and valuable as possible. The better method, though not without problems, was to set a fee paid to an expert for a Certificate, regardless of the value of the work and regardless of the outcome of the certification (which might deem a work inauthentic or by a different artist).

Scientific Analysis

The scientific analysis of art to prove authenticity is a new phenomenon, and one of its pioneers, whose story is detailed in *A Real van Gogh*, was Maarten de Wilde (see my book review later in this issue). His use of pigment analysis, incorporating chemistry techniques to determine the composition of paints in questionable paintings, then comparing them to the composition of paints in confirmed authentic works, led to the dismissal of a very expensive “van Gogh” owned by the renowned American collector Chester Dale, when his painting was found to contain resin—an agent that sped the oil paint's drying, and which van Gogh never used. A forger had used it to make the fresh oil look decades old. Such analyses are now a preferred method, considered surer and certainly more objective than personal expertise, the word of one so-called expert versus another. Conservation is a science, one heavily involved with chemistry, so it is only a small step to enlist the aid of chemists in issues of authentication. The art world, however, has been resistant to the break-up of the established mystical order of connoisseurs. The other problem with science is that it is not as easy to debate. When one expert claims your painting is inauthentic, you can always choose to ignore that expert and search for another who believes the work is the real deal (or who will say that he does for the right price). Science offers less leeway. Scientific analysis can also be expensive, and sometimes destructive (carbon dating, for instance, requires the destruction of a tiny portion of a work in order to provide its date). But the larger problem is that while science may be more objective, it often determines more “maybes” than definitive answers. For instance, in the case of a van Gogh, it was determined that the work had been painted within the last forty years—which, at the time, meant that it could have been painted by van Gogh toward the end of his life, or that it might have been painted 20 years after he died. Our post-modern era tendency is to assume that science will answer all questions. But many forgers come from a background in conservation, and therefore know the tests that their forgeries will need to overcome. There are examples of fake ancient Chinese pottery which forgers injected with a radioactive isotope at the problem location that a conservator would choose for a test sample, so that carbon-dating would be fooled. And the blinding light of science can be used by shady characters in shining armor, as the recent *New Yorker* article about the authenticator and suspected forger, Peter Paul Biro, made clear.¹

Provenance

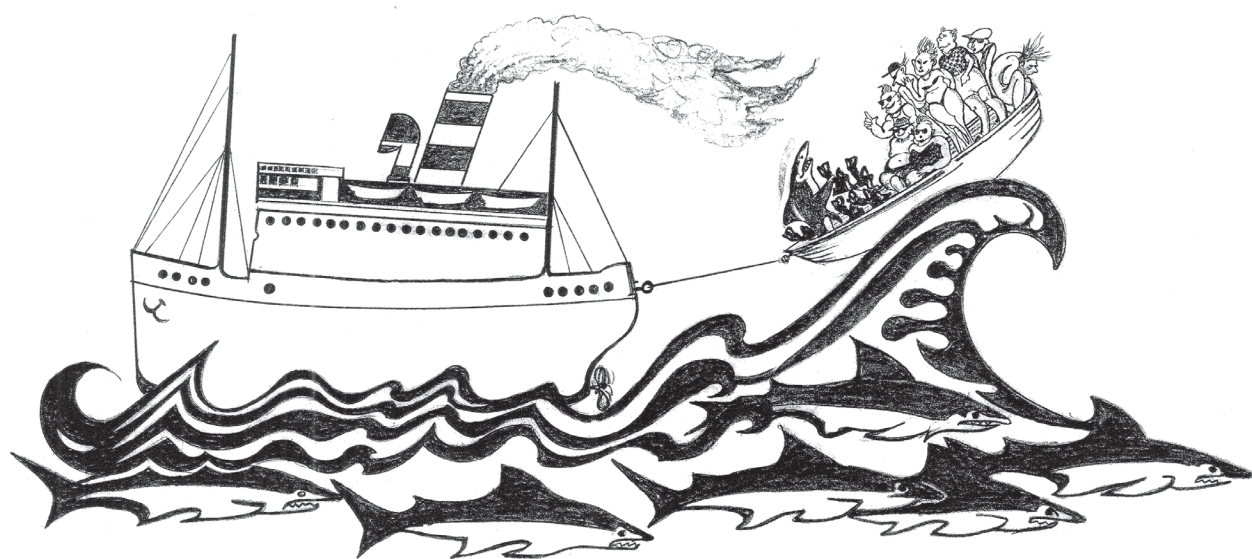
The last two decades have seen a rise in the art world's reliance on provenance, the documented history of an object (usually an ownership history), to assure themselves of a work's legitimacy, both as an authentic work and as a work that was not stolen or looted. The problem with provenance, however, is that it relies on historical documents that rarely survive intact over the centuries. Could you locate the receipt from the last mattress you bought? If not, try to imagine someone keeping track of receipts of sale dating back 500 years, when a painting or piece of furniture was first made. It is very unusual to find provenance that is complete and intact. And with the inevitable gaps, and the not uncommon phenomenon of a legitimate work having no provenance to speak of, the system is still a porous one. There are also examples of forgers using the reliance on provenance to their advantage. John Myatt and John Drewe created false documents to act as provenance for the forged paintings they created, and then inserted them into real archives, so that diligent researchers

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Grann, David “The Mark of a Masterpiece” in *The New Yorker*, July 10, 2010.

would “discover” them and link them to the forged paintings.

In the end, some combination of scientific analysis and provenance provides the strongest argument for authenticity. But there are ways to beat any system, and the art world still relies to an astonishing degree on expertise, which is still unregulated. By talking the talk, saying what the art trade wants to hear, anyone can claim to be an expert and so establish a career.



Cruise Ship Auction of Matisse Sculptures
Bill Lyle

Art Law and Policy

In the Fall 2009 issue of *The Journal of Art Crime*, I discussed *Von Saher v. Norton Simon Museum of Art at Pasadena*, 578 F.3d 1016 (9th Cir. 2009), in which the plaintiff sought to recover from the museum two paintings alleged to have been looted by the Nazis during World War II. In 2002, the California legislature had extended the statute of limitations specifically for Holocaust-era art claims through 2010. In *Von Saher*, the Ninth Circuit Court of Appeals held that the extension of the limitations period amounted to an impermissible infringement of the federal government's power "to make and resolve war." I wrote:

"The implication of the decision seems to be that, if California had extended its statute of limitations for *all* stolen property claims (or for all claims of stolen *artwork* in particular), then the claim would have survived. California can host any number of Nazi-looted art cases if it wishes But what it *cannot* do is extend the statute of limitations for those claims [only]."

Since then, the California Legislature has done exactly that: it extended the statute of limitations for all stolen art claims against museums, auctioneers, and galleries. The bill, Assembly Bill 2765, primarily does two things:

- 1) It extends the limitations period for stolen art claims from three to six years from discovery;
- 2) It clarifies that "discovery" means actual discovery. Actual discovery under the bill requires both (a) knowledge of the identity and whereabouts of the work and (b) facts sufficient for the plaintiff to reasonably believe that she has a claim to the work. "Constructive" discovery is not enough. Even if the claimant could have learned, with reasonable diligence, where the work is, the statute does not start to run until he *actually* knows.

The new law does not apply to claims to stolen artwork in private hands. It covers only claims against museums, auctioneers, and galleries, and applies only to works stolen within the last 100 years. It applies to future claims commenced before the end of 2017, but, importantly, it also applies retroactively to revive any action that was previously dismissed, so long as the judgment is not final. This would seem to apply *Von Saher*, which, as of this writing, had a petition for certiorari pending before the U.S. Supreme Court. So it appears we have not heard the last of that case.

The official legislative analysis of AB 2765 noted that "[t]here is no known opposition to this bill," but the *New York Times* reported that "[t]he California Association of Museums has described the bill as 'unnecessary, unfair, unconstitutional, and disruptive' of property rights." Kate Taylor, "California Lawmakers Approve Bill on Stolen Art Claims," *The New York Times* (9/1/2010). There has also been some concern expressed about the retroactivity of the statute. "Legislation aimed at 'fixing' existing litigation to

favor one side or the other is rarely pretty, and this bill is no exception.” Simon J. Frankel and John Freed, “Statue Without Limits?” *Daily Journal* (8/20/2010).

But this strikes me less as an effort to favor one side in the *Von Saher* litigation than to “fix” the latest odd decision out of the Ninth Circuit. Recall that in 2002 California extended the statute of limitations for Holocaust-era art claims to the end of 2010. The majority in *Von Saher* ruled that that somehow infringed on the exclusive foreign affairs powers of the federal government. As the dissenting judge noted, however:

[A] museum located in California, acquired stolen property in 1971. Appellant now seeks to recover that property. I fail to see how a California statute allowing such recovery intrudes on the federal government’s power to make and resolve war.

It would be one thing if the *Von Saher* lawsuit had been dismissed, say, on a “constructive notice” approach to the statute of limitations, and the legislature then amended the statute to provide for an “actual discovery” rule. That really would look like changing the rules in the middle of the game to help one team.

But here, the Ninth Circuit, on hazy “foreign affairs powers” grounds, essentially ruled that it was improper for the legislature to have *singled out* Nazi-looted art cases for special treatment. The legislature’s response, with AB 2765, was to pass a statute treating all stolen art claims (at least against certain classes of defendants) the same. I fail to see any great injustice in that.

*

In other art-crime related news in recent months:

- In May, the New York City subway artist known as “Poster Boy” (because he makes collages out of advertising posters in the subway system – without permission from the advertisers) was sentenced to 11 months in jail on a felony charge of criminal mischief.
- In Seattle, FBI agents arrested three people in connection with a long-running art theft ring.
- In St. Louis, a retired art teacher was sentenced to 20 days in jail after he refused to make changes to works of art in his front yard that city officials deemed dangerous.
- In Paris, a thief stole five paintings valued at more than \$100 million, including major works by Picasso and Matisse, from The Museum of Modern Art there.
- A few days later, in Marseille, burglars knocked on the door of a collector’s home, assaulted him, and fled with five works.
- In June, a Chicago artist’s stolen work was recovered after 20 years . . . a mile from his home.
- In July, in Canada, two men stole a Ming Dynasty painting from a gallery at gunpoint.
- In Moscow, two curators were convicted and fined for “inciting hatred” with a controversial exhibition they organized.
- In France, 12 men were sent to jail in connection with an elaborate art forgery ring.
- In August, art dealer Larry Salander was sentenced to 18 years in prison.
- Police in Rio de Janeiro recovered a painting by an important Brazilian artist that had been stolen from a museum in July.
- Eighteen paintings were stolen from a house in a suburb of Sydney, Australia.
- A Henry Moore sketch was among three works stolen from a gallery in south Worcestershire in the U.K.
- A \$50 million van Gogh painting was stolen from a museum in Egypt. Eleven employees of Egypt’s cultural ministry were later sentenced to three years in prison for negligence in connection with the theft.
- In September, two men who sold fake Banksy prints in the U.K. were given suspended sentences.
- A Connecticut man who hid dozens of paintings stolen from Yale University in exchange for heroin was sentenced to three years in prison.
- In October, a woman was arrested at a Colorado museum after she destroyed an artwork that some said depicted Jesus engaged in a sex act.
- The former director of Long Island University’s Hillwood Museum was sentenced to a year in prison

for stealing Egyptian artifacts from the museum. He claimed his motivation was to exact revenge against the university for perceived mistreatment while he was an employee.



Window of Opportunity: Special on Matisse Sculptures
Bill Lyle

ARCA is pleased to present three scholarly responses to David Grann's "The Mark of a Masterpiece," published in *The New Yorker* in July, 2010. The excellent article raises fascinating issues about authenticity and forgery, a theme on which we focus in this edition of *The Journal of Art Crime*.

Simon A. Cole

Connoisseurship All the Way Down: Art Authentication, Forgery, Fingerprint Identification, Expert Knowledge¹

How do you know whether a painting is really painted by a particular person, or a fingerprint is made by a particular finger? You ask an expert. But, in the case of the painting, what kind of expert should you trust— an art historian, a forensic art expert, or a fingerprint examiner with expertise in detecting fingerprint forgeries? An engaging new article by David Grann in the *New Yorker* updates a story that I have been following and writing about for several years that raises interesting questions about the production and evaluation of expert knowledge.²

A truck driver from Costa Mesa named Teri Horton bought a painting at a yard sale in the Inland Empire region of California for \$5 around 1992. Friends told her it resembled a drip painting by Jackson Pollock, which might place its value over \$10 million. The International Foundation for Art Research (IFAR), which was the primary organization that authenticates Pollock paintings, denied authentication, on a variety of grounds, including its lack of provenance, physical details about the painting, and its connoisseurs' judgments about the quality and authorship of the painting.

Eventually, the painting was analyzed by Peter Paul Biró, an art expert who had pioneered the use of forensic scientific techniques in art authentication. Biró found a fingerprint on the canvas that he eventually matched to a fingerprint found preserved in paint in Pollock's Long Island studio, which has been preserved as a historic site. IFAR, however, still denied

authentication.

As I have discussed elsewhere, the dispute presented a fascinating juxtaposition of expert knowledge: art connoisseurship and forensic science. Even more interestingly, the art market appeared to be an area in which the outcome of this battle of knowledge defied expectation: seemingly "soft" art history trumped seemingly "hard" forensic science. However, I also pointed out the uncanny and unexpected *similarities* between these seemingly disparate forms of knowledge. Contrary to what one might expect, the term "connoisseurship" actually applies rather well to fingerprint identification—and the title of my article was a reference to a federal judge (coincidentally named Louis Pollak) who, in a widely publicized decision, compared fingerprint experts to "appraisers of art."³

Like art connoisseurs, fingerprint examiners (and forensic scientists from several other disciplines as well) do not have a set of hard rules or strict quantitative measurements that determine when their visual assessment of two print images leads them to reach a conclusion that two images derive from the same "hand." Instead, like art connoisseurs, fingerprint examiners' conclusions are characterized as expert judgments that are vouched for by long experience looking at print images. As David E. Bernstein has noted, "Much of 'forensic science' testimony is actually connoisseur testimony disguised as science."⁴

A film, "Who the \$%%& Is Jackson Pollock?" (dir. Harry

1 An earlier version of this editorial was published on the blog Suspect Identities at <http://blogs.uci.edu/scole/2010/07/23/connoisseurship/>. Thanks to Peter Paul Biró, Martin Kemp, and Teri Horton for their comments. For comments and encouragement on this editorial, I am grateful to Jonathan Kahn, Mona Lynch, Stefan Timmermans, Brian Williams, David E. Bernstein, Douglas Berman, Kevin Cole, Maurice Possley, David Kaye, Gary Edmond, Errol Morris, and Jonathan Lopez.

2 David Grann, "The Mark of a Masterpiece," *New Yorker* July 12 2010.

3 Simon A. Cole, "Jackson Pollack, Judge Pollak, and the Dilemma of Fingerprint Expertise," *Expertise in Regulation and Law*, ed. Gary Edmond (Aldershot, UK: Ashgate, 2004), United States V. Llera Plaza. 179 F. Supp. 2d 492. E.D. Pa. 2002. (vacated and withdrawn).

4 David E. Bernstein, "Expert Witnesses, Adversarial Bias, and the (Partial) Failure of the *Daubert* Revolution," *Iowa Law Review* 93 (2008): 129.

Moses, 2006) was made about Teri Horton and her efforts to authenticate the disputed painting, and I wrote a more popular account of the dispute for the *New York Times*, in which I also discussed claims to have located Leonardo da Vinci's fingerprint and claims to have determined the ethnicity of his mother from this print.⁵ However, by this time, allegations were circulating which claimed that Biró had forged the prints he had located in the Horton and another disputed Pollock! So we now have a third form of expertise added to the mix: the ability to distinguish between whether a fingerprint was deposited naturally by a human finger or "forged"—placed there by some artificial means, a form of expertise that few fingerprint examiners even claim to possess. And, this form of expertise is connoisseurship too. The report claiming forgery relies heavily on observations about the print which, based on the examiner's experience, is "inconsistent with latent fingerprints deposited in a normal fashion but are consistent with forged fingerprints."⁶

After the *Times* piece was published, I was contacted by Peter Paul Biró, and we had some friendly discussions. We shared the common ground of having experienced the wrath of the fingerprint community.⁷ (I should add that one of Biró's principal antagonists, Pat Wertheim, and I have now mended fences. And, when people allege that fingerprints have been planted, I refer them to Wertheim.) Like Grann, apparently, I received a number of emails that cryptically warned me not to trust Biró.

The *New Yorker* article takes on the story of another painting, an alleged Leonardo, upon which Biró also found a fingerprint. Grann masterfully uses this sequence of events to craft a story that, in the best tradition of nonfiction journalism, [spoiler alert] sets up the reader's expectations and then undermines them. Grann begins with the conventional story of the blue-collar Horton defying the hoity-toity art establishment. Biró emerges as the hero who uses hard science against soft connoisseurship, making art connoisseurs seem pretentious and possibly fraudulent. But the beauty of Grann's article is that he has foreshadowed later thought that there is something not quite right about Biró, and in the second half of the article, he uses the forgery accusations to pull the rug out from under the reader, turning the reader's expectations on their head. By the end of the article, Grann portrays Biró as a confidence artist and possibly a forger (the notions of art forgery and fingerprint forgery are brilliantly drawn together), art connoisseurs—though perhaps unlikable—as possessors of true knowledge, and the rest of us hoi polloi as victims of

our own wishful thinking in siding with blue-collar Horton out of a quintessentially American secret desire for someone to take down the wealthy, effete, artsy establishment.

This is a compelling theme, nicely articulated, and it makes a terrific article. Grann engaged in extensive and thorough investigative reporting that has added to the stock of information about the case, and I take no position here on the relative truth of various cross-cutting claims and accusations (including some that are not mentioned in the *New Yorker* article). However, the article's treatment of the relationship between the expert knowledge of art connoisseurship and forensic science seems peculiarly out of step, not only with what scholars like Bernstein and I have argued, but now with the position taken by the National Academy of Science (NAS) in a highly publicized report on forensic science released little over a year ago.⁸

Grann observes that Biró shifts his characterization of fingerprint evidence from "absolute objectivity" and "infallibility" to something that sounds more like connoisseurship.⁹ But, paradoxically, the NAS report now agrees with what scholars have long been saying; that "the assessment of latent prints from crime scenes is based largely on human interpretation," that the "method does not specify particular measurements or a standard test protocol, and examiners must make subjective assessment throughout," that "the threshold for making a source identification is deliberately kept subjective," and, in short, that "subjectivity is intrinsic to friction ridge analysis."¹⁰ It further states that "the interpretation of forensic evidence is not infallible. Quite the contrary. This reality is not always fully appreciated or accepted by many forensic science practitioners, judges, jurors, policymakers, or lawyers and their clients."¹¹

Similarly, Grann faults Biró for the ambiguity with which his conclusions about the fingerprints are phrased. By using the term "highly comparable" rather than "the term 'match'" in his characterization of the Leonardo print "as is standard among law-enforcement analysts," Biró, it is implied, seeks to shroud the purported forgery behind the vagueness of the conclusion. In contrast, Grann notes, "real" fingerprint experts testify in black-and-white terms, to "only a positive or negative identification, and [a fingerprint examiner] is prohibited from speculating on probabilities." One FBI examiner mocks Biró's formulation: "What does that *mean*? *Homo sapiens* and bull mastiff—are they 'highly comparable'? Give me a break."¹²

5 Harry Moses, "Who the \$%& Is Jackson Pollock?" documentary film (2006), Simon A. Cole, "A Little Art, a Little Science, a Little 'CSI,'" *New York Times*, Dec. 31, 2006.

6 Pat A. Wertheim, *Scientific Examination Report: Fingerprint Forgery Case* (Phoenix: Global Fine Art Registry, 2008).

7 Brendan Koerner, "As the Whorl Turns," *Village Voice*, Mar. 26, 2002.

8 National Research Council, *Strengthening Forensic Science in the United States: A Path Forward* (Washington: The National Academies, 2009).

9 Grann, "The Mark of a Masterpiece," 71.

10 National Research Council, *Strengthening Forensic Science*, 139.

11 Ibid., 87.

12 Grann, "The Mark of a Masterpiece," 71.

What is remarkable about this is that it is precisely for this insistence upon rendering conclusions in such binary terms, that the discipline of fingerprint identification has been criticized by numerous scholars and the NAS. Virtually all legal and forensic scholars now agree that all forensic evidence is inherently probabilistic. While fingerprint examiners once claimed that fingerprint evidence was a form of non-probabilistic evidence, that view has now been effectively demolished by a variety of different scholars.¹³

The NAS has now taken a similar position, expressing discomfort with the “standard” term “match” for its vagueness, for its connotations of absolute certainty, and for being unsupported by evidence.¹⁴ Instead, the NAS has echoed the calls of many scholars for precisely the sort of probabilistic approach to evidence that Grann notes is “prohibited” for “real” law enforcement fingerprint examiners.¹⁵ Four days after the publication of Grann’s article, the International Association for Identification, the world’s largest professional organization for fingerprint examiners, passed a resolution rescinding a 30-year-old ban on “probabilistic” testimony.¹⁶

Indeed, for all the seeming clarity of their opinions—fingerprint experts either report that the two prints *must have* come from the same source or that they don’t know, but never that they *might have* come from the same source—the *basis* for these opinions remains, essentially, connoisseurship. How does a fingerprint expert know that two prints come from the same source? They look at the two images and form an opinion based on their training and experience.

This is not to say that Biró, in saying “highly comparable,” was seeking to convey the value of the fingerprint evidence in probabilistic terms. Nor is it to say whether he is right or wrong about the print. But it seems paradoxical that he is criticized for offering a non-categorical conclusion at the very moment that the fingerprint establishment is being criticized by the NAS for *only* offering categorical conclusions. Likewise, it seems paradoxical that Biró is implicitly criticized for backing off his earlier characterizations of fingerprinting’s “absolute objectivity” and “infallibility” at the very moment that the NAS is criticizing the fingerprint discipline for invoking those very terms.

What is curious about the Grann article is that it ends up being a defense of connoisseurship as expert knowledge. It

ends by suggesting that there is ultimately “something about” those pretentious art connoisseurs so vilified in the film and the conventional narrative—that they do experience images “in a way most of us can’t.”¹⁷

But whether art connoisseurs see art—or fingerprint examiners see fingerprints—differently than the rest of us is only part of the question. Undoubtedly, they do. However, asserting that these experts see differently, or even better, is quite a different matter from supporting claims of the sort they are making in cases such as these. To claim that one can determine, just by looking—even experienced looking—the “authorship” of a painting or a fingerprint—or whether a print is natural or forged—requires an entirely different level of empirical support than simply showing that one has an experience-based way of seeing.

Again, the moral of Grann’s tale seems paradoxically at odds with the reforms urged by the NAS. Even as he defends connoisseurship, the NAS is urging that forensic scientists “develop rigorous protocols to guide these subjective interpretations.”¹⁸

While readers may be tempted to read this latest installment of the drama as a mystery solved—Biró as master forger—the mystery to me remains more open-ended. The entire episode—much like Grann’s earlier celebrated article on the Willingham arson case¹⁹—seems to speak less to the correctness of one version of “the truth” than to the limitations that all forms of expert knowledge—whether “hard” or “soft”—have in producing what we tend to think of as truth.

13 Christophe Champod and Ian W. Evett, “A Probabilistic Approach to Fingerprint Evidence,” *Journal of Forensic Identification* 51.2 (2001).

14 National Research Council, *Strengthening Forensic Science*, 87, 141.

15 Ibid., 141; Grann, “The Mark of a Masterpiece,” 71.

16 International Association for Identification, “Resolution 2010-18,” Standardization II Review Committee (Spokane, Wash.: July 16, 2010), Available: http://www.swgfast.org/Resources/100716_IAI_Resolution_2010-18.pdf.

17 Grann, “The Mark of a Masterpiece,” 71.

18 National Research Council, *Strengthening Forensic Science*, 8.

19 David Grann, “Trial by Fire,” *New Yorker* Sept. 7, 2009.

Selected Bibliography

- Bernstein, David E. "Expert Witnesses, Adversarial Bias, and the (Partial) Failure of the *Daubert* Revolution." *Iowa Law Review* 93 (2008): 101-37.
- Champod, Christophe, and Ian W. Evett. "A Probabilistic Approach to Fingerprint Evidence." *Journal of Forensic Identification* 51.2 (2001): 101-22.
- Cole, Simon A. "A Little Art, a Little Science, a Little 'Csi'." *Times* Dec. 31, 2006, sec. 2: 31.
- . "Jackson Pollack, Judge Pollak, and the Dilemma of Fingerprint Expertise." *Expertise in Regulation and Law*. Ed. Gary Edmond. Aldershot, UK: Ashgate, 2004. 98-120.
- Grann, David. "The Mark of a Masterpiece." *New Yorker* July 12, 2010: 50-71.
- . "Trial by Fire." *New Yorker* Sept. 7, 2009: 42-51.
- International Association for Identification. "Resolution 2010-18." 2010-18. Ed. Standardization II Review Committee. Spokane, Wash., 2010. Vol. 2010-18.
- Koerner, Brendan. "As the Whorl Turns." *Village Voice* Mar. 26, 2002: 53-57.
- Who the \$%& Is Jackson Pollock?* 2006. documentary film.
- National Research Council. *Strengthening Forensic Science in the United States: A Path Forward*. Washington: The National Academies, 2009.
- United States V. Llera Plaza. 179 F. Supp. 2d 492. E.D. Pa. 2002.
- Wertheim, Pat A. *Scientific Examination Report: Fingerprint Forgery Case*. Phoenix: Global Fine Art Registry, 2008.

On Fakes

A well known modern and contemporary art dealer approached me at TEFAF last March in Maastricht and said, “Chris, I don’t care all that much about stolen art, but if you could do something about the plethora of FAKES being sold as originals, you could save me a great deal of money.”

While I took issue at the first part of this dealer’s statement, the point was well taken that the problem of fake and fraudulent artwork being sold in the marketplace is at the pinnacle of every dealer and collector’s agenda. It is not only smaller dealers and collectors who have been defrauded over fake works of art. Over the last several years, the London based Art Loss Register (“ALR”) has been asked to investigate and mediate disputes between some of the world’s top dealers involving tens of millions of dollars worth of fake artwork. The names of the parties and the artists involved would shake the very core of art market.

Most of the time, these requests come with the proviso that the matter be handled with the utmost discretion out of fear that a dealer’s hard-earned reputation will be severely damaged. Publicity on the web could be the death knell to any dealer found to be in possession of fake artwork while the financial damage to the artist’s oeuvre may be considerable. Even more injurious, the dealer could earn a reputation as an easy mark for con artists and fraudsters. Recent high profile court cases involving the major auction houses show that they too are not immune to the forger’s craft.

For years the Art Loss Register has been accumulating registrations of fake works of art directly from international law enforcement including the FBI, U.S Customs, New Scotland Yard and the Italian Carabinieri. In addition, dealers, collectors, insurance companies, and even many contemporary artists whose works are being faked and sold as original works of art are actively assisting in compiling this database

While the Art Loss Register’s primary mission remains registering, locating, and recovering stolen artwork, the ALR could not simply ignore the demand to create a “database of fakes” to provide some record of these offenses. At present, if an individual or organisation searches a work of art against the

Art Loss Register database, the searcher will be notified if that work has ever been reported stolen or involved in a dispute by competing claimants. The search will also be run through the Fakes Database and the searcher will be informed if fake art is known to have been created for the work in question.

Two real challenges can be identified from maintaining a database of counterfeit art. The first is the fact that new fakes are constantly being produced in an effort to separate the art buying public from their money. Keeping up with this illicit productivity is daunting. One need only look at the “fake art factories” operating today in China to fully appreciate the extent of the problem. The second issue that plagues this effort is the very real fear of running afoul of the perpetually litigious who may seek damages against the Art Loss Register for declaring their newly acquired work a solid fake. There are millions of dollars at stake when declaring a piece to be a facsimile of the original.

In an attempt to evade this quandary, the ALR will only notify a searcher whether fakes have been recorded on the database for the particular artist being searched. In the event of a match, the ALR carefully refers the searcher to the International Foundation for Art Research or to individual authentication committees for the artist in question and suggests to the searcher that they take great care before making their purchase. In this way, the Art Loss Register serves as an important due diligence tool against counterfeit art but relies on the support of expert assessment for the final determination.

The pursuit for a better system to protect victims of art fraud continues within the ALR. I was impressed and fascinated by David Grann’s brilliant article on Peter Paul Biró and wanted to believe in this fingerprint technology. I enjoyed the way Grann lured me in before exposing this “science” as yet another scam to prey upon the art market.

A week does not go by that the Art Loss Register is not approached by some individual or organization that has created a technological marvel that is “going to revolutionize art recovery and put an end to fake art in the marketplace”.

Hand held devices, microchips, DNA testing, even a psychic or two has pitched a solution to the problems of stolen and fraudulent artwork.

While the ALR would be foolish to ignore technological advances in the area of location devices and authentication methods, there remains at present no substitute for the combination of the keen eye of an educated expert and the diligent provenance research performed by trained art historians.

Response to David Grann's "The Mark of a Masterpiece," published in *The New Yorker*: From a Legal Perspective

In July, David Grann reported on a Hungarian-born restorer of art who has earned a great deal of notoriety as an authenticator of works of art by examining orphaned works and searching for fingerprints that can then be compared with fingerprints on other authenticated works of art. In so doing, Grann offers insight into the two schools of art authentication: connoisseurship and forensics.

Traditionally, art has been authenticated by examining the work itself. Looking in a detailed way at brushstrokes, composition, iconography, and pigments can all help a skilled authenticator determine whether a work of art is genuine. Yet this method of authentication has fallen out of favor. The art world has increasingly begun to favor science. As Grann writes, this shift may "reflect the contemporary faith in science to conquer every realm". The piece offers some pointed criticism of this new reliance on forensic science.

The primary focus—Peter Paul Biró—first emerges as a skilled scientist who can remove the human fallacies that call into question the assertions of connoisseurs. Yet Grann digs deeper and discovers some troubling details. Biró shifts and the reader suspects he is a skilled con man, who may even fabricate his results. His primary method relies on proprietary technology, and pulling fingerprints from works of art requires decisions that look less and less like science and more and more like connoisseurship.

I will leave it to the other editorials to weigh the strengths and weaknesses of science or connoisseurs. Rather I want to focus particularly on the troubling aspects of the art trade that Grann's article reveals. A flawed trade artificially elevates the importance of forensic authenticators like Peter Paul Biro. There are good reasons why works are lost to history and rediscovered. Yet unscrupulous dealers and sellers rely on the shroud of secrecy that envelops the art trade. Art sellers do a spectacularly poor job of determining and guaranteeing the history of an object.

This can be seen acutely in the history of the "Bella Principessa," which has recently surfaced and been attributed to Leonardo da Vinci. The work was bought for around

\$22,000 in 1998 by Kate Ganz. At the time Ganz knew only that the work was the "property of a lady"; no real history of the work was given. It was later sold to an unknown buyer in 2007 for the same price. This is how works of art often surface and retreat into private collections. Private ownership of art carries many advantages, yet this anonymous market damages our understanding of artists, movements, and periods of history.

One would be hard-pressed to come up with an industry that enjoys so little meaningful regulation. We are routinely given receipts and a paper trail for mundane purchases. There would be much more information offered for a printed reproduction of any work of art than if we were to buy the actual work itself. One of the biggest contributors to art fraud—and art theft—is the ease with which criminals can exploit the art market. Art transactions do not involve an exchange of information on title history, or what is called provenance. Very little information regarding the authenticity of title are given, nor are there firm guarantees that any of the provenance information that is given is actually accurate. Not only does an accurate provenance provide a buyer with evidence that the seller actually has the right to sell the object, but it also ensures that works of art are authentic. We need a shift in the way the art market guarantees authenticity and title. One of the best ways to accomplish this will be for buyers, sellers, and observers to pay more attention to the idea of good faith. Good or bad faith plays a prominent role in the resolution of disputes involving stolen object, but may also play a role in the sale or even authentication of orphaned works.

Good faith first emerged in Roman law, which established that something as simple as a promise can create an obligation that could be enforced by a judge. In the middle ages buyers and sellers would offer up their faith to the Church, and if they lied they would be forfeiting their eternal salvation. Today the law defines good faith as "a state of mind consisting in honesty in belief or purpose, faithfulness to one's duty or obligation, observance of reasonable commercial standards of fair dealing in a given trade or business, or absence of intent to defraud or to seek unconscionable advantage."¹ Buyers, sellers and authenticators of art would be well-served to

take up this definition anew. As Grann's terrific discussion of connoisseurship and science reveals, much about the authentication process relies on the scruples and moral character of the individual—whether they rely on the tools of a connoisseur or a forensic scientist. Though these opinions and transactions carry the weight of millions of dollars in many cases, their subject is a work of art—a work that will likely be enjoyed and cherished for generations if a work is determined to be genuine. With this knowledge comes a great deal of pressure to make the right decision about a work of art. Yet individuals who mislead will not only harm the proximate parties but also damage the understanding of our collective cultural heritage.

¹ Black's Law Dictionary (7th Ed., 1999).

The Ethics of Context: Exploring Assumptions in Discussions about the Looting of Archaeological Sites

This essay explores underlying assumptions in arguments that increased regulation of the antiquities trade will combat the looting crisis, thereby preserving archaeological context. The essay first distinguishes between ethical and legal arguments regarding illicit excavation of archaeological materials. The essay next considers whether archaeological context is “ethically worthy” because it helps people discover their past, or whether it is simply information to be commodified. Finally, the essay compares the ethical worth of context versus the immediate, palpable needs of subsistence looters.

Archaeologists base their argument that the looting of sites is undesirable on the consequential loss of context. This argument often relies on what is *right*, or how things *should be*, as opposed to obligations imposed by existing law. It is this author’s position that a clearer distinction between law and ethics would help facilitate meaningful discourse on stemming the illicit trade in cultural property, and would help archaeologists build more precise and persuasive arguments.

The subject of ethics “is distinguished by the *questions* it pursues... about how we ought or ought not to treat each other.”¹ It can be contrasted with law, a system to regulate conduct that is codified and enforced. Put another way, ethics have to do with what is right and wrong while law has to do with what is allowed and proscribed. Sometimes the law is consistent with what is generally perceived as ethical, but quite often something can be *right* even if it’s illegal or, conversely, it can be *wrong* even if not proscribed. This is the framework from which we consider ethics and law in this essay—as generally distinct subjects.

The argument that looting is unethical because of lost context depends on several underlying assumptions: (1) Looting results in lost context, (2) Context is an important, positive thing, and (3) Context takes ethical priority over the interests of looters and traders in looted objects. The argument

follows that a person who facilitates the loss of context is acting unethically.

Assumption #1: Looting results in lost context.

The first assumption, that looting results in the loss of context, is virtually undeniable.

Assumption #2: Context is an important, positive thing.

The second assumption is that context is “good” or ethically worthy. To archaeologists, context is invaluable; it is the purpose behind painstaking excavation, and it is the basis for the discipline of archaeology. But, otherwise, why is context “good”?

Context is necessary to decipher the riddle of our collective past. It gives knowledge beyond what can be learned from individual artifacts lacking context. But, so what? Is learning about ancient life ethically worthy? For some people, history gives meaning; it legitimizes, giving them something to be proud of. For others, it does just the opposite.

The argument that context *ought* to be protected assumes that accumulating historical knowledge is a “good” thing, and this is not a universally held value. The increasing commodification of information in the 21st century undermines archaeologists’ claim that they want to expand knowledge about the past for the good of mankind.

If a person does not value historical information the way archaeologists do, arguments for the increased regulation of the antiquities trade based on a loss of context from looting will not persuade him. It is virtually impossible to persuade an opponent to change his value system, and openly challenging it often has a polarizing effect. Many people dig in their heels if their value systems are challenged, vehemently supporting even extremist positions so long as those positions are opposite the challenger’s perspective.

It is necessary to be mindful of the intended audience in discussions about looting and context. If audience members

1 Dana Radcliffe, *Achieving Ethical Clarity Through Dialogue*, CORNELL ENTER., Fall 2006, available at: <http://www.johnson.cornell.edu/alumni/enterprise/fall2006/vantagepoint.html> (last visited September 16, 2010).

are historically minded, then ethical arguments may succeed. But if audience members see information as a mere commodity—something to be traded and sold—archaeologists would be better served to focus on more pragmatic concerns. It is valuable to know about our collective past, from both an intellectual and psychological perspective, and context undoubtedly provides us knowledge about that past. Value, however, does not necessarily implicate ethics.

Even if not “good,” as to the discrete universe of every archaeological object, context is an extremely limited resource. When an object is improperly excavated, due to looting, that resource is wasted. As a legal concept, waste occurs when someone fails to preserve a resource, so that no one gets the benefit of it, and the potential benefit is gone forever. In this way, waste occurs when an artifact is improperly excavated because context cannot be regained. That economic reality is sufficient to justify a position against looting, without reliance on variable ethical considerations.

Assumption #3: Context takes ethical priority over the interests of looters and traders in looted objects.

The third and final assumption built into arguments against the trade in looted items is that context takes ethical priority over the interests of the looter and/or the trader in looted objects. This is the pro-collecting lobby’s kidney punch in times of desperation: If a descendant of a creator culture has a hungry family or a sick child, is it wrong for him to loot to alleviate their suffering? What if the patrimony laws in his country happen to benefit a dominant ethnic group that is oppressive of the creator culture that the looter is a member of?

A man is not behaving unethically to harvest an unused resource in order to provide for his family. Rare is the zealot who would argue that subsistence looters should be punished as harshly as those who loot in search of riches. Most pro-regulation scholars are also sympathetic to creator cultures and their individual members.

The discourse on this subject is best directed to the general rather than the specific. In the specific instance of the hypothetical looter with the hungry family, most everyone will have compassion. Not everyone has the good fortune of a stable income and economy. However, is the trade in looted goods *overall* helping or hurting families in positions such as his? Leaving aside the issue of historical information about ancestral heritage, is looting hurting communities in an objective, measurable way?

Research data exists to support the argument that the trade in looted goods disadvantages creator cultures and source nations more than it helps them. Looted artifacts are almost guaranteed to leave the local market, with looters

seeing a pittance compared to the income generated from the goods on the international market. Ultimately, looting pulls more value out of the local economy than it puts in. *This* is the correct redirect to the “looter with the starving family” challenge.

The best support for arguments against looting is the measurable damage to creator cultures and source nations – *not* the loss of context. This is because the former relies on universal as opposed to particularized values. Put another way, no one wants to see an impoverished community made even poorer, but not everyone cares whether another history book is added to the library.

Conclusion

Proponents of increased regulation of the antiquities trade as a means to stem the looting crisis are advised to focus on objective, measurable disadvantages to creator cultures and source nations rather than the loss of historical information from context. This will maximize the receptive audience by focusing on universal rather than individualized value systems. Further, all parties to discussions about the illicit antiquities trade are advised to be mindful of the distinction between ethical and legal arguments in order to promote clarity in discourse.

The Paris Art Theft, May 2010

For six weeks, the Musée d'Art Modern de la Ville de Paris has waited for parts to fix their security system. Last night, five paintings, valued at 100 million euros, were stolen between Wednesday evening and Thursday morning from the building in one of the most fashionable districts in Paris, just blocks from the Pont de l'Alma where Princess Diana died in 1997 and north of the Tour Eiffel.

The thief accessed the collection through a rear window of the east wing of the Palais de Tokyo. It is possible that the thief drove his scooter along the Avenue de New York that runs parallel to the Seine. He likely rode a scooter because the street has signs posted for no parking and heavy black gates divide the road from the wide sidewalk as is common in central Paris.

A recessed doorway marked No.14 may have provided excellent cover for a parked scooter underneath the balcony terrace at the back of the museum. The doorway is located about eight to ten feet from the road, which is fenced with wrought iron. However, there are openings for a scooter to reenter the traffic from the sidewalk.

After hopping over the balcony, he took out (probably from a bag slung over his shoulder) a long cutter that could provide enough force to break the padlock that secured the window's metal accordion shutters that protected the one-story windows. Opening these metal shutters would have created a loud and persistent screeching sound as the metal rubbed against the sliders in the window casements.

Once the glass window was exposed, the intruder used the handle of the cutter to smash open the middle panel of the window and to climb into the building. The thief may have known that the security alarm would not alert the security guards, the police, or even notify anyone that the building had been broken into. He would also have known that no security guard would have been patrolling nearby the area of the stolen paintings.

A security video camera caught a masked man entering through the window. The thief may have decided it was

too difficult to turn off the security camera and just wore a covering to obscure his identity.

Inside, the intruder selected five paintings from the same period that were most likely located in either the same room or close to one another, removed the works from their frames, and left without disturbing the three night security guards.

The thief broke open a gate, smashed the glass in a window, and had time to remove five paintings from their frames? Why did one of the guards not hear or see any of this activity, especially since the security patrol was aware that the alarm was disabled?

The thief may have removed the paintings from their frames so that they would be easier to carry while he drove away on his scooter. All the paintings, without frames, were of small to midsize and could easily be carried.

A thief with an automobile and a second driver – who would be waiting in the car since there was no place to park legally – would have saved time by taking the paintings with their frames down from the walls and just thrown the paintings into the back seat of the car.

The empty frames were finally discovered Thursday morning by 6 or 6.30 a.m. by one of the three security museum guards.

The Brigade de Répression du Banditisme, the elite police unit that fights organized crime and art theft, was in charge of the investigation.

On the day of the theft, the police had littered the terrace with yellow evidence markers around the frames leaning against the balcony. The police officers were measuring the frames and various locations on the patio.

Christophe Girard, deputy mayor of Paris, in charge of culture, estimated the value of the stolen paintings at 100 million euros (\$123 million). The five missing paintings are reported as:

“Le pigeon aux petits-pois” (The Pigeon with the Peas), an ochre and brown Cubist oil painting by Pablo Picasso worth an estimated 23 million euros;

“La Pastorale,” an oil painting of nudes on a hillside by Henri Matisse, about 15 million euros. (Matisse, the leader of Fauvism, was a rival and friend of Pablo Picasso. Matisse painted this oil on a 46 x 55 centimeter canvas in 1905.);

“L’Olivier près de l’Estaque” by Georges Braque;

“La Femme a l’éventail” (Woman with a Fan) by Amedeo Modigliani;

“Nature-morte aux chandeliers” (Still Life with Chandeliers), by Fernand Léger.

According to Paris’s mayor Bertrand Delanoë, the museum’s security system, including some of the surveillance cameras, has not worked since March 30 and has not been fixed because the security company is waiting for parts from a supplier (Bloomberg.com, “Picasso, Matisse Paintings Stolen From Paris Museum,” May 20, 2010).

Musée d’Art Moderne de la Ville de Paris is located at 11, avenue du Président Wilson in the 16th arrondissement in Paris, just three blocks west of the Alma Metro station and one block east of the Place d’Iéna and another metro station. The museum, closed on Mondays, is free to visitors for the permanent collection. All five paintings belonged to the permanent collection gathered from private collectors’ generous gifts to the museum of modern art of Paris.

The 1911 Picasso still life was a gift from Dr. Maurice Girardin in 1953. It was featured in the International Exhibition of Arts and Techniques in Modern Life in 1937.

The building for the museum was constructed in 1937 and officially opened in 1961 with a collection built on donations from private collectors, especially the one from Dr. Girardin. The stolen works were from the oldest part of the collection.

Missing Miniatures from Priceless Illuminated Manuscripts



In the oblique mountain light coming through the old leaded window, the medieval vellum pages I was peering at with disbelief were shockingly mutilated. The archivist monk, Chanoine Jean-Pierre Voutaz, shook his head. “This is why we now let so few who request access look at our manuscript collection and never without supervision.” Someone had brazenly cut out the best hand-painted illuminations with a razor blade from page after page, leaving gaping holes in the vellum pages of books and codices. Looking at the ones remaining with beautiful colored detail and lavish gold leaf done with miniaturist’s skill, I could only share the monk’s lament over the theft of precious medieval art. I had not requested access to the monastic library but was privileged — or rather burdened — to now witness the art crimes of thieves.

Shadowed under towering snowy peaks, the Grand-St. Bernard Hospice Monastery clings to the bedrock of the pass to which it gave its name, perched between Switzerland and Italy. Augustinian monks have lived and offered refuge in this place for almost a thousand years. Prior countless travelers, pilgrims, and armies have made their arduous passage on foot here for millennia, and the rock walls of the monastery have sheltered many from the inclement weather; snow and fog that swirl any day of the year at 2400 meters (8200 ft.) elevation, one of the Alps highest passes cleft by a road. Roman armies sent by Julius Caesar and emperors like Claudius and Marcus Aurelius sent legions through here, followed by the armies of Charlemagne, Frederick Barbarossa, and Napoleon, who also brought an army under these peaks, resting in the monastery

in 1800. Other travelers included Mozart, Stendhal, Mark Twain, and many royals, some of whom gratefully left gifts or documentation of their stay protected by the thick stone walls of the monastery. Napoleon, on the other hand, left only a tiny locket of himself after he and his staff officers consumed a year's supply of food and wine from the monastic cellars.

This ancient monastic library still has many precious manuscripts, *incunabula* and records of the Grand-St. Bernard Order with at least a millennium of priceless documents. Our Stanford team had been working on the history of the monastery since 1994, surveying old walls and doors, recording *spolia* (reused inscriptions from Roman times) built into the monastery since 1080 A.D., and even excavating some of the grottoes, including that of the original monk, Bernard of Menthon. Trusted and vetted after nearly a decade of research at the monastery, some of us now had limited access to the archives duly attended by Voutaz or the monastic museum director Xavier, and we were chagrined at the witnessed art theft of medieval illuminations, highly desirable to collectors who apparently cared little about the ravaged pages emptied of their art or wouldn't ask too many — or the proper — questions about the provenance of their acquisitions. But the loss the monks felt over the damage to their treasured manuscripts was palpable even to us, relative outsiders.

For years it seemed that various requests had been made by visitors to examine the monastic library at the Grand-St. Bernard, and many had been allowed until the 1990s, some relatively unsupervised. But this all changed when the young archivist Voutaz took over in the late 1990s, making a serious long-overdue inventory. These manuscripts were not only local but national treasures and everything was now carefully coordinated by the Valais cantonal office in Sion and the Swiss national registries. Theft of precious illuminations from manuscripts is not limited to a few remote monasteries but has plagued many European national, diocesan, and civic libraries.

The medieval art theft situation may be far worse in other parts of the developing world. Professor Nancy Wilkie, President of the Archaeological Institute of America from 1998 to 2002, and an archaeologist in Nepal, has documented similar thefts of hundreds of hand-painted miniature images from rare 8th century Bon manuscripts in cave sanctuaries in Nepal in the remote, high-altitude old kingdom of Upper Mustang.¹ Visitor access to Upper Mustang is now limited, in part due to the theft of so many Nepalese treasures. Archaeologist Dr. Neil Brodie has also reviewed documentation of some

of the ongoing Nepalese thefts for the McDonald Institute at Cambridge University, quantifying major thefts from bronze and stone to other media, especially temple art, reporting that “at Svayambhunath a priest was killed when trying to protect a statue” and that the Bangkok publisher of a book recording Nepalese religious art thefts was broken into in 1996 and 80 original photographic slides that evidenced the destruction were stolen as well.²

Rare books or parts of their contents have also surreptitiously disappeared from special collections all over the world, including from university libraries, mostly in clandestine moments. But in one of the most egregious gangster-like robberies, in December 2004, two young men assaulted and overpowered Transylvania University Library's rare books librarian B. J. Gooch, and after using a stun gun on her, fled in a van, having taken rare books valued between \$500,000 and \$750,000. Four college student suspects were arrested and the material recovered, which the perpetrators had tried to sell to Christie's auction house in New York, claiming to represent a private collector named Walter Beckman. The recovered items included *Hortus Sanitatis*, a 16th century natural history compendium, a 1425 hand-painted and gold leaf illuminated manuscript of the Knolles Family and a first edition of Charles Darwin's 1859 *On the Origin of Species*, as well as 20 sketches by John James Audubon from 1855, among others.³ Sadly, most such thefts are not as ludicrously amateur and are much harder to trace or recover.

University special collections are particularly vulnerable, for obvious reasons. The responsibility of making rare books and materials accessible to scholars and students alike has to be balanced with protection and preservation for posterity. John Mustain, Stanford University Curator of Rare Books, and John Rawlings, Stanford University Medieval Studies Librarian, acknowledge the dilemma as a daily issue in a lead article on a recently acquired Jacobus de Voragine 1468 *Legenda aurea* manuscript “There is magic in the holding and browsing of early manuscripts: an Ovid, a *Book of Hours*, a life of St. Catherine of Siena. Even our teaching collection of fragments and archival exempla can evoke a similar response to the material. There is nothing like the immediate physical experience, tactile and visual, of cultural artifacts created as long as a millennium or more before the present.”⁴ Augmenting the discussion, Rawlings added verbally, “The tension exists [between tangibility and protection] but the

1 Prof. Nancy Wilkie. “Archaeology in Nepal: Land of the Buddha.” January 22, 2010, Stanford Society of the Archaeological Institute of America, Meyer Library, Meyer Forum 124, Stanford University. The author is the local Stanford Society President.

2 Neil Brodie. “Book Review of Jürgen Shick, *The Gods Are Leaving the Country*. Bangkok: Orchid Press, 1999” in *Culture Without Context*. Issue 6, Spring 2000. McDonald Institute, Cambridge University.

3 American Library Association (ALA) *ALA News Archives*, April 2005. Since 1987, the ALA has been maintaining a chronological log of such thefts.

4 John Mustain and John Rawlings. “A Marvelous Acquisition: Jacob de Voragine's *The Golden Legend*” [dated 1468] in *Imprint* 27.1, 2009, Stanford University Libraries 29-30.

overriding principle is to ensure access while protecting the manuscripts.”

Mustain also showed me a vellum manuscript circa 15th century in the collection, *Opera Publii Virgilii Maronis* (Works of Virgil).⁵ Long before Stanford acquired this manuscript in its current damaged condition, many of the lavishly illuminated capitals had been cut or torn out, and at times botched, as limned traces and gilded edges are sometimes left in the manuscript, highlighting the travesty. Please see Figure 1 (*Speculum Maius*, Book XXI detail, 13th c, Vincent of Beauvais, James Ford Bell Library, University of Minnesota) which is not missing from its page but serves as an example of the beauty of manuscript illuminations and the art therein in danger of being purloined.

Perhaps the most blatant recent manuscript art theft was from a trusted British Library (London) and Bodleian Library (Oxford) patron, Farhad Hakimzadeh, who clandestinely used a scalpel on at least 150 rare books to remove priceless miniature art and related maps and illustrations. Conservatively valued around \$800,000, the irreparable damage losses dated back to 1998 and Hakimzadeh has been in civil litigation since 2008 with full compensation demanded and required by court action. Missing graphics included a 16th century engraving of a map made by Hans Holbein the Younger, court painter to Henry VIII, for *Novus Orbis* by Simon Grynaeus, images from Jesuit Fra Mateo Ricci’s *Historia de la China* from 1621 and other priceless illustrations, however many as yet unrecovered.⁶

A century or so ago, cutting out illuminations from privately owned manuscripts was considered less egregious, and hardly a crime. “In the Victorian Era, even so sensitive an art critic as John Ruskin felt justified in cutting up manuscripts for the sake of their illuminations, which he then pasted into his own scrapbooks”.⁷ But both praxes and laws have changed and even private collectors would be unlikely to eviscerate their own collections and “the rise of connoisseurship, the cult of ‘medievalism’ and the growth of a commercial art market have represented both a blessing and a curse for the well-being of manuscripts”.⁸

A few years have gone by since 1995 when perhaps the most famous yet bewildering medieval art theft from Rome’s Vatican Library was disclosed. Anthony Melnikas, an honored American medieval professor with an excellent reputation, inexplicably cut out several illuminated 14th century leaves

with fine miniature paintings from a priceless Vatican codex that had been commissioned and annotated by none other than Petrarch, leaves valued at least as several hundred thousand dollars. When these mysteriously turned up at a rare book dealer in Ohio, Princeton University Professor James Marrow was contacted and soon identified the missing leaves as from the Vatican Library.⁹ The shocking discovery, confirmed by the Vatican Library, and subsequent sad trial have only served to justify the new mandate suggested by Constance Lowenthal, Executive Director of the International Foundation for Art Research, an entity that tracked stolen art: “the case was a reminder that such institutions must be willing to search all visitors”.¹⁰

In 1997, *Harvard Magazine* ran a relevant article highlighting book thefts called “Biblioklepts”. Harvard University libraries, including the Fine Arts and Widener, have also been hit by rare book and manuscript art thieves. In 1995–96, while seeking to replace lost Harvard books on the Alhambra, university bibliographer András Riedlmayer discovered several rare volumes he sought for sale in Granada, Spain, and contacted the dealer there. The diligent overseas dealer found Harvard’s embossed stamp had been mostly altered, but oblique morning light brought it out in relief. This discovery led to the trail of theft of over 41 rare Harvard books by José Torres-Carbonnel, spouse of a Harvard graduate student, whose many other rare book thefts had already been long sold. Because of international jurisdiction, Interpol became involved, interdicting shipments of the thief. The Harvard loss to this one criminal — who had also cut out many rare engravings with a razor blade, leaving countless jagged edges—was estimated at \$750,000, with only partial final restitution. In late 1995, University of California at Los Angeles also found a student worker had stolen a collection of books and other materials valued at \$1 million. To quote Nancy Cline, Larsen Librarian of Harvard College, “We are increasingly aware of the extent of theft and mutilation of books occurring in the nation’s libraries”.¹¹ The nagging question remains as to how many illuminated manuscript losses are still to be uncovered and painstakingly sleuthed wherever possible.

As new losses are gradually discovered, rare book and manuscript curators and librarians worldwide are increasingly engaged in full scale inventories of their collections and formulation of timely new access rules, fortunately not too late. It may take years for proper assessments of lost art images to be uncovered; the manuscript illuminations themselves are too often long gone, but hard lessons learned from investigations

5 Stanford University Library M380.

6 Sandra Laville, “History’s missing pages: Iranian academic sliced out sections of priceless collection,” *The Guardian*, London, Nov. 21, 2008.

7 Raymond Clemens and Timothy Graham. *Introduction to Manuscript Studies*. Ithaca: Cornell University Press, 2007, 68.

8 *ibid*.

9 Tim Cornwell. “Vatican Theft: Accused Prof Goes to Trial.” *Times Higher Education*, London, February 2, 1996.

10 William Honan. “Curious Dealer Uncovers Missing Vatican Treasure.” *New York Times*, May 23, 1995.

11 Christopher Reed. “Biblioklepts.” *Harvard Magazine*, March 1997.

through Scotland Yard, the FBI, and Interpol are being applied not only to stem the art loss crimes but also to recover as much as possible by careful analyses of borrowing and visitor records as well as through perusing likely dealers and even antiquarian book fairs where such missing medieval art may turn up sooner or later. If syndicated crime is now involved, as more than a few investigators suspect, modern computer and digital technologies are silently but comprehensively tracking the perpetrators via connecting links that only a computer can follow through sleepless electronic sleuthing around the globe. Miniature medieval illuminated manuscript art may be tiny, often only a few inches wide, but nothing so precious is too small to miss.

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Clipping Illuminated Manuscripts
Bill Lyle

**Ancient Art Works Recovered by the Guardia di Finanza Exhibition
Vittoriano, Rome
(14 June–12 September, 2010)**

An exhibition titled “From the Tomb to the Museum: Stories of Looting and Recoveries” was on display from June 14 until September 12, 2010, at the Complesso del Vittoriano at Piazza Venezia in Rome. The exhibition, which was admission-free every day, was organized by the Guardia di Finanza’s Archaeological Heritage Protection Group in collaboration with the Ministero dei Beni Culturali (Heritage Ministry).

Trafficking in works of archaeological interest badly hits countries that are rich in evidence of the past. First among these is Italy, which was often called an “open-air museum.” In 2008/2009, the Guardia di Finanza (Italian Customs Service) recovered 11,258 archaeological artifacts and 294 crimes involving art property were reported. This is an increase of about 50% compared to the previous biennium. On display were sculptures, portraits, funerary objects, and everyday objects, ranging from the 8th century BC to the 2nd century AD. Among the sculptures, was a bust of Agrippina Minor (mother of Nero) and Faustina Major (wife of Antoninus Pius).

Some of the works confiscated by the Guardia di Finanza can unfortunately no longer be traced back to their original point of origin. In the words of the curator of the exhibition, Massimo Rossi of the Guardia di Finanza, they are “mute works, unable to tell us their story.”

The great looting era of the 1970s and 1980s has gone. But the unlawful trade in archaeological works has found new outlets in recent years in areas such as Russia and Asia. Most unlawful excavations hit the necropoli. From tombs came Attic vases (which were imported into Etruria), vases from Magna Graecia (Puglia), and ceramics of typical Etruscan production. The exhibition also devoted a section to the funeral rites of the Italic peoples of ancient Italy and their belief in an afterlife. The examples range from a Villanovian Ashes urn (IX century BC) to a marble sarcophagus of the Roman imperial period. There were also the objects that accompanied the deceased on their journey: ceramics, objects of daily use, small items of jewelry, a spear. These objects play an important role in identifying the deceased’s station in life, origin, sex, etc.

A bas-relief formed of blocks (from the base of a mausoleum) was not displayed due to problems connected with transport and conservation. This amazing object was

found during building works about 40 kilometers north of Rome, from which it was rescued by the Guardia di Finanza. It is decorated with gladiatorial scenes and dates back to the first century BC.

Some exceptional pieces were displayed. These included the great relief from an as yet undiscovered mythraeum, found near the ancient Etruscan city of Veii (please see Figure 1).¹ A beautiful altar, decorated with symbols pertaining to the cult of Dionysus, which was seized in an area south of Rome, was also exhibited (Figure 2). There was a sarcophagus depicting the Muses with Apollo and Minerva that was of extraordinary quality and conservation. In this case, the grave robbers were caught in the act of unlawfully digging in a field near an important necropolis in Fiumicino, near Rome International Airport (Figures 3 and 4).

This amazing exhibition should perhaps invite us to reflect on the fate of ancient artworks “without origin” that have been spirited away from Italy and subsequently acquired in “good faith” and displayed in the great American museums and in various locations around the world. We must fight this absurd concept that a “beautiful object” can be displayed with impunity, without reference to its context—by simply ripping the object from its natural, intact archaeological site, where it has lain for thousands of years, simply to satisfy the greed and arrogance of collectors and unscrupulous museum directors.

1 Images courtesy of Stefano Alessandrini



Figure 1



Figure 2



Figure 3



Figure 4

***The Billionaire's Vinegar*
(Three Rivers Press, New York 2009)
Benjamin Wallace**

Michael Broadbent is not happy. The former head of Christie's wine auction division agreed to a settlement of his libel suit in 2009 against Random House which gave him money and an agreement from the publisher not to release *The Billionaire's Vinegar* in the United Kingdom. But there was no apology from the author, Benjamin Wallace, for suggestions in the book that Broadbent was lax in his too enthusiastic authentication of a Bordeaux wine said to have belonged to Thomas Jefferson, auctioned to Malcolm Forbes for \$156,000 in 1985, a record price. Wallace never accuses Broadbent of actively participating in a deception as questions were raised about the wine, but he does paint a portrait of Broadbent as someone whose best instincts may have been compromised by his eagerness to find and profit from a new discovery.

And what was that? *The Billionaire's Vinegar* is a fascinating look at a world most of us know nothing of: A world of the very wealthy, obsessed with collecting and tasting the world's oldest wines. To this group, the discovery of a cache of wines purchased by Thomas Jefferson was hard to resist.

Jefferson was known to have been a passionate devotee of Bordeaux wines. In his first term as President, he spent more than \$7,500 on wine—at a time when the presidential salary was \$25,000. He also kept fastidious records and in 1788, while still posted in Paris, he recorded purchasing 125 bottles of Chateau Haut-Brion, and some other vintages. They never arrived. So, when it was announced that bottles engraved with the initials "Th.J." were found behind a wall in an old house in Paris, the wine world took notice.

And thus began an escalating run of old-wine selling for ever increasing prices. Wallace tells his story well. We learn of the small coterie of collectors who come together for tastings—an extreme sport of the wine world. One collector, a Texan named Lloyd Flatt, had a cellar of 30,000 bottles and organized vertical tastings of several classic Bordeaux—Petrus, Mouton, Cheval Blanc. A vertical of Lafite-Rothchild lasted two days and poured vintages from every major year back to 1784. That last one was another Jefferson bottle.

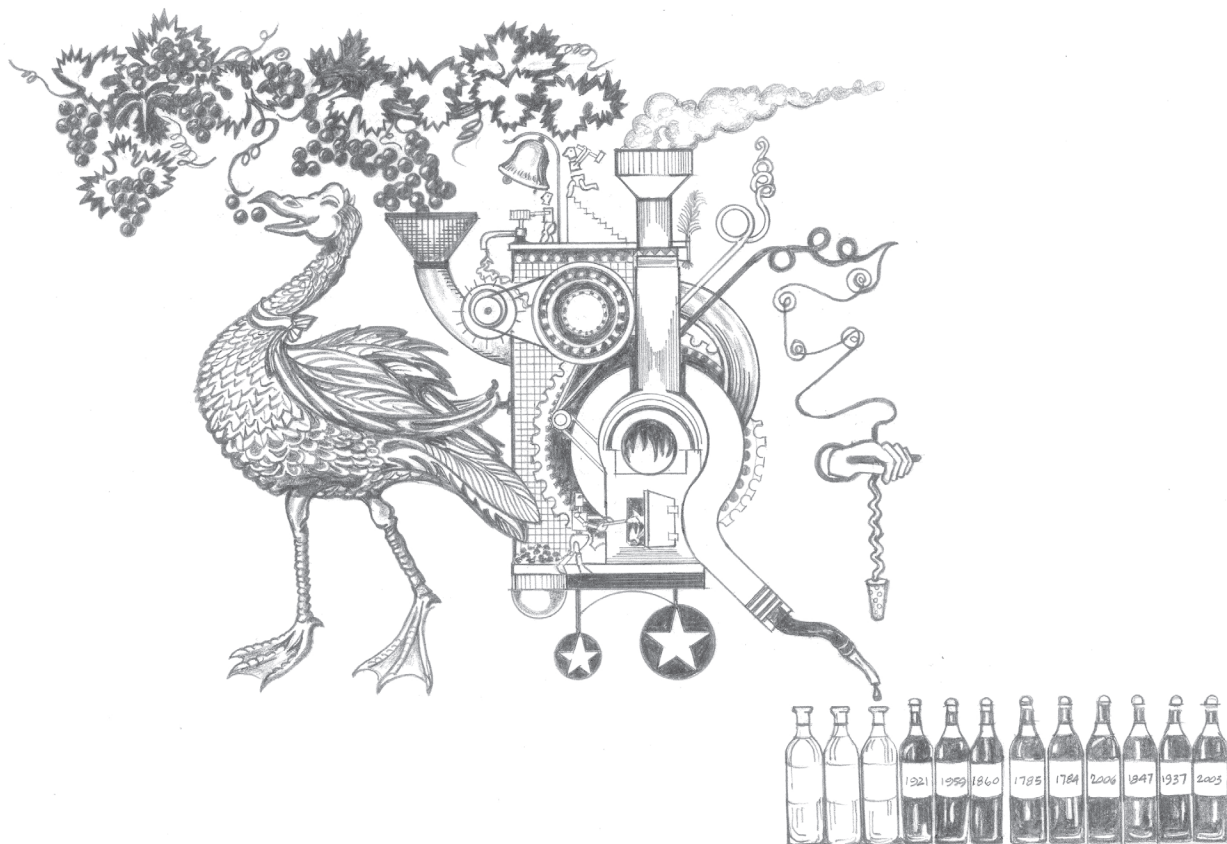
Here the mystery deepens. The mysterious German collector who found the cache of Jeffersons, Hardy Rodenstock, kept producing more and more bottles to sell. He never could

be pinned down to say just how many he had found. And they were selling for ever higher prices, even as questions about their authenticity became more persistent. First the historians at Monticello raised doubts. Then there were concerns about the corks, and about the nature of the bottle-engraved initials.

Science stepped in. We are introduced to thermoluminescence as an age test of a wine, and to cesium and carbon-14 dating. Some of these tests were inconclusive, but some suggested the wine in these old bottles was only a few decades old. Was the engraving on the Jefferson bottles actually done using laser technology? We learn there are ways to artificially age a bottle, a label, the wine itself. It was not just the Jeffersons that were suspect. Ever more classic bottles were questioned—and many of them came from one collector—the elusive German, Rodenstock.

So we have a mystery, with a seemingly inevitable ending—otherwise we would have no story. But the getting-there is well and nimbly told, with sketches of collectors nicknamed Monsieur D'Ychem, and Herr Petrus, ever more elaborate and exclusive (and competitive) tasting events, and then the twisted path toward the discovery of forged wines. Hardy Rodenstock, it turns out, isn't really Hardy Rodenstock, and in his cellar are not only old wines, but old bottles, and blank labels and corks.

Is this about obsession, or greed, or the need to believe? Do you really want to know that the bottle you paid so much for is a fake—when the prestige of owning it is so tempting? If you think a wine is from an extraordinary vintage, does it taste better because it *should*? Who is fooling whom when so much value is placed on history and something so hard to pin down is taste? Michael Broadbent, who has written the definitive book on wine tasting, still thinks that the Jefferson wine is real—and for him it is.



Billionaire Wine Fraud
Bill Lyle

Priceless
(Crown Publishers, New York, 2010)
Robert K. Wittman

Stolen Masterpiece Tracker
(Barricade Books, New Jersey, 2006)
Thomas McShane

In an author's note in *Priceless*, Robert Wittman comments: "To protect my colleagues' identities and to protect certain FBI methods, I have omitted or slightly altered a handful of details. The essence of what happened remains unchanged."

This book recounts various cases during the tenure of the author in art crimes investigations with the FBI. The concluding chapters deal with what was possibly a promising investigative path regarding the Gardner museum theft, which was derailed. Cases reported include those in Europe and Scandinavia as well as the United States and provide interesting insights into complex investigations as well as relationships between agencies across international borders. In some instances Wittman is critical of the FBI's organization and approach to investigative techniques in unique cases such as art theft. On page 288 he writes "Street agents have a saying that explains this mentality: Mind over matter. The bosses don't mind and the agents don't matter."

The book details the training of new investigators by the author as well as his initial experience at "learning the trade." Wittman shares some tragic personal experiences early in his work with the FBI. While they do not seem relevant to the theme of the book, they do provide insight into Wittman the man and to his commitment to protect national treasures. Much of the book is devoted to the complexity of undercover investigations and to the skills that must be mastered to conduct them successfully.

Thomas McShane reports on various international undercover criminal investigations in which he was involved during his 25-year career with the FBI, at the same time, in part, as Wittman's, although in different offices; McShane in New York and Wittman in Philadelphia. Each describes himself in his book as a senior art crimes investigator.

Often in vivid, fast-moving detail, McShane describes the challenges of working undercover on major art crime cases around the world. He also provides good primer background information on the extent and nature of the problems involved in art crime. Finally, he reports on interesting interactions and

verbal exchanges between players in the recovery of stolen art.

While it is a bit difficult to determine, on reading these books, exactly where the emphasis and investigative responsibility for complex art crimes rest, each book does provide a personal perspective on the history of art theft investigations by law enforcement in the United States. They are both worthy additions to a personal library on art crime.

Note: Both books report the authors as senior art theft investigators with the FBI. On the dust cover of McShane's book there is this observation: "His expertise and determination prompted FBI Director William H. Webster to name McShane as the Senior Investigator of the FBI's expanding Art Squad." The dust cover for Wittman's book notes: "He created and was senior investigator for the bureau's Art Crime Team." The Art Crime Team was established in 2004 and is today coordinated in Washington as the Art Theft Program (FBI Web Page), with a staff of 13 dedicated agents.

With regard to this legacy, it is also interesting to note that the January 1979 issue of the "FBI Law Enforcement Bulletin" in an article by Donald L. Mason, formerly an agent with the FBI states:

The United States is burdened with a significant art theft problem, too. Exact figures are evasive because police agencies in America are not required to break down thefts by category, but the problem was significant enough to cause the Federal Bureau of Investigation to establish the Nation's first art theft specialists some 15 years ago.

-FBI Law Enforcement Bulletin, January 1979, Federal Bureau of Investigation, Washington

A Real Van Gogh: How the Art World Struggles with Truth
(Amsterdam University Press 2010)
Henk Tromp

The art world wants to be tricked.

That is certainly the conclusion one comes away with after reading *A Real Van Gogh*, Henk Tromp's thoroughly researched, highly readable, fascinating new book, which uses the history of van Gogh authenticity and forgery debates to discuss what happens in the art world when someone cries wolf. It's not a pretty picture for the expert who deigns to proclaim a work inauthentic.

Tromp's book does an admirable job of balancing a text that is rigorous in its academic research (use of primary source documents, copious citations, application of methodologies), with a narrative that is gripping enough to keep you reading. The core of the book involves a series of lawsuits, some of which turned into real courtroom dramas, surrounding the authenticity of works by van Gogh. We're used to hearing about contemporary cases in which the authenticity of ancient or Old Master works are in question. But it's an interesting setting to find the debate about van Gogh raging a mere three decades after his death, in 1890. The central figures in this story are a series of experts, connoisseurs—which is now a dated term (please see my "Lessons from the History of Art Crime" article in this issue for more on connoisseurship and methods of authentication). Scientific analysis and provenance research are now the preferred means of authenticating; however, personal expertise maintains a strong, pseudo-mystical foothold in the art world, even today.

The issue of the refusal of the art world to accept bad news from experts, and the rivalry among experts within the battles to authenticate the work of van Gogh, forms the core of Tromp's excellent book. The most famous case involves the trial of Otto Wacker, who claimed to be the dealer for a Russian who escaped the Communists and needed to sell his collection of thirty-plus van Goghs to save his family. Wacker refused to reveal the name of this Russian, who quite obviously did not exist. He was brought to trial for fraud, falsification of documents, and breach of contract when a number of the buyers of his "van Goghs" learned from experts that they were fake. The resulting trial was a showcase of expert versus expert. Tromp's protagonist is Jacob Baart de la Faille, author of the first major catalogue raisonné of van Gogh's work (in which every extant work by the artist is listed and described, along with its location). But de la Faille wound

up vacillating, changing his mind about the authenticity of the Wacker van Goghs a whopping five different times. His rival was H. P. Bremmer, a pompous, condescending, and self-important art expert who once said of an Odilon Redon drawing, that even if Redon himself declared the drawing one of his best, Bremmer would still know that it was a fake, because declaring authenticity was Bremmer's job, not the artist's.

The 1932 Wacker trial may be the result of the first police investigation of a suspected forger in the modern era. The police discovered that Otto Wacker's brother, Leonhard, was the forger—unfinished "van Goghs" were found in his studio, and it was later learnt that Otto and Leonhard's father, Hans Wacker, had been an Old Master forger. Otto was sentenced to a year in prison, appealed, and to his dismay found his sentence raised after the appeal to a year and seven months.

Tromp emphasizes the damage that can come from even the suspicion of inauthenticity in personal, financial, and even collective, national cultural spheres. On the one hand we have Chester Dale stubbornly insisting, in spite of all the contrary evidence, that a painting he had purchased is a van Gogh, saying: "I know of course that this is a controversial painting, but as long as I am alive, it will be genuine." But nations grapple with the subject, as well. William Goetz, the American head of Universal Studios, bought *Study with Candlelight*, a newly-discovered work that De La Faille championed as a van Gogh masterpiece, but which was considered a fake by Willem Sandberg, director of Amsterdam's Stedelijk Museum. Goetz was enraged and immediately sent his lawyer to Amsterdam, demanding expert examination of the painting and a symbolic payment of 10 cents for libel damages. The city of Amsterdam, which runs the Stedelijk, steadfastly refused to participate in the discussion, stating that this was a matter of personal opinion between Sandberg and Goetz. The city feared a souring of Dutch/American relations, which threatened to scupper a proposed blockbuster van Gogh monograph exhibition that was planned to tour the United States. In the process of this debate, the press declared Sandberg a Communist, for deigning to denounce a work in an American collection. The Dutch government asked Sandberg to keep his opinions to himself for the sake of international relations. From a personal to a national level, the unspoken rule of the art trade is the same: in questions of authenticity,

one should remain noncommittal.

In the end, Chester Dale chose to believe that his van Gogh was authentic. He also hid scientific evidence and falsified provenance in order to trick the National Gallery in Washington, D.C., into accepting and displaying his fake. William Goetz bullied with threatened lawsuits and political power plays until the nay-sayers felt compelled to hush up. Bremmer was so confident in his own abilities, that he would overturn the pronouncement of an artist about the artist's own work. And Otto Wacker so fervently argued his innocence in the blatant forgery sales for which he was tried that he seemed to have convince himself that he was guiltless.

The moral: keep your mouth shut and *will* every questionable artwork to be legitimate. If everyone believes it's legitimate, whether it is or not, it is.

The Taste of Angels

(First American Edition; Little Brown and Company, Boston. 1948)

Francis Henry Taylor

Art Plunder: The Fate of Works of Art in War and Unrest

(John Day, New York. 1961. Library of Congress Card Number 61-11465)

Wilhelm Treue

Translated by Basil Creighton

These two books, presently out of print but available from time to time from second-hand internet-based booksellers, are valuable sources for any student of art crime, particularly during times of war. Both were published in an era when written scholarship was not overburdened by a surfeit of footnotes and referencing, which can be frustrating in the search for original sources. But in both books this makes for easier reading, and for a seamlessness of narrative style replete with authoritative summaries of the sweep of, in particular, Western European history. This is refreshing, especially for the reader newly embarking on the study of art crime.

The first book is a magisterial work by the man who was, for 15 years from 1940, the Director of New York's Metropolitan Museum of Art. In that position he played a vital and direct role in the events leading to the creation of the Monuments Men as part of, first, the United States Army, and later the English armed forces, as described, for example, in Edsel's *Monuments Men: Allied Heroes, Nazi Thieves and the Greatest Treasure Hunt in History* (Preface, 2009).

The Taste of Angels does not focus directly on the crimes done to works of art. Rather, as Taylor notes in his Preface, its concern is the history of art collecting, "a complex and irrepressible expression of the inner individual, a sort of devil of which great personalities are frequently possessed." Over almost 600 pages, his account of the collecting impulse begins with the Egypt of the Pharaohs, through brief forays into Hellenic and then Roman civilisations, before alighting on an extraordinary range of, mostly individuals and their collecting efforts, which will occupy him, in various forms but with numerous diversions, for the rest of the book — turning first to the Italy of the Renaissance and the Medicis, and then to the "corporate efforts of an undying spiritual and temporal authority" — the Papacy. Taylor follows this with a survey of the 600 year span of the activities of the House of Hapsburg, from the 13th to the 19th centuries, the "glorious Sunburst of the Stuarts — Charles, Buckingham, and Arundel," before diverting into Spain and the Low Countries, until finally closing with an extended discussion of the activities of royal, aristocratic, revolutionary, and autocratically inclined

imperial collectors in Italy, France, Germany, and England, until the fall of Napoleon.

Crimes against art are an occasional backdrop to this eclectic and far-ranging narrative. From Cicero's prosecution of Verres, the Proconsul of Sicily, through the seizing of the collections of Emperor Rudolph II by "the Czechs, the Saxons and above all by the Swedes," the latter at the urging of "Mad Christina" of Sweden during the siege of Prague at the close of the Thirty Years' War, to a detailed consideration of the depredations of, first, Revolutionary and then Imperial France under Napoleon, Taylor provides a sweeping, albeit unavoidably disjointed at times, survey of large swathes of European history, and the vicissitudes visited upon many of Europe's greatest art treasures. He can be entertainingly vivid in his generalisations: When talking of the collection amassed by Jean de France, the Duc de Berry, he sums it up in a damning final sentence: "It was first and last the collection of a feudal lord into which as yet had blown no faint breath of the humanism of Renaissance Italy"; and, speaking of Germany in the seventeenth and eighteenth centuries: "There is poetic justice in the fact that the country, which produced the dullest chapters in the history of taste should have been the one to produce the most lavish and highly documented commentaries on them."

The book is described on the dust-jacket as "a blend of biography, history, and appreciation of art." That is an accurate description of the ingredients of the mix Taylor creates, and he has mixed it well, albeit conservatively, into an unusual but valuable treatise.

Wilhelm Treue's small (250 pages) work, evocatively translated by Basil Creighton, is an illuminating precursor to the modern study of art crime, pre-dating as it does by many decades more recent works such as Lynn Nicholas's, *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War*. (Vintage, 1995) or Chamberlain's *Loot: The Heritage of Plunder*. (Sutton 2003). It is probably the earliest work of serious scholarship that sets out to survey, in a coherent form, the long history of art crimes committed

during times of war. Entirely bereft of footnotes, and missing a bibliography, often the primary source material is not immediately obvious, nor readily accessible to the present-day reader. But, as already noted, this promotes ease of reading, and, as long as the reader is not specifically looking for easy directions to the primary sources, is not too great a handicap.

Treue, like Taylor, introduces Cicero's prosecution of Verres early in his discussion, swiftly traverses the Dark Ages and the early Middle Ages, as he terms them, before alighting on the momentous events of that great military detour, the Fourth Crusade, and the sack of Constantinople by 'the Latins,' in 1204. Subsequent chapters cover events in the same city in the mid-15th century and in what is now Germany, 25 years later, before describing the Sack of Rome in the 16th century, "an event of unique horror," carried out by Spanish, Italian, and German mercenaries bereft of promised pay. The Thirty Year's War, the dispersal of the great collection of Charles I, and a consideration of the Parthenon marbles (being in the process perhaps more sympathetic towards Lord Elgin than more recent commentators have been minded to be), follow, before Treue embarks on an extended analysis of French Revolutionary and Imperial plundering, and the unwinding of much of what had occurred, in the days and months both preceding and following the Battle of Waterloo.

Treue's treatment of the plundering of art during the two World Wars in the first half of the 20th century is brief, occupying three short chapters—totalling 33 pages— and his consideration of the Red Army's plundering following the expulsion of the Nazis from Russia, is equally, if not more, superficial. Neither treatment bears comparison with the seminal and groundbreaking work undertaken by Lynn Nicholas and others in recent years.

The philosophical framework underpinning both these works is one that treats art essentially as personal property – whether belonging to an individual (royal or aristocratic, for the most part) or an institution. The concept of works of art forming part of the shared cultural heritage of a nation, or of the wider global community, forms little or no part of that underpinning. Taylor touches on this issue obliquely in a short Epilogue, and Treue likewise notes, essentially in passing, that the upheavals of the Revolutionary and Napoleonic eras triggered a democratization of art that "gave countless persons their first opportunity of becoming acquainted with great art." Nevertheless, a property- and narrative- based approach was probably inevitable, given the time when both works were written and published, and it is not a criticism of the admirable descriptive work of either author. The ideas that underlie the treatment of works of artistic or cultural heritage as unavoidably part of a greater human heritage, while having their roots in ideas that found concrete expression in, first, the Leiber Code of 1863, and subsequently in public

international law through such instruments as the Hague Conventions of 1899, 1907, and 1954, and events such as the Nuremberg War crimes trials, have only relatively recently moved to the forefront of analysis of art and cultural heritage crime generally, and, specifically, in relation to such crimes perpetrated during times of armed conflict.

Both books are readily accessible narratives that stand out as important resources for the study of art crime.

***Crimes of the Art World*
(Praeger Press 2010)
Thomas D. Bazley**

***Art and Crime: Exploring the Dark Side of the Art World*
(Praeger Press 2009)
Noah Charney, Editor**

Thomas Bazley, a retired postal inspector and current criminology professor, has produced an excellent introduction or survey of crime within the art realm. The author approaches the subject from a unique perspective by situating art within the context of varying types of criminal activities and behaviors. As he states in the book's preface, the original goal of the work is to bridge the gap between two divergent fields, criminology and art history, and to further contribute to the emerging, yet still limited, art crime literature.

Writing with a mild mannered and easy-to-read prose, the author opens the book with a summary chapter outlining basic definitions of what constitutes art, why it is valuable, and how acts and behaviors are socially constructed and defined as crimes. The next three chapters discuss the most common property and violent crimes as they intersect with the art world and its patrons. Drawing on academic research, Bazley presents a typology of art theft as it is, and has been, perpetrated through burglary, larceny, and robbery. In addition to presenting the reader with a voluminous catalog of historical cases, the author cogently analyzes and synthesizes the research literature to present the basic demographics and topology of art theft, including profiling the typical offender, presenting motive, and elucidating on how stolen art is managed within the criminal underworld.

Chapters four through eight continue this tour with fairly succinct sections on fraud and forgery, looting, theft during war time or political unrest, vandalism and malicious destruction of art, and an interesting section on the perpetration of white collar crime by museum curators, gallery owners, and collectors. The author presents a good review of celebrated forgery cases as well as a discussion on how fakes and forgeries can slip through the proverbial cracks. Bazley offers an excellent introductory summary of the effects of war on art with particular emphasis on World War II and Nazi Germany. Looting of cultural artifacts receives considerable attention, with the author following his recurrent theme in which he bemoans the lack of valid data and research information surrounding the theft of art and artifacts. Perhaps the most intriguing chapter addresses white

collar crime in the art community. Numerous illustrative case studies and examples can be found throughout the volume with the author presenting Marion True's former activities at the Getty, and covert collusion between Christie's and Sotheby's executives in a 1990s anti-trust action as examples of criminal and civil wrongdoing among members of the art and museum communities.

Overall, Bazley does achieve his stated goal and offers a solid introductory text that provides the reader with the basics of Art Crime 101. The volume is replete with current case studies as well as summaries of the extant academic and research literature where applicable and available. The work also contains a summary appendix of law enforcement and private agencies that investigate art crimes and maintain stolen works databases as well as offers a solid overview of loss prevention techniques and a primer on the basics of scientific detection and testing of suspect art works.

Bazley offers a basic introduction or provides a framework or survey of the field; Noah Charney's edited work provides the canvas and the paints to complete the masterpiece. Drawing on the expertise of the book's 24 contributors, all of whom are renowned experts and scholars in their respective areas, Charney has produced the definitive text for those who are interested in the historical, sociological, criminological, and legal aspects of crime involving art and the art world.

The edited work is divided into six sections with the first covering the theft and looting of antiquities and the second providing four concise chapters on art thieves, forgers, and the nexus between art theft and organized crime and terrorism. The third and fourth sections specifically address art theft and museum security while the fifth section covers thefts from, and security issues at, libraries, archives, and special university collections. The final selection contains chapters which delineate the relationship between art and international rule of law during wartime.

Derek Fincham opens the book with a heartfelt and thoroughly convincing argument as to why looting matters

and how it subverts the importance of archaeological context and subsequently our own understanding of our shared historical past. David Gill and Toby Bull both provide excellent synopses on looting and transporting stolen artifacts with Gill cataloging the fate of numerous Italian pieces while Bull takes the reader on a trek involving forged antiquities. This expedition moves from Southern China to Hong Kong, where they are washed or made legitimate by a lack of due diligence on provenance documentation, into the United States and eventually into the hands of collectors, galleries, and museums.

This reviewer particularly enjoyed the readings in the second section as they provided a robust discussion on who steals art and why, where stolen art goes and how it gets there, as well as an intriguing story on Picasso's involvement in the dark side of the art world. Art scholars and police detectives alike will appreciate Tjihuis's chapter in which a typology of art theft is derived from empirical data. Polk and Chappell round out the section with a succinct summary on art fraud including commentary on fakes, forgeries, altered works, and reproductions, and how most cases involving inauthentic work go undetected and, thus, the offenders are consequently rarely prosecuted.

Section three includes readings on how crime impacts the art trade with Dorit Straus guiding the reader through the intricate process of underwriting and insuring art, while Charney discusses four major criminal activities and how they negatively, and in some rare cases positively, shape the art world. The section concludes with a paper by Pastore who offers sound advice on preventing art theft and fraud and includes some novel and perhaps controversial recommendations, which will certainly spark much debate. Pastore's chapter serves as a nice lead in to the fourth section, which provides the reader with an in-depth overview of security, risk assessment, and practical guidelines for training a proactive security force as implemented by Dick Drent at the Van Gogh Museum.

The final two sections address the often overlooked, understudied and underreported, crime of rare book and manuscript theft and the nexus between art, law, and wartime. Readers will enjoy both McDade's lively accounts on the operations of past book thieves as well as Kleberg's recommendations for developing an inventory control system at a major university. Arthur Tompkins, a presiding district court judge, offers an excellent legal commentary on international law and the recovery of stolen and looted art and antiquities while Erik Nemeth's historic model of recovery and repatriation serves as a nice complementary piece to round out the section.

Both books will appeal to, and should be read by,

students of art crime, law enforcement executives, as well as members of the art profession, especially museum directors and private security personnel. Read in tandem, both works provide the reader with not only an introduction to the field but also an excellent summary of prior research, identified areas where further work is needed, and a frank discussion of existing problems, gaps to be closed, and missing necessities such as more comprehensive databases, the strengthening and enforcing of legislation, and proactive security measures.

Martin Finkelberg has over 34 years of experience in policing and investigating firearms, counter terrorism, questioned documents, counterfeit currency, and, now, art crime. He leads the Dutch Art Crime Team, which is part of the Netherlands Police Agency.

1. How did you become involved in art crime investigation?
In 2006, when I was still in charge of the national Firearms Unit, I was asked if I could build, or rather develop, a database for stolen art because I had some experience in developing databases for travel documents and firearms. At that time we did not have an Art Crime Team, which meant I instantly became THE expert on art crime in the Netherlands. Since the beginning of this year, art crime is my full time job. We are now a team of three, and, fortunately, one of the members has a degree in art history.
2. What is the remit of the new Dutch Art Crime Team?
The Dutch Art Crime Team is part of the Netherlands Police Agency (KLPD). Our mission is to support the local police forces in their everyday work by being a national center of expertise, so to speak. This means that we do not chase after the bad guys ourselves, but we do a lot of desk work to provide the local police with the necessary intelligence and expertise in order to enable them to do what needs to be done. This is both a national and an international task.
3. How big of a problem is art crime in the Netherlands?
Considering that we have only started to analyze criminal activities relating to art crime since the beginning of this year, I'm afraid it is too soon to define the art crime problem in the Netherlands. However, we are convinced, on the basis of what we have seen so far, that art crime extends to the higher levels of organized crime.
4. The Port of Rotterdam is the largest port in Europe and one of the busiest ports in the world: Do you think it and the other ports located in the Netherlands will increase the amount of illegal art and antiquities traffic you police?
If you bear in mind that the Port of Rotterdam alone handles over 10 million containers each year, I'm convinced it will. The same goes for Amsterdam International Airport with over 40 million travelers each year. But rather than the police, it is customs who are who are responsible for policing this traffic. However, since police and customs have different, but in line, jurisdictions it is essential that we work closely together.
5. Is working with other international agencies important to the success of the Dutch Art Police unit?
Definitely! Art crime is cross-border crime and in order to do anything about it, cooperation with international partners, police or otherwise, is paramount.
6. The Netherlands is home to many of the world's great art museums, like the Van Gogh Museum and the Rijksmuseum: Do you work with the security at individual museums to help prevent art crime?
Yes, we do. Fortunately many heads of security are former policemen. They understand the kind of information police need—which means they understand how to deal with the information I need to share with them in order to pursue my investigations. In fact the guys at the Van Gogh and the Rijksmuseum are former colleagues who I used to work with here at the Netherlands Police Agency. We see each other on a regular basis.
7. What is the biggest challenge the Dutch Art Crime Team faces in recovering a stolen work of art?
Our biggest challenge is to convince local police forces that recovering stolen art is, odd as it may seem, not a police task, but that it will help to identify the perpetrators and thus solve cases.
8. Describe an average day for the Dutch Art Crime Team.
Due to the nature of our organization it is basically digging through a lot of mail and hundreds of police reports and finding clues that may lead to identifying criminals. We then analyze the information and present the outcome to the local police forces and/or the public prosecutor's offices. We also take care of our national database on stolen art. And, of course, we have our daily communication with international contacts to exchanges information and to liaise our local police forces with colleagues abroad. I myself do a lot of talking to promote our team. Art crime, which includes not only art theft but also illegal trade in cultural property, treasure hunting, counterfeiting etc., is subject to all sorts of laws and regulations that are rather complicated and relatively new to Dutch policing. In order to shed some light on this "new" police task, I work closely together with my colleagues from the Ministry of Culture.
9. What piece of advice would you offer to individuals interested in pursuing a career in art crime investigation?
The most important thing is sharing information

whenever possible. Think as a team and act accordingly. This way, one is more likely to both recover the stolen items and to capture the criminals. This goes not only for the police, but also for private corporations and individual members of the public. No one has ever scored a touchdown by sitting on the ball.

10. What would you most like to see the Dutch Art Crime Team achieve in the next 5 years?
The most important achievement would be to have fighting art crime on our national police agenda of priorities.

Paul Brachfeld is the Inspector General of the National Archives and Records Administration (NARA). He began his career in the Federal Government with the United States Secret Service before transferring to the United States Customs Service and ultimately to the Treasury Department Office of Inspector General. After leaving the Treasury Department, Brachfeld served as the first Assistant Inspector General for Audits (AIGA) at the Federal Elections Commission. Directly prior to assuming his post at NARA, he was the AIGA of the Federal Communications Commission, Office of Inspector General. Brachfeld is responsible for establishing the Archival Recovery Team (ART), which focuses upon detection, investigation, recovery, and prosecution of missing and stolen holdings.

1. As the Inspector General of the National Archives, what led to your creating the Archival Recovery Team (ART)?
ART as a concept was created to fill a void that existed when I became Inspector General of the National Archives in 2000. As an institution we lacked a mechanism to respond to the theft of our holdings. I felt that it was time to step up to the plate and I felt that the Office of Inspector General was the entity best equipped to do so. If employees or visitors to the Archives were going to steal from the holdings of the American people, I felt that they deserved a worthy adversary. We're more than happy to fill those boots.
2. Who are the members of the ART team and how were they selected?
The direct response to the question is that the ART team is presently composed of an Investigative Archivist and two Special Agents with additional support staff as necessary. However, in actuality, the ART team has grown to thousands of people we call "sentinels," who have been educated in what we are attempting to do and support our mission by monitoring trade shows, online auctions etc., looking for potential alienated federal records or artifacts. They are our eyes and ears and serve as our tripwires.
3. What is the biggest challenge ART faces in recovering missing documents and materials?
The biggest problem is meeting the legal requirements to prove that a record or artifact we believe is "ours" was actually in our holdings. In simple terms, can we prove that a document was stolen from our collection? The National Archives does not have item-level inventory and we hold vast quantities of records and artifacts, so the challenge is quite evident.
4. Have you found social media to be useful in ART's effort to recover stolen and missing documents?
Yes, we have embraced social media to spread the message that we exist. When citizens become aware that there are dedicated Federal employees seeking to protect our national heritage they "enlist" and join the team.
5. How does the National Archives address the tension between the role it plays in providing public access to national artifacts and the need to secure and protect these national treasures?
The National Archives as an institution seeks to make as many of our original holdings accessible as possible. However, to protect holdings from both theft and degradation, certain original records are withheld from circulation. Of course, there are numerous layers of physical security and clean room provisions are in place for researchers in viewing any records be they documents, images, or artifacts.
6. One of the biggest problems facing museums, archives, and libraries is insider theft. Why do you think this is so?
There are numerous factors in play here. Access, knowledge, and imputed trust are a cocktail that serves to facilitate theft. Most employees are simply trusted; it is human nature to trust your peers. They have access rights and capacity that researchers lack; thus they have alone time with holdings. They possess institutional knowledge so they know what's "on the menu." As such they can discern what is marketable. They are equipped by their knowledge to cover up the crime leaving little if any trace and they can freely leave the building.
7. What security measures does the National Archives use to prevent insider theft?
The National Archives has state-of-the-art security in place but insider theft poses a unique challenge. A large part of the ART program is looking at what is being sold on the market (with support of our sentinels). Alerted that a NARA holding is out there we work backwards. Experience shows that this process works since we have identified employees who violated the trust of their peers, the institution, and our stakeholders.
8. Do eBay and other online auction sites contribute to the theft of archival materials?
They are the disease and they are the cure. They facilitate

rapid and faceless trading of items that have been stolen from our collection. However, the sales are monitored by my staff and our sentinels and this results in the detection of alienated NARA holdings. From that point on, eBay and other online entities are wonderful at leaving bread crumbs for skilled investigators to follow.

9. What steps can a buyer take to avoid purchasing stolen or fake historical documents or memorabilia?

Employing professional skepticism and seeking expert opinions is crucial. It's like anything else in this world: You should keep both eyes open and your hand on your wallet because there are troves of unscrupulous people out there. I certainly invite readers to contact the Archives Recovery Team at MissingDocuments@nara.gov or 1-800-786-2551.

10. What missing item from the National Archives would you most like to recover?

I suppose the answer should be the Wright Brothers patent, but a little voice in my head keeps saying the Franklin Delano Roosevelt Presidential portrait that disappeared from the FDR Library in Hyde Park, New York.

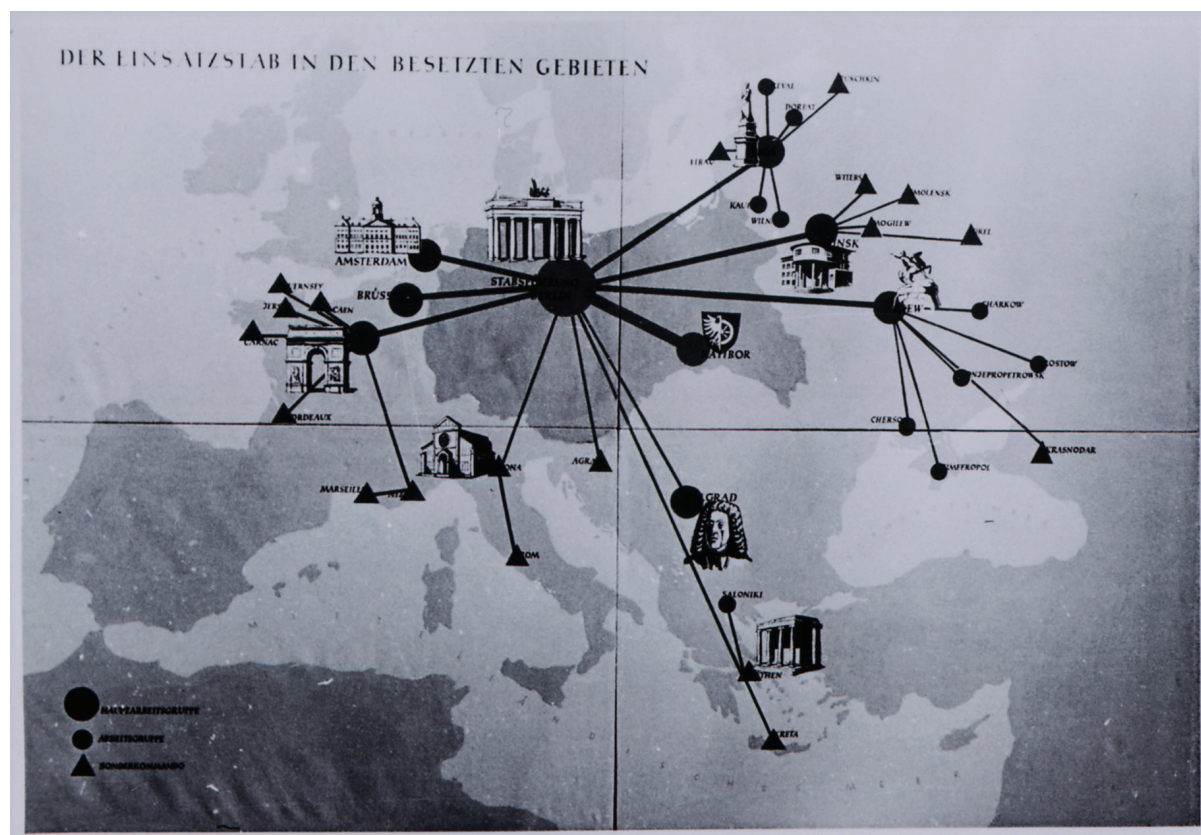
Reconstructing the Record of Nazi Cultural Plunder
The Dispersed Archives of the Einsatzstab Reichsleiter Rosenberg (ERR)
A Survey and Preliminary Guide

Compiled by Patricia Kennedy Grimsted

To be published online by the International Institute of Social History (IISH), forthcoming late Spring 2010

<http://www.iisg.nl/publications/digipub.php#respap>

In association with the Netherlands Institute of War Documentation (NIOD), Amsterdam, with generous support of the
Conference on Jewish Material Claims Against Germany (Claims Conference)



The Einsatzstab Reichsleiter Rosenberg (ERR), the “Special Task Force” headed by Adolf Hitler’s leading ideologue Alfred Rosenberg, was one of the main Nazi agencies engaged in looting cultural valuables in Nazi-occupied countries during the Second World War. The detail with which the ERR documented the art, archives, books, and other Judaica they plundered has proved essential for the recovery of cultural valuables after the war and their return to victims or heirs.

An extensive international survey and preliminary guide, describing the archival remains of the (ERR), is being prepared for launch on the website of the International Institute of Social History (IISH) in Amsterdam. The preliminary guide describes remaining ERR files in 29 repositories in 9 countries. On the basis of this guide, plans are underway to create a virtual ‘reconstruction’, a consolidation of dispersed ERR documents in a searchable digital system in conjunction with the German Federal Archives (Bundesarchiv) and cooperating repositories, as a major new component of the record of wartime cultural plunder and retrieval.

Repositories Covered

1. BELGIUM

- 1.1. Algemeen Rijksarchief / Archives générales du Royaume, Brussels
- 1.2. Service des Victimes de la Guerre (SVG) / Dienst voor de Oorlogsslachtoffers (DOS), Archives, Brussels
- 1.3. Centre d'Études et de Documentation Guerre et Sociétés Contemporaines (CEGES)/Studie-en Documentatiecentrum Oorlog en Hedendaagse Maatschappij (SOMA), Brussels
- 1.4. Stadsarchief Gent

2. FRANCE

- 2.1. Ministère des Affaires étrangères et européennes (MAEE), Direction des Archives, La Courneuve
- 2.2. Centre des Archives diplomatiques de Nantes (CADN)
- 2.3. Archives des Musées Nationaux (AMN), Paris
- 2.4. Archives Nationales-site de Paris
- 2.5. Mémorial de la Shoah: Centre de Documentation Juive Contemporaine (CDJC)
- 2.6. Dépôt central des archives de la Justice militaire

3. GERMANY

- 3.1. Bundesarchiv (BArch), Berlin-Lichterfelde
- 3.2. Bundesarchiv, Koblenz
- 3.3. Bundesarchiv Bildarchiv, Koblenz
- 3.4. Bundesarchiv-Militärarchiv, Freiburg
- 3.5. Auswärtiges Amt, Politisches Archiv (PA AA), Berlin
- 3.6. Bundesamt für zentrale Dienste und offene Vermögensfragen (BADV)
- 3.7. Institut für Zeitgeschichte (IfZ), Munich
- 3.8. Zentralinstitut für Kunstgeschichte (ZI), Munich

4. LITHUANIA

- 4.1. Centrinis Valstybinis archyvas (CVA), Vilnius

5. THE NETHERLANDS

- 5.1. Nederlands Instituut voor Oorlogsdocumentatie (NIOD), Amsterdam
- 5.2. Additional Möbel-Aktion Documentation (not in the NIOD)

6. RUSSIAN FEDERATION

- 6.1. Rossiiskii gosudarstvennyi voennyi arkhiv (RGVA; former Special Archive), Moscow
- 6.2. Gosudarstvennyi arkhiv Rossiiskoi Federatsii (GA RF), Moscow

7. UKRAINE

- 7.1. Tsentral'nyi derzhavnyi arkhiv vyshchikh orhaniv vldy ta upravlinnia Ukraïny (TsDAVO Ukraïny), Kyiv

8. UNITED KINGDOM

- 8.1. The National Archives of the United Kingdom (TNA), Kew
- 8.2. The Imperial War Museum (IWM), Collections, London

9. UNITED STATES OF AMERICA

- 9.1. National Archives of the United States (Archives II), College Park, MD (NACP)
- 9.2. United States Holocaust Memorial Museum (USHMM), Archives, Washington, DC
- 9.3. YIVO Institute for Jewish Research, Archives, New York City

A Correlation Table for Art Collections Plundered by the ERR from France and Belgium, including Möbel-Aktion Collections – with ERR codes, inventories, registration cards (NACP, RG 260), and photographs (BArch B 323 and NACP, RG 260); a descriptive list of ERR wartime repositories; a list of Acronyms; and an extensive Bibliography are included.

More than 10,000 Unrestituted Nazi-Looted Art Objects Now Listed on Internet; Call to Museums, Dealers to Check Holdings

The Nazi records and photographs of the looting of more than 20,000 individual art objects from Jews in France and Belgium are now online in a searchable database, which shows that at least half the objects have not been restituted to their original owners. This new listing – searchable by item, artist, owner, and whether items have been returned – should be consulted by museums, art dealers, and auction houses to determine whether they hold any Nazi-looted art, and by families seeking long-lost valuable heirlooms.

Many families know or believe that relatives killed in the Holocaust owned artworks, but may not know the pieces' names or artists; this list can help them search family holdings. However, there is no centralized claims process for unrestituted works in this database. Unlike previous attempts to identify looted art, which have focused on museum collections or lists of claims from individual victims or their heirs, this new database aims to reconstruct the totality of what was seized and from whom, as well as what has been restituted, so as to produce a listing of looted art objects still believed to be "at large."

"Cultural Plunder by the Einsatzstab Reichsleiter Rosenberg: Database of Art Objects at the Jeu de Paume," at www.errproject.org/jeudepaume, is a project of the Conference on Jewish Material Claims Against Germany (Claims Conference) with technical support provided by the United States Holocaust Memorial Museum. It reveals the fate of each of more than 20,000 art objects taken from more than 200 private Jewish collections in German-occupied France and Belgium between 1940 and 1944.

The Third Reich engaged in an unprecedented, systematic campaign to plunder the cultural property of Europe's Jews through theft, confiscation, and forced sales. A special task force, the Einsatzstab Reichsleiter Rosenberg (ERR), gathered hundreds of thousands of art objects and millions of books and archives stolen from Jews and other victims, as well as from museums, libraries, and other cultural institutions. The ERR worked in Nazi-occupied territories, with branches stretching from Paris eastward to Gorky, Russia.

"Decades after the greatest mass theft in history, families robbed of their prized artworks can now search this list to help them locate long-lost treasures," said Julius Berman, Claims Conference Chairman. "It is now the responsibility of museums, art dealers, and auction houses to check their holdings against these records to determine whether they might be in possession of art stolen from Holocaust victims. Organizing Nazi art-looting records is an important step in righting a historical wrong. It is not too late to restore art that

should have been passed down within Jewish families instead of decorating Nazi homes or stored at Nazi sites."

In Paris, the ERR documented each of more than 20,000 art objects on index cards or inventory lists, processing and sorting the looted objects at the Jeu de Paume, then dispatching them to repositories in Germany and Austria. The database presents each of these records in electronic form, listing index card numbers, artwork titles, artists, and detailed descriptions of each work. Many entries include photos of the artworks or objects as well as a scan of the original Nazi record. The database can be searched by owner, artist, or collection, or a combination of criteria.

The database brings together the original ERR records that had been scattered after the war relating to the looted art processed at the Jeu de Paume. The records and historical data in the database had been dispersed among three major repositories--the National Archives and Records Administration of the United States, the Federal Archives (Bundesarchiv) of Germany, and the Archives of the Ministry of Foreign and European Affairs (MAEE) of France.

The website also includes photos of ERR personnel processing and sorting looted cultural property of Jewish families. Photos relating to Nazi art looting usable for print are at www.claimscon.org/artphotos.

The Conference on Jewish Material Claims Against Germany (Claims Conference) represents world Jewry in negotiating for compensation and restitution for victims of Nazi persecution and their heirs. The Claims Conference administers compensation funds, recovers unclaimed Jewish property, and allocates funds to institutions that provide social welfare services to Holocaust survivors and preserve the memory and lessons of the Shoah. For more information: www.claimscon.org. The Claims Conference works in collaboration with the World Jewish Restitution Organization on the Looted Jewish Art and Cultural Property Initiative.

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2011 Masters Program

International Art Crime and Cultural Heritage Protection

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Application and Prospectus are available at www.artcrime.info/education.
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2011 Courses & Faculty

Art Crime and Its History

Noah Charney

Founding Director of ARCA and Adjunct Professor of Art History, American University of Rome

Art and Heritage Law

Derek Fincham

Assistant Professor, South Texas College of Law
Academic Director of ARCA

Criminology, Art, and Transnational Organized Crime

A. J. G. Tijhuis

Lawyer and Professor of Criminology, University of Leiden, The Netherlands

Organization of Art Crime: Villains in Art and Artful Villains Art in War

Petrus van Duyne

Professor of Criminology, University of Tilburg, The Netherlands

Judge Arthur Tompkins

New Zealand District Court Judge and Honorary Member of Interpol's DNA Monitoring Expert Group

Art History and the Art World

Tom Flynn

Art Historian

Archaeology and Antiquities

Valerie Higgins

American University of Rome

Investigation, Insurance, and the Art Trade

Dorit Straus

Director of World Art Insurance, Chubb

Art Policing and Investigation

Richard Ellis

Director, The Art Management Group, former Director, Scotland Yard Arts and Antiques Unit

Museums, Security, and Art Protection

Dick Drent (tentatively scheduled)

Director of Security, van Gogh Museum, the Netherlands

John Vezeris (tentatively scheduled)

Annapolis Security Group

Please contact Mark Durney at mark@artcrime.info with any inquiries.

Jean Fouquet

Madonna and Child

from the Melun Diptych (1450)

Koninklijk Museum voor Schone Kunsten, Antwerp

Fouquet (1420-1481) was the leading French painter of the 15th century, a period in which Italian and Flemish painting outshone all others. But France could boast mastery of manuscript illumination. Fouquet began his career as an illuminator, and brought his talent for detail and precision to his panel painting.

Little is known about Fouquet's life beyond the fact that he was born in Tours and went on an artistic pilgrimage to Italy in 1437. This panel is the right half of the so-called Melun Diptych. The accompanying left-hand panel, on display at the Gemaldegalerie in Berlin, depicts the donor, Etienne Chevalier, being presented by his patron saint, Saint Stephen. Chevalier was a knight from Melun in France, and was French Ambassador to England in 1445. In 1451 he would become the Treasurer to Charles VII of France. An important and wealthy official, Chevalier commissioned this diptych (two-panel altarpiece) for his native town.

The vivid color of this altarpiece, broad swaths of pigment with little in the way of light suggested, is indicative of a medium that was in its death throes. Tempera, a painting technique in which ground pigments are bound with egg white, was the dominant painting medium up until this point, when it was replaced by oil paints, which use linseed and nut oils as the binder. Oil paints are translucent, and permit greater detail and the illusion of painted light, refraction, and layering. Tempera on the other hand is essentially opaque, one layer blotting out the layer beneath it. Jan van Eyck's Ghent Altarpiece, also on this list, was the first monumental artwork in oil, and led a painterly revolution. While tempera would remain the medium for frescoes, oil took over for works on panel or canvas. Fouquet's *Madonna and Child* is one of the last important monumental panel paintings to have been executed in the dying medium of tempera.

Strangely enough, the original frames of this painting were covered in blue velvet wound with silver and gold threads decorated with the donor's initials spelled out in clusters of pearls. This would have made a striking resonance with the blue of the patterned angels behind Mary's throne.

The painting itself is strikingly modern. The skin tone of the Madonna and child has been bleached into a marble-like whiteness with none of the warmth of humanity. This is a painting of an impossible stone sculpture, complete with

gravity-defying breasts slipping out of loosely-fitted blue leather garments. Mary is far too sexy. The angels behind her are like wallpaper emerging and surrounding her throne. Red angels represent seraphim, the warrior angels, while the blue angels are the messengers, cherubim, each interlocked so that their illusory three-dimensional forms become a two-dimensional surface. The angelic backdrop, like a stage curtain, recalls M. C. Escher prints, made five centuries later.

A love story is woven into the fabric of this altarpiece. The model for the Madonna was Charles VII's mistress, the renowned beauty Agnes Sorel. Something fishy may have gone on between Chevalier and Sorel, because an 18th century inscription on the back of this panel reads that Chevalier commissioned the diptych after having promised Sorel that he would do so, as she lay on her deathbed.

Hugo van der Goes

Death of the Virgin (1480)

Groeninge Museum, Bruges

Perhaps there is something to the oft-said dictum that only melancholic souls create great art. The list of unhappy, marvelous artists is endless, while it's rarity to find a happy-go-lucky artistic genius. Poor old Hugo van der Goes glumly lurks at the extreme end of the unhappiness meter.

Hugo (1440-1482) was born near Ghent, where he entered the painter's guild and later became its dean. He was part of a decoration team that decked out the city for the marriage celebration of Charles the Bold and Margaret of York. The couple were so impressed with his work that they would later hire him. This brings up an overlooked medium in artistic history—the creation of temporary decorations for festivities. Much money and artistic time was spent in designing and building elaborate stage sets to celebrate military triumphs or marriages. That would not be a problem, except that such decorations were not built to last, nor were they cared for as artworks of merit beyond the celebration. So many works of reported genius, as described by contemporary viewers, from the likes of Hugo to Leonardo da Vinci and Raphael, had the longevity of wondrous sand castles.

Hugo's lifelong depression was probably indicative of a more severe mental illness. It is unclear as to whether Hugo was born with the problem, or developed it, perhaps the result of venereal disease. The love of his life was a nun of the Order of Our Lady of the Rose of Jericho in Brussels, who served as his primary model and with whom he carried on a life-long affair. His most famous work is the Portinari Altarpiece, displayed at the Uffizi in Florence, which displays Hugo's

talent for painting elegant detail, and his love for disguised symbolism—naturalistic objects placed in the scene for their reference to ideas, metaphors, allegories, or literature. In 1478, Hugo sequestered himself in a monastery called the Red Cloister, just outside of Brussels, hoping that a meditative life would ease his bitter, constant depression. It did not, and he attempted suicide in 1480, the same year in which he created this painting. Though he failed to kill himself, he died of natural causes two years later.

Hugo's *Death of the Virgin* shows a scene apocryphal to the New Testament. Nowhere in the New Testament is Mary's life explored in any detail, and her death is only discussed in the apocrypha. Here we see the apostles gathered around to mourn the passing of Mary, who ascends directly to Heaven. Christ in an orb of light above his mother's head awaits her. The apostles are sad because they will miss her, but they do not feel grief. Indeed, they are there more to keep her company than to mourn. Anachronistically, a priest is there in ecclesiastical garments to give Mary extreme unction. Hugo has chosen to depict Mary in an unusual, and difficult to execute, angle in bed, her foreshortened body creating a diagonal with pockets of apostles clustered around it. It is tempting to imagine the unhappy Hugo admiring such a quiet death, surrounded by loved ones, never lonely, slipping gently into the arms of Heaven.

Jan van Eyck ***The Ghent Altarpiece* (1432)** **Sint Baafskathedraal, Ghent**

This monumental altarpiece, one of the most important works in the history of art, also has the dubious distinction of being the most frequently stolen artwork of all time. It is therefore the most desired and victimized painting in history.

Since its completion in 1432, this twelve-panel oil painting has disappeared, been looted in three different wars, burned, dismembered, copied, forged, smuggled, illegally sold, painted over, censored, attacked by iconoclasts, hidden away, hunted by Nazis and Napoleon, prized by The Louvre and a Prussian king, damaged by conservators, returned as war reparations, stored in castle vaults and secret salt mines, used as a diplomatic tool, nearly been blown up, ransomed, rescued by Austrian double-agents, and stolen a total of thirteen times.

Perhaps the single most influential painting in the history of art, it is certainly the most important object in the history of art theft. No other artwork has been subject to so many adventures and crimes, both attempted and successful. Though an inanimate object, the enormous altarpiece in all its intricacies and intrigues develops a personality of its own. Indeed, this disappearing masterpiece seems loathe to stand still for too long.

There is even a mystery around its creation. Everyone has heard of Jan van Eyck (1395-1441), but what about Hubert van Eyck? An inscription was discovered in the 19th century which reads that this artwork was begun by Hubert van Eyck and finished by Jan, the painter's brother. But while evidence exists that a painter called Hubert van Eyck lived in Ghent at the time that the *Ghent Altarpiece* was painted, not a single authenticated painting by Hubert exists today. Some think that the inscription was a contemporary forgery, while others think that Hubert van Eyck is a lost genius. Art historians are still divided.

What makes this painting so important to the history of art? What, beyond its beauty, made it so desired as to have been the victim of so many crimes?

It is the first major work by the young genius, Jan van Eyck. While Jan did not invent oil painting, as has been popularly misconceived, he was the first to take full advantage of the capabilities of the new medium, which permitted infinitely greater detail than the previous painting method, tempera, which used opaque egg white to bind pigment, rather than translucent oil. After this painting, oil would become the universal preferred medium. Jan's advances in oil were for painters what the first use of steel was for architects.

Art historians love to recite "firsts." So while Jan was not the first oil painter, he was the first to paint:

- monumental works with an intricate level of detail usually reserved for portrait miniatures and illuminated manuscripts.
- observed naturalistic details, such as the effect of water seen through glass, the light reflecting in a horse's eye, and botanically-identifiable plants.
- the unidealized human nude, in the figures of Adam and Eve.
- individually detailed faces in a massive crowd scene with over one-hundred figures, taking the time to render vivid portrait-like expressions, if not actual portraits.
- articulated bodies beneath painted clothing, the people wearing the clothes rather than the clothes floating around the people.
- using disguised symbolism, imbuing realistically-realized and situated objects with a covert Christian symbolism.

The following other statements will clarify what may be said historically about Jan and Hubert:

- Hubert van Eyck was indeed a painter and brother to Jan. He was commissioned to paint the Ghent Altarpiece, but he died so soon after having received the commission that his presence is all but inarticulate. The painting as we see it is therefore wholly the work of Jan.
- Jan did not invent oil painting, but did bring it to an

unprecedented level of excellence, turning the mere binding of pigments with oil into a masterful medium that would be preferred by every painter from his day forth.

- Along with Giotto in Italy, Jan may be considered the first Renaissance artist.
- In his unprecedented realism, Jan may be considered a forefather of Realism as an artistic movement.
- The Ghent Altarpiece being Jan's premiere major artwork may be seen as the first instance of his many "firsts" as an artist.
- Because it is the most frequently stolen painting in history, it follows that the Ghent Altarpiece is also the most desired painting in history.

For historians of art and art crime, the Ghent Altarpiece should be number one on the list of what must be seen.

Peter Paul Rubens

***The Raising of the Cross* (1611)**

Onze-Lieve-Vrouwekathedraal, Antwerp

There's a game that art historians like to play when standing before a Rubens painting. Successful artists used to have studios full of apprentices who would collectively work on commissions. Most countries had an official maximum number of apprentices per artist, to ensure that the artist was indeed supervising the creations of his studio, and the studio was not merely a factory churning out artworks for the artist to sign. Rubens' studio was a factory, with far more than the legal limit of apprentices. The question is how much of each painting did Rubens actually paint? Depending on how much a commissioner paid for an artwork, the master would himself paint a relative portion of the final product. If someone paid the minimum, then the master would design and supervise the painting, but not actually touch his own brush to the canvas. Pay the most, and the master would design and paint every aspect of the work. There were various increments in between. Rubens' studio is particularly notorious for having created an astonishing number of artworks, and of substantial size. Rubens (1577-1640) cannot have painted all of them. So which section of Rubens' paintings did Rubens himself paint?

Art historians like to scan Rubens paintings to detect which portions were painted by the master, and which were assigned to his pupils. Some of his pupils would grow into brilliant artists themselves (Anthony van Dyck, for example) so this treasure hunt is not merely a case of the well-painted portions versus poorly-painted portions. The masters of large painting studios would normally paint the elements considered most difficult to get right—specifically faces and hands. Anything related to the background, still-life elements that are not the focus of the work, animals, architecture—these were all regularly assigned to apprentices.

As one of the most important commissions of his career, and having been painted when Rubens was a relatively young 34 year-old freshly back from an inspiring sojourn in Italy, Rubens painted most of this monumental triptych. He had not yet developed his over-sized Antwerp studio (which is worth a visit, across town at the beautifully-restored Rubenshuis). Rubens certainly painted all of the figures in the central panel, though the background was probably made by an apprentice, and elements of the lateral panels are questionable as well.

In this triptych, and its sister altarpiece, *The Descent from the Cross*, on the far side of the cathedral, we can see Rubens' handiwork, roused by what he had seen by his contemporaries, Caravaggio and the Caracci family, the most prominent artists in Rome. Caravaggio's works taught him chiaroscuro, the dramatic play of light rising out of a shadowy background, and a dynamism that would become quintessential to the Baroque period in which he worked. This captured movement is most evident in the central panel, the raising of the cross, in which we can feel the tension in the muscles of those involved, heightened by the diagonal of the cross itself (a geometry of movement, as opposed to the static feeling of horizontal or vertical lines). Rubens employed his notes on Caravaggio from his time in Rome. Caravaggio liked to portray the moment of highest dynamism in any one action. That is to say he did not depict an action just before it begins, nor just as it has ended (such as the Way to Cavalry or Christ on the vertical cross), but the moment after an action has begun, but before the action has concluded. The cross is neither horizontal (in preparation for being raised), nor vertical (after having been raised, the most common artistic rendition), but when it is halfway through the *raising* process. The gerund is the key. The result is a snapshot of motion, as if a film were paused. Imagine un-pausing the scene. All sorts of movement would take place. There are no static figures. Un-pause an idyllic, balanced, harmonious Raphael painting, for example, and nothing would change. Un-pause Rubens' *Raising of the Cross*, and watch the figures strive and tumble.

Hans Memling

***Shrine of St Ursula* (1482)**

Memling Museum, Bruges

Memling's best-known work is one of art history's oddities. The unusual painted "shrine" is actually a miniature chapel made of gilded wood, containing the relics of Saint Ursula. Reliquaries of gold, silver, or other metals, often embellished with sculptural designs or precious gems, were common means of commemorating the shards of bone of long-dead saints. The purported miracle-working properties of such relics, which resulted in prayer to them and the saints they stood in for, would become one of the major objections Protestants would raise against Catholics. Trade in relics was a major Medieval market, often a black one. There were

so many splinters from the True Cross that one could build a small village if you gathered them together, and if one is to believe that every finger bone of Saint Francis enshrined in a reliquary is real, then the poor many surely had at least seventeen hands. But a painted wooden shrine such as this one decorated by Memling (1430-1494) is almost unique. In fact, Memling's painted shrine replaced an older, more common metal shrine that used to contain Saint Ursula's relics.

Each painted panel shows a scene from the life of Saint Ursula. Ursula was a beautiful princess from Brittany in northern France. The King of England asked her to marry his son. She said that she would accept on condition that she be permitted to make a pilgrimage to Rome before the wedding, accompanied by 11,000 virgins. The King accepted this proposal, and Ursula and her chaste army trekked through Basel, across the Swiss Alps, and down to Rome, where they were welcomed by Pope Cyriacus. This was not the blissful picnic it was meant to be, however, for on the way back, the group got as far as Cologne, when they were stopped by the rampaging Huns. The Huns demanded that the virgins denounce Christianity and marry them. For refusing they were all killed.

The shrine of Saint Ursula must be seen in person. No photograph can do it justice, as it is a three-dimensional sculptural object painted on all sides, in such detail that it requires close examination. Though often forgotten because of the renown of the meticulous, precious Memling, a measure of awe must be directed towards the sculptor of this Gothic cathedral in miniature, the wooden shrine itself. Memling was the darling of late 19th-century academic art historians, particularly in England. His incredibly precise detailing owes much to the innovations of the first master of oil painting, a generation his senior, Jan van Eyck, also a resident of Bruges. Take the time to examine the details of this wondrous artwork, and don't be afraid to bring a magnifying glass—its the best way to appreciate Memling's marvelous minutiae.

Hieronymous Bosch
***Christ Carrying the Cross* (1500)**
Ghent Museum of Art, MSK Ghent

It is hard to imagine Bosch painting this work without a smile on his face. It may be a dramatic moment in Christ's Passion, but what fun Bosch must have had depicting the grotesques caricatures parading Jesus to his death.

The painter Hieronymous van Aachen (1450-1516) was born in the Dutch town of 's-Hertogenbosch, from which he took the nickname Bosch. His precise birth date is unknown, 1450 having been estimated by inference—a self-portrait of Bosch exists dated 1516, in which he looks about sixty years old. His art has been described as prefiguring Surrealism, as

allegorical representations of alchemy, as Freudian projections of the libido, and as nightmarish morality plays. He was fascinated with illustrations of sin and its punishment in the afterlife.

That external beauty and cleanliness was indicative of moral purity and goodness was a common Medieval belief. With that in mind, it is easy to see the juxtaposition between the peaceful Christ and Mary Magdalene and filthy humanoid creatures involved in Christ's execution, their hearts as distorted and festering as their faces. Those taunting Christ, and one of the two thieves to be executed along with him, are not meant to be read as portraits or even plausible likenesses. They are caricatures: contortions for effect, normally humorous, but in this case both frightening and amusing. It would be century before the concept of caricature became commonplace. Around 1600 caricatures became a popular pastime for artists, particularly those at the Bologna painting academy run by the Caracci family. In that setting, drawing was stressed above all, and assignments were given to pupils in which they were meant to draw a human and an animal, and then combine features of the two into a human with attributes of that animal. An example might be a man and an eagle mixed together to form a man with an aquiline (literally meaning "eagle-like") nose. In Bosch's caricatures, the artist was far ahead of his time.

Less amusing is the target of his mocking caricatures. Most of the grotesque figures have heightened attributes associated in the Middle Ages with Jews. According to Medieval theology, blame was focused on the Jews collectively for having brought about the death of Christ. This is in no way accurate to the writings of the Bible, but rather reflects some prejudiced apocryphal writings designed when Judaism was seen as competition to the young religion of Christianity. These apocrypha exempted Pontius Pilate (one sect even made him a saint), while others exempted Judas from guilt (Judas was only doing what Jesus asked of him, as Jesus' only purpose on earth was to die in order to reverse Original Sin). The apocrypha made no distinction between the "bad guys" of the New Testament, a particular Jewish cult called the Pharisees, and the Jews collectively. Thus we see that this one painting raises issues as diverse as the origin of caricature and misinterpretations of the New Testament, but all in a manner both playful and horrible that is quintessential Bosch.

Josef Hoffman and Gustav Klimt
***Palais Stoclet* (1907-1911)**
279-281 Avenue de Tervueren, Brussels

Brussels boasts a wealth of Art Nouveau architecture. The Horta Museum is certainly a must-see, to take in the work of Brussels' own master architect. But an infrequently-visited treasure house is in the midst of the city, and warrants

indication, while most tourists will find the Horta Museum on their own.

Palais Stoclet is an exemplary Secessionist monument. Secessionism was a movement formed in Vienna, inspired by and in response to the parallel contemporary movements, Art Nouveau and Art Deco. The ideal day, from an architectural history standpoint, begins at the Horta Museum, then after lunch wind your way to the privately-owned Palais Stoclet (call ahead for admission information). The Palace was conceived as a *gesamkunstwerk*, the complete work of art advocated by Secessionists and Art Nouveau architects, in which every element of the building and its decoration is carefully considered and designed by an the architect and direct collaborators.

Hoffman (1870-1956) and Klimt (1862-1918) were among the founders of Secessionism. The building's architecture and its design must be considered as the collaborative concept of the two artists (with the added help of Fernand Khnopff).

Adolphe Stoclet was a civil engineer and director of the Société Générale. He met Josef Hoffman while on business in Vienna. Stoclet was so impressed with Hoffman and the Vienna Secession that he gave Hoffman free rein and an unlimited budget to create a monumental palace that would be a complete artistic masterpiece, exemplary of the period and the movement.

The resulting building has a muscular elegance that became one of the traits of Secessionist architecture. Rectangular towers, bowed window bays, glass oculae, and the contrast of light stone with dark details provide a gorgeous aesthetic monumentality. But the building must be entered to be appreciated. Attention to detail and refinement of material may be found throughout. The crown jewel is an expansive mosaic on the dining room wall referred to as *The Tree of Life*, designed by the great Gustav Klimt and executed in semi-precious stones. This building is a rare glimpse at a no-holds-barred plunge into a Secessionism, a 20th century Baroque palace in which each element feeds and compliments its neighbor—and astonishes the privileged viewer.

Rene Magritte
Empire of Lights
Royal Museum of Art, Brussels

Rene Magritte (1898-1967) is one of those rare artists, like Michelangelo and Leonardo, whose work has become iconic even for those who do not give art a second thought. A variety of Magritte's paintings, and elements of them, appear so often in popular culture and advertising that even those who don't think they've heard of Magritte have encountered his work. If

one has watched television in the United States, one has come across the CBS logo, an eye inspired by a Magritte painting, *The False Mirror*. If one has read Michel Foucault, one has probably noted that an entire book by the philosopher is dedicated to Magritte's *Treachery of Images*. And vying with Dali's melting clocks for the most famous Surrealist image of all time, is Magritte's anonymous businessman in a bowler hat. Few artists have had so universal an effect, have inspired so many new ideas and variations on their themes.

The Magritte Museum, in the outskirts of Brussels, should be visited, though it does not contain any of Magritte's artworks that are themselves worth a journey and fully indicative of his oeuvre. The museum was once Magritte's own home. From there, the artist saw the businessmen, all dressed alike, drag their way to and from work every day, their souls decaying from prolonged exposure to that suburban plague—routine. Magritte believed that the majority of the population suffered from listlessness, a repetitive routine that resulted in a sort of living death. The world, so potentially full of joys and wonders, was ignored by the tunnel-vision of suburban commuters. Magritte felt it his duty to re-inject a sense of wonder and awe into the world.

His primary method for accomplishing this feat was to create naturalistic paintings in which he juxtaposed everyday objects, the sort you'd never think twice about, in a new and startling way. This forced the viewer to rethink the traditional use and conception of the everyday. A green apple has been expanded to fill an entire room with its girth. A train motors out of a fireplace. The sky fills with identical bowler-hatted businessmen, perhaps raining down or floating up. A couple kiss, though their faces are covered in sheets. In the case of this painting, it is night in the street, but day in the sky above.

The buildings in the street scene of this painting are particularly reminiscent of Magritte's own home. This painting is best admired after a visit to the Magritte Museum to see the facade that inspired it. What at first looks like a simple effect of twilight, with a lamp illuminated on the dusky street and the darkening blue of the sky above it, requires further examination. The quality of the sky is brighter, sunnier than twilight. The darkness of the street is one of sleep and midnight hours. In examining this work, like so many of Magritte's, our expectations are not met—they are exceeded, rewired, and we are left in a state of wonder. Just as Magritte would have wanted it.

Jacques-Louis David
***Death of Marat* (1793)**
Royal Museum of Fine Arts, Brussels

One of the most symbolically resonant paintings of the French Revolutionary period, this monumental work by Napoleon's

favorite painter is a must-see for its artistic merit and historical importance.

Jean-Paul Marat (1743-1793) was a Swiss political theorist and doctor turned radical journalist and politician during the French Revolution. He famously suffered from a skin ailment, originally thought to have been contracted during the times when Marat had to hide from enemies in the Paris sewers (though his condition is now, less-romantically, considered the result of celiac disease, allergy to gluten). To ease the pain and itching of his skin condition, Marat would sit in a cold bath in which he would dissolve a medicated powder. He would spend as much time each day as he could in the bath, writing and doing the administrative work he undertook along with Robespierre and the leaders of the revolution and the Terror.

The painter Jacques-Louis David (1748-1825) was a friend of Marat's. David was stirred by their capacity as orators, rousing crowds with their speeches. David himself was reticent, and in fact had trouble speaking due to a facial deformation he'd suffered during a duel.

Marat was assassinated by Charlotte Corday, who gained admission to speak with the revolutionary leader by writing a note requesting the honor of meeting him—a fan letter with an ulterior motive. She visited him on July 13, concealing a knife on her person, and stabbed him in the chest in his bath. She, too, would become a martyr for her murder of Marat, as it is known that she did not try to escape but accepted arrest by Marat's guards, the knife still lodged in the corpse beside her.

There are artistic resonances with Michelangelo's *Pieta* and Christ in Caravaggio's *Entombment*, interesting references which frame Marat, a martyr of the French Revolution but truly a venomous and charismatic conductor of *The Terror*, as a Catholic martyr/saint. David claimed to have visited Marat the day before he was killed, and drew from memory the elements in his apartment. David's style exemplifies the Neo-Classical, taking the morally didactic and elevating elements of Greek and Roman art and literature and re-inventing them in a naturalistic contemporary form.

David spoke at the National Convention held upon Marat's death, and said that he would create the painting with clear propagandistic intent. In fact, Marat's body was displayed to the people for weeks after his death, surrounded by perfume and incense to mask the stench of decay in the hot summer. David presented the painting a mere four month's after his friend's death.

It is perhaps a surprise that this dramatically French historical painting should be in Brussels. This is due to Brussels having housed David at the end of his life, after he

had been exiled following the death of his patron, Napoleon. Visitors to Belgium would do well to take advantage of the good fortune of seeing an artwork of such importance to revolutionary French and indeed world history.

Paul Delvaux
***Nos Vieux Trams Bruxellois* (1978)**
Bourse Metro Station, Brussels

Wonderful works by the Belgian Surrealist Paul Delvaux (1897-1994) may be found in museums throughout Belgium and at the elegant Paul Delvaux Foundation. But the chance to see an original work in situ is a rare treat, and this one is both easy to overlook and easy to stumble upon, as it decorates a bustling Brussels metro station.

While primitive in technique, Delvaux's works are haunting, evocative in their somewhat awkward naturalism. It should be noted that Delvaux was a graduate of the *Academie Royale des Beaux-Arts* in Brussels, and his artistic technique was a decision, not borne of necessity. He was wildly prolific, executing eighty paintings between 1920 and 1925 alone. And though his artistic peak, during which he created the works for which he is best known, was the 1920s and 30s, he lived a century—no doubt fueled by the excellent Belgian beer and *moules-frites*. He was influenced by fellow Surrealists De Chirico and Magritte, and one might see in his work a combination of the two: De Chirico's palpable presence of ghosts and Magritte juxtaposition of irregularities. The result is a manifestation of dreams, often in a smoky twilight blue, perhaps the best example of the influence of Freud and Jung on Surrealism. His vocabulary of images includes nude stupefied women, skeletons, men in bowler hats, and confused scientists. Of De Chirico, Delvaux himself said “with him I realized what was possible, the climax that had to be developed, the climate of silent streets with shadows of people who can't be seen.”

This quotation from the artist himself beautifully exemplifies the mood projected by his metro station mural. In the 1950s Delvaux produced a number of nocturnes in which a young girl, whose face we cannot see, observes night trains. This theme is reflected in *Nos Vieux Trams Bruxellois*, which was Delvaux's last major public commission. As a child he had been fascinated by the introduction of the electric tram system into Brussels. Here was a chance for him to reflect on that fascination near the end of his career.

While there is nothing inherently Surrealistic about his mural, which shows a street scene contemporary to the introduction of the tram system, the Surrealist element is in fact what is happening around it. The mural floods out into the space of the contemporary metro station, busy with people passing to and fro, rushing to work, rushing home, dressed

in the clothes of the moment. These people of today pass by the frozen moment of history, the painting of who they might have been, had they been born fifty years previous. There is a ghostly quality to all of Delvaux's works, but it is a wondrous feeling to see his painted ghosts as you stand among the hustle and bustle of contemporary life, of people who fifty years from now will themselves become but ghosts in the painting of our memories.





Venice in Peril

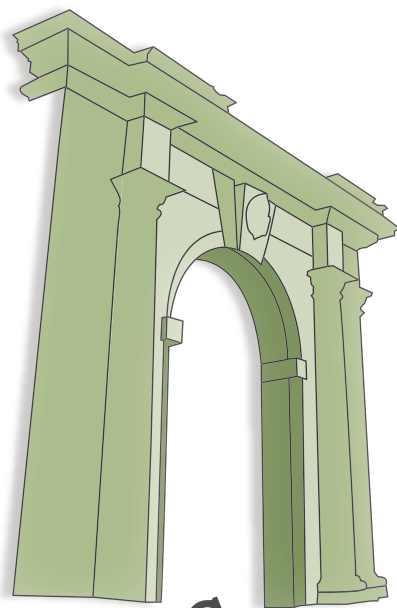
The British Committee for the Preservation of Venice

We finance restoration and research into the underlying problems of Venice, such as flooding and tourism. We lobby for the long-term defence of the city, both as a monument and a living community.



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ARCA CONFERENCE
ON THE STUDY OF
ART CRIME 2010

Amelia, Italy

ARCA 2010 CONFERENCE SCHEDULE

SATURDAY, 10 JULY

9:30-9:45	Welcome
9:45-10:30	Cultural Property <ul style="list-style-type: none"> • Arthur Tompkins <i>An International Art Crime Tribunal Revisited</i> • Betina Kuzmarov <i>Rethinking the Qianlong Bronze Heads: Objective vs. Aesthetic Visions of Cultural Property</i>
10:30-11:45	Forgery and Provenance <ul style="list-style-type: none"> • Olivia Sladen <i>Provenance and Art Forgery</i>
10:50-11:05	<i>Coffee Break</i>
	<ul style="list-style-type: none"> • Kristen Hower <i>Vrai ou Faux? The Problem of Forgeries in Late Antique Art</i> • Riikka Königs <i>Forgery and Icons</i>
11:45-12:15	The Role of the Art Loss Register and Its Efforts to Recover Stolen Art <ul style="list-style-type: none"> • Chris Marinello
12:15-14:15	<i>Lunch Break</i>
14:15-14:35	Theft and Policing <ul style="list-style-type: none"> • Catherine Sezgin <i>Summary of the 1972 Theft at the MMFA</i>
14:35-15:05	Provenance Research and Due Diligence: Recent Initiatives at the Smithsonian <ul style="list-style-type: none"> • Jane Milosch
15:05-16:10	Art Crime and the Public <ul style="list-style-type: none"> • John Vezeris <i>An Art Risk Management Project in Venice</i> • Colette Marvin <i>Curating Art Crime</i> • James Twining <i>Art Crime and Fiction</i>
16:10-16:15	Closing remarks
19:30	Gala Dinner

SUNDAY, 11 JULY

9:30-10:30	Antiquities and Archaeology
	<ul style="list-style-type: none"> • Valerie Higgins <i>Archaeology and War: the Importance of Protecting Identity</i> • Stefano Alessandrini <i>The Sacking of Etruria from Luciano Bonaparte until Modern Day</i>
10:30-11:35	Nazi-Era Looting
	<ul style="list-style-type: none"> • Jennifer Kreder <i>Nazi-Looted Art Developments in the United States</i>
10:50-11:05	Coffee Break
	<ul style="list-style-type: none"> • Marc Masurovsky <i>Nazi Plunder of Looted Cultural Property and Its Impact on Today's Art Market</i>
11:35-12:05	Art Crime in Italy
	<ul style="list-style-type: none"> • Col. Giovanni Pastore <i>Q&A with the Former Vice-Commandant of the Carabinieri Division for the Protection of Cultural Heritage</i>, with Noah Charney
12:05-13:00	Award Presentations
	<ul style="list-style-type: none"> • Charles Hill (ARCA Award for Art Policing and Recovery) • Lawrence Rothfield (Eleanor and Anthony Vallombroso Award for Art Crime Scholarship) • Dick Drent (ARCA Award for Art Security and Protection) • Howard Spiegler (ARCA Lifetime Achievement Award in Defense of Art)
13:00-13:30	Closing Comments
	End of Conference

CONFERENCE PAPER ABSTRACTS & BIOS

Arthur Tompkins *An International Art Crime Tribunal Revisited*

This paper will pick up from last year's presentation of a discussion of a possible pathway to the creation of an International Art Crime Tribunal - bearing in mind the individualization of international criminal law, the signposts discussed in my chapter, and the need for a consistent and fair approach to the issues raised by stolen/looted art (including but not limited to balancing the interests of the original owners or their successors, and good faith purchasers), the creation of such a tribunal is, in principle, a good idea, and one which warrants development.

Judge Arthur Tompkins has been a District Court Judge in New Zealand for 11 years, having been appointed in 1997. His appointment followed 10 years in private practice in Auckland as a commercial barrister. He gained his Bachelor's degree in Law from Canterbury University, in Christchurch, New Zealand, in 1983, and subsequently graduated Masters in Law, with First Class Honours, from Cambridge University, England, in 1984. He has taught the Law of Evidence, and presented at numerous conferences and workshops on a variety of topics, including expert evidence, the intersect between law and science in the Courtroom, and most extensively in relation to forensic DNA and forensic DNA Databanks, in New Zealand, China, England, Ireland and France. He is an Honorary Member of Interpol's DNA Monitoring Expert Group, and an elected Fellow of the Cambridge Commonwealth Trust.

Betina Kuzmarov *Rethinking the Qianlong Bronze Heads: Objective vs. Aesthetic Visions of Cultural Property*

This paper examines the dispute over the sale of the Qianlong bronze heads from the collection of Yves St. Laurent. By reviewing the facts of the dispute, the positions of the parties, and the legal history of the dispute it becomes clear that there are two distinct understandings of property at work in this case: The first approach is an "objective" approach to the bronze heads. This approach, which is common in private law, sees objects as manufactured and interchangeable, and thus compensable by damages or restitution. This contrasts with the second approach, which is an aesthetic vision of cultural property. This approach sees objects of cultural importance as having value in and of itself. Once this paper has uncovered this tension in the case of the Qianlong Bronze heads, it goes on to argue that this framework has utility for understanding cultural property disputes more generally.

Arthur Tompkins

Betina Kuzmarov

This paper will begin this assessment by analyzing the law at issue in the dispute. From this analysis it will be concluded that this was a case in which the international treaties and domestic law of cultural property could not be applied. As such, this dispute fell to the private law of the state in which the bronze heads were located, France. From this basis it will be suggested that this case is emblematic of a category of cultural property disputes that arise where “traditional” cultural property law does not apply. In these situations the dispute is a cultural property dispute but it is decided by the private law of the state. This situation is common in legal practice but it is under theorized in the literature. Using this case study, this paper proposes a new theoretical framework for understanding this type of dispute, which can then be applied more generally to the understanding of cultural property.

Betina Kuzmarov, BA Hon, LLB, LLM, PhD is an Instructor in the Department of Law at Carleton University in Ottawa, Canada. She received her doctorate in international law from the University of Hull in Hull, UK, and her LLM from McGill University. She is also a member of the Law Society of Upper Canada. Her current research interests focus on unilateral acts in international law and cultural property law.

Olivia Sladen *Provenance and Art Forgery*

The forgery of art objects can be traced back thousands of years, but has risen dramatically since the value of art began to rocket in the 1960s. In an attempt to safeguard the art market dealers, auction houses, museums and collectors have become increasingly thorough in assessing the origin, or provenance, of an object. This has led to a rise in the forgery of provenance documentation, as forgers change their modus operandi to introduce their fakes into the mainstream art market.

My presentation will examine this problem by looking firstly at the processes of due diligence currently being followed in the art trade and secondly how art criminals are consequently adapting their techniques. I will analyze this issue by focusing on three recent cases of provenance forgery that rocked the art world. The presentation will examine the techniques adopted by the criminals and the ways in which they have successfully passed off forgeries by using forged provenance documents.

Graduating from the University of Edinburgh with an MA in Classical History in 2001, Olivia Sladen moved to South Africa where she gained a further MSocSc in International Relations, with a focus on the international illicit economy. During this time Olivia also undertook extensive research for the South African Institute of International Affairs. On her return to the

UK she joined the leading risk and security firm Control Risks Group in London, working in the corporate investigations division. Since January 2008, Olivia has worked in a freelance capacity, undertaking due diligence casework for leading risk and security companies. Olivia's professional focus has increasingly shifted to the art industry, working on a number of cases for the art recovery department of the Art Loss Register as well as providing investigative research and litigation support to art law firms. In 2009 she completed the ARCA MA Program and has since founded Metis Art Risk Consultancy Ltd in London, providing independent specialist services in due diligence and provenance research to the art market.

Kristen Hower *Vrai ou Faux? The Problem of Forgeries in Late Antique Art*

This paper examines the problems of creating and detecting forgeries in Late Antique art by examining the mediums of the art and how the works are made. By examining smaller pieces, such as coins and jewelry, and larger and more controversial pieces, such as the Louvre's Good Shepherd and the Cleveland Marbles. This period saw a large degree of stone art production which is problematic, both for the forgery and for the person trying to identify the work as authentic or not. This is especially made difficult with the issue of iconoclasm and the lack of provenance that most works from this period have. This paper challenges the notion that forgeries can be so easily passed off from this time period and hopes to inspire further study in the field.

Kirsten Hower is a recent graduate from Washington College, where she earned her Bachelor of Arts in Art History, studying under Dr. Donald McColl. Her training is mostly in Northern Renaissance and Baroque art though her passion is for Italian Renaissance art and medieval church architecture—passions cultivated by her parents (both artists), and her grandfather Dr. Rolland Hower who worked as Chief of Exhibits for the Smithsonian Institution's National Museum of Natural History. She plans to continue her studies this fall at Studio Arts Center International (SACI) in Florence, Italy, studying Italian Renaissance art.

Riikka Kögäs *Forgery and Icons*

The word "copy" has a different meaning in Russian icon painting than in Western European art. Icon painters usually do not sign their works, and this fact makes it easy to date an icon older than it actually is. The forging of icons goes hand in hand with the beginning of icon collections and the restoration of icons. In the 19th century restorers were skilful in copying icons, and sometimes

Kristen Hower

Riikka Kögäs

painted them to look better and to sell better.

The George R. Hann Collection of icons received publicity when it was auctioned at Christie's in 1980, and icon expert Vladimir Teteriatnikov published his research one year later claiming that nearly all, if not all, the icons of the collection were in fact modern fakes and forgeries instead of icons from the 15th-16th century.

To determine the age of an icon is not the easiest task. One has to be familiar not only with techniques but also with the history of Russian icon painting. There are icons that imitate the old ones that are exact copies, but are not forgeries.

Riikka Kõngäs is a head conservator in the Valamo Art Conservation Institute, Finland. She works with paintings on canvas and wood and is specialized in icons. She is also working for the largest art gallery (Retretti) in Finland as a courier and conservation specialist. She currently holds a position of the Secretary of the Icon-Network Association, an organization providing information about icons, icon collections, education and conservation. One of the objectives of the Icon-Network is to prevent trade of stolen icons by creating a database of stolen icons (www.icon-network.org).

She graduated in 2003 with a BA (HONS) Conservation and Restoration of Art and Antiquities from Lincoln University, Great Britain. Specific work experience as an art conservator was acquired from Paliambela Archaeological Excavations in Greece and from the Benaki Museum in Athens, Greece, as well as other museums in Finland. She completed the MA-program in Art Crime and Cultural Heritage Protection in 2009.

Chris Marinello

Chris Marinello *The Role of the Art Loss Register and Its Efforts to Recover Stolen Art through the Legitimate Marketplace and the Underworld*

Chris will focus on law enforcement's utilization of its vast stolen art database and the ALR's efforts to resolve complex restitution cases through its mediation services. In addition to dispelling some of the many myths that surround the recovery of stolen art, Chris will present a few intriguing case studies that reveal much about the idiosyncrasies of art recovery.

For the past five years, Christopher A. Marinello has served as Executive Director and General Counsel for the Art Loss Register in the world's largest markets for art, New York and London. Prior to joining the ALR, Marinello spent over twenty years as a litigator working mostly for clients related to the arts, such as museums, galleries, collectors, and others.

Catherine Sezgin *Summary of the 1972 Theft at the MMFA*

Construction on a skylight at the Montreal Museum of Fine Arts triggered the largest art theft in Canadian history. On Labor Day weekend in 1972, three men scaled the multi-story building and entered through the roof at the one spot where the security alarm had been disabled. The thieves had intended to steal every masterpiece but had to leave behind half their stash when a secondary alarm blocked their getaway in a car and they had to run down a busy street with only 18 paintings and 39 objects of decorative arts. The insured collection included paintings by Rembrandt, Courbet, Millet, Brueghel and Corot – all artists and paintings that had been highly publicized through museum newsletters and traveling exhibitions and catalogues. The theft had followed a decade of picture-nappings that had begun in Toronto and spread to the French Riviera as organized crime branched out of gambling, prostitution, and drugs to threaten insurance companies into ransoming paintings that had begun to exponentially escalate in value over the same time period. How did the thieves steal the paintings? Who are the likely suspects? What happened to the paintings? And what would be the value of the paintings today? Would the Rembrandt landscape survive in the new climate of re-attribution as a Rembrandt? The theft is also put into a historical perspective against other events that occurred the same summer. Does this theft matter today? And how has the museum survived?

Catherine Schofield Sezgin is a graduate of the Master's in Art Crime program 2009 through ARCA. She is married to Ender Sezgin, born, raised and educated in Turkey. Mr. Sezgin assisted in the translation of some articles published in Turkish newspapers. Mrs. Sezgin earned a Bachelor of Science in Business Administration with an emphasis in Finance from San Diego State University and has travelled extensively in Turkey over the past 12 years, relishing the archaeological sites and local cuisine.

Jane Milosch *Provenance Research and Due Diligence: Recent Initiatives at the Smithsonian*

Valuing world cultures and facilitating research are central to the Smithsonian's mission to increase and diffuse knowledge. With 137 million objects, including artworks, artifacts, and living specimens from around the world, displayed and stored in 19 museums and 9 research centers, the Smithsonian is a leader in the development of acquisition and collection policies. New international and national cultural heritage policies have necessitated a reconsideration of policies concerning the acquisition of objects with provenance gaps, and require museums to develop new standards of "due diligence" in efforts to establish the ownership and authenticity of objects before acquiring or borrowing them

for exhibitions. The Smithsonian has initiated two focused projects dealing with World War II-era provenance to address some of these concerns and to promote new standards of research in the 21st-century technological age and to encourage systematic research and exchange among cultural institutions. This talk will present these initiatives, as well as case studies from the Freer and Sackler Galleries and the Archives of American Art.

Since April 2008, Jane Milosch serves as Senior Program Officer for Art in the Office of the Under Secretary for History, Art, and Culture (OUSHAC), Smithsonian Institution. She directs the Smithsonian's WWII-Era Provenance Research Project and pan-institutional art programs, new interdisciplinary initiatives, and strategic planning efforts for the arts at the Smithsonian's eight art units. In July 2009, she was selected from a highly competitive applicant pool as one of two Smithsonian representatives to participate in the Getty's prestigious Museum Leadership Institute (MLI). Previously, since 2004, she served as chief curator at the Renwick Gallery of the Smithsonian American Art Museum, where she led fundraising efforts and organized exhibitions that broke attendance records. At the Renwick, she secured more than 200 acquisitions and developed critically-acclaimed exhibitions, including Grant Wood's *Studio: Birthplace of American Gothic*, which featured the rarely-loaned, iconic painting *American Gothic* (1930), and re-launched the biennial exhibition series, *The Renwick Craft Invitational*.

Before joining the Smithsonian, from 2000 to 2004, Milosch was curator at the Cedar Rapids Museum of Art in Iowa. Working closely with the director, they more than doubled the size of the advisory boards and working committees, staff, and volunteers through collaborative and community fundraising efforts in conjunction with two major exhibitions: *Art in Roman Life: Villa to Grave* and *5 Turner Alley: Grant Wood's Historic Studio*, commemorating this newly renovated studio-home near the museum. Her essays on these projects are published in recent books by Prestel, Deutscher Kunstverlag, and L'Erma Bretschneider, respectively. In the late 90s, at the Davenport Museum of Art (now Figge Art Museum), she curated exhibitions and initiated a collection of contemporary American Craft of the Midwest. During her seven years in Iowa, she worked with state-wide and national art educators and other cultural institutions to forge many new collaborative projects.

John
Vezeris

John Vezeris *An Art Risk Management Project in Venice*

The project was conceived as part of Annapolis Group International's interest in the preservation of artistic and ecclesiastical heritage of historical churches in

Extras

Italy. It is being conducted at the historical San Lio church under the auspices of the Archdiocese of Venice, in joint sponsorship with Venice in Peril and ARCA, and includes AGI partners with specialized areas of art risk management expertise and technology.

The multi-phased project is designed to introduce a risk management model developed by AGI that integrates the key elements required for a comprehensive risk management plan for churches that have significant collections of art and ecclesiastical objects (*beni culturali*).

John Vezeris is President of Annapolis Group International (AGI), offering strategic security management services that include art risk management, tourism security, crisis management, disaster recovery & business resumption planning, and major event planning & security management. He has consulted to Fortune 500 companies and foreign organizations in these areas. Prior to establishing AGI, he previously held positions as Industry Director for Oracle Corporation and as the Deputy Director for the Office of Criminal Investigations, U.S. Food and Drug Administration.

Mr. Vezeris is a twenty-one year veteran of the U.S. Secret Service. During his tenure he served as Special Agent in Charge for Strategic Management, in addition to management positions within the Office of Protective Research and the Office of Investigations. He managed the foreign desk within Secret Service Headquarters Counterfeit Division after field offices assignments that provided extensive experience with major criminal investigations including an assignment to the Organized Crime Strike Force in the Eastern District of New York.

He has been an Associate Professor at the George Washington University, Graduate School of Arts and Sciences, and is a visiting lecturer at the Diplomatic Academy of London, American University of Paris and the Dubai School of Government.

Mr. Vezeris holds a MS degree in Crime in Commerce, George Washington University; a BS degree in Police Administration, Northern Arizona University; and an AAS degree in Police Administration, State University of New York.

Colette Marvin *Curating Art Crime*

Walk into any of the world's great museums or art auction houses, and you will have good reason to doubt your own eyes. Is that Picasso real? Did Modigliani really paint that masterpiece? The answer may be no. The works could very well be the hand of Elmyr de Hory, one of history's most talented and most prolific art forgers.

For over 30 years, until his suicide in 1976, Elmyr de Hory challenged

the expertise of the art world. He sold his fake drawings and paintings to museums, galleries and collectors throughout the United States, South America and Europe. The struggling artist, unable to find success selling his own works, turned his exquisite draftsmanship and Beaux Art training into crafting and selling forgeries; evoking Modigliani, Picasso, Matisse, Dufy, Vlaminck and many other painters of the Impressionist and Modernist movement.

In 1967, he was unmasked and identified as one of the most prolific master forgers of the 20th Century. His newfound infamy merely succeeded in finding him new buyers who still wanted fake masters, which he continued to churn out at a staggering pace. Some say after his illegal activities were revealed he began signing forgeries in his own name. Or did he? Many of his forgeries remain in circulation to this day, hanging on the walls of prominent collections and museums. They have essentially become “real”.

Filmmaker Jeff Oppenheim, has located the executor of Elmyr’s estate, Mark Forgy, who lived with this enigmatic man for close to a decade, inheriting his estate upon his unfortunate and untimely death. Sifting through the personal effects, documents, photographs and ephemera left behind after Elmyr’s death and capturing the recollections of private incidents and conversations Forgy had over the many years of living with Elmyr, the filmmaker seeks to un-shroud the mystery of Elmyr’s identity, criminal motivations and talent. Serving as a visual complement to this information are the 70 plus works Mark Forgy inherited directly from Elmyr, a staggering display of the diversity of his artistic abilities.

Colette will discuss her role as an art crime and curatorial consultant to this documentary film project, which chronicles the investigation into Elmyr’s life and work, attempting to separate fact from fiction and fake from real. Colette, along with other ARCA affiliated researchers and investigators, searches for the motivations behind Elmyr’s prolific criminal activity and the truth amongst the many conflicting historical accounts of his true identity. Along the way, she expects to find and reveal many de Hory forgeries still misattributed as originals in prominent public and private collections today. The presentation’s goal is to encourage a discourse regarding the moral, aesthetic and economic implications of this great deception crime and the recent trend of museum sponsored fakes and forgery exhibits.

Colette Loll Marvin (ARCA, Director of Public and Institutional Relations, curator) In addition to working towards completing her Masters degree in International Art Crime Studies, Colette holds a Masters degree in History of Decorative Arts from the Corcoran College of Art+Design/Smithsonian and a BA in Business Operations from Michigan State University. Colette has lectured for the Smithsonian Institution and the Corcoran Gallery of Art and served as Managing Director of the History Factory, where she managed digital archive, museum design and curatorial services for corporate clients. She has designed museum exhibits for historical societies

and museums in the US and in Europe and is planning to pursue her doctoral dissertation on the subject of “Curating Crime”. Colette presently lives and works in Madrid and Paris. Prior to her career change into the art world, Colette served as founder and CEO of an international marketing and software company for 15 years.

James Twining *Art Crime and Fiction*

Fiction has both been inspired by, and has inspired art crime. James Twining will discuss his experience as an art crime novelist, the difficulties of research and the role of fiction in informing the wider public, at times perpetuating and at times correcting stereotypes and misconceptions.

Born in London, England in December 1972, James spent most of his childhood in France, returning to the UK when aged 11 and eventually winning a place to Christ Church, Oxford where he read French Literature and graduated with a First Class degree. James endured a variety of different jobs over the years before he turned to writing including (in alphabetical order) working as a caddy, car washer, cellar hand, entrepreneur, factory worker, grape picker, investment banker, management consultant and pot washer. James also played professional football for Arsenal Football Club, making over fifty appearances and scoring a memorable hat-trick in the North London Derby, until an inoperable knee injury forced him to retire. He then opted not to pursue an opportunity to drive for the Ferrari F1 team, choosing instead to focus on his acting career in Hollywood. Several blockbusters and an Oscar nomination followed, but a messy split from Cameron Diaz convinced him that his true vocation lay in his burgeoning writing career. (none of this is true of course, but since my bio always gets quoted back to me, I thought I might as well make it interesting!!). *The Double Eagle*, the first of his novels to feature art thief Tom Kirk, was first published in 2005 and has sold over 160,000 copies in the UK alone and been translated into nearly twenty languages. It's sequel, *The Black Sun*, was published in April 2006 and has also been an international bestseller. The third Tom Kirk novel, *The Gilded Seal*, was published in October 2007. Married with two daughters, James lives in North London (but doesn't like guacamole).

Valerie Higgins *Archaeology and War: the Importance of Protecting Identity*

Trafficking in art and cultural heritage can be seen primarily as an activity undertaken for profit and governed by short-term objectives. However,

James Twining

Valerie Higgins

underpinning trafficking is the notion that these objects have an intrinsic value that can ultimately be realized in financial terms, and in this regard, the illegal trafficker is equally as concerned as the most fastidious museum curator in the authenticity of the object. Yet these objects can only have value if society decides that they do, if there is a widely held belief in the importance of preserving objects from the past. The last two decades have seen an exponential growth in heritage, in both practitioners and consumers - indeed heritage has become literally an “industry”. What is it about our contemporary society that makes heritage so important to a current sense of identity? This paper will explore this issue with particular reference to recent areas of conflict and the impact on the trafficking market.

Valerie Higgins is Associate Professor at The American University of Rome. She gained her Ph.D. in archaeology at the University of Sheffield, Great Britain. She currently researches the impact of war on heritage and communal memory and changing attitudes to the excavation of human remains in contemporary society.

Stefano Alessandrini

Stefano Alessandrini *The Sacking of Etruria from Luciano Bonaparte until Modern Day*

The great sacking of Etruria began with Lucianus Bonaparte at Vulci. He was followed by “antiquarians” and “collectors” who made, and continued to make, extraordinary discoveries in Umbria and Latium up until the Beginning of the XX Century. After the second world war, international trafficking increased: tomb robbers, smugglers and unscrupulous directors of foreign museums acting in “good faith” The great sacking of Etruria began with Lucianus Bonaparte at Vulci. He was followed by “antiquarians” and “collectors” who made, and continued to make, extraordinary discoveries in Umbria and Latium up until the beginning of the XX Century. After the Second World War, international trafficking increased: tomb robbers, smugglers and unscrupulous directors of foreign museums acting in “good faith”.

In 1987 Alessandrini, an archaeologist, was introduced to the men of the Carabinieri Division for the Protection of the Cultural Heritage. Thus began a period of collaboration which lasted for many years as Stefano brought them news of discoveries and assisted them with their bibliographic research. During the same period, he was nominated Head of the Marine Section of the Archaeological Group. In this role he carried out innumerable underwater explorations of the sea bed at Pyrgi, the antique port of Cerveteri. In 2000, the Public Prosecutor’s Office in Rome appointed Stefano to examine all the documents, known as the Di Medici files after

the looter who had orchestrated much of the sacking of Etruria, which had been seized in Geneva. In just a few months Alessandrini had identified over 400 cultural objects which had travelled from Italy to Geneva and then on to auction houses and collections throughout the world. Alessandrini was appointed as consultant to the Ministero per I Beni Culturali (Heritage Ministry) for the negotiations with Cleveland Museum of Art (which returned cultural objects of great value) and the Ny Carlsberg Museum of Copenhagen. He was also one of the group of researchers and scientists who prepared important documentation relating to the Italian cultural objects confiscated from Robin Symes by the English courts.

Jennifer Kreder *Nazi-Looted Art Developments in the United States*

Jennifer Kreder

In 1998, forty-four nations signed onto the Washington Principles calling for increased provenance research, creation of alternative dispute mechanisms and reaching “just and fair” solutions. The follow-up Prague conference in 2009 resulted in the Terezin Declaration, which calls for the restitution of art transferred in “forced sales” as opposed to just “confiscated art”, the term used in the Washington Principles. What exactly is a “forced sale” is a raging debate in the art world.

A wave of claims attempts to define “forced sale” to include all property sold as a consequence of the Nazis’ rise to power in 1933 and immediate persecution of Jews. U.S. Military Government Law 59 implemented a presumption that all transfers from Jews to non-Jews after implementation of the Nuremberg laws in 1935 were made subject to duress. If courts accept as historical fact that immediately upon Hitler’s rise to power in March 1933, Germany’s entire Jewish population was stripped of all legal rights and remedies and forced to sell artworks as a matter of survival, U.S. museums may be compelled to acknowledge that many more works were acquired under problematic circumstances and may rightfully belong to persecuted Jews. U.S. museums, alone in the world, have begun filing declaratory judgment actions raising technical defenses, such as statutes of limitation and laches, to defeat such claims.

This presentation would explain these developments and the U.S. State Department’s new commission initiative.

Professor Jennifer Anglim Kreder is a graduate of the Georgetown University Law Center in Washington, D.C., and a law professor at Chase College of Law, Northern Kentucky University, where she teaches courses related to litigation, property, art law and cultural property law. Her scholarship centers on cultural property with a particular emphasis on Nazi-looted art litigation. Prior to entering academia, Professor Kreder was a Litigation Associate with Milbank, Tweed, Hadley & McCloy, LLP in New

York, concentrating on Holocaust era inter-governmental negotiation and litigation issues and art disputes, and she clerked for a federal judge. She serves as co-Chair of the American Society of International Law Interest Group on Cultural Heritage and the Arts, has published extensively in journals, including at Harvard, the University of Heidelberg, the University of Melbourne the Institute of Art and Law in London, and has given many presentations throughout the world.

Marc Masurovsky *Nazi Plunder of Looted Cultural Property and Its Impact on Today's Art Market*

National Socialist and Fascist ideologies and practices combined to deprive the citizens of more than 20 nations of continental Europe of their cultural treasures, their cultural patrimony, and their cultural identity. The plunder of cultural property was massive and systematic. Through expropriations, forced sales and outright thefts, Nazis and their collaborators misappropriated millions of works of art and objets d'art from their victims, Jews and non-Jews alike. The Second World War and the Holocaust provoked massive human, infrastructural, and intellectual losses. In some nations, one third of the productive population had been destroyed, as well as those nations' intellectual and economic assets.

Against this backdrop of utter chaos and devastation, the international art market thrives, bolstered then and now by the overwhelming availability of looted cultural property on the open and parallel markets. More than sixty years have gone by and few objects plundered between 1933 and 1945 have been returned to their rightful owners. How did these objects circulate during and after the war? Where are they now? How can they be found and recovered? What tools exist to locate these objects? What are the implications of an international policy to identify and return Holocaust-era looted cultural property, both for the global art market and the international order?

I specialize in historical research pertaining to the plunder of cultural property and other assets from Jews and other victims of the National Socialist and Fascist regimes in Europe between the 1920s and 1945. My involvement dates back to the early 1980s when I was a consultant investigator for the Office of Special Investigations of the US Department of Justice. In 1997, I co-founded the Holocaust Art Restitution Project (HARP) which strives to highlight the cultural losses suffered at the hands of the Nazis and the restitution of those looted objects where they are found in public or private collections. I am currently developing a database of 20,000 works of art and objets d'art stolen between 1940 and 1944 in German-occupied France and Belgium. Together with art historians, policy analysts, museum professionals and victims' advocates, I promote policies

favoring identification and restitution of looted cultural property.

Col. Giovanni Pastore *Q&A with the Former Vice-Commandant of the Carabinieri Division for the Protection of Cultural Heritage, with Noah Charney*

Col. Giovanni Pastore served for more than a decade as the Vice-Commandant of the Carabinieri Division for the Protection of Cultural Heritage, commanding the twelve Carabinieri art police divisions within Italy. Pastore was trained at the elite military academy in Modena. He studied art history, law, and security, and excelled in horsemanship. Over his long career, he has been decorated with numerous medals both in Italy, including the equivalent of a knighthood, and by grateful nations abroad, in appreciation for his professional service. He currently serves in the Carabinieri Anti-Mafia division, and is proud to be one of the founding trustees of ARCA.

Col. Giovanni Pastore

ARCA Award Winners

2010 ARCA Award Winners

We are pleased to announce the winners of the 2010 ARCA Awards. Awards are voted by the trustees and the editorial board of this journal. Anyone not serving on one of these committees is eligible for the awards, which are nominated every January. Winners are provided an all-expenses trip to Italy, where they receive the awards formally at the annual ARCA Conference and give a speech to the congregants. A brief profile of each award winner follows below.

Award for Policing & Recovery

Charles Hill

Charles Hill is a former Scotland Yard investigator, and is currently a private sector investigator. His numerous renowned recoveries, many undertaken undercover, include Titian's *Rest on the Flight into Egypt* and Munch's *The Scream*. For his outstanding efforts and decades of success in the recovery of art, ARCA is pleased to bestow the ARCA Award for Art Policing and Recovery to Charles Hill.

2010 Finalists: Alain Lacoursiere, Matthew Bogdanos

2009 Winner: Vernon Rapley

Eleanor and Anthony Vallombroso Award for Art Crime Scholarship

Lawrence Rothfield

Lawrence Rothfield is the former director of the Cultural Policy Center at the University of Chicago, and is an associate professor of English and Comparative Literature. He is the editor of *Antiquities under Siege: Cultural Heritage Protection after the Iraq War* and *The Rape of Mesopotamia: Behind the Looting of the Iraq Museum*. For his important scholarship in the field of art and antiquities protection, ARCA is pleased to bestow the Eleanor and Anthony Vallombroso Award for Art Crime Scholarship to Lawrence Rothfield.

2010 Finalists: Bonnie Burnham, Robert Edsel

2009 Winner: Norman Palmer

Award for Art Security and Protection

Dick Drent

Security director of Amsterdam's Van Gogh Museum, Dick Drent has made great strides in museum security, combining the latest technology with the improved efficacy of security guards. Most recently Amsterdam's three largest museums, the Rijksmuseum, the Stedelijk, and the Van Gogh, received a complete security overhaul, which has been called the finest museum security system in the world. For his innovative work in museum security, ARCA is pleased to bestow the **ArtGuard Award for Art Security and Protection** to Dick Drent.

2010 Finalists: Jane Milosh and Laurie Stein

2009 Winner: Francesco Rutelli

Award for Lifetime Achievement in Defense of Art

Howard Spiegler

An attorney specializing in art recovery, Howard Spiegler's work has led to the recovery of many artworks looted during the Second World War and thereafter. A humanitarian as well as one of the world's foremost lawyers in the field, ARCA is pleased to bestow the award for **Lifetime Achievement in Defense of Art Award** to Howard Spiegler.

2010 Finalists: Charles Hill, Matthew Bogdanos

2009 Winner: The Carabinieri Division for the Protection of Cultural Heritage



Contributor Biographies

Contributor Biographies

Kimberly Alderman is a Clinical Assistant Professor at the University of Wisconsin Law School. She recently completed the ARCA Masters Program, and writes a blog: <http://culturalpropertylaw.wordpress.com/>.

Stefano Alessandrini is head of Italy's Archaeological Group and adviser to the Ministry of Culture and the Advocate General of Italy on the recovery of looted antiquities.

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(University of Chicago Press, 2008, with Michael Lynch, Ruth McNally & Kathleen Jordan). His work has been published in numerous criminology journals, *Art Journal*, and *Suspect* (MIT Press, 2005), the 10th issue of the design award winning series *Alphabet City*. He is co-editor of the journal *Theoretical Criminology*.

Ton Cremers is a security consultant and the founder of The Museum Security Network (MSN). He was awarded the 2003 Robert B. Burke Award for excellence in cultural property protection.

John Daab was born in Brooklyn, NY and lives in Princeton, NJ with his wife of 47 years. John is father of three, and a grandfather. He began work as carpenter apprentice, and went on to become a carpenter, superintendent, high rise builder and construction manager exec., a professor of construction at NYU, owner of two schools, sculptor, writer, business consultant, educational course and program developer. Currently John is a Certified Fraud Examiner specializing in art and forgery research with Association of Certified Fraud Examiners and a Certified Forensics Consultant, Accredited Forensic Counselor and a Registered Investigator with the American College of Forensic Examiners International. Education: BA/MA Philosophy, MBA Business, MPS/Industrial Counseling, MA Labor Studies, and has a PHD in Business Administration. He is a member of the National Sculpture Society, the Association of Certified Fraud Examiners, the American College of Forensic Examiners Institute, Association for Research in Crimes against Art, and Fine Art Registry (his works can be seen in his FAR online portfolio). John has won awards for teaching management and service to NYU. John has published over 70 articles and recently authored, "The Art Fraud Protection Handbook." John is currently completing studies in Art Appraisal at NYU, beginning a docent program at Princeton, and has completed a second book, *Forensic Applications in Detecting Fine, Decorative, and Collectible Art Fakes*.

Mark Durney is a graduate of Trinity College (CT) with a degree in history focusing on Italian and Japanese studies. After completing a thesis on debunking the Thomas Crown Affair art heist scenario by utilizing case studies throughout the 20th century, he began pursuing a variety of opportunities in the field. His research focuses on the analysis of historical trends in art crime and the contextualization of the most recent cultural property news. In addition to maintaining a blog on art crime, he has written extensively for ARCA. He is ARCA's

MA Program Director for 2009/2010.

Derek Fincham is an Assistant Professor of Law at South Texas College of Law and is the new Academic Director of ARCA. His research focuses on the intersection of law with art and antiquities. He holds a Ph.D. in cultural heritage law from the University of Aberdeen, and a J.D. from Wake Forest University and is a trustee of ARCA. He maintains a weblog at <http://illicit-cultural-property.blogspot.com/>.

Joni Fincham is the new Managing Director of ARCA. Joni oversees the daily operations of the organization and is responsible for the continued development of projects and business enterprises that promote ARCA's mission. She brings six years of experience working in strategic development and marketing for cultural nonprofit organizations and social enterprises to her role as Managing Director. She holds an MBA from Loyola University New Orleans and degrees in Strategic Communications and French from the University of Kansas.

David Gill is Reader in Mediterranean Archaeology at Swansea University, Wales, UK. He is a former Rome Scholar at the British School at Rome and was a member of the Department of Antiquities at the Fitzwilliam Museum, University of Cambridge. He has published widely on archaeological ethics with Christopher Chippindale. He is currently completing a history of British archaeological work in Greece prior to the First World War.

Patricia Kennedy Grimsted is Research Associate at the Ukrainian Research Institute at Harvard University and an Honorary Fellow of the International Institute of Social History (Amsterdam). She received her Ph.D. in Russian history at the University of California, Berkeley in 1964 and has taught at several universities, including American University and the University of Maryland in the Washington area. Among many fellowships and awards, she was a Fellow at the Center for Advanced Holocaust Studies of the United States Holocaust Memorial Museum (2000-2001), and in 2002 she received the Distinguished Contribution to Slavic Studies Award from the American Association for the Advancement of Slavic Studies. Dr. Grimsted is the West's leading authority on archives of the former Soviet Union, the Russian Federation, Ukraine, and the other Soviet successor states. She is the author of several historical monographs, documentary publications, and a series of directories and many other studies on Soviet-area archives, including the comprehensive *Archives of Russia: A Directory and Bibliographic Guide to Holdings in Moscow and St. Petersburg* (Russian edition, 1997; English edition, 2000). She has written widely on World War II displaced cultural treasures (see below). Her numerous other activities include direction of ArcheoBiblioBase, a collaborative electronic directory project with data from the Federal

Archival Service of Russia and the National Committee on Archives of Ukraine, maintained by the International Institute of Social History (Amsterdam). She is currently consulting for the Conference on Jewish Material Claims Against Germany, assisting in the preparation of a virtual reconstruction of remaining dispersed fragments of the wartime records of the Einsatzstab Reichsleiter Rosenberg (ERR), in cooperation with the Bundesarchiv (German Federal Archives).

John Kleberg is a retired Assistant Vice President at The Ohio State University where he was instrumental in organizing the program described as well as having administrative responsibility for security, police, and other business and finance operations. He also has been a law enforcement administrator, trainer, and educator in Ohio and Illinois. His undergraduate degree is from Michigan State University, graduate degree from the University of Illinois, and he has done post-graduate work at The Ohio State University and Kent State University. He is the author of numerous articles on campus safety and security issues and is a consultant on campus security issues, including campus museums, libraries, and galleries.

Patrick Hunt has followed several of his life-long dreams —archaeologist, writer, composer, poet, art historian — for the last 18 years at Stanford University, starting as a Visiting Scholar in 1992 and teaching regularly since 1994. He has directed Stanford's Alpine Archaeology Project since 1994 and publishes on a wide variety of subjects, from archaeology to poetry.

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Christopher A. Marinello had been a litigator in the criminal and civil courts in New York for over 20 years before joining the Art Loss Register as General Counsel. Chris has represented galleries, dealers, artists and collectors and is currently managing all US and worldwide art recovery cases for the London based Art Loss Register. The Art Loss Register is the world's largest international database of stolen, missing and looted artwork. It is used by law enforcement agencies, the insurance industry, the art market, museums and private collectors, who can commission pre-sale due diligence checks and fine art recovery services. Chris serves as the ALR's chief negotiator and has mediated and settled countless art related disputes as well as several high profile Holocaust Restitution claims. He is often asked by law enforcement to take part in clandestine art recovery operations and has participated in numerous international conferences on stolen art. Chris has taught Law & Ethics in the Art Market at New York University SCPS, Seton Hall University and Sotheby's Institute of Art, Masters Degree Program and is a member of Advisory Council of the Appraisers Association of America

and Inland Marine Underwriters Association.

Jennifer Ann Minton is a transplant from Southern California, who decided to make Washington, D.C., her home after graduating from the University of Texas at Austin in 2000. She has worked at the White House and various U.S. departments. She received her J.D. from Catholic University of America's Columbus School of Law.

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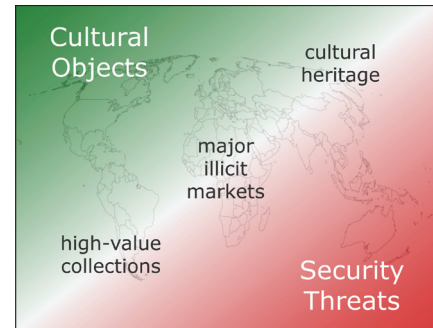
Judge Arthur Tompkins has been a District Court Judge in New Zealand for 11 years, having been appointed in 1997. His appointment followed 10 years in private practice in Auckland as a commercial barrister. He gained his Bachelor's degree in Law from Canterbury University, in Christchurch, New Zealand, in 1983, and subsequently graduated Masters in Law, with First Class Honors, from Cambridge University, England, in 1984. He has taught the Law of Evidence, and presented at numerous conferences and workshops on a variety of topics, including expert evidence, the intersect between law and science in the courtroom, and most extensively in relation to forensic DNA and forensic DNA Databanks, in New Zealand, China, England, Ireland, and France. He is an Honorary Member of Interpol's DNA Monitoring Expert Group, and an elected Fellow of the Cambridge Commonwealth Trust. He teaches on the ARCA Masters Program.

Doug Yearwood is the Director of the North Carolina Criminal Justice Analysis Center. He has published articles and book reviews in *Justice Research and Policy*, *the British Journal of Criminology*, *Criminal Justice Policy Review*, *the Journal of Family Violence*, *the American Journal of Police*, *Children and Youth Services Review*, *African American Male Research*, *the Journal of Gang Research*, *the F.B.I. Law Enforcement Bulletin*, *the Criminologist*, *Critical Criminology*, *Federal Probation*, *Police Chief*, and *American Jails*. He is co-author, with James Klopovic and Michael Vasu, of the book *Effective Program Practices for At-Risk Youth: A Continuum of Community-Based Programs*.

Donn Zaretsky is an art law specialist at the firm John Silberman Associates. Zaretsky published the Art Law Blog at <http://theartlawblog.blogspot.com/>.

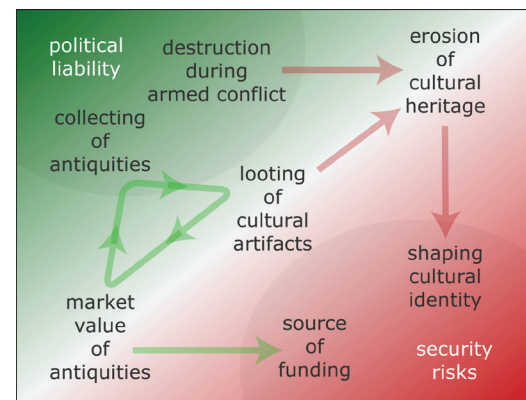
Cultural Security examines the current tactical significance of artworks and historic sites and explores the strategic potential of cultural intelligence.

Since 2001, Erik Nemeth has researched the evolving role of artworks, antiquities, historic structures, and religious monuments in international security. In assessing the influence of scholarship on the tactical significance of cultural property in international conflict, the study of Cultural Security has revealed the potential for “cultural intelligence” to inform the strategic application of cultural property in foreign policy.



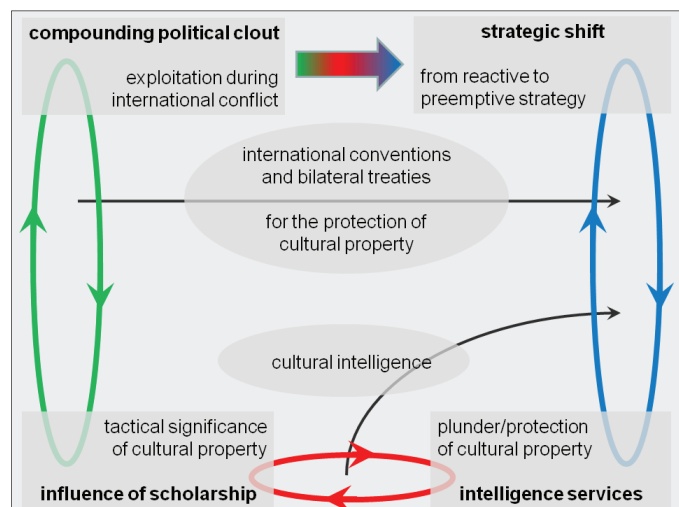
Research on Cultural Security has led to the formulation of models for:

- tracking the compounding political liability of cultural property in international conflict
- assessing the potential value of the art market for collecting intelligence on trafficking in narcotics and weapons
- leveraging the influence of scholarship on the tactical significance of cultural property
- developing the strategic protection of artworks, antiquities, historic structures, and religious monuments.



The models that illustrate the various dimensions of Cultural Security reveal a cycle that increases the relevance of the protection of cultural property to international security. In combination, the models suggest the increasing importance of cultural security in foreign policy and motivate the development of “cultural intelligence” as a means to mitigating, and potentially forestalling, risks to cultural property in international conflict.

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www.culturalsecurity.org

The Journal of Art Crime

Acknowledgements

Thanks, as always, to the Board Members of ARCA, both its trustees and the Editorial Board of *The Journal of Art Crime*. This year we wish to particularly thank Terressa Davis and Erin Linn, for their work as co-directors over the past year. We wish them all the best on their future endeavors. Thanks also to ARCA's staff, particularly Colette Marvin, Derek and Joni Fincham, Mark Durney, Madi Gandolfo, Monica Di Stefano, and Enida Mimani.

Thanks also to the institutions that have hosted ARCA staff as visiting lecturers in the past few months, and supported the work that this journal expresses: Yale University, The Institute of Criminology in Ljubljana, the Yale Art Gallery, the Museo Thyssen-Bornemisza, the Clark Institute, the Corcoran Gallery, and The Courtauld Institute.

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Thanks to all of you who have supported ARCA in its work against art crime.



Noah Charney
Founder and President, ARCA
Editor-in-Chief, *The Journal of Art Crime*



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Bojan Dobovšek

Art Crime Problems

Abstract

Criminal offences against works of art present large international problem. Due to large incomes, organized crime and terrorist organizations also got involved in this kind of crime. This paper presents the problem of investigating art crime and make some suggestions that might help investigators. There is more reasons why a criminal investigation of art crime presents a major problem for investigators. One of them is that the offenders are professional experts about art and that they are in many cases even a step ahead of investigators. Significant emphasis should be given to the preventive action and to inform the public about the seriousness of art crime. It is necessary that the police begin to identify art crime as a unique category of crime and not as property crime and that investigators have some special training for investigating art crime. The main meaning in investigating art crime is the co-operation of police, private investigators, museums, galleries and other experts. Also international cooperation is required and participation of international institutions. This article is based on theoretical work and analysis of documents. An original contribution of article is new solution about how to improve investigation of art crime. The findings are useful to police, private security and all other organizations that are dealing with art.

Key words: Art, Art crime, Investigating art crime, Organized crime.

Jure Škrbec, Boštjan Slak in Bojan Dobovšek

Art Related Criminal Acts in Slovenia

Abstract

Characteristics of crimes, which relating to works of art belongs to the most noblest forms of organized crime, is big extensive value of stolen objects and even larger incomes, profits. Money, gained with sale of stolen works of art, can be used for other illegal things and actions. And that is why organized crime is also more and more dealing with these kinds of crimes. In this article, authors are analyzing state on the field of crimes relating the art in the Slovenia. Slovenia has in this area – protecting the works of art as objects of crimes, adopted good legislation but unfortunately, measures are not implemented and also cooperation between different institutions is not working as it should. Because of stated,

authors have done pilot research about art crime in Slovenia in which we identifies and examine problems on art crime and peoples opinion about culture in Slovenia. Results show that respondents have not important and valuable work of art in their apartment and art culture do not represent important role in their life. They do not go often to museums and galleries and do not feel any connection to any kind of work of art in Slovenia or in the world. For respondent, it is not important whether some work of art is protected or not, they would be in any case very affected if somebody stole their work of art. Beside respondents said that they decided to protect and secure works of art in combination of physical and technical force, equipment. But we also got feedback that respondents have more trust to technical protection then to human factor. Respondents would not buy the work of art on black market.

Key words: art crime, art culture, national heritage, public opinion

Uršula Belaj

Analysis of the Biggest Art Thefts

Abstract

Works of art have always been a part of legal and illegal trading. In company with trading has also been developing an art crime. And this kind of crime has been expanding everywhere. The consequence of expansion is a black market of artworks, which is one of the most profitable branches of organised crime. Because of crime, we have to have an appropriate protection and insurance for works of art. We must prevent artworks from criminal offences, which could jeopardize their origin or even existence. There were a lot of cases of art thefts and forgeries of artworks in the world. And for that very reason, different institutions (FBI, Interpol) created databases with information about stolen works of art. Furthermore is necessary to use an appropriate strategy of investigation of criminal offences that, as soon as we can, return works of art to their authentic place or to the owner. But the main meaning is the co-operation of police, private investigators, museums, galleries and other experts. In article is presented what are the works of art, criminal offences against artworks, motives for that kind of criminal offences and who are the perpetrators of art crime. There are also mentioned details of particular cases of art thefts in the world, the most effective and efficient methods of protection and recommendations of experts for security of works of art in museums.

Key words: works of art, theft, police, security, database

¹ Editor's Note: please note that these abstracts are published as they were submitted, and were not copy-edited by *The Journal of Art Crime*.

Abstract

Art forgery is one of the most profitable criminal activities in our times. It first appeared in Ancient Greece. Literature shows that famous artists signed paintings made by less famous artists in order to increase the worth of the art piece. During Roman times, forgery was in full bloom. It was a fashion to have Greek artworks at home, which of course remains true today. Forgeries are copies of original works, which are sold by the forgers or mediators to someone who believes them to be the originals. Alongside illegal copies, there are legal copies and reproductions. However, there is little difference between a legal copy and a forgery. The forgers need to be at least vaguely familiar with the style and technique they are trying to imitate. Many forgers are inexperienced artists who tried to succeed in the art world and upon failing, tried their hand in forgery. Forgeries can be identified with the help of appraisers or investigative techniques. Since the appraisers are subject to bribery, the best way of testing are modern analysis techniques. Identification of forgeries is usually carried out in forensic labs, which have the equipment required to test the forgeries. To find forgeries, one needs to check or perform an analysis of style, origin and a scientific analysis. To analyze the origins, scientists analyze the structure and origin of materials used for the painting, such as paper or canvas for the painting; ink for the signature. In scientific analysis a quantitative or a qualitative discovery method can be used. Both are used with the help of machines, such as roentgen, infrared light analysis, spectroscopy, etc. These apparatuses are used to discover: the age of the painting, material, used for the painting (paper, dyes ...), roentgen helps us see whether the painting overlays a different painting, etc.

Modern techniques of analysis can help us quickly and accurately find forgeries. Luckily most of them are found quickly, since they are sloppily made.

Key words: work of art, to forge, forgers, forensic analysis.

Marija Brus

Protection of National Treasure from Unlawful Removal from the Territory of The Republic of Slovenia

Abstract

Particular part of protecting national treasure of each state is international activity in the field of illicit traffic of cultural goods and their unlawful transfer of ownership. The need for cooperation of states in solving this problem is best reflected in adopting a special convention, the so called Paris convention from 1970. Nowadays so actual as at the time of its adoption, the convention defines basic measures and provisions, the states parties should realize. The purpose of this article is to review the actual situation of protecting national treasure

from illicit traffic, especially measures of our state. Elements of protection; adoption of law, inventory of national treasure, issuing export and removal licenses, controlling import and art market, returning unlawfully removed objects of cultural heritage, introduction of minor offences and punishments and some other particular measures derive from the convention mentioned above and remain strategy for protecting national treasure followed by Slovenia and cooperation at detecting illicit traffic from foreign states. After four decades of endeavor the international community has reached some results. Bringing into force the criminalization of illegal acts against traffic with cultural goods, the national treasure of each state is becoming an international worth. Step by step discipline of the art market and legal traffic is being established. More results are expected from modern information system. Slovenia has adopted all measures and is nowadays most engaged in the inventory of national treasure and conscious of public. The article is the first review of the field in Slovenia and intended first of all to experts interested in criminological problems and protection of national treasure.

Keywords: national treasure, cultural goods, export, protection of cultural heritage

Tamara Javornik

Cultural Heritage Protection - Inspection and Interdepartmental Cooperation

Abstract

The article investigates two of public law institutions and their overlap where protecting cultural heritage is concerned. Within the substantive legal rules the inspection provides with its statutory powers a certain level of protection for the cultural heritage. However, cultural heritage is also being protected by other regulations within the competence of other public administration units exercising control over implementing legislation - therefore a certain level of cooperation is inevitable. Interdepartmental cooperation stands as an established form that joins the departments of police, customs, culture, justice and public prosecutor's office in common interest in the field of cultural heritage protection. This article focuses primarily on inspection work and secondly on the cooperation of public institutions when aiming to protect cultural heritage, while it also serves as a piece of information for the competent in the public administration who occasionally deal with specifics of protecting cultural heritage

Key words: control, inspection, cultural heritage protection, interdepartmental cooperation

Matija Breznik

Art Related Crimes in Slovenia - Case Analysis

Abstract

The paper analyzes the situation of art related crimes in the

Republic of Slovenia. Proper legislation for protection of Slovenian cultural heritage and crimes related to art was adopted and developed by our government. Individual institution, each operating in its specific field, contribute to detection, investigate and prevention of these crimes. Ministry of the Interior in the context of specific fight against art crime campaign tightly cooperates with police units in the whole of the Republic of Slovenia. Investigation of crimes related to art in the Republic of Slovenia, is often very difficult, since there are difficulties in classification on whether an object in question is a piece of art, an object of cultural heritage or none above. Problems arise because the information is held by several different institutions. Slovenian police experience shows that we are dealing primary with two types of the perpetrators attitude. At first we have perpetrators who have some kind of special relationship to these items, especially when they steal for themselves. Secondly, different attitude can be attributed when they steal for resale, or by the order of customer. Methods used to commit those crimes are not any specialty, since most perpetrators break in through usage of physical force and the appropriate tools (e.g. screwdrivers, pliers, crow iron). Burglary or thefts are committed primarily at night, resulting in delayed notification of police that crime was committed. Elapsed time, perpetrators use for destruction or for sale of the stolen items or for smuggling them over the border. The author notes that the Slovenian police in this area is weak, especially since we do not have specialized units of police. Also our criminal investigators have not been professionally taught at such a level that sovereign prevention and investigation of those crimes could be expected. That is why, it also analyzes the experiences of Interpol and Europol in art related crime.

Key words: Cultural heritage, art crime, investigating art crime, burglary, thefts.

Saša Vučko

Media and Art Crimes

Abstract

Criminal offences against works of art are presenting large international problem. Considering rapid increase in the last forty years, such criminality ranks the third among most extensive and most profitable crimes. Due to large incomes, organized crime also got involved in this kind of criminal offences. It is impossible to find out the exact number of all criminal offences against works of art. In the future, international organizations intend to prepare a list of all works of art that are connected with criminal offences. Not much is known about art crime because media are reporting mostly about classical criminal offences. I made an analysis of the articles about art crime published in the year 2005 to find out how and how much media report about art crime and which form of criminal offences against works of art is most

interesting for reporters. The results show that reporting about art crime is very poor. Articles about thefts are dominating and are focused only on most known cases. This is a big problem because this kind of reporting misleads the publics, who get a distorted picture about art crime. Articles which contain only most basic data about criminal offence are prevailing. Very little is written about successfully saved cases. Reporting of media concerning criminality against works of art is sensation-oriented, authors of articles are giving moral judgements about this kind of crime and believe that it is dangerous for society. Such reporting is inspiring because we know that media have a strong impact on public opinion and thus contribute to protective behavior of people with reporting about crime.

Key words: Art, Art crime, ARCA, organize crime, article about art crime.

Renata Samardžić

A View on Stealing Works of Art in Serbia

Abstract

According to the data provided by the Ministry of the Interior of the Republic of Serbia, 537 criminal offences related to artefacts of cultural interest were committed in the 2000-2006 period. Theft and unauthorized archaeological excavations most frequently endanger the sites dating from the ancient Roman period, as well as sacral facilities, especially churches and monasteries, from which liturgical objects (icons, old theological scriptures, chalices, crosses, and reliquaries containing the relics of saints) are stolen. Works of art and antiques reveal the cultural identity of a nation; they have certain significance within specific social, economic and historical surroundings and present valuable testimonies of entire epochs, which is why their protection is of public interest. The purpose of this paper is to outline the circumstances in Serbia related to crime affecting cultural artefacts, as well as to present some manifestations of such crime and give typical examples.

Key Words: works of art, antiques, liturgical objects, theft, Serbia.



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Museum Security Network under New Management

Ton Cremers, the founder and moderator of the Museum Security Network, has decided to pass the ownership and responsibilities of the MSN onto me, Mark Durney. Before I introduce myself, I have a few words on Ton's advances and innovations in the field of art crime for which we are eternally grateful.

Over 14 years ago, when Yahoo! was under a year old and Google was still two years away from "logging on," Ton Cremers had a vision to expand the local Dutch cultural property protection and preservation discussions to the global village. With the assistance of some new technologies, this vision became the Museum Security Network. As Dante said in the *Inferno*, "From small spark great flame hath risen." For those who are unaware of its size and scope, the MSN now receives over 13,500 visitors a month. Rest assured that I do not plan on diverging from Ton's vision rather I hope to contribute to it and build on the solid foundation and reputation he has already established.

Currently, I am pursuing a year-long Masters in Cultural Heritage Studies at the University College London's Institute of Archaeology. For the past two years, I have maintained Art Theft Central - a blog that discusses recent news about art crime as well as contributes insights into the trends in the field from a variety of perspectives. Additionally, I serve as Business and Admissions Director for ARCA - the Association for Research into Crimes against Art. As an undergraduate at Trinity College (Hartford, CT), I majored in History and completed a thesis on deconstructing the Thomas Crown Affair art heist scenario. I have had experiences from a financial strategy consulting firm with 90,000 employees worldwide to a local community bank to most recently, the Isabella Stewart Gardner Museum, where I worked as a security guard/gallery officer.

My work in the realm of art crime, like Ton's, has been largely voluntary. Hopefully, this conveys my passion to pursue the protection and preservation of our shared cultural heritage through theoretical, experiential, and practical approaches.

The MSN will continue to operate as a forum to update and engage those interested in the heritage and culture sectors. In the upcoming months, there will be a transition period as well as some transformations during which I hope to expand the MSN's volunteer base among other projects. I ask that the followers of the MSN exhibit the same confidence that Ton has placed in me so that together we can continue his mission.

Thanks for your support. If you have any questions, concerns, or comments you can reach me at mark@artcrime.info.

JOURNAL OF ART CRIME

About The Journal of Art Crime

The Journal of Art Crime, published by ARCA, is the first peer-reviewed interdisciplinary academic journal in the study of art crime. This twice-yearly publication provides vital information for members of the art trade, museums, security professionals, police, art lawyers, cultural ministries, private collectors, gallery owners and dealers, conservators, insurers, cultural heritage NGOs, as well as academics in the fields of criminology, law, art history, history, sociology, policing, security, and archaeology.

Submissions

Submissions are welcome at any time. We publish articles from both academics and professionals, related to art crime, its history, and its repercussions. Relevant fields include criminology, law, art history, history, sociology, policing, security, archaeology, and conservation.

Academic essays should be 4000-9000 words in length (including footnotes, excluding bibliography). Please adhere to the style guidelines at www.artcrime.info/publications. Relevant images should be sent in jpg form in a separate email. Authors are responsible for securing any necessary permissions for the reproduction of images related to their articles. Essays considered to be of merit by peers may be returned to their authors along with rewrite guidelines which must be applied before publication. Average turnover for peer-reviewed essays is eight weeks, and two weeks for editorial or review material.

Each academic essay should be accompanied by a cover page that includes:

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 - an abstract (100-200 words in length)
 - six keywords that characterize the content of the article.
- Please remove all identifying material from the body of the article.

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The Journal of Art Crime also includes book and exhibition reviews, conference write-ups, summaries of major recent art crimes, art-related legislation, other relevant news, and editorial columns. The Journal welcomes submissions or proposals for any of the aforementioned. Please note that all submissions must be made in accordance with the Style Guidelines available on our website.

Please send all submissions to editor@artcrime.info as an attachment in Word format.

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