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White-Collar Crime, Organised Crime and the Challenges of Doing Research on Art Crime

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Introduction

Researching art crime is not easy work. It compounds some fairly well-known problems in researching a variety of criminological topics, which all come together in the case of art crime to present it as a particularly thorny issue to grasp. In particular, many forms of art crime research take place across the boundaries of white-collar crime, organised crime and policing research.

White-collar crimes and other crimes of the powerful are notoriously hard to research, being committed in places which members of the public, including academic researchers, do not have privileged access to—the so-called crimes of the suites (Friedrichs 2010). Shining a light on the untoward practices of the rich and powerful can provoke threats of defamation litigation, which for the average empty-pocketed researcher can be quite intimidating. Organised crime is obscure for different reasons: there are access issues due to forms of power, which are comparable in some respects to the white-collar challenge, but it can also be a dangerous enterprise to attempt to uncover (Hobbs and Antonopoulos 2014).

Art crime is one of a number of crimes on which police data are deficient and/or hard to disaggregate, and it sits on the spectrum of crimes for which other documentary sources of data are not always easily or freely available.

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Some aspects of art crime happen online, for example illicit or fraudulent sales, and the ephemerality of those records present 'moving target' issues. Art crimes are committed nationally and internationally, presenting language barriers to Anglophone researchers as well as costly travel budgets for fieldwork exercises. Researching antiquities looters, for example, runs into the immediate problem that they are not especially easy to find. They are less obviously available for research participation than other popular groups of criminological research participants, such as incarcerated offenders or criminology students. Looters are also a good example of the ethical research challenges involved in gathering original empirical data in art crime research, with some being in the sensitive categories of participants that university ethics committees quite understandably seek to give especially high levels of protection to (Noaks and Wincup 2004): possibly being vulnerable, young, likely to suffer harmful repercussions if data are mishandled, and more likely than other groups to misunderstand the purpose of the study and the impact of their participation in it.

At this point, readers not already too committed to a career in researching art crime to back out might well be thinking about switching topics and looking forward to an easier life, but let us look at all of these challenges in more depth and try to show how they can be overcome. Although art crime is certainly a testing subject of study, none of these challenges is entirely insuperable and it can be a very rewarding job to think inventively about the methodological design of research projects to allow for the collection and analysis of good data.

In thinking about the research implications of questions about art crime, we should probably start by breaking down the term 'art crime' into some of its component parts. Perhaps reflecting my own bias in terms of the research I have chosen to do in this field, I tend to think of art crime as something of a dichotomous term, encompassing trafficking cultural objects (my main research interest to date) on the one hand, and the crime problems that affect the market for more contemporary art on the other: including thefts from museums, galleries and private collections, fakes and frauds and claims relating to spoliation (most notably recently in relation to the holocaust). Doing research on the latter of these two categories can no doubt be challenging, and I have had some experience of the challenges there (Mackenzie 2005a). However, by far the greatest amount of experience I have had in art crime research has been in relation to the first problem, trafficking antiquities, so I concentrate in this chapter on the research designs, setbacks and successes, which have been a part of that line of work, especially most recently having

had the privilege to work with a marvellous and dedicated group of researchers and graduate students in the Trafficking Culture project.

The research landscape of trafficking antiquities can be broken down into three phases of traffic: source, transit and demand. Actually, largely as a result of the Trafficking Culture findings, I have increasingly tended in terms of analytical focus to think about the transnational trade in antiquities as really having two phases—the first being from source to an interface point with the legitimate market and the second being the surfacing of the object in question thereafter, in other words, the market phase. In terms of talking about research design, however, it might be better for the moment to hold on to the idea of a three-fold distinction between source, transit and demand, since that will allow us to discuss researching looters at one end, buyers at the other end and the ‘interface’ personnel, who provide the key links in the networks, between the two ends.

Market-end Research

The challenges of conducting market-end research in the illicit antiquities trade are really a version of the normal issues confronting research on white-collar crime. Why should constituents in the market like high-end dealers, collectors and museum buyers consent to participate in interviews with researchers in which they are likely to be asked to reveal some elements of their ‘trade secrets’? This question becomes ever more salient in a market widely identified as unusually—and perhaps anachronistically—private. If we accept that the antiquities trade is a ‘grey market’ (Mackenzie and Yates 2017), in which illicit artefacts are often inserted into the legitimate supply chain, then potential ‘legitimate’ interviewees in the dealing and collecting community will likely have handled these illicit objects knowingly, unknowingly or with a degree of suspicion that places their state of mind somewhere on the inscrutable spectrum between knowing and unknowing. For all of these market actors there is a degree of risk involved in research participation and little really to be gained. When approaching people in the market to invite them to take part in a research interview, it is therefore a good idea to be able to frame the research in a way that is not just muckraking. An interview situation may, for example, offer the interviewee a chance to set out the platform for the public trade’s engagement with the illicit antiquities question, putting forward their arguments in support of the trade and its routines, arguments the researcher commits to treating fairly in the write-up. However, for anyone

who is actively and knowingly participating in the illicit trade—in other words, for those who would be the most interesting and revealing interviewees—that framing of the participation invitation is not likely to be at all compelling or even tempting. For those actors, keeping out of the spotlight is the aim.

This issue of who is most likely to respond positively to interview requests has the effect of limiting the reach interview-type research can have into the illicit market. That reach might be bettered, for example, through academic interview research studies with convicted dealers, which is a research methodology that has shown itself to be quite productive in other areas of criminology. Those kinds of studies are completely absent from this field, however. The closest approximation is journalistic Q&A with some of the high-level accused, but even here rarely if ever with those who have been convicted. A recent example would be the interviews with Marion True, ex curator at the Getty, prosecuted in Italy for dealing in looted antiquities but with the case against her dropped due to the expiry of a five-year limitation period (Eakin 2010).

Assuming, therefore, that some level of participation can be gained from market players, it is important for the study at hand to include consideration of how those research participants may differ from non-responders. Depending on how the study is framed, this may not be such a big problem as it seems. If, for example, the aim of the exercise is to access narratives about perceived wrongdoing in the market (by others) then the problem of low response rates in a qualitative study may just narrow the opportunities for data collection rather than contaminate or defeat them irretrievably. If the desired access is to narratives about wrongdoing by the respondents themselves, then, while there is no doubt that the juiciest stories are likely to remain hidden with the non-responders, even interviews with a limited pool of presumed ‘white knights’ can be revealing. In other words if, as it seems reasonable to suggest, the people agreeing to be interviewed represent the more ethical end of the market spectrum, it is useful to discover that even among these players there is regular handling of looted antiquities, often unknowing or ‘semi-knowing’. That sort of finding allows us to observe important problems with the functioning of the international antiquities market, summarised in the idea of ‘greyness’ or inscrutability of the provenance and pedigree of objects offered for sale (Mackenzie 2005b).

A question which crops up quite regularly in relation to interview research with powerful actors generally, and research with high-end cultural paragons particularly, is: how do we know they are telling us the truth? Part of the sophistication and self-awareness discernible among the inhabitants of the

rarefied social echelons we lowly researchers may aspire to scrutinise, is the capacity to talk a good game. Such persons can be intensely and eloquently persuasive in advocating moral positions, apparently sensible trading regimes, international business norms, data protection and other privacy imperatives and so on. But how much of that is a question of 'perspective' to be fastidiously noted and later analysed and 'appreciated' by researchers who have set it as their task to delve into and try to understand the subjective positions occupied by their interview subjects in society and economy? And how much of it is actually bare-faced cover-up, which should be systematically dismantled and rejected in analysis, where to buy into it as subjectivity would effectively be to be duped?

There are various answers here, but whatever their value, the most important advice is simply to ask the question and try to be clear what you are doing about it: save yourself from the oblivion of the great mass of studies conducted by researchers who see 'expert' or 'professional' interviews as an unproblematic and easy way of finding out what the truth of a given situation is. It is a fundamental and sadly often catastrophic error to wade into a social scene with a methodological toolbox that includes only one gleaming wrench—'do some interviews'—operating all the time on the, usually implicit, assumption that what people will tell you is 'how things are'. The epistemological and ontological issues with that sort of approach are well worn in the books on sociological and criminological interview research. Suffice to say, it is very likely that people will, under the auspices of telling you 'how things are', actually tell you how they would like things to be or, more precisely, how they would like you to think things are, which they perceive to be a step in the right direction towards making it more likely that things will end up being as they would like them to be. This is especially the case with white-collar crime research among active market participants, who clearly have significant vested interests in various factors that make them unreliable witnesses to the facts: they are in the business of making profits, they are in competition with others and they have reputations to maintain. As a result, they will be highly wary of self-incrimination while being less wary or concerned with unduly incriminating others, especially as you are almost certainly offering them complete anonymity in your project outputs.

There are various ways to approach this problem. Some interview methods include in-built truth tests and some rely on triangulation of data to try to place the interview data within a wider frame and verify its reliability as consistent with a bigger picture (Hobbs and Antonopoulos 2014). Classic and conventional though those methods are, there has been a tendency in art crime research to ignore them, possibly because of the radically

interdisciplinary nature of the field, which means many researchers have not been trained in social science research methods. One way to engage with the question of reliability or 'truthiness' is to take a critical approach to discourse or narrative analysis, looking for the master narratives, or more colloquially 'stories', which seem to be guiding the interview responses. Therefore, rather than asking what is the underlying truth to which each interviewee is adverting, the method is to try to (re)construct the underlying narrative from which the micro-stories and sub-plots in the interview seem to have been drawn.

In my research, for example, I have used this approach to systematically chart the structure of justifying rhetoric supporting unethical behaviour in the market. Stories, myths and anecdotes, hearsay: these all provide a basis for discursive explanation, excuse and justification for dealing in stolen goods, often having as dramatic an effect as turning crime on its head, recasting criminal behaviour as socially good, for example, when illicit dealing and collecting are constructed as preserving looted artefacts and bringing them to public display or academic study (Mackenzie and Yates 2016). So, one possibility in dealing with the conundrum of whether to take interviewees at their word is to pay closer attention than usual to what those words are and to make as the object of your enquiry the words and the underlying narrative structure which they emanate from, signal and reinforce. That is a particularly constructivist line to take and there are other potential ways forward, but as I have said already, trying to ignore the problem is not one of them.

There are many more issues that could be discussed in relation to what has come in the methods literature to be called 'researching up', that is, turning the research gaze away from the street crime, poverty, disenfranchisement and powerlessness that have been the traditional focus of criminology and upwards instead, towards the corridors of social, economic and political power (Tombs and Whyte 2003). One, which bears mention in closing this section as being particularly applicable to art crime research, is defamation. It is variously also called, depending on legal jurisdiction, slander or libel. The issue here for art crime researchers is that the subjects of their research are quite likely to be rich and to have a reputation in the art world which is highly valuable to them, and which they are prepared to fight to protect, using lawyers. This hangs over research into art crime like a suppressing cloud. Most researchers in this field will, I think, know others who have received 'cease and desist'-type letters from law firms, if they have not received them themselves.

On the face of it, crime research does sometimes involve making reasoned propositions about people's conduct. The line between such research-based

propositions and 'allegations' about a person's character is not always easy to draw. Veracity can defend a researcher from an accusation of defamation, but it is not always easy to prove the truth of statements made and the standards for what is considered a reasonable basis for making a proposition in the world of research may not match the legal requirements for proof. In this area, university research ethics requirements can be a blessing, as they will usually encourage anonymity as a standard format for publication based on research, and this can help contain the temptation to make personalised allegations in one's output.

In some countries, the law is making progressive moves to support academic freedom of speech by exempting peer-reviewed publications from the usual rules on defamatory statements, but nonetheless it will continue to pay to be careful. Very large amounts of money can be at stake: consider, for example, the standard practices of authenticators who will nowadays (a) never declare a painting to be a fake but prefer to say something non-committal but highly suggestive along the lines that there appear to be inconsistencies with the purported artist's known style or materials and (b) only say this in a private letter to their client (the owner) and not more publicly. Allegations that artworks are fake or looted can have severe effects on their value and that provides a readily quantifiable estimate of the owner's financial loss, which can be attributed to the speaker or writer of the opinion, or its publisher.

Source Research

If research at the market end of the supply chain for illicit antiquities faces challenges that are broadly similar to other white-collar crime studies, research at the source end can be seen to face a series of challenges well known to organised crime researchers. Note that this is not to make any position statements or definitional assertions about looting antiquities as being organised crime, since this is a methods chapter rather than a substantive argument. I am saying that whatever your position is on the yes/no of the 'is it organised crime' question, the research challenges are similar.

One of the first challenges in aiming to do qualitative field research with organised criminals is where and how to find them. One might suspect organised criminals, broadly conceived, to be more sophisticated in their approach to the commission of crime than more run-of-the-mill 'street' criminals: for example, using developed counter-intelligence strategies including at the very

rudimentary end of that counter-intelligence continuum, simply doing their best to keep the illicit nature of their activities hidden (von Lampe 2015). Organised criminals do not always run highly sophisticated operations, however, and in the antiquities trade they are not necessarily hidden—in some countries the trade is so unregulated in practice that criminals participating in the illicit supply chain can operate through shops openly stocked with looted goods.

Finding looters can be more difficult than finding shop-tending illicit traffickers higher up the supply chain. Yet, it is certainly not impossible. Conducting research on temple theft in Cambodia with Tess Davis, this challenge presented itself (Mackenzie and Davis 2014). We tried to address it in three ways: networking, ethnographic investigation and snowballing. By networking I mean making connections with people who are likely to be closer to your target source population than you are. In our case, this was a team of local researchers in Cambodia who were able to provide us with introductions to key respondents known to them. In other scenarios, useful networking might be with local archaeologists since they spend long periods in the field and will usually get to know the local scene quite well during that time, including often experiencing looting at the sites they are working on (Bowman 2008). Making those connections can be valuable, allowing the researcher to focus in on knowledge that those archaeologists themselves might otherwise write off simply as practical experience with no implications for academic research.

In terms of ethnographic investigation, we noted early in the Cambodia research that most of the temples, however remote from major routes or towns, had villages nearby, and visits to those villages were predictably rewarding. We found it best not to lurch in with questions about looting, which may have caused suspicions about our intent (were we the police?). We found a useful approach was to begin with open-ended discussions about who in the village would be best placed to tell us the stories about the relationship between the village and the temple over time. That would allow an introduction to the elders or people with some level of responsibility for community matters and in turn it may lead (and this is 'snowballing') to recommendations of others to consult, or even introductions to villagers who had been looters at one time or another.

Generally speaking, while acknowledging the dangers and difficulties of doing primary empirical research with active organised criminals, it has been acknowledged in the methodological literature that the impediments are often over-stated or assumed to be more severe than they actually are. Many

types of organised criminals have been interviewed by academic researchers and quite a lot of these are more dangerous and harder to reach than cultural property looters and traffickers—consider, for example, studies of hitmen and professional killers (Levi 1981; Wilson and Rahman 2015). Where active organised criminals cannot be reached, incarcerated offenders present a more easily identifiable group, as illustrated by prison-based interview studies of drug dealers and smugglers (Decker and Townsend Chapman 2008; Pearson and Hobbs 2001; Reuter and Haaga 1989). Another solution is to aim to access retired organised criminals (Antonopoulos 2008) or those now co-operating with the police (Paoli 2003), who are likely to present less of a threat, thus mitigating university ethics committee concerns about risk to the researcher. They are also likely to be more disposed to openness about the routines and mechanisms involved in successfully navigating illicit trade ventures, since they no longer have a vested interest in continuing the secrecy surrounding those methods.

Transit Portal Research

Research in transit countries is on some measures the most difficult of the three stages in our source-transit-market research model. It aggregates the challenges of both white-collar crime research and organised crime research. Significant transit players occupy a role that Tess Davis and I have called ‘Janus’-like: the reference meaning to suggest that they are a point of interface between the underground and above-ground market, taking objects with a dirty hand as they face down the chain of supply to source and then turning round and passing them into the market with an apparently clean hand, thereby in effect ‘laundering’ or ‘fencing’ them (Mackenzie and Davis 2014). Janus figures therefore have characteristics of both organised criminals and white-collar criminals. They sit at the apex of organised chains of illicit supply, driving those chains through their demand for illicit objects. They also perform white-collar criminal functions in the market with their cultivation and abuse of bonds of trust. They may be high-status, high-value individuals with major fortunes and enterprises built up to appear legitimate, although having been financed by and continuing to facilitate the insertion of illicit objects into the marketplace.

Research into trafficking at the transit phase in this global illicit supply chain needs to involve attention to personal safety, as of course all research does. Ingrained official corruption, a certain level of sophistication among

some criminals, and possibly a long-standing organised crime scene in transit cities can present a threat to researchers asking intrusive questions. Ethnographic research into transit countries for antiquities is still in its infancy but they sometimes represent somewhat anomic trade zones—the geographical meeting or transition points between organised crime networks trafficking goods out of source countries and white-collar trading networks dealing with the goods after they are inserted into international markets. Transit portals are the points directly before the objects surface on the international market, and the established businesses set up to manipulate that surfacing may have considerable profitable assets and connections to protect in their sources of supply, as well as an ongoing interest in keeping their injection of illicit artefacts into the international market a secret.

Transit and source research present similar problems of language. This is sometimes less of an issue in transit cities where English may be quite widely spoken, especially in global trading communities. Nonetheless, it is important not to allow your research to be shaped by the somewhat haphazard criteria of ‘who speaks my language’, although many studies will in fact do this, so it is important to be aware of the issue when reading other people’s research. Therefore, both at source and in transit cities, the researcher should use translators.

I have found it can be helpful to use two translators at once. With only one translator, you run into the problem of the disruption of normal conversational interaction. You ask the translator a question to ask the interviewee: ‘can you ask her [...]’. The interviewee waits while you ask the interpreter this, then she hears it from them in her own language. Then she replies. Eventually the interpreter gives you her reply. You think about the reply and ask the interpreter to ask her another question to follow on. And so it goes. In this format, both you and the interviewee spend much of your time waiting for something to happen, listening to people talking in a language you do not understand. With two interpreters, however, you can have one dedicated to asking your questions and one dedicated to translating the interviewee’s answers. At least in this way while you are hearing the translated answers from the interviewee’s translator you can be talking simultaneously to your translator, setting up the next question to be asked or making comments back to the interviewee. It makes for slightly better, circular, conversational flow, and it deals in some respects with the major issue of the one-translator set-up, namely the incapacity to respond to or query pieces of information mid-flow, having to wait to the end of the whole response, by which time the moment has probably been lost.

Official Data Sources and Other Published Data

One type of interviewing we have not mentioned, but which transcends source, transit and market, is official accounts. Given that the police have a privileged position in relation to access to information about the hidden criminal elements of the trade, insofar as it is part of their job to try to uncover those hidden elements, we might expect interviews with active 'art crime' police officers to be revealing. While some enlightening research has been done with law enforcement about first-hand perceptions of governance routines and issues (Kerr 2015), talking to the police has for the most part been disappointing as a research method in this field. Police officers have tended to be reluctant to trade information with researchers and sometimes even with other national police forces, due to concerns about the confidentiality of information gathered in the course of investigations. Access to police databases is similarly hard to achieve, apart from those which are more or less open access, such as the Interpol database of stolen works of art. Many police databases are in any event likely to be of limited utility to researchers interested in the specialist category of 'art crime', where that category is seldom recorded by police forces separate from the general mire of property crime statistics.

Where police and customs officials do interact with researchers, it has tended to be on their terms, which has usually been where they require academic archaeological experts to help them identify seized artefacts. Unfortunately, that kind of disciplinary expertise tends to be the remit of more traditional archaeologists while the pioneering academics working alongside criminologists in developing expertise on the illicit trade usually do not have the required object identification capacities to be able to help law enforcement. The result is that enforcement officials end up talking to the wrong people for the long game: in recruiting only archaeologists who can assist with their immediate short-term concerns around identifying seized objects they are missing the opportunity to interact with the real specialists in the field. Fortunately, this problem is becoming less of an issue over time, as international conferences and specialist meetings bring together academics, government representatives and law enforcement at regular panel sessions and closed meetings to develop global solutions.

Court files are a staple of organised crime research (Hess 1973; Catanzaro 1992; Gambetta 1993; Campana 2011). These have so far been little used in studies of art crime, other than where revealing excerpts of documentary productions in court have been posted on the internet by journalist bloggers like Jason Felch through his excellent investigative Chasing Aphrodite website.

The same can be said of customs files and data: enterprisingly used in criminological studies of organised crime (Soudijn 2006; van Dijk 2007), largely unused in studies of art crime by any discipline outside of occasional analysis in the blogosphere, in this case notably by the lawyer Rick St Hilaire.

Secondary analysis of published data sources other than official records and statistics also has productive precedents in white-collar and organised crime research. For example, the biographies and autobiographies of convicted and sometimes repentant criminals can provide rich sources of data, albeit with the obvious caveat that these are performative documents, deliberately produced by their authors and subjects for public consumption and therefore quite possibly presenting the very definition of a one-sided view on matters (Hunter 2015). In the field of illicit antiquities studies, Tsirogiannis has combined a review of published literature, in this case *The Medici Conspiracy* (Watson and Todeschini 2007), with a social network analysis to produce network maps of the major players in the conspiracy—Medici, Hecht, True and so on—and their trading relationships with museums and less prominent dealers (Tsirogiannis and Tsirogiannis 2016). This approach supports, among other things, something that researchers in this field have long acknowledged: that some of our best access to data is due to the high quality of some investigative journalism and resulting popular books (Watson 1997; Felch and Frammolino 2011; Atwood 2004; Silver 2009). In terms of other available literature, auction and museum catalogues have been used to good effect both in studies of the extent and market impact of decent provenance information, and in the more practical business of identifying suspicious artefacts and reporting them. The work of two of my colleagues in the Trafficking Culture consortium exemplifies these two types of auction catalogue exercise: Neil Brodie in respect of the former and Christos Tsirogiannis in respect of the latter.

Conclusion: Researching Art Crime, Why and How

In addition to being inherently interesting to most people, for criminologists, art crime—and, in the case of this chapter, particularly antiquities trafficking—presents an accessible case study within the category of global illicit trades. This is interesting theoretically in its aggregation of the analytical categories of white-collar crime and organised crime and the interfaces and overlaps between them. That conceptual relationship is currently one of the many cutting-edge interests in the criminology of serious for-profit crimes, with recent attention being paid to ‘facilitators’ and ‘brokers’ in the field of organised crime studies (Morselli and Roy 2008; Morselli 2013), where those

roles are acknowledged sometimes to be white-collar ones, as well as being part of the division of labour within organised crime groups and networks. In studying antiquities trafficking, we have a market where the internal composition of the networked activity seems to consist of a transition, sometimes from organised crime origins in heritage-rich countries to white-collar crime reception in the market, so the theoretical examination of the links joining and boundaries separating those two criminological ideals of white-collar and organised crime is a rich and rewarding source of inquiry.

One step back from those conceptual questions sits the issue of how practically to research them and, in this chapter, I have tried to lay out and consider some of the challenges and solutions in the empirical study of this area. The central proposition, which I hope it is clear that this analysis supports, is not only that the criminology of white-collar and organised crime is an essential context to the study of global art crime, but also that studies of art crime can contribute important contexts to research and conceptual development in the broader fields of study in white-collar and organised crime, both in terms of generating empirical data and in terms of developing methodological techniques.

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