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Motives of Art Theft: A Social Contextual Perspective of Value

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COLLEGE OF VISUAL ARTS, THEATER, AND DANCE

MOTIVES OF ART THEFT: A SOCIAL CONTEXTUAL PERSPECTIVE OF VALUE

By

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ABSTRACT

This study utilized a sociological contextual examination of the value of art in order to examine the relationship between the value of art and art theft. The over-riding research question of this study addressed: What is the relationship between the value of art and art theft? In order to explore this question, the study further examined three additional research questions. First, what determines the value of art? Does this value affect motive? If so, how? Second, what is, if any, the co-evolutionary relationship between the value placed on an artwork and art crime? Third, how do policies and procedures established to protect artworks also affect the value of art? This exploratory and descriptive study examined the dualism of value and motive relative to the context of art and art theft through an inductive grounded theory design. The primary means for gathering data incorporated content analysis and a series of open-ended systematic qualitative interviews.

The findings of this study contribute to the overall knowledge of art theft and illicit art trade. It provides a base of information for future studies, and aids in the development of theories about art crimes. The data also provides information to stakeholders so that they may actively influence changes in procedures and policy implementation as a prevention of art crimes.

CHAPTER 1

PROBLEM STATEMENT

Art Theft Research Problem

Art clearly has value; however, precise measures of the value of art are not widely understood. Even art scholars have struggled with the challenge of quantifying the net benefits and costs of the arts to society (Brooks, 2002). The current market offers numerous examples of artworks at prices that seem to defy economic principles. Members of the criminal world have also noticed this apparent discrepancy in the economic value of art. In fact, according to Browning (2008), “Art theft has turned into a global industry that experts believe now fuels everything from terrorism to drug-running. At least one art sleuth puts art crime, including stolen antiquities and traffic in forgeries, behind only drugs and arms trafficking as the third-most lucrative criminal activity in the world, at \$2 to \$6 billion a year” (para. 1). Very few people understand the magnitude of this problem, and unfortunately, reports about art crime often tend to glamorize the activity. In fact, reports often highlight the monetary value loss instead of the cultural losses, which carry a far greater impact on society. Each piece lost represents a partial loss of our heritage. Additionally, because of the way that the art crime problem evolved, many of the art institutions and prominent collectors have been actually involved as players, and are thus part of the problem. The marauding of art, which has occurred for thousands of years, has its supporters. There are some who justify holding ancient treasures, saying they can provide better protection of the works at their museum. Yet archeologists and historians argue that ancient works of art belong in their original context whenever possible. A lack of precedence in policy and procedures further complicates the matter. These obstacles limit the motivational factors required for change. Without public support, funding is difficult to obtain, and even with funding, institutions and collectors may not be willing to commit to comprehensive policies that could prove self-incriminating.

To date, limited research efforts have focused on this increasing problem. Most of the stakeholders tend to treat art crimes as a reactionary criminal problem, instead of a proactive preventable situation. This is due in large to the fact that much of the public’s knowledge of art crimes comes from high profile cases reported in newspapers, magazines and sensationalized movie plots. The recently remade movie, *The Thomas Crown Affair* (Tadross, Brosnan, St. Clair, & McTiernan, 1999), is an example of a movie that characterizes the problem of art theft as a

high society game. This dramatized narrow view of art crime as a high society game that depicts the thief not as a criminal, but as a high society individual engaging in a high stakes cat-and-mouse contest, compounds the problem by providing little perceived need for action against such a victimless crime (Wittman, 2010). In reality, the scope of the problem of art theft is complex due to many entwined factors. First, society's apathy about the value of art and its importance as a cultural asset leave many people to disregard the significance of art theft. As Assistant Director Swecker, Federal Bureau of Investigation (FBI) (2006), states, "Theft of cultural property is a world-wide problem...Objects of art and cultural heritage enhance all our lives, and represent a legacy of history and art for future generations. Theft of cultural property, no matter where in the world, impoverishes us all." Exploring the factors that affect value, and determining a relationship between this value of art and art theft has to start with the value of the art itself. Art has a value within a culture in part on its contextual framework. Society assigns a value that separates art from other commodities. This increased significance that society places on art could impact art theft. Second, the sheer magnitude of art theft that spans national and international borders, and the enormity of monies involved necessitate a social hierarchy involved in art theft and trafficking that could also affect value. Finally, due to the world scope of art theft and a lack of uniform laws and enforcement across the globe, policies enacted by governments and private industries may carry unintended consequences that also affect the value of art.

Increasing Threat

"The large number of thefts and the increasing value of fine art has made stolen art a booming criminal industry. Agent Smith, a fine arts insurance adjuster, as well, estimated the current value of the stolen art trade to be between \$4 and \$6 billion, making it one of the largest black markets in the world...In fact, if a museum were filled with all of the world's stolen artworks, it would be the most impressive collection ever created" (Boser, 2009, p. 21). Even more recent Ms. Bonnie Magness-Gardiner, Manager of the FBI Art Theft Program, placed an estimate of "losses due to art and cultural property crimes at \$8 billion per year" (Federal Bureau of Investigation [FBI], 2010, para. 3). It is clear that the problems connected with art theft are on a rise in part due to increases in the value of art. Therefore, further investigation regarding art theft is necessary in order to combat these criminal activities that threaten our cultural heritage. These activities include a rise in criminal activity especially associated with technological

advancements, a reluctance of restitution, and the rape of our cultural history preserved in works of art.

Rise in Criminal Activity

“The scope of art and antiquity crime varies from country to country, but it’s safe to say that art crime is on the rise, easily outpacing efforts to police it” (Wittman, 2010, p. 17). According to statistics the global art market is a \$200 billion a year business. The United States makes up 40% or \$80 billion of that market, and art theft accounts for the estimated \$6 billion of loss annually (Wittman, 2010). The \$6 billion is probably a low estimate because it only takes into the account statistics from a third of the 192 member countries of the United Nations. Regardless, the economic principles of supply and demand are active, and art criminals working in a global market are able to use technological advancements to enhance their craft. “The technology revolution that sparked the global economy made it easier to loot, smuggle, and sell antiquities. Looters employ global tracking devices, smugglers bribe low-paid customs officials, and sellers post items on eBay and clandestine chat rooms” (Wittman, 2010, p. 84) making it easier to steal, transfer, and sell stolen art while utilizing cell phones and internet access.

Complexity

Differentiating art crimes from general burglary is a recent and overdue development. Art crimes are different. They have more complex motivations, more sophisticated executions, and the stolen art frequently enters an international underworld market. “Art thefts are probably better planned than the average theft, and probably executed by more experienced thieves as well” (Mackenzie, 2005, p. 1). Yet, prior to 1970, law enforcement agencies did not differentiate art-motivated crimes from general thefts. Art crimes were simply included in general theft reports. In November 1973, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) held a meeting near Belgium “to discuss for the first time the problem of theft and vandalism of artworks and other cultural property” (UNESCO, 1974). They recognized art crimes as a growing problem to the world’s cultural heritage, which required attention. Since that time, the problem has continued to rise. The FBI recently developed a list of the top ten art crime cases. The value of these cases was approximately \$600 million dollars (FBI Art Theft, 2006). Once again, an interest in art crimes has surfaced; especially with the recent highly publicized loss of cultural icons in areas of military conflict. This has attracted the attention of the United States. In 2004, the FBI established a rapid deployment Art Crime Team

to address the increasing problem of international art crimes and illicit art trade. Even now, the FBI still does not necessarily differentiate art crimes from other forms of burglary. “By protocol, the bureau generally assigns cases to the appropriate squad in the city where the crime occurred, regardless of expertise. Most art crime investigations are run by the same local FBI unit that handles routine property theft – the bank robbery/violent crime squad. Once assigned, the cases are rarely transferred afterward” (Wittman, 2010, p. 9). Besides missing potential insights into an investigation, the FBI’s misallocation of resources is limiting its own gains in institutional knowledge with respect to art crimes. “So the Gardner investigation – the biggest property crime of any kind in the history of the United States and the world’s highest-profile art crime – was spearheaded not by the FBI Art Crime Team, but by the chief of the local bank robbery/violent crime squad in Boston” (Wittman, 2010, p9). Even to date, the Federal Bureau of Prisons does not report the art thief’s crimes in a separate category from general crimes (BOP, n.d.). In reality, stakeholders need to understand the types of criminals that they are dealing with and what motivates them. Indeed, all interested parties have a need to understand the broad scope of the problem including the interconnectivity and sheer complexity of the environment in which these criminals operate. While the major United States museums update acquisition policies, and profess their support for due diligence, the reality is that they are reluctant participants in restitution (Brodie & Renfrew, 2005). Further, the intrinsic and extrinsic values of the artwork in their establishments make them vulnerable targets for theft, for which they do not provide an adequate level of security. As stated in data from Interpol (2008), 11% of art thefts in the United States and abroad were from museums. Breaking it down further Wittman (2010, p. 16), a retired FBI agent, notes that thieves were striking museums across the globe, stealing more than \$1 billion worth of paintings from 1990 to 2005 (Wittman, 2010, p. 16). Thus, leaving 52% of all stolen artworks taken from private homes and organizations, 10% stolen from galleries, 8% stolen from churches, and the remainder stolen from archeological sites (Wittman, 2010, P. 18). The following table includes data compiled from the Art Loss Register comparing art theft trends by location from 2004 and 2008 (Dumey, 2009):

Table 1.1 Comparison of Art Loss Register's Reported Data 2004 vs. 2008

Location	2004%	2008%	2004 # (out of 160,000)	2008 # (out of 200,839)
Private Residences	61%	52%	97,600	104,436
Museums & Galleries	19%	21%	30,400	42,176
Churches	9%	5%	14,400	10,042
Companies	2%	4%	3,200	8,034
Other	9%	18%	14,400	36,151

It is difficult to obtain an accurate statistical picture of the scope of art theft, and there are many reasons for this lack of information. “The first and primary reason is under reporting. Most art theft is never reported to the authorities. It is estimated that only 20 to 30 percent of all art theft in the United States is reported to the proper agency” (Lawrence, Bachmann, & von Stumm, 1988, p. 56). The second reason for the inaccurate statistical information on art theft is the lack of consistency in the reports filed and the records kept. Up to the late 1970’s, works of art were not even singled out in the theft reports. Third, is the difficulty in estimating the annual dollar value of stolen art. Estimates range from \$50 million to \$8 billion. This difficulty in assigning an annual dollar figure, either worldwide or country-by-country, correlates to the problem of inadequate data. Fourth, is the difficulty in reporting the artworks recovered. Recovery rates are based on those works of art which have been reported missing and then are reported recovered. “At a national conference on museum security held in Washington D.C. in 1985, it was concluded that the recovery rate for stolen art in the United States was less than 2 percent” (Lawrence et al, 1988, p. 58). West Germany reports a recovery rate of 20-30 percent, while Austria reports 40-50 percent.

Reluctance of Restitution

The legitimate art market is largely unregulated. Unlike traditional forms of investments, regulated by statute and policed by administrative agencies, there is no comprehensive body of statutes specifically designed to prohibit manipulative or deceptive practices in the art market. Some states have enacted consumer-oriented statutes that they apply to a limited extent in the art market, but none are as comprehensive as the federal and state securities laws. Stakeholders across international boundaries need to expand their cooperative efforts to make art less attractive to thieves.

Except in Italy, art theft is a low priority for most of the world's police forces (Haupt, 2006). This is because, unfortunately, the public does not recognize the seriousness of the issue. Therefore, elected politicians are reluctant to spend taxpayers' money on the resources needed to combat such crimes. As a result, art theft does not take precedence to crimes like an action-provoked violent crime. Interpol has resources, but can only facilitate the sharing of art theft information among different police forces. It does not have the jurisdiction to conduct investigations. According to law enforcement, policy makers need to address the following obstacles when dealing with art theft (Lawrence et al, 1988, p. 66):

- A lack of law enforcement personnel trained in art to work on theft cases.
- Insufficient funds to develop and maintain stolen art records.
- Inadequate communication among agencies handling stolen art.
- Incompatibility between art theft computer systems.

Stakeholders need to create an initiative to heighten the importance and awareness of art theft before artwork, and cultural icons are lost forever. "The present deterrents to art theft are few and almost inconsequential. The probability of being caught is almost zero and if caught and prosecuted, the art thief faces a minimal punishment" (p. 68). Since most stolen art covers more than one legal jurisdiction, the relevant policies will be those crafted among states engaging in international cooperation.

In addition to the education of all stakeholders, art organizations must make an effort to educate the public as well. If the public better understood the economic and social implications of permanent loss or damage to unique pieces of art, it would be easier to justify the expense of a more coordinated effort. Without support, empirical research will continue to lag unless researchers are able to determine new methods for obtaining and collecting data. Government and industry funding is critical to the collection, storage, retrieval, and dissemination of needed data to undertake empirical analysis of art theft trends. With research, policy makers can investigate the factors which contribute to the increase of stolen art in order to provide concrete recommendations to reduce art theft (Haupt, 2006).

"The major United States museums are clearly not exercising an adequate leadership role" (Brodie & Renfrew, 2005, p. 356). In fact, museums are facing what experts call an ethical crisis of illegitimate acquisitions and reluctant restitution. Some claims go as far back as the Elgin Marbles, also called the Parthenon Marbles. The Elgin Marbles are a collection of marble

sculptures that originally decorated the Parthenon and other buildings of the Acropolis in Athens. It was Thomas Bruce, 7th Earl of Elgin, a British ambassador to the Ottoman Empire from 1799 to 1803, who obtained permission from the Ottoman authorities to remove sculptures from the Acropolis. From 1801 to 1812, Elgin's agents removed about half of the surviving sculptures of the Parthenon. The British Government purchased and transported the Elgin Marbles in 1816 after public debate in Parliament. They placed the Elgin Marbles on display in the British Museum and currently exhibit them in the Duveen Gallery, a site specifically designed to house this collection, (Kuitenbrouwer, 2005). The people of Greece now want the Elgin Marbles returned to their 'rightful place'. The British Museum is retaining ownership. In 2002, a group of major cultural institutions including the Louvre, the Hermitage, the Metropolitan Museum, the Guggenheim, the Museum of Modern Art, the Whitney, the Rijksmuseum in Amsterdam, the State Museum in Berlin, and the Prado in Madrid backed the British Museum by issuing a declaration opposing wholesale repatriation of cultural artifacts seized centuries ago. This debate will go on, but it highlights a problem that continues today that certainly appears to have little justification from the professional organizations involved.

The Getty Museum for two decades condemned the marauding of art, and lectured on the ethics and legalities of collecting ancient art. The Museum even revised its own acquisition policies in order to reinforce them. The museum's former director described its basic position: "Nothing would justify buying an object that we strongly suspected was stolen" ("Just Say," 2005, para. 4). Yet one internal memo shows that the Getty paid \$10.2 million for three objects dug from ruins near Naples decades after Italian law had made it illegal to do so. Another memo showed that the Getty acquired more than 300 antiquities from a private collection without a documented ownership history. These acquisitions occurred eight months after the publishing of the revised acquisition policy that vowed the Getty would only purchase objects that were part of an established and well-documented collection ("Just Say," 2005).

Unfortunately, art theft continues with the Getty's incident as the most prominent recent example of a museum failing to live up to its ideals ("Just Say," 2005). The first step of restitution is for the Getty to return the pieces illegally acquired. The Getty should also adopt and enforce a clear and unequivocal acquisitions policy. They should not buy, accept, or receive on loan any item illegally removed from its country of origin, but further examine the policies established during the 1970 UNESCO convention. This 1970 UNESCO policy adopted the

Convention on the Means of Prohibition and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property Act in order to guard against acquisition of unprovenanced work. “Unfortunately, over the past decade, U.S. museum associations have been advocating a more relaxed disposition” (Brodie & Renfrew, 2005, p. 343). Administrators need to integrate efforts to recover stolen art into an overall strategy (Haupt, 2006). As stated by Lawrence, Bachmann, and von Stumm (1988), “this recent rise in art theft has had a corresponding decline in recoveries which may be attributed to three major factors:

- A robust market worldwide.
- More organized art thieves, using more sophisticated techniques.
- The lack of a central international clearing house for reporting stolen art” (p. 53).

“Unless leading museums, who are widely seen as the keepers of the public conscience in this area, can be persuaded to adopt more exacting standards and to end their cozy and acquiescent relationships with private collectors, it is likely that the looting will continue undiminished” (Brodie & Renfrew, 2005, p. 344).

Arthurs (2000) examined a major shift in cultural policy that occurred in the last decade, and one that pertains to the increase in art theft. Leaders in United States museums moved from a mostly monoculture agenda to a determinedly multi-cultural one. They moved from Western-centered aesthetics to a global span of aesthetics. In the United States today, museums show artists from other countries and from diverse American populations with regularity. This new pluralism that United States museums undertook is a policy achievement, although under-acknowledged because institutions were not deliberate about documenting the journey or active in the role that it was taking. Arthurs (2000) stated, “The point is that to be practice-rich and policy poor in culture, to lack intentionality, may disadvantage our ideas, diminish our issues, leave us less powerful than we could be... We can continue to let our activities add up, and achieve policy by chance... or we can try to describe more fully, with greater exactness and evidence, the work we do” (p. 209). Change is necessary, and stakeholders need to take an active role in that change.

Cultural Historical Context at Risk

The cultural contextual information surrounding a work not only enhances the work itself, but also adds value to that work (Hutter & Throsby, n.d.). Perhaps this social and cultural information does not constitute an independent category of value, instead it acts as a constant

influence found within all classifications of value; hence, creating an interdependent network of influences on value. “Value is a socially constructed phenomenon and the determination of value cannot be divorced from the social context which it occurs” (Hutter & Throsby, n.d., p. 4). Art theft affects the contextual value of individual works of art, and often has a positive effect on those works. Yet, in many cases, the effect is negative. Art criminals sometimes need to alter or even erase an artworks true provenance. Sometimes they steal art from historical sites before a cultural context is established, and sometimes art criminals damage works in the process of stealing them.

“Art is a concept which necessarily involves human intentionality” (Dickie, 1979, p. 470). It is this deliberate action that is the root of a works ultimate cultural value and in the end its overall value. “The need to define the worth of an art piece really, on a larger scale, correlates to the need of society to place a value on art” (Chris, n.d. para. 2). A humorous, but real example of this added value occurs at the filming of each of the PBS *Antique Road Show* episodes. Patrons bring all sorts of artifacts in the back of their family cars, and then some of them have to take the same works back home under the protection of guards. Items which had limited monetary value for a very long time in an individual’s home can increase that value by several factors overnight once appraisers reveal the artworks’ cultural value. “Artworks such as paintings, for example, may derive much of their economic value from their cultural content, since their purely physical worth is likely to be negligible” (Throsby, 1999, p. 8).

“By placing a value on art, we are creating a context for that piece to exist: within a certain context, that piece is deemed worthy or not” (Chris, n.d., para. 2). We, as a society, do not assign the totality of this context based on the artist and his environment at the time of a works creation. Instead, as long as a work of art exists, its context will change due to the circumstances of its existence, and changing societal conditions. In most business transactions, there is an analysis of cost effect (market value) where players compare items on the market for value and quality. In the art world, as well, if a unique artwork is smuggled across borders and possessed by another then the item becomes more valuable to obtain (Bogdanos, 2005). “Far from being isolated from each other, economic value shapes cultural valuation and cultural valuation influences price” (Hutter & Throsby, n.d., p. 9). Further, the value of stolen art is also affected by the ability to get the stolen piece to a potential buyer. As Bogdanos (2005) stated, “To establish market value in smuggling, you need a judgment from a court of law... In addition

to the actual value of the item, there is a risk associated with the smuggling operation from start to finish...If, for example with regard to Iraqi antiquities, the first guy who gets caught coming through customs get a slap on the wrist, the price of smuggled antiquities goes down. If he does prison time, the price goes up” (p. 244).

The removal of an art piece, especially from its site of origin could also have an adverse impact on value. “When a painting is stolen from a museum, we usually know its provenance. We know where it came from, who painted it, when and perhaps even why. However, once an antiquity is looted, the archeologist loses the chance to study a piece in context, the chance to document history. Where precisely, was it buried? What condition was it in? What was lying next to it? Can two objects be compared? Without such critical information, archaeologists are left to make educated guesses about a long-ago people and how they lived” (Wittman, 2010, p. 82). Thus, the illicit looting of art affects value. “Cultural and economic values are independently determined but the one has an influence on the other” (Throsby, 1999, p. 8).

One issue making it difficult to combat a rise in art theft is the variety of existing international protocols related to art theft. “While the United Nations has designed international protocols to discourage looting, every nation has its own priorities, cultural interests, and laws. What’s forbidden in one country is perfectly legal in another” (Wittman, 2010, p. 83). These different priorities compete with the reality that people do not see national borders when appreciating the contextual information of a particular work. In fact, they often see diversity from their own culture as something that makes the work more desirable. For example, many people who live outside of North America know and appreciate the plight of Native Americans. “While it is illegal in the United States to sell bald and golden eagle feathers, in Paris, the finest antique shops along the Seine, openly display and sell the American Indian treasures” (Wittman 2010, p. 83). Thus, rather than support efforts to restrict trade including the looting of archeological sites, some countries utilize the illegal procurement of art as an economic stimulus. In some third world countries, the illicit art and antiquities trade is quietly accepted as a way to boost the economy. “Semi-lawless, war-torn regions have long been vulnerable. In Iraq, antiquities are one of the few indigenous, valuable commodities (and easier to steal than oil). In less dangerous but developing countries like Cambodia, Ethiopia, and Peru, where looters have turned archaeology sites into moonscapes, local governments don’t view every excavation as a crime against history and culture, many view it as an economic stimulus” (Wittman, 2010, p. 20).

Effectively these illegal excavators are stripping articles of their cultural context by treating the items as simple commodities, and, therefore, negatively affecting the value of the very resource that they are trying to profit from. Yet, “the diggers are indigenous and unemployed, desperate to convert rubble from dead ancestors’ graves to food for starving families” (Wittman, 2010, p. 20). For “many international crimes, the illegal art and antiquity trade depends on close ties between the legitimate and the illegitimate world” (Wittman, 2010, p. 17). While it is difficult to establish a set of over-riding uniform international policies regarding art theft, it would be remiss of stakeholders and policy makers not to include these parameters of art theft in policy development. However, as stated by the Kenyan National Museum director, George Okello, at the International Conference on Organized Crime in Art and Antiquities in 2008, “don’t be so quick to judge the corrupt customs man. Remember who bribes him: the Westerner” (Wittman, 2010, p. 20). Therefore, “understanding the way that art crime is organized and the way it is related to the organization of the legitimate art world is important for developing policies to reduce art crime” (Conklin, 1994, p. 14).

Research Questions and Scope

The over-riding question of the study addressed: What is the relationship between the value of art and art theft? In order to explore this question, this study examined three additional research questions to guide the study:

- What determines the value of art? Does this value affect motive? If so, how?
- What is, if any, the co-evolutionary relationship between the value placed on an artwork and art crime?
- How do policies and procedures established to protect artworks also affect the value of art?

This study, exploratory and descriptive in nature, used an inductive grounded theory design. The primary means for gathering data incorporated content analysis and a series of open-ended systematic qualitative interviews. The study population focused on security/law enforcement agencies, art insurance agencies, and professional art museum administrations. Further, the study also included art lawyers and private collectors in order to provide a holistic approach to this topic. The study utilized a sociological examination of the value of art to examine the duality of value and motive relative to the context of art and art theft. It provides a base of information for future examination, and aids in the development of theories about art crimes through an

inductive approach. The findings of this study also provide information to stakeholders so that they may actively influence changes in procedure and policy implementation to help combat the increasing problem of art theft. “We need to get the community of scholars, museum directors, dealers, and collectors to stop kidding themselves and...to lend a hand” (Bogdanos, 2005, p. 249).

Study Benefits

The findings of this study contribute to the overall knowledge of art crimes and illicit art trade by providing a base of information that may aid in formulating hypothesis for future research studies related to art theft:

- Research: It is our responsibility as academicians to provide a context to research the increasing issues of art theft.
- Florida State University Art Education Department: Provide opportunities to use the topic of art theft as a catalyst to create partnerships within the University as well as outreach that could create a common dialogue to investigate art theft, develop collaborative projects, and provide possible alternative programming to students’ interests.

Study Limitations

As the researcher, I remained cognizant to several factors that could effect and limit the study:

- Information obtained including targeted sample population selected for this study may not represent the larger population and context of interest.
- Due to the nature of the crime, many obstacles exist which could prohibit obtaining efficient and effective data.
- Utilizing a select number of participants for the study of art crimes and focusing on a select area of interest related to art crimes may place a “limitation (reduction) of the kinds of concepts to be considered relevant to the phenomenon under study” (Babbie, 2001, p. 101). Hence, the focus and research could be limited too soon.
- Open-ended questions are the best format for this approach: however, a shortcoming is that the researcher interprets the meaning of responses which opens the possibility of misunderstanding and bias (Babbie, 2001).

Operational Definitions

- Acquisition Policy: A set of rules and regulations approved by the board of directors that governs the procedures to be followed when new artwork is donated or purchased for the permanent collection.
- Curator: A person part of the museum staff that is responsible for a collection and the interpretation of that collection's artwork.
- Fence: One who receives and sells stolen goods.
- Fine Art: "Those arts which can be enjoyed for their own sake: painting, drawing, sculpture, and the graphic arts" (Lahti, 1997).
- Large Scale Fine Art Museum: "Used to designate non-profit institutions primarily concerned with the exhibition of works of art, a professional staff, and an annual operation budget equivalent to or exceeding \$2 million for two consecutive years" (AAMD, 2006).
- Permanent Collection: Artwork owned by the institution.
- Price-fixing: An agreement between participants on the same side in a market to buy or sell a product, service, or commodity only at a fixed price; thereby controlling supply and demand.
- Provenance: The physical possession/history of a work of art.
- Stakeholders: The primary beneficiaries and contributors to this study include art administrators from museums and auction houses, insurance agencies, and law enforcement.

Research Paradigm and Epistemology

The constructivist paradigm was best suited for this study. The environment in which art theft exists is socially constructed, and this environment contains numerous stakeholders including art administrators from museums and auction houses, insurance agencies, law enforcement agencies, art lawyers, and private collectors. "The basic assumptions guiding the constructivist paradigm are that knowledge is socially constructed by people active in the research process, and that researchers should attempt to understand the complex world of lived experience from the point of view of those who live it" (Mertens, 2005, p. 12). Because of the scope of the problem, and the broad range of stakeholders, multiple realities are probable. Within the constructivist paradigm, "multiple mental constructions can be apprehended, some of which

may be in conflict with each other, and perceptions of reality may change throughout the process of the study” (Mertens, 2005, p. 14). In the constructivist paradigm, the methodology for this study is grounded theory. “Grounded theory is an interactional method of theory building. It involves making comparisons and asking questions of the data. It is sometimes called the constant comparative method of analysis” (Mertens, 2005, p. 423). Grounded theory was applicable to this study for the reason that it takes into account the diverse perspectives of the multiple stakeholders. For example, within the context of a museum, a law enforcement official is likely to restrict access to valuable pieces of property, while a museum official promotes maximum public access to the artwork. “Grounded learning works because it is the relevant data of all the participants and pieces of the educational puzzle... it gets to the unforced, non-preconceived reality of what is really going on” (Olson & Raffanti, 2004, p. 3).

CHAPTER 2

LITERATURE REVIEW

Determinants of Value

Social value has a significant impact on an artwork's total value, and it is a necessary component in determining motive. By utilizing social theory to help determine the criteria of value associated with the incentives for theft, we can better understand what motivates the criminal to steal. Still, social value alone hardly accounts for the exponential rise in value that certain categories of art experience. Interestingly, it appears that criminal activity may affect the value of the art through a co-evolutionary relationship. This same type of relationship may also exist as an unintended byproduct of policies and procedures established to protect art and deter art crimes.

Contingent Value

Through volunteers, ticket purchases, and monetary donations, residents of the United States demonstrate the value they place on cultural activities. This valuation is evident in the support received by cultural institutions in communities of all sizes. The United States alone has 21,750 non-profit art organizations; \$37 billion in assets tied up in cultural organizations; and \$13.3 billion spent on enrichment activities. Government agencies at the federal, state, and local levels often augment support from individuals (Thompson, 2000). Contingent valuation is a method utilized to measure the value that individuals place on cultural commodities.

The contingent valuation approach utilizes social theory and philosophy to facilitate debates about values (Babbie, 2001). Popular with art researchers, the Contingent Valuation (CV) approach is a survey technique used to obtain non-market and non-use values of a cultural 'good'. Surveyors ask respondents what monetary amount, usually in taxes, they would pay in order to maintain or increase the provision for a particular cultural 'good' (Brooks, 2002).

According to Brooks, there are three ways to utilize CV:

- Sequential bids (SBCV): Respondents are presented with a series of dollar amounts that are increased until a negative response is reached.
- Open-ended (OECV): Respondents are asked how much they would pay for the cultural good.

- Closed-ended (CECV): Respondents are only presented with one value, to which they respond Yes or No. This value is varied across the sample to ascertain averages.

The most straightforward approach to determine value of the arts and culture is through an estimation of market demand via a market use value. However, market demand is insufficient for comprehending the total value. Many cultural goods do not have markets to price them, and most also produce a non-use value (Brooks, 2002). Non-use value includes the following (Brooks, 2002):

- Existence value: Even if they do not directly consume a particular cultural good, some people might appreciate its existence.
- Option value: Some non-users may place a positive value on the option to become users of it in the future, and hence favor its preservation.
- Education value: Some cultural goods might create intellectual and cultural capital spillovers among users and non-users.
- Prestige value: Certain cultural goods might produce prestige for their region of origin.
- Economic impact: The consumption of cultural goods may create secondary and tertiary economic activity.
- Bequest value: Users and non-users may derive utility from the expected enjoyment of a cultural good by future generations.

The non-use values of economic impact, existence value, prestige value, and education value especially correlate to the primary reasons for art theft as outlined.

An artifact acquires additional value when it is recognized within the social system called the art world. This valuation of art depends more on a shared belief in its value than on the aged old business acumen of supply and demand. It is the product of a social process that acknowledges the role of the artist, the collector, and the dealer or scholar; thus creating an interdependent network of influence upon its value (Conklin, 1994). Artifacts hanging in an art museum or performances in a theater are signs of recognition. These signs suggest that a number of persons are required for the actual conferring of the status. Many works of art are only seen by one person, the one who creates them – they are still art. So what is the difference comparing a plumber's sales action with that of Duchamp's entering a urinal, which he christened *Fountain*,

in an art show? “The difference is that Duchamp’s action took place within the institutional setting of the art world and the plumbing salesman’s action took place outside of it” (Dickie, 1979 p. 466).

Social Perspective of Value

According to Conklin (1994), there are three categories of value that provide an incentive to steal: profit value motivated crimes (extrinsic incentive), art value motivated crimes (intrinsic incentive), and political value motivated crimes (extrinsic incentive). While this list does not include a social perspective value classification, the contextual information surrounding a work clearly affects its value. Instead of a separate classification, perhaps the social perspective is a value multiplier within each of the classifications. Due to a structure of social relationships, the contextual perspective creates an interdependent network of influences on value. Becker’s premise on the production and consumption of artworks suggests a sociological approach to the arts. He cited that it takes a society and a network of people to create a valuable piece of art (Becker, 1984). Artworks have meaning; a contextual history that adds value and one that each successive owner ultimately becomes a part.

While money appears to be the primary motivator, this simple formula does not fit well with many art crimes. For example, in a recent robbery in February of 2009, armed robbers stole \$163 million worth of art from a private Zurich museum. The works, Claude Monet's *Poppy field at Vetheuil*, Edgar Degas' *Ludovic Lepic and his Daughter*, Vincent van Gogh's *Blooming Chestnut Branches*, and Paul Cezanne's *Boy in the Red Waistcoat* are all well documented pieces. According to Michaela Derra of Ketterer Kunst, a Munich-based purveyor of modern and contemporary art, "It's extremely hard if not impossible to sell these works." In another example from 1911, Vincenzo Peruggia, an Italian worker, found the number of Italian works in the Louvre so annoying that he took the *Mona Lisa* from the wall of the museum while he was alone in the room, and walked out with the picture under his smock. It was two years before authorities recovered the *Mona Lisa*. In these cases, “purposes are connected with values. We aim our activities at goals that we value, whether extrinsically, because they lead on to other things, or intrinsically, because we view them as good in themselves” (Morris, 1999, p. 284).

Financially motivated crimes. “Today most art thefts whether large or small, public or private are driven by financial gain. In many instances, great paintings are fenced through an underworld of shady brokers and mobsters. Heists have become increasingly larger in terms of

money” (Gage, 2005, p. 2). For example, the twelve paintings stolen from the Isabella Stewart Gardner Museum in March 1990 were collectively worth an estimated \$200 million at the time. According to Browning (2008), “another intriguing theory has stolen art functioning almost as commodities – traded over and over again on the black market, at less than 10 percent of its auction value, for guns or drugs. This theory has almost all art theft perpetrated by organized crime syndicates” (para. 6). In the assessment of art thieves, “there is no mysterious motive involved; there is no need for sociological, psychological, criminological, or even cultural explanations. Crime simply flourishes anywhere it fits a favorable terrain – that is where criminals think they can make a lot of money with very little effort and very little risk. In today’s art world, these conditions are met” (Degraw, 1987, p. 5).

It was not until the seventeenth and eighteenth centuries that philosophers began to separate aesthetic and economic thought. Through a series of English authors, which included Earl of Shaftesbury, Hutcheson, Hume, and Smith, a distinction arose between the value arising from the disinterested experience of beauty and value from objects that serve the self-love of individuals (Hutter & Throsby, n.d). The consensus among these philosophers was that the intrinsic value, that which produced an experience of beauty, was superior to economic value since it related to a contemplation of the divine. However, the economic value was real as it related to the pleasure derived from personal gratification. “While morally inferior, the attainment of the greatest amount of utility became a legitimate and relevant goal of private consumption and of public action” (Hutter & Throsby, n.d, p. 2).

By middle of the nineteenth century, the philosophical separation between the economic value and aesthetic value was complete. Economists determined a market value through the aggregate utility by consumers and the aggregate costs of production. Through a process of market exchange, an equilibrium price called exchange-value resulted. Thus, a new hierarchy was established wherein price and value became synonymous (Hutter & Throsby, n.d). This concept fit well with Hagerstrom’s (1868-1939) noncognitivist view of “value-nihilism” in which he rejected the idea of intrinsic value based on metaphysical grounds (Zimmerman, 2007). He prescribed to the fact that value falls into two classes, intrinsic and extrinsic, where ascriptions of value are only expressions of emotion. Therefore, “questions of value should be distinguished from questions of evaluation” (Zimmerman, 2007, para. 21). Gramp also viewed price as an indicator of value, but his views differed from Hagerstrom’s. He claimed that the

value which the market places on works of art is consistent with the judgment which is made of their aesthetic quality. Thus, aesthetic value is just as expressible as economic value. Gramp's view implies a consistent value for a specific piece of art; however, in the twentieth century drastic changes in prices occurred.

On October 15, 1958, the Executive Director of Sotheby's in London created a high-society formal art auction. 1,400 guests were invited including Queen Elizabeth. During this auction, Paul Cezanne's *le garcon au gilet rouge* sold for \$610,000, which was 5 times more than the previous record art sale. This event introduced an era of strong growth in the art market. In 1958, total auction sales were \$25 million. By 1989, sales of art through auctions had grown to \$5 billion. In 2004 a single piece, Picasso's *garcon a la pipe* sold for \$104 million (Haupt, 2004). This era saw a massive increase in the value of artworks that had not changed at all. Unfortunately, there was a corresponding lack of change in the ways that collectors displayed and protected their works. These events produced an excellent opportunity for criminals who saw these works as easy targets.

Financially motivated criminals ascribe to Hagerstrom's concepts where the objects of the crime have no intrinsic value; rather they have an instrumental value (Zimmerman, 2005). Because of this, the thief is more likely to damage the artwork. Although this will decrease the value of the works, criminals deem it an acceptable consequence to facilitate a fast and effective crime (Mackenzie, 2005). For example, a thief cut twelve paintings from their frames in the March 1990 Gardner Museum theft. Additionally, the criminals executing a financially motivated crime may not even know the relative value of the works that they are targeting.

Artistically motivated crimes. Artistically motivated crimes are the most familiar to the public since these crimes are the ones most glamorized by Hollywood films such as *The Thomas Crown Affair*, which was originally produced in 1968 and remade in 1999, and *The Pink Panther*, which was originally produced in 1963 and remade in 2009. Stephane Breitwieser's art theft spree exemplifies the artistically motivated crime. Breitwieser began stealing art in 1995 after a visit to the Gruyeres castle in Switzerland where a portrait of a woman by an 18th century artist named Dietrich provoked him. Its monetary value was only \$2,000. He recalled that he was fascinated by the beauty of the qualities of the woman, her eyes, which reminded him of his grandmother. He removed the painting from the wall and walked out of the castle. This began an obsession resulting in the acquisition of 232 items from 139 museums and galleries. He

displayed the items on a rotating basis in his home. After his conviction, Breitwieser was awarded only a 26-month jail term (Haupt, 2006).

The problem is not limited to individuals as demonstrated by some very highly respected art institutions. For example, by 2005, the Getty Museum for two decades had condemned collecting unprovenanced art. They even revised their own acquisition policy to reinforce this stance. Yet, authorities discovered 42 questionable purchases by Marion True, curator, including the purchase of three objects from ruins near Naples for \$10.2 million eight, which was months after the implementation of the revised acquisition guidelines. In another example from 2002, major museums banded together to prohibit the return of the Elgin Marbles. The Elgin Marbles, located at the British Museum, are a collection of sculptures that decorated the Parthenon. The British government purchased the sculptures in 1816 through Thomas Bruce, 7th Earl of Elgin, during his tenure as British Ambassador to the Ottoman Empire. The Parthenon wants them returned (Mackenzie, 2005).

“In the history of philosophy, relatively few seem to have entertained doubts about the concept of intrinsic value. Much of the debate about intrinsic value has tended to be about what things actually do have such value” (Hutter & Throsby, n.d, p. 20). Aristotle recognized exchange value or use value in objects, but he considered this the lowest level of natural values (Younkins, 2005). Art has a higher value. Many philosophers have followed Plato’s lead in declaring pleasure intrinsically good and pain intrinsically bad. He concludes that pleasure is in fact good (Zimmerman, 2007). Hence, value is associated with good or bad. The idea that factors other than aesthetics defined intrinsic value resonated with future philosophers. The notion of a holistic value of art is not influenced solely by aesthetics is addressed. Moore developed a test to measure value. He advised us to consider the goodness of things if they existed by themselves “in absolute isolation”. Moore’s isolation test allows us to see “what really accounts for the value that there is in our world” (Zimmerman, 2007, para. 21).

According to Lee (1957), anything that exists and is valuable in and of itself is valued intrinsically. This intrinsic value can come from the aesthetic beauty that we see, the moral truths revealed, the spiritual experience felt, or even the genius of a very new idea. The twentieth century saw a continuation of these separate tracks of development. In aesthetic theory, the attempts to characterize the uniqueness of aesthetic value continued with philosophers such as Adorno, who insisted on the autonomy of art; Moore, who argued the case on the grounds of

moral goodness (Zimmerman, 2007); Wittgenstein, who based his language games on cultured taste; Gadamer, who focused on the relation to truth; and Budd, who pleaded for the intrinsic value of the artistic experience (Hutter & Throsby, n.d.). Kant regarded beauty as an essential element of fine art (Zimmerman, 2007). He also developed a theory of genius that looks forward to Romanticism. He treated genius not as a separate faculty so much as a rare employment of imagination. “The best art, Kant argues, combines spirit/soul (the rich inventiveness of genius) with taste” (Gracyk, 2004, p. 6). According to Hume (1742/1987), “a priori” principles underlie all determinate, objective judgments. No one is born knowing the value of things. At birth, we do not know how a limerick differs from a sonnet. Thus, human cognition requires reflective judgment. Kant proposed that taste comes into play in such situations, as a form of reflective judgment (Kant, 1892/1914).

The criminal who is motivated to steal art based on its intrinsic value wants the piece as a personal possession to view it and to live with it. The criminal is not likely a professional thief. Instead, he or she normally constructs arguments that justify or excuse the action. The crimes are often low-tech, and the criminals may come from in-house (Mackenzie, 2005).

Politically motivated crimes. The earliest works of art would have had little value. Thus, the primary reason that individuals stole art was to gain power. “The motivation would have been a combination of desire to demoralize and/or for the taker to demonstrate their superiority over the loser when pillage and war booty were considered a winner’s prerogative as a mark of success” (Gage, 2005, p. 2). Throughout history, the bulk transfer of cultural treasures occurred during times of war.

In 59BCE-17CE Consul Marcus Fulvius Flaccus overpowered the Etruscan city of Velzna, the richest city of Etruria, and plundered it of all treasures. A long line of wagons packed with treasures including 2,000 bronze statues headed to Rome, where the Romans only melted them down and used them to make Roman coins to assist with the war effort against Carthage. In another example, Emperor Augustus built the Coliseum amphitheater in Rome with the spoils of war after the sacking of the Jewish temple in Jerusalem. In modern times both Hitler and Napoleon employed art experts during their conquests to identify and sequester specific works of art from invaded lands for their own national collections (Gage, 2005).

Marx had a global influence on the arts relative to the role of art in society (Magee, 2001). He recognized that art had an influential effect on society. He viewed the value of art in

terms of its social power. “The true function of art is social criticism. Art should get people to understand, in a deeper way than they do, what is wrong with the society they live in, and it should make them want to change society” (Chris, n.d, para. 3). Marx saw the arts as serving the interest of the ruling class. Art put across ideas and values that promote those interests, display their wealth and power, or glamorizing their achievements. In his view, good art challenged those ideas.

Art criminals that are politically motivated see a combination of instrumental and intrinsic value in the art. Art is something that they desire because they can use it to accomplish a goal. In addition, the intrinsic or political value of the art has more value than the cash that it is worth. As an example, in 2001, a group of thieves stole a Marc Chagall painting from the Jewish Museum, and offered to return it when there was peace between Israel and the Palestinians (CBS News, 2001). A more recent and equally disturbing trend noted by Matthew Bogdanos (2005), were the terrorists weapons caches found in Iraq that often contained stolen pieces of art with them. It is apparent that the terrorists were using the stolen works as political leverage to obtain weapons. The profile of the criminal would be similar to that of a financially motivated criminal.

Co-Evolutionary Relationship of Value

The outright theft of a specific work of art or the looting of a single antiquity is only the start of the art crime problem. It begins a succession of crimes that occur throughout the art industry. These crimes affect the value of artworks, legitimize stolen artifacts, and facilitate a market for the stolen works. The public expects museums to collect and protect the treasures of our culture. Yet, because of the way that the art crime problem evolved, many of the art institutions and prominent collectors may be actually involved as players, and thus may be part of the problem. This problem might have a compounding effect since many of these crimes often drive up the values of entire categories of artworks, consequently increasing the incentive to commit more art crimes.

Value Production

Since the ancient Greeks, philosophers, economists, artisans along with many others have postulated the concept of value creation. One early framework regarded value as having utility value. Where something has value based upon it being appropriate for a certain use (Ramirez, 1999). During the industrial era, utility value transformed into an exchange value. Value equated to the tangible price the customer paid for a good. This type of value creation was sequential, and

additive in process. A new value framework, resting upon technological advancements, is based on the ideals that value is co-evolved or co-produced. “Value is not simply ‘added,’ but is mutually ‘created’ and ‘re-created’ among actors with different values. These multiple values are ‘reconciled’ or ‘combined’ in co-producing value and cannot be reduced to a single metric” (Ramirez, 1999, p. 50). This new adaptation of value expounds upon the industrial era’s conceptualizations of value, while allowing us to rethink not only the creation of value, but also the organizational influence in which it is created. In value co-evolution, “values are thus contingent, more than subjective. They do not reside “in” an individual, independent of his actual actions, nor ‘in’ a good, independent of the interactions to which it is subjected” (Ramirez, 1999, p. 51). The following model by Ramirez and Wallin (2000), exemplifies the co-creation in an organizational structure to create value:

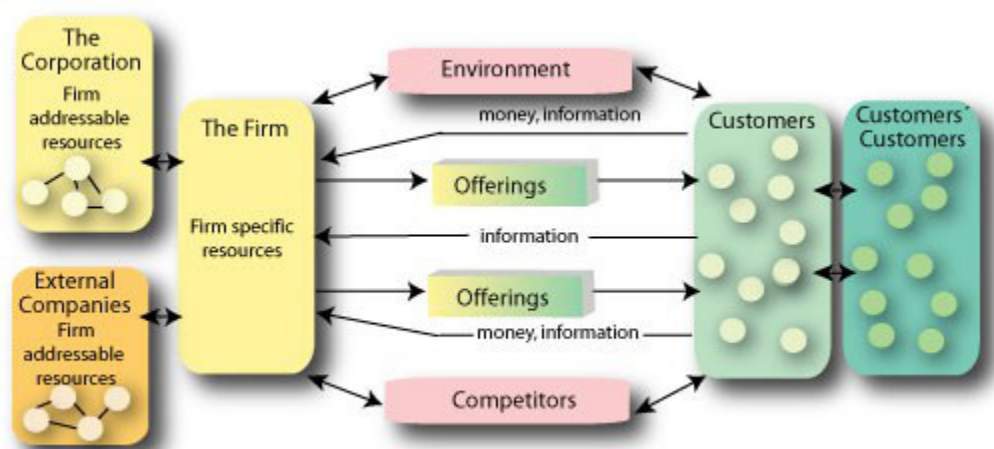


Figure 2.1 Organizational Co-evolution

Value is contingent and established interactively. This co-evolution of value in today’s market may also be applied to the business of art theft. A single activity of theft or illicit art trade is interconnected to a web of conspiracy and valuation of art. Consider the development of value in an artwork “as a process of evolution between knowledge, values, organization, technology, and the environment. Each of these subsystems is related to each of the other; yet each is also changing and effecting change in the others” (Norgaard, 1994, p. 216).

Museum Provenance

Crimes occur in our museums, by collectors, and at all levels of the commercial art trade. Often crimes, such as misrepresenting an artwork during an appraisal, may seem benign and isolated to a single transaction of a specific artwork. Yet, crimes like this one that occur across the spectrum of the art world are interrelated in that they affect the value of not only that specific artwork but also similar works that will enter the market. There is an incentive at every level for an artwork to be authentic with proper provenance. This creates an environment where there is a potential for criminals to create those aspects, or for others to overlook questionable traits of an artwork. In this study, I limited the focus to some of those activities practiced by museums, auction houses, and insurance companies since these organizations drive the actions in much of the art market, and they are the ones that could take the lead in developing policies and procedures relative to art crimes within the art community.

“Museums play an important role in creating value for art. Museums also increase the value of the art in their collections by restoring, displaying, and publicizing it, and by carrying out scholarly investigations” (Conklin, 2004, p. 33). However, recent attention has focused on the practice of some collectors and some museums entering into partnerships to legitimize recently purchased, unknown, and unpublished antiquities, which they suspect looted, by immediately and publicly exhibiting the works in a well-known museum (Brodie & Renfrew, 2005). This initial exhibition gives future credibility to the art piece in question for the collector. In the future, when the collector attempts to sell or exhibit this unprovenanced artwork, buyers may disregard its entire lack of recorded history by citing its display in the museum in question. Hence, the collector profits from this process, since the newly acquired un-provenance antiquity has acquired respectability and acceptance because of its display in a well-known collection. The museum receives numerous benefits for its disregard of an ethical acquisition and display policy. Collectors show their gratitude to the museum for the exhibition in a number of ways (Bogdanos, 2005):

- They often donate some or all of the antiquities to the museum, thereby obtaining substantial tax benefits.
- The collectors who have benefited from this laundering process sometimes pay substantial sums towards new museum galleries.

- The collector in question is sometimes rewarded by being made a trustee of the museum in question.

For example, in March 2006 Shelby White, a private art collector, donated \$200 million to New York University in order to create an ancient studies institute. This action generated controversy (Bogdanos, 2005). Prior to this donation in 1990 The Metropolitan Museum of Art (The Met) exhibited a collection of Near East, Greece, and Roman artifacts belonging to Ms. White, a trustee of The Met, and her late husband Leon Levy. Although a study had concluded, as reported in the *American Journal of Archaeology*, that more than 90 percent of those artifacts were not provenanced, The Met exhibited the collection. Further, in 2007, The Met scheduled to open the Leon Levy and Shelby White Court for Hellenistic and Roman Antiquities wing. “Institutions continue to hold out one hand while covering their eyes with the other” (Bogdanos, 2005, p. 281).

In antiquity laundering, which is similar to money laundering, in order to create a new history for an illicit piece of artwork, a broker uses the good name of an unsuspecting museum to create a new provenance. For example as Wittman (2010) stated:

In one scam, the shady broker uses a simple query letter to prey on the professionalism and politeness of reputable museum curators. The broker offers to loan artifacts that he expects a prestigious curator will not accept. What the broker really wants is a rejection letter on the stationery of the prestigious museum, with boilerplate language that appears to acknowledge the importance of the pieces offered, but regrets that for space, budgetary, or other reasons, the museum is not currently accessing new works. The rejection letter becomes part of the illicit piece’s provenance, one more document for the disreputable broker or dealer to display. (p. 85)

Although, in this case, the museum is not co-conspiring to legitimize stolen art, their actions have become part of the networked events which illegally try to legitimize illicit art and affect the value. Although some major museums have put in place ethical acquisition policies which prevent their acquiring recently looted artifacts, “we argue here that in recent years the academic and museum communities have been insufficiently active, certainly ineffective, in persuading more museum directors and trustees of their duty not to permit the acquisition by museums of ‘un-provenance’ artifacts that are, in all probability, looted” (Brodie & Renfrew, 2005, p. 344).

The Met's acquisition of a Euphronios krater highlighted issues of good faith acquisitions. On November 12, 1972, The Met announced the purchase of a sixth century BC calyx krater: A two-handled bowl used for mixing water and wine. The potter of this particular vase was Euxitheos, and the painter Euphronios, one of the three greatest masters of Greek vase painting (Watson & Todeschini, 2006). The Met paid a remarkable price of \$1million for the vase. This was the first time that anyone had paid \$1million for an antiquity, and it was a significant jump above prices for comparable pieces. The word on the street was that the museum had grossly overpaid. The acting director of the Museum of Fine Arts in Boston, cited that a number of comparable vases were on the market for as little as \$25,000 and the most anyone had ever paid for a krater of similar size and age was \$125,000. Furthermore, John Cooney of the Cleveland Museum of Art appraised the vase between \$150,000 and \$250,000, whereas Professor Ross Holloway of Brown University said that \$200,000 was the limit (Watson & Todeschini, 2006). Therefore, The Met paid four to eight times more than what the vase appeared to be worth. Not only did this high price raise concern about the purchase, which ultimately revealed problems with their good faith acquisitions. It also contributed to the flourishing of an underground art network targeting specific items to obtain at increased prices; thus, abetting the illicit art trade.

In 2005, Philippe de Montebello, Director of The Met in New York met with the Italian Ministry of Culture in regards to the purchase of the Euphronios krater. The Italians proved that the intact red-figured Greek vase came from the Etruscan territory of Italy, and they proved that certain parties had removed it illegally (Watson & Todeschini, 2006). Confronted with this evidence, and reluctant to admit any wrongdoing, The Met relinquished ownership of the vase, plus another nineteen antiquities to the Italian government. Details from Thomas Hoving, former director of The Met at the time of the purchase, indicate serious doubts about the objects provenance. Mr. Hoving described his thought during discussion with Bob Hecht, the art dealer who brought the krater into the market in his memoirs, *Making the Mummies Dance*, after the Met had been offered the vase. Mr. Hoving (1993) stated, "I thought I knew where it must have come from. An intact figured Greek vase of the early sixth century BC could only have been found in Etruscan territory in Italy, by illegal excavators" (p. 309). Further, when he was told that the krater had come from Beirut, "I tried not to laugh...Beirut was the cliché' provenance for any smuggled antiquity out of Italy or Turkey...I assumed the vase had been illegally dug up

in Italy” (Hoving, 1993, p. 315). This evidence does not illustrate that the purchase of this vase was an act of good faith that had gone wrong, rather it describes a knowingly unprovenanced purchase by a museum that supported the illicit increase in value of an artwork knowingly looted. “The knowledgeable falsification of provenance thereby becomes part of the total pattern of illicit activity” (Polk, 2001, p. 7).

“The process by which works of art are illegally acquired is socially organized; it involves recurrent patterns of interaction among legitimate and illegitimate members of the art world. The looting of antiquities requires an elaborate, multi-layered network of grave robbers, middlemen, and dealers. Bands of thieves often commit a series of art thefts from museums, galleries, homes, or churches. The way that these gangs select their targets, organize their thefts, and dispose of their loot is structured systematically” (Conklin, 2004, p. 13). Synonymous with the aforementioned unprovenanced purchase by The Met, the looting of Iraq’s National Museum in Baghdad was the “result of a long planned project to plunder the artistic and historical treasures that are held in the museums of Iraq... The looting was not random. It was the work of people who knew what they were looking for and came specially equipped for the job” (Talbot, 2003, para. 3). The justification of the illicit obtaining of Iraq’s antiquities has even been claimed as an effort to aid in the preservation of cultural antiquities that might otherwise be destroyed or neglected in times of political chaos by subsequently providing a market value (Talbot, 2003).

The enhancement of market value through a museum’s efforts is further exemplified by the case of an Egyptian ornamental breastplate that was stolen from Lafayette College in the late 1970’s and found in 1990 in the collection of Boston’s Museum of Fine Arts. The breastplate had not drawn a bid above its reserve price when it was offered at a Sotheby’s auction in `1980, but the Museum of Fine Arts bought it for \$160,000 soon after the auction. When Lafayette College learned of the breastplate’s whereabouts in 1990, the piece’s market value was estimated to be between \$600,000 and \$2 million (Conklin, 2004, p. 33).

The Business of Art and Value

“Is it real? How much is it worth? In the world of art, no two questions come up as often, or lead to as many disputes” (Kaufman, 2000, p. 833). As record prices in the tens of millions of dollars are paid at auctions for what are believed to be authentic artworks, *caveat emptor* (let the buyer beware) is a guiding standard of practice with issues related to authenticity and value in a predominately unregulated art market (Kaufman, 2000).

Investment value. Through the devise of Sotheby's chairperson Mr. Peter Cecil Wilson, on the evening of October 15, 1958, auctioneers in London would become part of the beginnings of a high society game of auctioning art. During this auction, Sotheby's sold artworks for five times more than previously recorded sales. For collectors, the high prices gave their artworks legitimacy (Haupt, 2006). This upsurge of interest in art sold by auction that evening would also see a refreshed increased interest in art investment during the 1980's with the 1983 purchase of Sotheby's auction house by A. Alfred Taubman, a real-estate magnate. Taubman revolutionized the supply chain of selling art. Traditionally Sotheby's sold to dealers. Now the auction house was to sell directly to the public while simultaneously influencing buyers that the art could be resold at a profit after a short period; versus the customary waiting for years to achieve a buyer and a profit (Conklin, 1994).

These very high values only increased the lure of art thieves. Many began to view paintings as multimillion-dollar bills that called from the walls of poorly guarded museums (Kostigen, 2007). As art prices soared, new art funds and investment companies continued to appear. "In the past, paintings and artworks served mainly as status symbols: Now they are also seen as an investment" (Conley, 1994, p. 497). These skyrocketing prices continue to date where "art prices have bested the stock market over the past decade" (Kostigen, 2007). The value of art has increased at a rate faster than that of inflation; hence, making art a good investment (Short, 1993). In society to date, when the value of the dollar has decreased and much of the world is in a financial recession, the art market continues to rise while the stock market declines: reflecting a belief that art is more valuable or stable than money or stocks (Short, 1993). For example, in 1975, the value of French Impressionist works rose 230 percent, while stocks on the Dow Jones rose only 38 percent (Short, 1993, p. 638). This rapid increase in the value of art seemed to defy business acumen.

Knowing what to buy, how much to acquire and when and where to purchase it is the key to any successful investment. In the art market, corporations, banks, museums, individual collectors, and art funds comprise the bulk of the purchasing community, and each group influences the market in accordance with tastes and purchasing patterns (DuBoff & King, 1993, p. 38). Art investors utilize art indexes, such as the Mei/Moses Art Index to monitor the fluctuating art prices. "According to the Mei/Moses Index, over the past half century, art has outperformed stocks with annualized compound returns of 12.6 percent between 1953 and 2003,

compared with 11.7 percent Standard and Poor's 500 Stock Index with reinvested dividends included" (DuBoff & King, 1993, p. 38). Despite fears that the attacks of September 11, 2001 would cause the art market to crash, prices on the art market have continued to soar with modern art yielding one of the highest returns for investors (Conklin, 1994). In 2004, Picasso's *Boy with a Pipe* sold for \$104 million, shattering the record of an auctioned painting. Van Gogh's *Portrait of Dr. Gachet*, which sold for \$82.5 million in 1990, set the previous record (DuBoff & King, 1993; Houpt, 2006). "The record was shattered again in 2006 by the music mogul David Geffen, who sold Pollock's *No.5, 1948* for \$149 million and de Kooning's *Woman III* for \$137.5 million. As value rose, so did theft" (Wittman, 2005, p. 16).

In the illicit art market, the art thief also examines trends in the market when establishing market value. The thief may evaluate the market availability based upon an opportunity to sell a work of art under three possible scenarios. First, a thief, hired by a fencer or the receiver of the art, may not be aware of the art market and the art's true value. Additionally, even if he knows the value of the stolen art, a lack of connections to sell it renders the artwork economically worthless to him. Therefore, the thief has little leverage in monetary compensation negotiations. Second, a thief may sell an artwork to someone who believes that the work has legitimate provenance, and therefore will pay the market value for the piece. In this case, the value obtained on the open market promotes art theft by providing the opportunity to achieve a high economic value for the art. Finally, if a thief sells an artwork to a person who knows that the work is stolen, he gives the buyer an advantage in price negotiations due to the risk of possessing a stolen artwork. Hence, the price of the piece declines (Mooney, 2002). As illustrated, the thief negotiates the terms of sale and value based upon the relative proportion of risk involved in the negotiations between the legal and illegal art markets. This bartering for value is apparent at all levels of the illicit art market as illustrated by Wittman (2010):

The most visible criminals in the antiquity theft trade-the grave robbers doing the digging and the thieves swiping objects from religious shrines- fare poorly compared with the brokers at the other end of the smuggling chain. On average, looters earn only 1 or 2 percent of the ultimate sale price. The Sicilian men who illegally excavated a collection of Morgantina silver illegally sold it for \$1000; a collector subsequently bought it for \$1 million, and resold it to the Metropolitan Museum of Art for \$2.7 million. Chinese grave

robbers who came across a significant Song Dynasty sculpture sold it for \$900; and American dealer later resold it for \$125,000. (p. 83)

Value and the sale. “The art in art crime isn’t in the theft, it’s in the sale. On the black market, stolen art usually fetches just 10 percent of open-market value” (Wittman, 2010, p. 15). For example, if a painting is valued at \$5 million on the open market, it would be worth \$500,000 on the black market (Wittman, 2005). Even this fraction of the total value of an artwork represents a significant profit for a thief relative to the minimal risk taken with retribution not probable. Even if punished, the threat of a light prison sentence does not serve as a deterrent to art theft (Morris, 1988). Hence, “most art crooks are motivated by the lure of easy money and the fact that these top-notch paintings represent some of the most valuable items on the planet. A minor Picasso or Van Gogh carries a bigger price tag than the finest diamonds or the purest gold” (Boser, 2009, p. 66). However, if a thief cannot sell the artwork, it has no economic value. In the market, the more well-known and financially valuable the painting stolen, the harder it is to sell. “As the years pass, thieves get desperate, anxious to unload an albatross no one wants to buy. In the early 1980’s, a drug dealer who could not find anyone to buy a stolen Rembrandt worth \$1million sold it to an undercover FBI agent for a mere \$23,000. When undercover police in Norway sought to buy back *The Scream*, Edvard Munch’s stolen masterpiece known around the world, the thieves agreed to a deal for \$750,000. The painting is worth \$75 million” (Wittman, 2010, p. 15). In order to negotiate the sale of stolen art for profit, some art thieves elect to launder lesser significant and less profitable artworks. This combined with the fact that the art market is the largest unregulated business in the world provides an opportunity for the thief to circulate the stolen works back into the purchasing market with ease (Boser, 2009). While others through an organized network create a new identity for a recently laundered artwork. Prominent and economically valuable artworks have a public history, and are easily identifiable. Therefore, in order to sell the artwork, a thief must create a new provenance for the piece. “Once the property is transferred...it can be purged of its tainted title and transferred for further value without exposing subsequent buyers to a risk of loss. These transfers produce receipts or bills of sale, which are virtually all that the major auction houses require to show good title” (Collin, 1993, p. 19).

The value of insurance. “The duality within the art world of the legitimate and illegitimate buying and selling of cultural property can also be found within the operations of the

black market itself where trade in stolen cultural pieces has spawned the counter business of insurance assessment, international law enforcement, security and recovery” (Wackrow, 2006, para. 2). This increased interest and worth in art has affected stakeholders to take action in order to protect their cultural commodity. The decision to carry an insurance policy for their artwork could have unintended consequences. Protecting art with a policy could possibly make it more attractive to steal in order to garner a profit from an insurance claim. While the financial burden to carry insurance for art is an expensive undertaking, the consequences of not holding even a marginal policy could be tragic, as evident in the Isabella Stewart Gardner Museum Heist (Boser, 2009).

The Isabella Stewart Gardner Museum (the Gardner) in Boston did not have insurance when two men posing as police officers in March 1990 absconded with thirteen priceless pieces of artwork from the museum. The thieves and artworks are still at large. At the time of the theft an insurance policy would have cost the Gardner \$3 million. This was a steep price especially when the total budget for the museum was \$2.8 million (Boser, 2009). In hindsight, the Gardner could have possibly obtained a \$10 million coverage for \$10,000 to \$50,000 a year through partial collection coverage (Boser, 2009). As seen in the art market, while insurance premiums continue to rise as the number of art thefts increase, art institutions and collectors rarely insure their entire collection for the full value (Duboff & King, 1993). Further, a loss due to theft would unlikely purge an entire collection, and, additional, fluctuations in the value of art in the market make it prohibitive to re-appraise and re-inventory a collection in order to re-evaluate the insurance coverage: Making it unpractical to insure an entire collection (Duboff & King, 1993). Most large-scale museums in the United States carry some type of insurance policy against theft and damage. In Europe, their favor is to insure against fire and damage. An example of this is the Munch Museum in Oslo where in August 2003 thieves stole *The Scream*. Still further, some museums prefer a policy that will cover the cost of art recovery experts.

A lack of any insurance policy placed the Gardner at a disadvantage when it came to recovery. Although any policy obtained would not allow the purchase of new artworks for the museum, an edict set by Ms. Gardner, the lack of insurance money placed them at a position of not being able to afford the means by which to investigate the case. “They did not have an insurance adjuster, who could help investigate the case; or an underwriter who could immediately offer a large reward for the stolen masterpieces” (Boser, 2009, p. 91). Instead,

Arnold Hiatt, a board member requested the help of Sotheby's and Christie's to set up a reward for the missing paintings. Within three days, the Gardner had secured \$1 million as a reward for information regarding the artwork. More recently, in March 1997, the Gardner's board voted to pay out of their own pockets and increase the reward to \$5 million; the largest reward ever offered by a private institution (Boser, 2009). In 1990, the year of the Gardner theft, the artworks stolen were worth \$200 million. In 2010, experts estimated the stolen artwork to be worth from \$500 to \$600 million (Boser, 2009; Wittman, 2010).

The exorbitant price tag for insurance has not only forced institutions to forgo insurance, but also will curtail the frequency of traveling blockbuster exhibitions from happening (Conley, 1994). Traveling exhibits are usually very expensive to insure. "Some institutions insure only works that are loaned out to others, and sometimes the lending institution will loan works only on condition that the receiving institution insures the works" (Duboff & King, 1993, p. 88). In order to help combat this trend, National Endowment for the Arts developed an Arts and Artifacts Indemnity program. Endorsed by Congress in 1975, this program helps to facilitate foreign exhibits by providing insurance that might otherwise be cost prohibitive. Exhibitions exchanged with foreign countries traveling both in and out of the United States are applicable for this financial sustenance (Duboff & King, 1993).

Art insurance has added a game changer into the high stakes of art theft. "In a typical property claim, an insurance adjuster has a fairly straightforward job. If nothing has been faked or forged, the adjuster simply needs to figure out the value of the loss and then pay the client. If, for example, a 1982 red Corvette is stolen, the adjuster has to calculate the current value of a 1982 red Corvette and then write a check. The process is pretty much the same for anything from a \$20 radio to a \$200 million yacht. But art is different. If a painting or sculpture goes missing, there is no replacement" (Boser, 2009, p. 18). Although the financial stakes of art theft are high, institutions are reluctant to report theft. This reluctance results at times from their own ineptitude regarding the contents of their collection, poor security, or poor record keeping. For example, the Museum of Modern Art (MOMA) in 1989 held an Andy Warhol retrospective exhibition. The Andy Warhol Foundation allowed MOMA to borrow forty-five drawings for the show. However, MOMA did not contact authorities when the artworks disappeared. "The insurers paid out for the loss, and while a few reporters eventually learned about the missing paintings, what exactly happened to the art is still a mystery" (Boser, 2009, p. 58). Regardless, the theft resulted in a

network of “increasing prices that also affects the public... from higher museum admission fees and a decline in exhibit quality” (Conley, 1994, p. 498).

Private owners are more apt to report art theft than are the museums or churches. “Homeowners, on average, have a lower insurance deductible and therefore are more likely to report a theft. In contrast, dealers or museums generally have a higher deductible and are more likely to absorb the loss. Another reason may be that insurance companies who compensate for the loss are eager to recoup the money they paid out” (Conley, 1994, p. 498). The rise in reported statistics of art theft may therefore be due to the financial ramifications sought by insurance companies. Consequently, insurance companies are willing to pay ransom money for stolen artworks because the thief usually demands an amount lower than the amount due to the owner under the policy (Short, 1993, p. 639). In Europe and not the United States, governments willingly pay ransom fees for stolen artwork. “It’s a game the thieves, the insurance companies, and the governments play. No one publicly advertises this, because they do not want to encourage more thefts. But the bottom line is that the museums get their paintings back, the insurance companies save millions on the true value, the thieves get their money, and the police get to close the case” (Wittman, 2010, p. 177). However, in the United States, insurance companies may pay ten percent of the insured value of the property for the recovery of stolen property. “Those rewards are often paid to agents or middlemen who are hired by the thieves to exchange the property for the reward, which is then divided among the thieves. Sometimes the agents and middlemen are actually the thieves themselves” (Conklin, 1994, p. 270).

Appraisal and authentication are essential in establishing value for market price as well as for insurance purposes. As seen in business, especially real-estate appraisal, stakeholders may utilize techniques in order to influence the value of artwork and subsequently influence the return value on an insurance policy. While there are many legal ways in which to promote a larger return, the illegal intentionality to influence the market value of art through inflated or fake appraisals contributes to a network of influence impacting an overall investment value of art through inflated insurance values. “Collectors who insure their art against theft or damage sometimes defraud their insurance companies through inflated appraisals, even insuring fakes and forgeries as authentic works of art. Insurance companies usually ask for the credentials of the appraiser who evaluates the art they are insuring, but often they take the appraisals themselves on faith” (Conklin, 1994, p. 88). This same technique may be seen in the housing market where

prices are inflated in order to obtain bank loans or increase profit. This inflated appraisal becomes part of the new history of the house and new value of the house: Thus, increasing the values of homes. Likewise with art, when an inflated appraisal is created for an artwork, that new appraised value becomes part of the context and new history of that art. Once that newly valued art is put into the art market its value influences the worth of similar pieces. Therefore, creating a network of influence that drives up the value of art. “Collectors may pay appraisers to inflate their valuations, or they may use forged invoices or other documents to deceive appraisers into believing that fake works are authentic and valuable” (Conklin, 1994, p. 88). For example, one insurance company paid a claim of \$1 million dollars to a client who reported his collection of art stolen in a burglary. After the authorities recovered the collection, the insurance company sought an appraisal, and found that the worth of the art was only \$200,000 dollars. They sued for adjustments (Conklin, 1994). When appraisers fail to adhere to professional standards of appraisal and allow prices to become inflated it affects all the associated artworks. Therefore, “understanding the way that art crime is organized and the way it is related to the organization of the legitimate art world is important for developing policies to reduce art crime” (Conklin, 1994, p. 14).

Relationship of Policies and Procedures to Value

Art crimes are on the rise across the globe in part because the conditions are so favorable for the criminal. “The present deterrents to art theft are few and almost inconsequential. The probability of being caught is almost zero and if caught and prosecuted, the art thief faces a minimal punishment” (Lawrence et al., 2008, p. 68). Stakeholders need to create initiatives to heighten the importance and awareness of art theft before artwork, and cultural icons are lost forever. Education is a key component. In addition to the education of law enforcers, art organizations must make an effort to educate the public as well. If the public better understood the economic and social implications of permanent loss or damage to unique pieces of art, then policy makers would have a much easier time justifying the expense of a more coordinated effort to shore up the legitimate art trade. The current situation in Afghanistan is an extreme example of this global problem. “As you know, most Afghans are uneducated. When some looters want to get these artifacts, they just pay a little money to the villagers. These villagers don’t know the true value of these artifacts” (Massoudi, n.d., para. 11). The value to the villagers is the cash that they receive. They are simply unaware of the cultural value contained in the artifacts, and the

resulting economic value that these artifacts will command on the open market or as a catalyst for cultural tourism. According to Nancy Dupree (n.d.), “A nation’s integrity is best assured when its members hold fast to the cultural values that fortify their sense of identity, and societies that live in harmony by welcoming the new while treasuring the past maintain their vibrancy” (para. 1). If this holds true, then developing a national identity through a common cultural heritage could be a foundational step for peace. Yet, there is also an economic value to cultural heritage beyond the value of individual artifacts. According to Cassar (n.d.):

The benefits of aiming to foster a common national identity going beyond ethnic or religious divisions as a contribution to peace and inter-cultural dialogue are worthy ends in themselves, but the benefits of encouraging economic growth through the creation of job opportunities in the cultural and creative industries- worth some several trillion dollars globally- and the development of sustainable tourism cannot be neglected in its potential to provide a foundation for the future. (para. 16)

Empirical research will continue to lag unless researchers determine new methods for obtaining and collecting data. Government and industry funding is critical to the collection, storage, retrieval, and dissemination of needed data to undertake empirical analysis of art theft trends. With sufficient data and research, policy makers can investigate the factors that contribute to the increase of stolen art in order to provide concrete recommendations to reduce art theft (Houpt, 2006).

Art crimes are clearly an international problem. This fact complicates any initiative designed to combat art theft and protect the value of art. The interests of individual countries are so wide and varied that a coordinated one-size-fits-all policy is difficult to establish. There are art-rich countries, art-poor countries, economically well off countries, and countries that rely on the art industry and even illicit activities of art for economic survival. Each of these entities demands that certain parameters are satisfied with any new policy. Yet, a total comprehensive enactment of one international policy to reduce art theft could be difficult or near impossible to impose (Collins, 1993; Short, 1993). The task is to create policy and procedure initiatives that actively help decrease the proliferation of art theft while allowing participants to operate collectively, yet maintain policy independence. Still, due to the complexity and expanse of the market, individual initiatives will necessarily affect market activities in other locations. In other words, there are often unintended consequences that effect value that result from any single

policy that is limited in scope to only a small portion of the market. Policy initiatives, directed at specific art crimes or at the protection of specific cultural assets, often have repercussions in other areas of the art market. Value is often the link between these co-evolutionary policy and procedure changes.

Except in Italy, the art market is largely unregulated. Unlike traditional forms of investments, regulated by statute and policed by administrative agencies, there is no comprehensive body of statutes specifically designed to prohibit manipulative or deceptive practices in the art market. Unfortunately, art theft is a low priority for most of the world's police forces (Haupt, 2006). Still, art professionals are in a position to influence change both internally, and through external policy. Arthurs (2000) stated three aspects of policy relevant to cultural organizations:

- Policy research: Through the collection of information, data, facts, and statistics to inform a field and provide the foundation for policy formation.
- Policy formulation: Identification of policy issues, objectives, or policy research and prioritized for the public. Policy formulation is most often based on policy research and needs.
- Policy initiative: Policy is most significant when made by the institutions themselves. Most do not work within cultural institutions, but are external to them, and they think about them from a distance.

High publicity art thefts do capture the interest of the public, usually because of the high dollar amounts placed on the lost art's value. This tremendous profitability in the art market helps fuel art theft. "Internationally, the trade in art has been placed as high as fifty billion dollars per year. Not only are the prices paid high, but so are the profits" (Short, 1993, p. 638). For example, in 1987, Van Gogh's *Irises* sold for 53.9 million dollars; the seller had paid only eighty-seven thousand dollars for the painting in 1947. Often overlooked, however, are the huge numbers of lesser art crimes that result in the loss of culture. Throughout the ancient world, excavators and traders remove artifacts without a regard to their cultural significance. While these artifacts may surface someday in the future, they have already lost much of the contextual significance attached to them. No one will ever know the details surrounding the artifact at the time of discovery. Countries often attempt to recover significant artifacts illegally removed from their areas, that later surface, through restitution. The process is lengthy, and it does highlight the

problem; however, it is the wholesale removal of mass quantities of art that triggers alarm (Kuitenbrouwer, 2005). It also triggers action in the form of national and international laws designed to stop the illicit trade of art. It is beyond the scope of this study to measure the overall effectiveness of these laws as a deterrent to the illicit art trade. Instead, this study examines the effect of these laws, policies, and procedures on the value of the art that they are trying to protect. The examination of how this legal action affects the value of art occurs on two different echelons. The first level focuses on the national policies and procedural mandates administered by the United States, and the second broadest level encompasses international cultural policies and procedures.

National Policies and Procedural Mandates and Value

According to federal government estimates, the U.S. has over 21,750 non-profit arts, culture, and humanities organizations, boasts over \$37 billion in assets, and spends \$13.3 billion on enrichment activities annually (Sanguaro, 2000). Additionally, the United States is the largest consumer country. As a major art-importing nation, “the laws of the United States make this country a feasible place to deposit stolen art. Even though art must be properly declared upon entrance into the United States, it enters this country duty free. Furthermore, there is no violation of United States law when art is properly imported into this country even if it has been illegally exported from its country of origin” (Morris, 1988, p. 60). A certain level of controls is necessary to prevent art thieves from capitalizing their wares in this lucrative market. One would think that with the number of art organizations and the size of their assets and expenditures, there would be enough clout from art stakeholders to influence lawmakers to stay a step ahead of the criminals by developing policies and procedures by which to conduct art trade (Brodie & Renfrew, 2005). Instead, as stated previously, it was not until 2004 that the FBI finally recognized the need to establish a dedicated art crimes team. Consisting of thirteen special agents and supported by three special trial attorneys for prosecutions, the FBI Art Crimes Team handles cases of art and cultural property crime, which includes theft, fraud, looting, and trafficking across state and international lines. The art trade is unregulated; however, “times have changed, and coherent ethical codes for acquisition are now needed” (Brodie & Renfrew, 2005, p. 354). It is apparent that tangible obstacles are prohibiting this ramification. Robert Morgenthau, District Attorney of New York, the head of New York’s first investigative task force dedicated to the recovery of stolen artifacts was more specific. “I have learned that when it comes to the international trade in

stolen antiquities, the scholars, museum directors, dealers, and private collectors who traffic in such things are insulated by top notch lawyers, layers of money, and powerful friends” (Bogdanos, 2005, p. 269). Nevertheless, the legal trade of art is beneficial on many levels. The ability to legally trade art has economic value. It also enhances the cultural value of the art to the viewing public. This is especially true in the United Kingdom. The London art trade produces great revenues for the government and provides jobs for many individuals. “Approximately five billion dollars changes hands each year in the United Kingdom’s auction trade, and London is the location for fifty to seventy-five percent of the EC’s (European Community) art trade” (Short, 1993, p. 661). Many art rich states such as Greece, Spain, Italy, and France claim that payments for works leaving their countries do not represent fair market value, and cannot compensate for the resulting decrease in the intangible cultural and identity wealth in a state’s collection. However, the legal flow of art trade enables the art to go where it is wanted, and where collectors will preserve the works for the benefit of all. Just by the sheer volume of the cultural items in an art-rich state, it becomes financially impossible for these states to care properly for all of the works (Short, 1993). Further, many works are not exhibited because the best examples of any given era, school, or artist are already on display within the state (Short, p. 660).

National Stolen Property Act. The National Stolen Property Act of 1961 (NSPA) is a federal statute that makes it a crime to transport, transfer, receipt or sale of stolen property across state lines or in foreign commerce goods or money worth \$5,000 or more if the person knows that the money or goods were obtained unlawfully (Petr, 2005). United States courts have read the NSPA to provide for the enforcement of all international cultural property controls, including the UNESCO Convention, and to allow the United States to represent the interest of foreign countries by suing individuals for recovery of cultural property that suspects have stolen or illegally imported into the United States (Morrow, 2007). Goods are subject to the act even if the crime of theft took place in another country. The law does require evidence that the defendant had a knowledge or reasonable assumption that the goods were stolen, and proof that the defendant did not know that the goods were stolen is a valid defense; however, ignorance of the law itself is not defense. Of course, for an object to be considered stolen, it must have an owner. Ownership is a problem for recovered cultural artifacts from ancient civilizations. To solve this problem, most source countries have national patrimony laws that vest ownership of all cultural

property, whether known or unknown or above or below ground, in the state (Morrow, 2007). This makes the source country the owner of a defined set of objects even for items that no one has yet discovered. When individuals do find these items, the items become property of the state, and the finders must turn them over. These laws, if clearly written, do solve the ownership problem, but only for items found after the law's ratification. Individuals can have a proper title to artifacts if they established ownership before the law's ratification. This scenario leaves an opening for a thief to obtain ownership through deception. Unfortunately, the deception, falsifying the origin of an artifact, necessarily affects the cultural value of the object because the criminal has altered the contextual value.

This act follows the common law approach that contrasts with elements of civil law. Common law countries adhere to the principle that a thief cannot pass a right to possession or good title regardless of a purchaser's good faith. Under U.S. law, no one can acquire good title to stolen property. Someone who buys an object in good faith must return it if it is found to have been stolen. In civil-code countries, however, particularly in Europe, a good faith purchaser is favored over true owners. In the civil law system, a good-faith purchaser may hold title even if the property was stolen. Thus, even when authorities show that an item has a theft in its history, if the current owner can show that he was unaware that the item was stolen at the time of purchase, he usually gets to keep it (Bogdanos, 2005). Of course, actual knowledge that a work is stolen automatically eliminates a purchaser's good faith standing. In an art sale a good title and provenance must be obtained for a purchase, thus even if a stolen artwork is properly reported, there is a difference between civil law and common law countries allowing thieves to shift stolen goods to jurisdictions offering them protection. Hence, a reasonably due diligent search into the artworks provenance could grant a purchase under good faith or not. The United States operates under common law versus, for example, the Swiss civil law principles. The recovery of an artwork may be pursued through an action of replevin or seek damages through an action of conversion. Regardless, there is a time line in which individuals can pursue legal actions. In the majority of states, this timeframe begins when the good faith purchaser obtains the stolen property. In New York, however, the statute of limitations does not accrue until the rightful owner demands return of the artwork, and the accused refuses (Conley, 1994). The policies pertaining to the statute of limitations prohibiting legal recourse of stolen art could have bearing

on the period that an artwork is out of the public eye, thus an influence on the value an artwork incurs, while thieves wait until it is legally safe and lucrative for the stolen piece to resurface.

Recent thefts including the 1990 Gardner heist have acted as a catalyst for the development of new policies and procedures designed to combat art theft. Senator Edward Kennedy was instrumental in adding a provision into the 1994 Crime Act. Originally, there was a five-year statute of limitations ready to expire on federal charges in the case of interstate transportation of stolen property and the receiving of stolen property across state lines. The new law “changed that, extending the statute of limitations to twenty years. The law also made it a federal crime to steal, receive, or dispose of any cultural object worth more than \$100,000” (Boser, 2009, p. 211). While policy makers enacted this law after the Gardner heist, thieves of the heist could still be prosecuted under this law for the handling and the concealing of stolen artworks at any time.

Business negotiations affecting value. “Understanding the way that art crime is organized and the way it is related to the organization of the legitimate art world is important for developing policies to reduce art crime” (Conklin, 1994, p. 14). This understanding of the partnership between the legal and illegal art market provides an insight into the affects that this network of influence has on the value of artworks. This network of influence is prevalent not only in the international art market, but also practiced in the United States. “Further, a consistent observation is that the introduction of illegal art into the market comes primarily through the efforts of persons who have an established role in that market” (Polk, 2001, p. 8). This established network of art bartering is common amongst art dealers, museum administrators, and auction houses. Several practices seen in the business of art, that as a byproduct manipulates the value of art, include bidding tactics, price fixing, and tax manipulation. Stakeholders may see these practices in both the legitimate and an illegal art markets.

Bidding tactics. “An understanding of the value of art requires attention to the various reasons that institutions and individuals buy art” (Conklin, 1994, p. 21). It is in part this insight that auction houses capitalize upon when providing artworks for sale. There are many legal techniques in the bidding war of art that an auction house may undertake to influence the highest sale of a piece. These legitimate tactics of persuasion may include comments about the items on auction, the auctioneer’s demeanor, an orchestration of the order that the auction house introduces the artworks to the buyers in an attempt to create a certain pace of bidding (Duboff &

King, 1993). While many consider these tactics high-pressure sales techniques, they are legitimate.

Auction houses may also utilize illegal means to foster the illicit sale and purchase of art. Such techniques, while seemingly isolated in occurrence, have direct bearing on the overall art market. Three examples that influence the art market include scheming in the bidding process, increasing bids for an artwork, and, finally, plotting to reduce prices for an artwork. First, the auctioneer may employ an illegal technique known as ‘bidding off the chandelier’ where the auctioneer recognizes phantom bids in order to increase bids while trapping an excited bidder into bidding against himself (Duboff & King, 1993). Since this illegal practice occurs frequently, experienced bidders will often sit in the back of the room to survey the bidding process and avoid entrapment. Second, the auction house may position an ally in the audience during an auction. The purpose is to encourage high bids through a practice called ‘puffing’ or ‘shilling,’ and is considered a criminal conspiracy (Duboff & King, 1993). Third, bidders may also participate in a joint buying plot. While it is legal for a group of buyers to send an agent to an auction to represent their business at the auction, it is illegal if the “buyers make secret agreements not to compete with each other with a specific intent to depress prices, known as ‘ring’ formation” (Duboff & King, 1993). This type of agreement violates the American antitrust laws, and is not legal. Although there is a fine line, at times, between the legitimate and illegal bartering in auction houses, individual occurrences of questionable activity may be the gateway into the illicit art market, and it can influence the value within a category of art. “With each subsystem putting selective pressure on each of the others, they co evolve in a manner whereby each reflects the other” (Norgaard, 1994, p. 216).

Price-fixing. Price-fixing is the intentional manipulation of, in this case, the art market in order to control the value of art. Although considered an illegal activity within the United States, Canada, Australia, New Zealand, and parts of Europe this exploitation of the art market has little repercussions elsewhere. In the United States, authorities can prosecute criminals for price-fixing as a criminal federal offense under the Sherman Antitrust Act of 1890 (Kyn, n.d.). This Act opposes the combination of entities in the form of monopolies or cartels that could harm competition in order to prevent the artificial raising of prices by restriction of trade or supply. Subsequently, the Clayton Act of 1914 supplements the Sherman Antitrust Act by further

prohibiting specified business practices like exclusive sales contracts, and the cutting of local prices in order to block competitors.

In 2000 Christie's and Sotheby's, two of the world's renowned auction houses, settled a class action lawsuit for antitrust violations. Executives from Christie's alerted the Department of Justice of their suspicions of commission fixing. "Violations on the behalf of the United States buyers and sellers alleged price-fixing for \$512,000,000 and a similar suit on behalf of buyers and sellers outside the United States for \$40,000,000. Sotheby's also pled guilty to price-fixing after a Department of Justice investigation and paid a \$45,000,000 fine" (Duboff & King, 1993, p. 56). Mr. Alfred Taubman, principal owner of Sotheby's, was indicted in May 2001 by a federal jury in New York for fixing the rates charged to sellers at auctions, and conspiring with Christie's to fix fees charged to auction house sellers during a six year period (Duboff & King, 1993; Rohleder, n.d.). Mr. Taubman was sentenced to one year in prison and fined \$7,500,000 while Mr. Christopher Davidge, Christie's chief executive, was given conditional amnesty from prosecution by the government in an agreement to provide information to the FBI (Duboff & King, 1993). In addition, Diana Brooks, President, and CEO of Sotheby's plead guilty to conspiring with Christie's in violation under the terms of the 1890 Sherman Antitrust Act. (Rohleder, n.d., para. 1-3). The former chairman of Christie's, Sir Anthony Tennant, was able to avoid prosecution by refusing to travel to the United States in order to face criminal charges. Rather in Europe, it was a civil offence with no jail time. (Kyn, n.d., para. 6). However, only "when an agreement to control price is sanctioned by a multilateral treaty or is entered by sovereign nations as opposed to individual firms, the cartel may be protected from lawsuits and criminal antitrust prosecution" (Kyn, n.d, para 6).

Tax manipulation. Another policy intertwined in the legal and illegal art market is the Tax Reform Act of 1986. This Act created a huge shift in the art market. From 1952-1986 an individual donating artwork to a museum, for example, was afforded the opportunity to deduct 50% of the value of the work as a donation to an arts organization. The Act based the value of the donation on the artworks current appraisal price, rather than the donors purchase price. During this period, donations to museums soared. However, in order to increase the amount of the deduction, donors sought higher appraisals. Appraisers delivered by assigning phony inflated appraisals to artworks, which not only increased the tax deduction amount, but also put upward pressure on the value of other artworks in the same category. "Museum curators have sometimes

appraised at excessively high amounts art owned by collectors from whom they anticipate future donation. The collectors then use the curator's appraisals to support illegally high tax deductions for their donations. Such a scheme is called a "high-low," because collectors buy at a low price but claim deductions based on a high-appraised values" (Conklin, 1994, p. 88). Mr. Hecht, an American antiquities dealer, recalls 'collectors' who acquired antiquities solely for the tax breaks. Considering the valuations of many works that collectors were able to obtain through appraisals, it is no wonder that donations soared. An example from Watson and Todeschini (2006) demonstrated this tactic:

Mr. Hecht recalled on a 1974 trip when an associate was shown four fresco panels of the fourth century B.C. which decorated a tomb at Paestum, an ancient Greek city 150 miles south of Naples. The backer bought them for \$75,000 and later gave these same frescoes to the Getty where they were valued at \$2,500,000. Hecht observes that the backer was in the 50 percent tax bracket, and so, by deducting this from his taxable income he saved \$1,250,000 in taxes, in effect a profit of \$1,175,000. Later, Hecht says, this backer told him that he 'collected' antiquities only in order to make donations to museums and it wasn't worth his while unless he could get them valued at five times what he had paid. (p.177)

The 1986 Tax Reform Act required donors to report a works value not on the newly inflated appraisal value, but on the purchase price. Therefore, the value of artwork was affected, and subsequently from 1986-1988 the donations of art given to museums dropped by 63%.

International Policies and Procedural Mandates and Value

Art theft is an international problem lacking an all-encompassing cooperative solution. It has been "prevalent in society for decades, and the number and magnitude of thefts will continue to increase as long as the demand for art continues to grow" (Morris, 1988, p. 59). On the surface, it may appear that the international community needs collectively to develop standardized policies and procedures to combat the insurmountable increase in art theft. While reported to be a fifty billion dollar crime annually worldwide, one unified international solution may be difficult to enforce due to the varying national priorities of individual countries (Short, 1993). However, the international community has developed broad policies and procedures in order to establish a context by which to begin to work with each other to combat art theft and gain retribution.

A disconnect between national priorities and policies concerning art theft helps facilitate an increase in art theft and low recovery figures. This disconnect makes the international market favorable for art theft. First, art thieves easily conceal, store, and transport artworks across international borders without difficulty. Second, the privacy associated with art transactions contribute to the success of the illegal art market. For example, “monetary transactions in Switzerland can be completed in utmost secrecy due to banking confidentiality and privacy laws. Thus, shady transactions cannot even be identified, much less scrutinized” (Conley, 1994, p. 496). Finally, the international laws pertaining to import, export, and clear title extremely differ. “Professional art thieves capitalize on the loopholes between jurisdictions to make the deal by further moving the art to countries that provide a favorable atmosphere in which to conduct business” (Conley, 1994, p. 495). Many countries do not participate in efforts to stop illegal art trade as seen in the lack of participation in Interpol conferences regarding stolen Iraqi antiquities (Bogdanos, 2005). “Although the United States, the United Kingdom, Italy, and Jordan have made significant law enforcement commitments, other countries generate sizable revenue by levying import and excise fees on international transactions. Increased inspections would threaten these revenues” (Bogdanos, 2005, p. 273). For example, France, Germany, Italy, and Switzerland favor above-board purchases of art over the original owners in disputes of provenance and ownership. Hence, art fencers and dealers travel to these countries to secure legal title for artwork (Conley, 1994). Switzerland, especially, is internationally notorious for turning the other cheek when it comes to illegal art trafficking, and does not support efforts to combat illicit art trade. Rather, “Switzerland’s generous tax structure favors foreigners. Many crossing points and airports within Switzerland are host to tax-free warehouses” (Conley, 1994, p. 495). Many countries continue to show little interest in responding against art theft, “particularly because ‘open’ borders are profitable borders” (Bogdanos, 2005, p. 260).

The opening of internal borders between European Community (EC) member States, “combined with the modern practice of collecting illegally exported or stolen art, threatens to result in a renewed plundering of Europe’s vast art wealth” (Short, 1993, p. 637). Under this open border policy, stolen artwork and antiquities can exchange hands more freely across country lines in Europe. The establishment of a Europe without the “restrictions on movement of goods, persons, services, and capital has existed since the signing of the treaty establishing the European Economic Community” under the EEC Treaty in 1957 (Short, 1993, p. 641). In 1986,

the Single European Act was signed furthering this effort. By 1993, this more open market would be in effect. “Although border controls between EC Members States only gradually loosened prior to 1993, art thefts greatly increased. In 1990 the chief of the Italian art theft police squad already had noticed an increase in the involvement of organized crime in art thefts” (Short, 1993, p. 640). “The EC Member States must strike a balance between the need for an active art trade, which is important to some states’ economies, and the rights of states to keep their cultural heritages and identities intact” (Short, 1993, p. 665).

International cooperation. Stakeholders will decrease art theft and illicit trade in antiquities only by international co-operation. At the present time, several international conventions provide a framework to support such co-operation. Throughout the twentieth century, the United States and European states have taken a collective action to protect their cultural history and to regulate the movement of artworks across borders. “Once the property is transferred...it can be purged of its tainted title and transferred for further value without exposing subsequent buyers to a risk of loss” (Collin, 1993, p. 20). After WWII, many European states entered into agreements to promote this cause. One agreement was the Agreement on the Importation of Educational, Scientific, and Cultural Materials more commonly known as the Florence Agreement of 1950. This agreement addressed restrictions on the import and export of art, and the exchange of cultural materials. Another agreement was The European Cultural Convention also known as the Cultural Convention of 1954. This agreement permitted each state to develop its own laws on the protection of cultural property. Lastly, The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict also known as The Hague Convention of 1954 focuses on the protection of art against theft, pillage, vandalism, and requisition of artworks in the context of war (Short, 1993). This international agreement protects cultural property and artworks against any act of wartime hostility, and prohibits the use of such protected cultural sites for military use. If done, the site would lose its protection. Violation of this act was most recently observed in the Iraq war. The Iraqi Army turned the museum into a fortress (Bogdanos, 2005). This international collective cooperation under these conventions is essential in making progress to reduce the incidences of art theft. While the export of cultural property is still a contention for policy development, totally prohibiting exports of artworks to ensure protection could promote additional black market activities (Short, 1993).

UNESCO and Unidroit. Two of the most important efforts to decrease international art theft are the 1970 United Nations Educational, Scientific and Cultural Organization Convention (UNESCO), and the 1995 Unidroit convention. “These conventions deal with mandated legislation governing the import, export, and ownership of cultural property for the purpose of cultural protection treaties and international agreements” (Conley, 1994, p. 495). In 1922, as stated by Morris (1988);

The League of Nations adopted a resolution suggesting international cooperation in the protection of cultural property. In the 1930’s, several attempts were made to implement protection laws. The final act of the Cairo Conference of 1937, however, successfully incorporated many international principles which were relevant to the protection of archaeological excavation and which became the basis of the 1964 UNESCO Recommendation. (p. 61)

This was an attempt to protect cultural property. However, this recommendation was not legally binding on any country. Therefore, several countries requested a legally binding agreement, so the General Conference of UNESCO formulated the 1970 UNESCO Agreement. “In order to prevent the illicit movement of art, UNESCO met in Paris in 1970 to formulate the 1970 UNESCO Convention of the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property so that the importation of illegally exported art and artifacts would become unlawful” (Morris, 1988, p. 60). The United States Department of State was instrumental in this Convention on Cultural Property Implementation, and in 1983, President Reagan signed the bill which made this act a law. Also, in order to combat the pillaging of archaeological and ethnological items and the thefts of cultural property, 1970 UNESCO “required each art object to have an export certificate from its country of origin before it could be imported into the United States” (Morris, 1988, p. 62). In compliance with this Act, “the United States Department of State accepts requests from countries for import restrictions on archaeological or ethnological artifacts, the pillage of which places their national cultural heritage in jeopardy” (Conley, 1994, p. 495). Once again, however, Switzerland refused to sign the 1970 UNESCO Treaty. Hence, “even after 1970 it is still possible for illegal antiquities to be ‘laundered.’ As long as the antiquities pass through, say, the Geneva Freeport (without being inspected of course) and receive valid export stamps from the Swiss (whose policy is to allow the

free movement of commerce in and out of its free ports), dealers and museums in New York and London can legally import those newly cleaned objects” (Bogdanos, 2005, p. 264).

UNESCO initiated the 1995 Unidroit Convention to support the 1970 Convention legislation. The focus of the Unidroit Convention was to prohibit and prevent the illicit import, export, and transfer of ownership of cultural property from the point of view of private law. It disallows the means by which criminals could transfer art by taking advantage of the current laws in various countries. Thus, national level judges maintain all mandates regarding restitution and legitimacy. Hence, while the 1970 UNESCO Convention mostly deals with prevention and recovery, the 1995 Unidroit Convention primarily focuses on recovery and sets rules and conditions for restitution claims on stolen cultural objects and return claims on illicitly exported cultural objects (Conley, 1994). “This slippery, largely unregulated world is considered a ‘gray’ market because the legal market is largely supplied by an illegal one” (Wittman, 2010, p. 83).

CHAPTER 3
METHODOLOGY

Research Design

This study utilized a sociological contextual examination of the value of art in order to examine the relationship between the value of art and art theft. The over-riding research question of this study addressed:

- What is the relationship between the value of art and art theft?

In order to explore this question, the study examined three additional research questions:

- What determines the value of art? Does this value affect motive? If so, how?
- What is, if any, the co-evolutionary relationship between the value placed on an artwork and art crime?
- How do policies and procedures established to protect artworks also affect the value of art?

This study was exploratory and descriptive in nature and used an inductive grounded theory design. The primary means for gathering data incorporated content analysis and a series of open-ended systematic qualitative interviews. The study design that was selected provided the necessary form of research in order to develop a base line of information, and may aid in the development of future art theft studies to help reduce the incidences of art theft.

There is little research and statistical information available regarding art theft (B. Magness-Gardner, personal communications, June 16, 2007). Therefore, exploratory research was especially useful for the study of art crime motivations and future prevention in order to familiarize a researcher with these topics. An exploratory “approach typically occurs when a researcher examines a new interest or when the subject of study itself is relatively new” (Babbie, 2001, p. 88). According to Babbie (2001), researchers typically conduct exploratory research, as in this case, for three purposes:

- Satisfy researcher’s curiosity and need for understanding.
- Test feasibility of undertaking a more extensive study.
- Develop methods to be employed in subsequent study.

This study satisfied the first two aforementioned elements, and may provide insights into further studies as suggested in the third element.

Descriptive research furthered this initiative by describing the observations. The descriptive approach to research provides the opportunity to depict accurately and precisely a wide variety of characteristics relevant to the topic of study, and to find out why patterns exist, and what they imply (Babbie, 2001). Therefore, the combination of the two approaches to this research provided this necessary information. In addition to content analysis, I conducted qualitative interviews with open-ended questions.

Grounded Theory

This study employed the grounded theory method to gather and analyze data. The grounded theory method is an inductive approach “where theory is generated from the examination of data. This approach begins with observations rather than hypotheses and seeks to discover patterns and develop theories from the ground up, with no preconceptions” (Babbie, 2001). According to Babbie (2001) and Mertens (2005), the grounded theory method of data analysis involves the constant comparison between observations and data collected in order to make new connections in information. This process of evolving inductive theory is beneficial when limited research is available regarding a topic, as is the case for art theft. As described in Mertens (2005), this process includes four sequential steps:

- Compare concepts from the data.
- Note relationships between concepts.
- Create and simplify patterns of relationships to develop a theory.
- Document the findings.

After data analysis, I summarized the findings, and noted concepts, patterns, and theories for future research. Both exploratory and descriptive, this study is strong in validity due to the in-depth detailed information obtained, but weak in reliability, due to the personal bias that comes from data interpretation during the sorting of information (Babbie, 2001).

Population

There is no singular delineator to value art. Instead, the art community considers numerous factors to place a dollar value on a particular work that the market will ultimately confirm through a market transaction on, at best, an infrequent basis. However, when considering the value of a work of art as it relates to the potential for an art crime, a closer look at the determining parts of value carries more weight than the final assigned dollar value. The premise of this paper stated according to Conklin (1994), that art criminals are motivated through

profit value, artistic value, and political value. Thus, when one considers the relationship between the value of art and art theft, one must look at the problem through the perspective of what is important to the criminal. Each of the individual segments of this study's sample population possesses an insight to the different parts of value through their concentration and expertise. Taken together, they not only revealed a more accurate value of art, but also insights into the duality between legitimate and illegitimate buying and selling of artwork. Additionally, while there is always an immediate economic loss due to the theft of art, there is also always a less than readily available measureable cultural and social impact due to the loss of artworks. I selected this study population to help bridge this gap of information.

The study population focused on large-scale organizations in security/law enforcement, art insurance, and professional museum administrations. These large-scale organizations provided a more inclusive subject of study due to their size and operating budget. The organizations had a greater chance of exposure to art theft and provided accessibility to the needed information and contacts for future research. Further, in order to provide a holistic approach to this topic, I examined art theft from the perspectives of art lawyers and private collectors. I interviewed two representatives from each of the study group's population with necessary follow-ups. Also, due to the nature of the study, in order to present a more representative picture, I conducted two additional interviews beyond the scope of two interviewees per study group. One interview was added to the insurance group. As I was interviewing insurance agencies dealing with art insurance, I found that I needed to include art tile insurance to the study in order to present a more comprehensive study. The second additional interview was added to the museum administration group. A curator was added to the study population of museum directors. Twelve interviews were conducted in total, which provided a holistic view to this study. Therefore, this study's sample population consisted of the following units of analysis because of their direct or indirect relationship affecting the value of art:

- Security/Law Enforcement: Regardless of the motive, some level of law enforcement will be involved in the aftermath of any reported art crime. At the viewpoint from this level, however, law enforcement will always be in a reaction mode. Value as it relates to motive is an important aspect in any investigation, and one that any level of law enforcement would likely consider. Still, for the purpose of this research, elements that concentrate on art crimes are more appropriate.

These agencies have access to historical data from previous art crimes. They also have the experience to evaluate the level of skill related to the criminal, and the effectiveness of barriers erected to deter art crimes. They also have resources to investigate beyond the reaction mode of any single art crime to determine future threats and prevention strategies. They are familiar with the legal and ethical aspects of the art market, and are in a position to evaluate how changes in policies are likely to affect the security of art.

- **Art Insurance:** Insurance companies, by the very nature of their business, must think forward of any actual catastrophe or, in this case, any art crime. To be successful, insurance agencies must maintain a level of expertise required to evaluate the quality of works of art and accurately assess their value throughout the coverage period of the works. This places them in a position to recognize and evaluate factors that may affect the value of any particular artwork beyond normal inflationary trends. This requires not only an extensive knowledge of art markets, but also a continuous assessment of trends and significant market changes. Insurance agencies are also in the specific business of risk assessment. Such knowledge allows insurance agencies to assess risk and provide specific guidance to organizations or individuals related to security.
- **Museum Administrations:** Museum administrators have the highest level of expertise to evaluate the value of art based on its intrinsic properties and its historical extrinsic properties. It is their responsibility as museum administrators to evaluate current perspectives as they relate to the value of art. In fact, the growth in the number of art thefts has created both opportunities and a need for museum administrators to inject themselves into the development of strategic plans, budgets, and other financial and management insights in the growth of the art market and challenges from the increased level of art crimes.
- **Art Lawyers:** Policies, established with good intentions, often miss the mark with respect to the deficiency that policy makers enacted them to affect, or they produce unintended consequences that policy makers failed to consider. Art lawyers are in a position to evaluate the effectiveness of laws, treaties, and policies. With a perspective based on observing trends through enforcement

actions, lawyers can see how the market has adjusted based on changes in policy. From this perspective, they can comment on why many policies in place are difficult to prosecute, and why prosecuting art crimes often results in an almost negligible punishment in relation to the value of the works involved in the crime. Observing these trends may also expose relationships throughout the market that effect value based on policy changes. Recognizing these links may provide a more specific basis for consideration when policies are decided.

- Private Collectors: Private collectors validate any monetary value assignment through market transactions. Their demand supports and drives the market, thus the factors that they assess to determine value are important. Do private collectors collect fine art simply as a financial asset? Collecting requires a considerable investment, and high-end collectors need to understand the specific dynamics of art collecting, and the social and financial context in which dealers and collectors operate.

Data Collection

Prior to the collection of data all forms were obtained to conduct research in conjunction with the Institutional Research Board (IRB) of review pursuant to Florida State University guidelines (See Appendix A). After obtaining the IRB consent, content analysis and open-ended qualitative interview questions were the primary means of data collection. Content analysis is the means by which a researcher obtains information through a variety of forms of human communication (Eulau & Zlomke, 1999; Babbie, 2001). I utilized a combination of books, websites, paintings, pamphlets, and other various materials obtained resultant from contact with the population groups of this study. Further, I recorded interviews through a hand-held recorder device. I made known the recording of each interview session to each interviewee prior to taping. I based the narrative obtained from each interview session upon open-ended qualitative questions. Through these techniques, I examined information, historical records, and personal accounts as they pertained to art theft.

The initial contacts for this study were via phone to at least two different organizations associated with law enforcement/security agents, insurance executives, professional museum administrators, art lawyers, and private collectors. After initial contact, I set up an interview

meeting, and subsequently sent a letter of confirmation along with an interview consent form (See Appendix B).

I conducted the interviews using open-ended qualitative questions. Prior to the start of the interview, I received a signed consent form from all respondents (See Appendix C). During a qualitative interview the “interviewer establishes a general direction for the conversation and pursues specific topics raised by the respondent” (Babbie, 2001, p. 300). This type of interviewing allows a deeper understanding of the subject and flexibility during the interview process to capitalize on the expertise of the respondent. This technique of interview promotes a “general plan of inquiry but not a specific set of questions that must be asked with particular words in a particular order” (Babbie, 2001, p. 300). I explored the issues during the interviews referencing the set of sample questions outlined in this study as guides (See Appendix D). Also, during the interview, I questioned the respondents about any additional materials that they might utilize to monitor or gain insight regarding art thefts.

Data Analysis

All interview responses were transcribed from the recorder into transcripts, and then coded for analysis. Following the interviews, I coded the information obtained from the open-ended interview questions. I processed it for analysis. This allowed me to breakdown the information into manageable sections or possible themes. To accomplish this, I used an open coding system for my qualitative data analysis. “In open coding, the codes are suggested by the researchers’ examination and question of the data” (Babbie, 2001, p. 377). After open coding took place, I used an inductive approach to analyze the data to identify any patterns to employ axial coding and selective coding, and define relevant variables for future studies (Mertens, 2005). According to Glaser and Strauss (1967), open coding may begin by dividing information generated into numerous over-riding categories, while still other categories may emerge through the responses obtained during interviews. I employed the following categories for coding:

I coded the interview responses from the population of security/law enforcement agents, insurance executives, museum administrators, art lawyers, and private collectors into three categories. Each categorical entry included coding modifiers of; dominate factor on value (+); somewhat a factor on value (0); or not a factor on value (-) to identify from the interviewees assessments and responses those areas that may have a dominate bearing on value. Results were then weighted according to the effect of the modifiers stated. A minimal effect on value was

weighted as (1), somewhat an effect on value was weighted as (3), dominate effect on value was weighted as (5). The following is the initial Level 1 open coding of data:

Category 1 – Determinates of Value

I coded the responses in this category according to Conklin's three categories of value.

- A – Financial
- B – Artistic
- C – Political

Category 2 – Co-evolution of Value

I coded the responses in this category to determine if market factors affected the value of art.

Category 3 – Policies and Procedures of Value

- I coded the responses in this category in the same manner of category 2, but to determine if policies affected the value of art.

Category 4 – Tangible Art of Value

- I coded the responses in this category in the same manner of category 2 and 3, but to determine if the tangible art affected the value.

After initial open coding took place, I used an inductive approach to further focus the data in order to identify any possible grounded theory patterns (Babbie, 2001; Glaser and Strauss 1967; Mertens, 2005). Therefore, this next level of coding, Level 2, helped further open coding and define the data into categories of economic principles related to the market side of art:

- NEP - Normal economic principles (NEP) – The value of art adhered to the laws of supply and demand.
- EEP - External economic principles (EEP) – External factors affecting the valuation of artwork not included in normal supply and demand.

Lastly, I conducted Level 3 axial coding of responses in order to identify correlating data.

Through this correlating data of responses, a comparison of EEP responses was made between the following:

- Illegal (I) versus Not Illegal (NI)

Another stage of coding, according to Mertens (2005), is selective coding. This stage of coding refines the connections targeted in axial coding in order to identify possible theories grounded in the data, and to identify future areas of research. Although under this exploratory and descriptive

study selective coding was not employed to identify possible theories, future areas of research were identified. The breakdown of all coded data was placed into chart format. Appendix E contains a sample of the data-coding chart illustrating the method of coding. Other portions of the chart are available upon request. Finally, I illustrated all of the findings from the coded data into figures based upon the percentage of the total responses in category. Appendix F contains these figures that may be included in further studies.

Research Management Plan

I was the sole administrator and researcher of the study. However, I employed an assistant to review coding procedures in order to keep research unbiased. Therefore, it was my responsibility to create, implement, fund, and evaluate the project.

CHAPTER 4

FINDINGS

Data Analysis

The following findings of this study, obtained through an inductive grounded theory design, examined the relationship between the value of art and art theft. During interviews with stakeholders from segments related to the business of art, I examined comments from direct questions related to value, and other conversations related to the stakeholder's particular field.

Stakeholders Defined

The stakeholders that participated in this study well represented the desired cross section of the various fields outlined in this study:

- Collector 1 is a second-generation American and European fine art and antiquity collector and dealer based in the southeast of the United States.
- Collector 2 is a world collector and dealer for over thirty years of fine art, prints, and antiquities based in the northeast of the United States. He has a special focus on limited edition prints by contemporary masters. His experience includes a background in academia, advertising, and futures research.
- Museum Administrator 1 is the director/co-coordinator of a fine arts museum based in the Southeast with an emphasis on American art. His experience includes fifteen years of management work.
- Museum Administrator 2 is the director of a fine arts museum based in the Northeast with an emphasis on 19th and 20th century western art especially American landscape paintings. His museum's collection also includes American and European modernism. His experience includes working in various capacities in non-profit museum management.
- Museum Administrator 3 is the curator of a large-scale museum based in the Northeast with an emphasis on American art. His experience includes a focus on art history and collection preservation.
- Art Insurance 1 is the president of a large insurance organization that focuses on art and title insurance on a worldwide market. He is a specialist in insurance and financial intellectual property risk and risk management.

- Art Insurance 2 is the vice president of a large insurance organization that has a special emphasis on art and collectables on a worldwide market. His experience includes over twenty years of loss control, loss adjusting, and risk assessment.
- Art Insurance 3 is the president of a large insurance organization that has a special emphasis on art and collectables on a worldwide market. His twenty years of experience includes a specialization in underwriting and risk assessment.
- Security 1 is the director of security for a large museum in the Northeast. His experience includes art theft investigation, and security development for federal organizations.
- Security 2 is the director of security and human resources for a large museum in the northeast.
- Art Lawyer 1 is a lawyer, author, and professor of law with an emphasis on cultural heritage law and preservation. His background also includes an education in fine arts and anthropology. He has served on and headed-up various cultural heritage preservation organizations, which included service on the cultural property advisory committee in the US Department of State.
- Art Lawyer 2 is a lawyer with an emphasis on copyright issues. His experience includes a background in organizational psychology.

Not all of the stakeholders interviewed had a significant interest in the arts prior to getting involved in art related careers. During the study, I asked the reasoning behind each person's decision to pursue a position with a capacity in the arts. Seven out of the twelve stakeholders responded that their involvement in the arts began due to their interest in the artistic value of the art. All three museum administrators and both collectors began their careers due to an interest in the arts. All three stakeholders from the insurance group began their careers with an interest in areas other than the arts, namely business. Security and lawyer groups each had one stakeholder who began because of an interest in the arts and one stakeholder who had other interests.

All of the stakeholders were aware of the types of general statistics that represent art crimes as one of the largest criminal markets in the world. Like the following taken from the FBI website which stated, "Art and cultural property crime—which includes theft, fraud, looting, and trafficking across state and international lines—is a looming criminal enterprise with estimated

losses in the billions of dollars annually” (FBI, 2013, para. 1). Despite the awareness of these types of general statistics, the stakeholders had difficulty relating to the magnitude of these numbers. Art Insurer 2 aptly summed it up when he stated, “So the problem...is many people have a lot of statistics that they quote, but where they get all that data from is very hard for me to identify, and I have been in this since 1986, and I still don’t know where they get it all from.” Still, each stakeholder was able to contribute to the study with information from direct experience with art crimes, efforts taken to defend from art crimes, or from significant incidents due to their positions. The findings in this section represent an analysis of comments from the stakeholders that related to value.

Value

Question one explored the dualism of value and motive relative to the context of art. As a basis for this study, I defined the value of art based on Conklin’s definition of value. According to Conklin, three categories of value provide an incentive to steal. These categories are financially motivated crimes, artistically motivated crimes, and politically motivated crimes. The following analysis was based on the stakeholder’s responses coded according to those three categories.

All of the stakeholders referenced the financial aspects of art the most when responding to questions that related to value. The following figures represent this observation through graphical representations of all the value-related responses from the stakeholders.

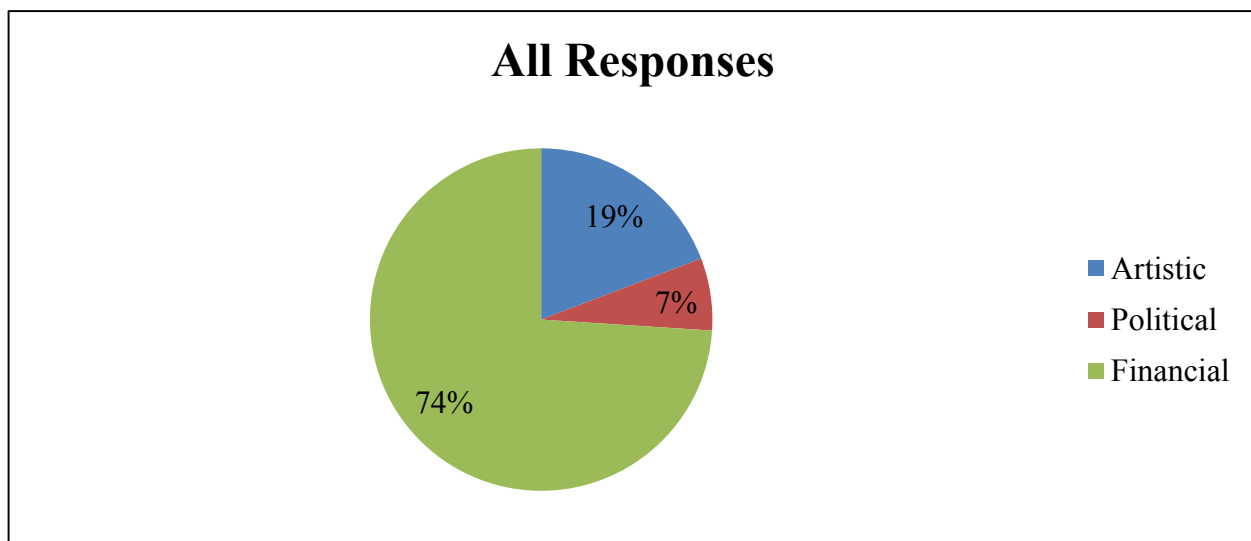


Figure 4.1 All Stakeholder’s Responses for Value

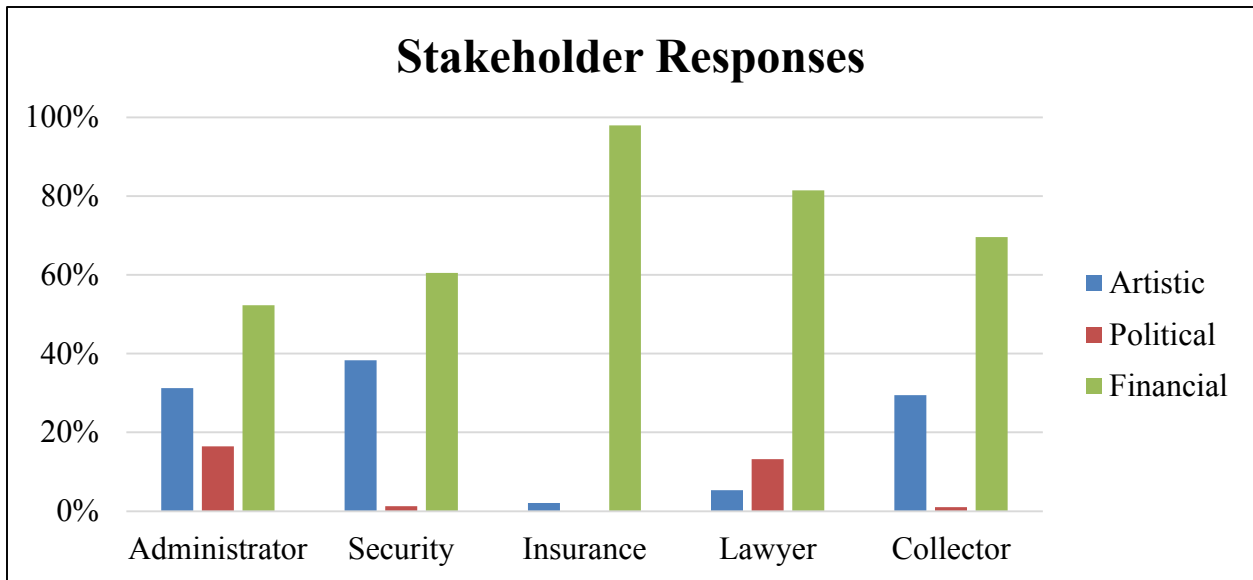


Figure 4.2 All Value Responses Categorized by Stakeholders

Figure 4.1 depicts a summary of all of the coded responses from all of the stakeholders with respect to value. Of those coded responses, 74% referenced financial aspects of value related to a work, and its appeal to a criminal as a motive. Figure 4.2 summarizes all responses that depict how each stakeholder group responded. The financial aspect remains the dominate factor for each group, but stakeholder groups did view the composition of value differently. Museum administrators, collectors, and security all saw artistic value as a significant factor in the overall value. Even though coded responses from all stakeholders emphasizing artistic value averaged only 19%, among this group of stakeholders the response rate jumped to 30% of their total responses. These three stakeholder groups whose responses indicated artistic value as significant were those groups whose daily activities put them in direct contact with physical art. This contrasted with the lawyer and insurance stakeholder groups whose responses emphasizing artistic value averaged less than 5%. Among the security and lawyer stakeholder groups, that each had one stakeholder who began his career with a specific interest in the arts and one stakeholder with an interest in business, the security stakeholder group, that worked in close proximity to the art had responses that aligned more closely with those of the collectors and museum administrators. While, the lawyer stakeholder group’s responses aligned more closely with the insurance stakeholder group.

Still, when discussing topics with value references, the stakeholders usually did so in terms of financial value. Security 1 illustrated this point when he referenced the book *Stealing*

Rembrandts (Amore & Mashberg, 2011) where the author echoed the interviewer's views when he stated that "rarely (is it) the loss of the irreplaceable pieces that is lamented or treated as highly newsworthy. Rather, it is the dollar figure attributed to the spoils that grabs the headlines and the popular imagination" (p. 13). Insurance stakeholders represented the opposite end of the spectrum with a nearly 100% response rate on the financial aspect. Insurance 3 stated, "I enjoy thinking strategically I enjoy business generally...my passion is less from art or jewelry...I get great enjoyment of building a business strategically. So whether we were insuring widgets or art" it is a financial commodity. Insurance 2 further echoes the response when he stated, "I do appreciate the art...but it is a transaction." The Lawyer stakeholder group's value responses were similar to the Insurance group.

Close examination of stakeholder responses to specific questions about value further refined, and sometimes altered how stakeholder groups valued art. At this level of examination, museum administrators and security personnel demonstrated that they are vested in the artistic value. When asked why people steal art, Museum Administrator 1 said, "I would lean towards artistic value, or the value of a painting by a particular artist." When asked directly how he values art, he said, "I can only speak for the foundation and its board and myself and my coworker. We value the collection for its artistic value and its historic value." Museum Administrator 1 understood that other valuations of art exist, and specifically qualified himself and his associates when he claimed the artistic value. Museum Administrator 2 brought in the contextual aspect of art. "One of the things that happens when art comes to a museum is that all of a sudden you forget the artist. It becomes... museums have traditionally been very object oriented, but it's the story telling aspect... it's what's behind the art, and that is where the interest is." When Museum Administrator 3 was asked why people steal art, the response was, "Just to have it." This is a classic response that exemplifies the intrinsic value that art possesses. Security 1 further recognized that the artwork in his museum is extremely significant in an iconic sense for its artistic value when he stated, "I know well enough that regardless of what the short term climate is, a collection like this the one at the xxxx (museum) is timeless. There has never been a period where people weren't interested in what is here." He also said, "if you don't care about the paintings, it's going to show in your work." When asked specifically about the financial value Security 1 stated, "I don't spend any time whatsoever thinking about that, the value. I don't study it. I don't pay any attention to trends in art value. It is something that is

totally the furthest thing from my mind.” Taken together, these three responses from Security 1 highlight the intrinsic value of the art without regard for its extrinsic values. These responses indicate that while administrators and security personnel do reference financial value in their responses related to the museum’s operations, their personal perspectives are weighted more toward artistic and political values.

Under this level of scrutiny, lawyer and insurance stakeholders remained heavily weighted toward the financial value of art. Insurance 2 stated:

I mean I do appreciate the art, and my wife was the risk manager of Sotheby’s when we got married, so we do appreciate art, and we like it, but you have to... it is a transaction. Whether it be the placing of art insurance, or the sort of the claims, it’s transactional-based. That’s a financial transaction.

Art Lawyer 1 continued, “What I’m saying now is the financial value. Political and aesthetic and cultural value of the work is the same.”

Collectors were somewhere in the middle. When asked directly about what made up the value of art, Collector 2 struggled a bit:

Boy, that’s a toughie. I guess it’s really how I earn my living, so as much as I love art and love collecting... yeah I would have to say... Well, first of all I enjoy selling art as opposed to let’s say selling cars because I don’t have to force it on people and there’s the added advantage of just handling beautiful things and looking at beautiful things. So, that’s part of my environment... but if you have to work, there is probably not many things I would enjoy more than dealing in art objects and art.

While Collector 2 saw the intrinsic value of art, the extrinsic value was a reality that he could not ignore. Collector 2 stated, “At this point I would consider 95% of what I own is my inventory in the business and not so much... I mean I’m always buying and selling, so I always have beautiful things to hang, but I consider it more part of my inventory.” Collector 1 shared this dichotomy. Collector 1 stated, “I started because of my interest in the arts. I always have loved to read and I studied and studied...the love of the beautiful things and craftsmanship and workmanship.” Additionally, “my personal stuff... there is no amount of money that will part me from that.” However, Collector 1 also stated that, “I would have to separate my personal collections of things from my business. When I buy things for this business, I am just looking at the bottom line.” Again, these statements show that art possesses both intrinsic and extrinsic

values, but the value of the art is not necessarily a summation of the two. Instead, both values exist independently, even in the eyes of single individuals.

The political value of art surfaced as only a minor role in the analysis of stakeholder value responses. In fact, only two stakeholder groups, museum administrators and lawyers, had a significant number of responses coded for political value. Security and collector stakeholders had very few responses coded toward political value, and insurance stakeholders had zero responses coded as political value. Still, as with artistic and financial value, the responses made were significant to the stakeholders making them as they often affected the actions of the stakeholder.

When asked the question about value in terms of financial, political, and artistic, Museum Administrator 3 had the following story to tell regarding the political value of the collection at the museum.

It is all of the above plus more... I was actually thinking about a specific part of our collection, and that's the paper records... Those records are part of the xxxx state archive, even though they located here. (The) xxxx State regards those as part of the state's history. They are very very highly regarded and highly valued for that reason, and I'm not saying the monetary value; although, they are high in monetary value... It is such a rich piece of history. I have so many researchers come here, and many books have been written based on those archives. We have gotten grants to document and preserve the archives and organize and catalog the archives for just that one part, and we have many parts to our archival collection... so those types even though they may not have a high monetary value, are one of a kind irreplaceable records of history, and for that they you can't even put a value on them.

These items have an important political value to the Museum Administrator, and in the context of a museum, the Museum Administrator is able to convert the political value into a financial gain through advertising for the museum along with research and grants toward the actual material. Museum Administrator 3 reiterated this action when he stated the following:

Then we have other items, and things come to mind like our Egyptian mummy. Egyptian mummies are, of course many museums have them. Emory University just had to return theirs. If you remember a few years ago, less than 10 years ago, the Egyptian government requested that they give it back, and they did; because, it was a royal mummy. Ours is not. Ours is documented. (Our benefactor) went to Egypt, purchased it in an antique shop.

We have the receipt. The Egyptian government allowed him to leave the country with it. Now that doesn't mean anything. Somebody may ask for it back anyway, but that particular piece, you can't get another one, so there is no value on that as far as I am concerned. It is priceless. It's the basis for our largest education program, so it's priceless to us in the way of income. We are booked solid every year for that program because in xxxx (this) State, sixth-graders, they study ancient cultures, and we have the only mummy xxxx (in our area) So, it's more cost effective for them to come here rather than to go into the city.

The political value of the collection has become a commodity that the Museum Administrator uses to further the education department and other activities at the museum.

Motive

This study further explored the relationship between the value of art and motive. There are varying definitions of what constitutes art theft and art crimes. These definitions include laundering, looting and forgery. As Lawyer 1 stated:

Fraud and forgery that also are major areas of types of art crimes. I mean part of the problem is people often use art in different terms...and in different ways. Some people would include archaeological objects as a type of art, and some people don't consider archaeological objects to be a form of artwork. So, I would say one thing that is fairly common in the field is that people's definitions are not clear, and people use terms very loosely... One person does not use it the same way as the next person uses it.

Art theft is just one segment of what constitutes an art crime. This research focused on the physical theft of artwork. Within this framework, stakeholder's responses included references to all three of the types of motivation set forth by Conklin. While stakeholders recognized all three of Conklin's categories of value existing simultaneously in their assessment of value, their assessment of a criminal's motive to steal was always singular, and the consensus among all stakeholders was that the primary motivation to steal art is financial. As Lawyer 1 stated:

I mean, you know looting an archaeological site may be a little bit different, or even better, destroying a cultural site during wartime. That's different. That can have... Again you don't destroy something for economic value; because, you destroy the economic value along with everything else, so you know in the Balkans, yes, they go and destroy a church or a mosque or whatever, and that's for political and historical reasons, but if

you're talking about stealing a work of art, or forging a work of art, I mean, you do that to make money and nothing else. Sometimes the forger does it out of sort of egomania, or trying to dupe the art world, and see what they could get away with, but ultimately, the motivation is just financial, and very often it's simply opportunistic. Where is there an opportunity? What are vulnerable buildings? What do they think they can resell? Very often thieves steal something, and they find that they can't resell it, but ultimately there...I think the goal is simply monetary.

When considering motive, I further broke down the factors affecting value. If normal economic principles of supply and demand are the value drivers of art, then criminals could look at art the same as any other commodity. However, external economic principles, or those actions identified as outside the realm of supply and demand or particular to the art field exist, and make this commodity unique. These unique factors bring attention to the value changes that they produce. Separating these factors allowed the examination of those traits that differentiate art from other commodities. Thus the valuation of art, whether financial, artistic, or political, may be the result of Normal Economic Principles (NEP), which includes supply and demand business practices, or External Economic Principles (EEP), that include illicit market behavior.

Of all of the stakeholder's responses, the majority were categorized as activities that occurred under NEP. As shown in Figure 4.3 the actual break-down was about two NEP responses for every one EEP response.

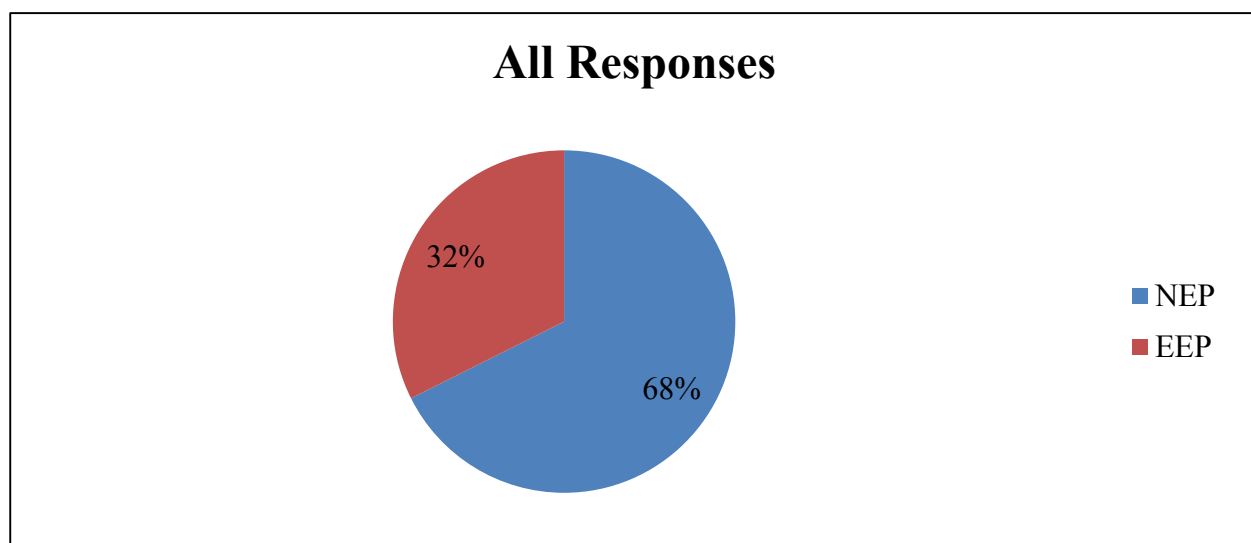


Figure 4.3 All Stakeholder's Responses for NEP versus EEP

Figure 4.4 shows the same statistics by each individual stakeholder group. This figure reveals a trend among the stakeholder groups. The Security and Lawyer stakeholder group's responses were about the same with one NEP response for every EEP response, while all of the other stakeholder group's responses were around three NEP responses for every one EEP response.

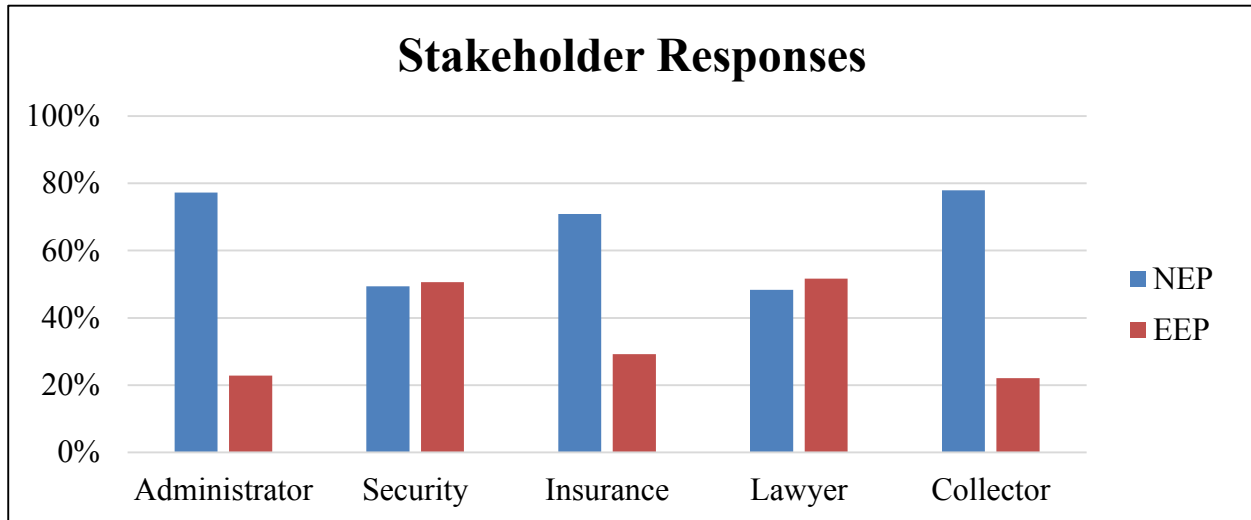


Figure 4.4 All Responses for NEP versus EEP Categorized by Stakeholder

The actual break down of the types of value according to Conklin between NEP and EEP responses, however, remained relatively constant as shown in Figure 4.5 and Figures 4.6.

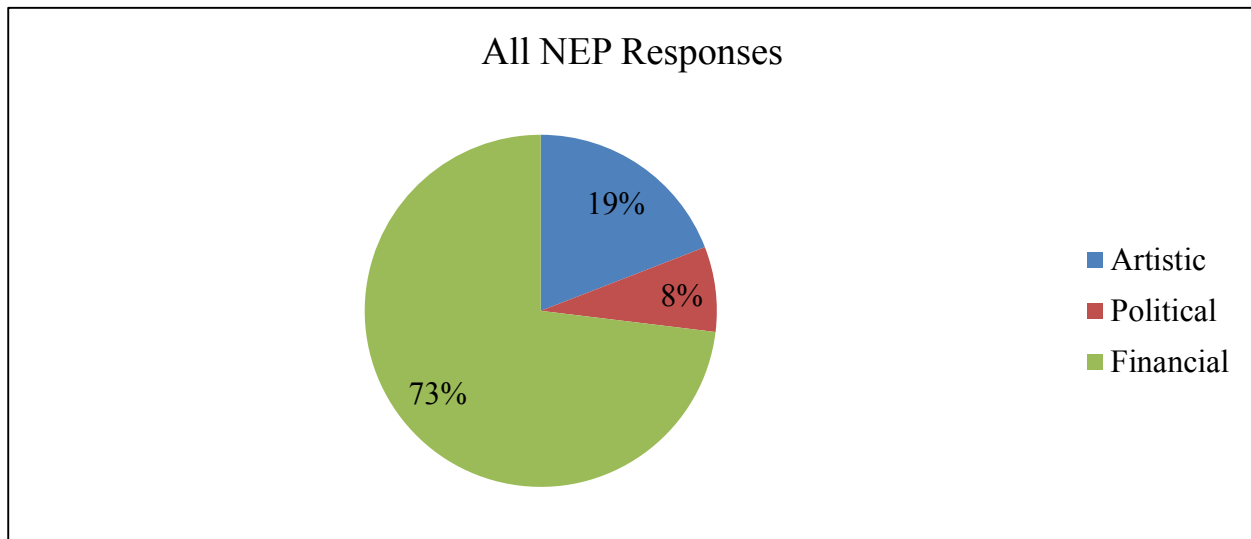


Figure 4.5 All Stakeholder's NEP Responses for Value

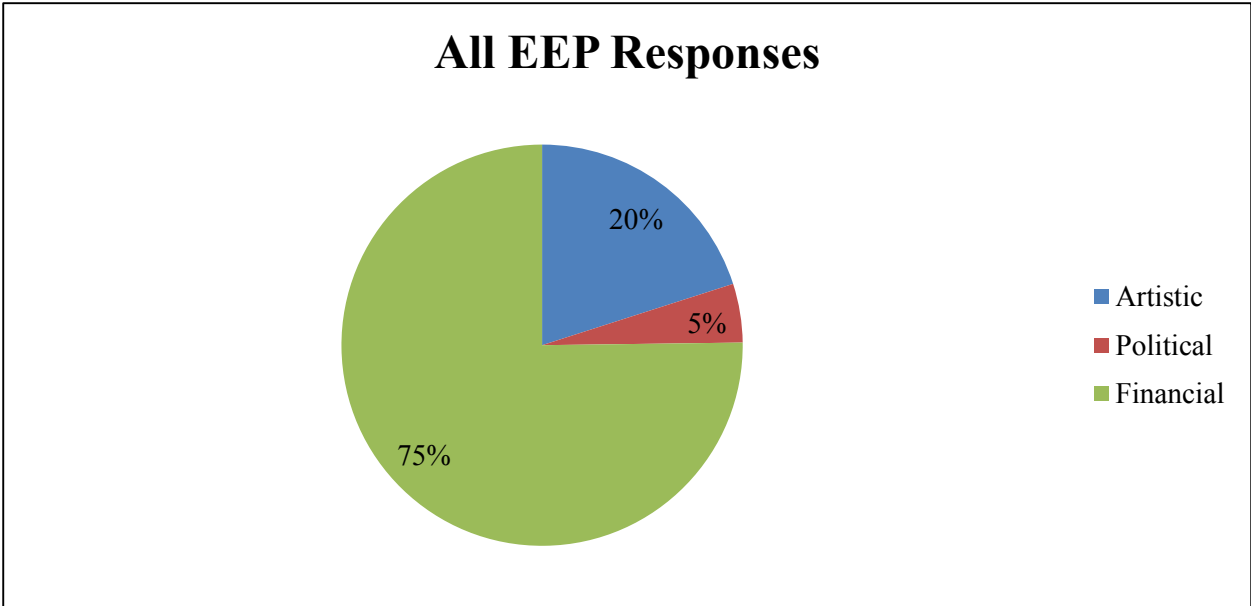


Figure 4.6 All Stakeholder’s EEP Responses for Value

While the financial aspect increased slightly in the EEP coded responses, and the artistic and political aspects decreased slightly, the overall distribution of responses remained relatively constant. These echoed the overall responses from Figure 4.1. Therefore, whether we examined the value of art under NEP or EEP principles, stakeholders viewed the distribution of value similarly with the financial value being the dominant factor, then artistic value, and finally political value. Analysis of the actual responses also revealed that the financial aspect was still the prime motivator. As Lawyer 1 stated:

I think the only real change is the economic value of art continues to go up, and has gone up. I mean, there was the dip around 2008 or so with the recession, but it’s definitely sprung back significantly. So, I think that the economic value has gone up at a very quick pace. It generally always does with some exceptions. It generally outpaces inflation. I mean other aspects of art, I think you know the cultural, aesthetic, and political values are all pretty much the same. I mean it’s been that way probably for hundreds of years. I don’t really think that per se has changed.

Financial Motivation

According to the stakeholders, the primary motivation to steal art is financial gain. As Lawyer 1 stated, “I think criminals go after whatever they can in order to make money.” This holds especially true for a commodity that is financially inflated. As aforementioned, criminals

base their decisions to steal on a risk assessment between the benefits of stealing such a high monetarily valued item versus the risk of capture and subsequent punishment. Additionally, other factors like statute of limitation laws may influence a criminal's methodology. For example, in 1990 criminals stole thirteen works of art from the Gardner Museum. The works are worth \$300 million, and since that time, the statute of limitations has expired on the original crime (Jacobi & Scalese, 2013). At this point, the criminal's only threat to financial gain is a charge of possession of stolen property. As Lawyer 2 stated:

For instance if somebody steals something of a property value of a thousand dollars and they wait out the statute of limitations period which is highly dependent on the jurisdiction, but let's assume it's a seven year period. Well, I don't know anybody that would want to go into hiding for a thousand dollars for seven years, but if it's a \$30 million theft and a life changer for somebody the seven years may apply. But now how do you come up with this schedule and can you have a schedule that says if you steal up to nineteen million nine hundred and ninety nine thousand you only have to do a three year limited statute where as a seven year...Also, in many instances it will be more money than the top 1% some nations have ever seen (SIC). So if you think about the equivalent of artwork and assume it's a \$20 million piece and then you have to weigh the rate of exchange. Do I go to another nation where extradition would give the United States chest pains before you get me back? Plus, I would only have to wait it out seven years for this life...it's a lottery ticket.

Even for a non-professional thief, according to Insurance 2 the motivation is financial:

You know... I think, I'm sure those crimes of opportunity where people walk into a site whether it be a gallery or a museum, and they see something that is appealing to them, and they steal it, but many times if you really look at the work they are stealing, it's you know, for a day-to-day thief I don't think it's necessarily the artistic appeal, it's more the financial appeal.

Despite the size of the heist, there is always a risk and reward equation that must make sense to the thief. However, the primary motivation, the catalyst that starts that thought process as seen by the stakeholders in this study, is primarily the possible financial gain.

Artistic Motivation

Although financial reasons are primary, the evaluation of stakeholder's responses indicated that the artistic value of a work also provides a motivation for a criminal to steal. Of all the EEP responses, stakeholder's responses indicated artistic value of art as the topic in 20% of the value responses as seen from Figure 4.6 above. EEP responses were further selectively coded as either occurring under illegal or not illegal activities. The artistic value response rate jumped to 26% when evaluating those EEP responses coded as illegal as depicted in Figure 4.7.

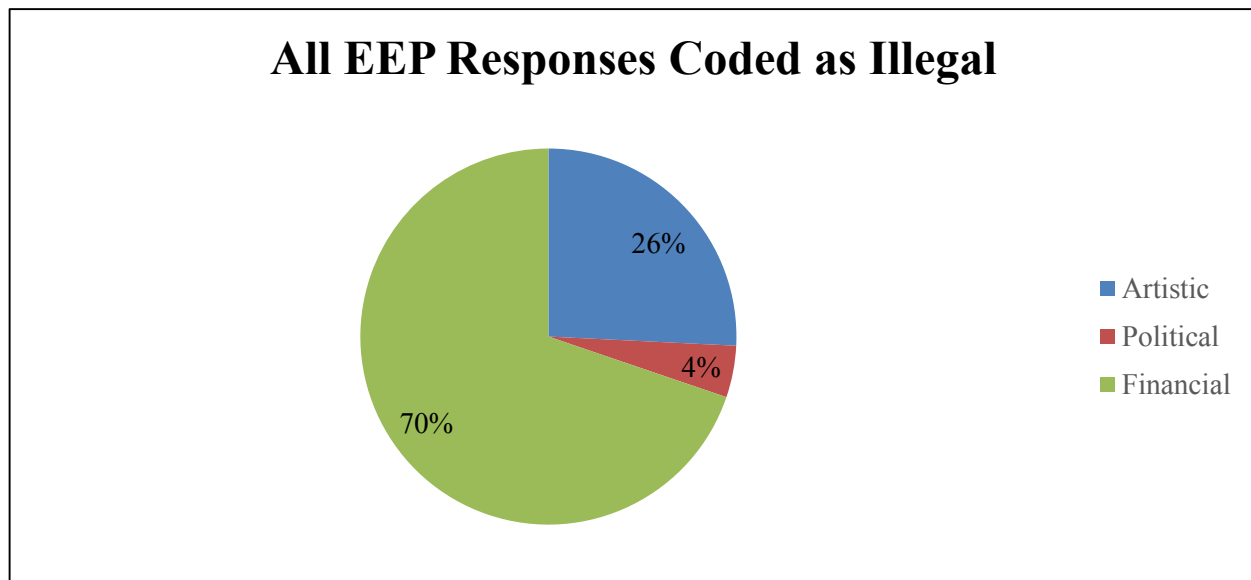


Figure 4.7 All Stakeholder's EEP Responses Coded as Illegal

Criminals that are motivated to steal for the artistic value of art often have discerned particular pieces of art for the taking. Lawyer 2 stated, "I think that it's because it was cataloged. It's in a catalog of the museum and it was picked. I actually think that happens." When discussing what motivates a criminal to steal from a collection, Museum Administrator 1 further stated that, "I would lean towards artistic value or the value of a painting done by a particular artist." Security 1 also responded to what motivates a criminal when he stated the following:

We have Rembrandts. Just like every other Museum in xxxx (this state) that has Rembrandts was robbed, so was ours... Rembrandt is a big target, so every big city has a major museum. A major museum has a Rembrandt, and they almost all have been hit...By far it's the most frequently stolen Old Master. I bet that if you look at a list of the most stolen pieces of art, of the top ten, nine of them were contemporary artists, prints,

serigraphs, things like that, but when you talk about an old master paintings, then Rembrandt is far and above the most stolen.

Also noted during the study, there was an example of pilfering art from a museum for the artistic value of the art. In this case, Museum Administrator 3 suspected that the thief took possession of the art for the tangible protection of the art. As Museum Administrator 3 stated:

I have had documents resurface that were mailed back to me... and the person actually put their real name and address on it, and it was an ex-trustee from many years ago who had a very valuable document in his possession. Why he took it home with him I don't know. He should have never done that, and he returned it...or the other hand... and you know and again you can't put your thoughts in someone else's head and vice versa, but the other thought I had was back then, if the staff was not doing their due diligence, perhaps they thought it was safer at their house. I shouldn't judge them harshly. I should say that maybe they thought it would be safer with them.

Political Motivation

Stakeholder responses referenced the political value of art in only 4% of the total EEP responses. That response rate remained the same when examining illegal EEP responses. The following illustrates an example of how Museum Administrator 3 recognized the political value of an artwork, and took action to protect it.

Yes, there is one... and I'm not even sure of its actual value... We have a Lincoln letter. We have an Abraham Lincoln letter, and it is an interesting letter in many ways because we don't know why it's here... It has nothing to do with our collection... The letter for many years was in a simple wooden frame, and hung on the wall for anyone to see. You could have lifted off the wall and put it in your purse and taken it, but yet, no one did... The previous curator took it down right before I started. Took it down because she re-did that room, and thought about it, and said, you know anybody could put this in their purse and walk out. Very wise decision. She took it down. So, what I do, I now put it in a locked case, and I display it as a special item only during President's week which happens to be our busiest week of the year... They come here to see... we put a Lincoln letter out, we put a George Washington portrait out, we do a search for presidential things. We have some fun things that we do... After that week is over, I take that display, and I put it away again, and that letter gets locked. But, for the public's knowledge, of course, I want

to share things. I have photocopied the papers in very high quality photo color copies, and I have it on display. The copies are on display, so people can see them. Also, the most wonderful thing; because, it's been advertised every year for the presidents week, the papers of Abraham Lincoln from Illinois, it's a project to document everything that Lincoln wrote, and they came here and they photographed, digitized it and they have it on their database, so it can be downloaded by anyone and looked at now. It was also part of another Lincoln commemoration celebration, so I have shared it with so many people now, so I am very happy about that.

Some stakeholders made references to the destruction of art and cultural artifacts as done in the Balkans for political reasons, but as this is not theft, it was not specifically examined in this study.

Stolen but Worth Nothing

Stakeholders repeatedly cited financial factors as the primary motivator, yet the fact remains that with current technology, it is very difficult to sell high value stolen artworks.

According to Insurance 2:

I mean, if you look in Europe, those pieces like the Munch and all of the things that have been stolen, they had iconic value. They are iconic and so... is that a shock theft? An incredible shock theft. Did that guy really think he could sell that work? Not a chance, he knew he couldn't sell that work.

Collector 1 also stated that, "It would take a team and... if you start trying to tote it out you're going to destroy it, and then who are they going to sell it to?"

Yet, as the value continues to rise, the motivation may cloud the realities of turning a successful theft into a profit. Insurance 2 responded to a question about the relationship of value to art theft:

The value increasing is making more notoriety in the art world; which leads bad guys to try to steal. The difficulty with stealing it now, because of the internet and the Art Loss Register and all the databases out there, is it's hard for them to sell it. It sort of becomes a catch 22. We all hear about the value of these incredible pieces, but we're also seeing that when something does go missing, the world learns about it within a half-hour; because, it goes online right away. Then, it becomes harder for the bad guys to transact a financial transaction from stealing it, so I actually think the increase in value plus the increase of

notoriety on art theft has actually decreased the actual volume of theft, not necessarily the value of theft; because, as values go higher one theft becomes more valuable.

Yet, the thefts continue. Security 1 postulated that stolen works may not surface for some time:

They are hidden somewhere in somebody's home, but they are hesitant to come forward thinking that somehow we are going to double-cross them. There is no grand collector out there who has these pieces. These pieces are held by mid-level crook or below who is afraid to come forward with them so we have to sniff that person out.

To accept that theory, one must accept that criminals, who are repeatedly able to engineer major heists, continually fail to consider the problems associated with turning the crime into a profit. This fact does create a disconnect in the risk reward theory, but it does not indicate that the primary motivator is anything other than financial as suggested by the analysis of stakeholder responses in this study. Rather, it highlights the unknowns in this area.

Coevolution of Value and Art Crime

The analysis of stakeholder's responses related to the co-evolutionary relationship between the value of art and art theft did not indicate a direct correlation with respect to the art theft. Rather, through an indirect networking or linking of social contextual information stakeholders did indicate indirect influences on the value of art as a commodity. These influences manifested themselves through the media's influence, activities resulting in market manipulation, and collectors and investors treating art as an evolving asset class.

Media Influence

The immediate and zealous reporting following a high-end art theft creates a media frenzy around the financial value associated with artwork. The public's focus, therefore, becomes the exorbitant financial value associated with the artwork, and little to do with the artistic or political value associated with the art. Such value popularization, created by the media, influences the public's perception and substantiates often-inflated values of art. This democratization of art's financial value by the media indirectly supports the value associated with that theft. As Security 1 referred to in the book *Stealing Rembrandts*, "It is the freedom to attach almost any sum to the value of an art heist that makes the act a unique crime in the public consciousness. Drug seizures also prompt huge dollar estimates as law enforcement officials strive to give the goods a "street value." But a street value for ounces of pot and kilograms of heroin does exist. Art has no real street value" (Amore & Mashberg, 2011, p. 14). It is this

awareness of the financial amount stolen that catches the public's eye and validates the value of art. Also in *Stealing Rembrandts* (Amore & Mashberg, 2011), the author states that:

Assigning a dollar value to art is by nature an act of conjecture. In an age when instantly grabbing the "eyeballs" of the public is the only way for the news media to survive, there are few better ploys for drawing rapid attention than tossing about figures like \$100 million or "a half-billion... It is not very surprising, then, that just ten days after the Picasso sale, more than \$100 million in paintings by Picasso, Henri Matisse, and Modigliani were stolen from the Paris Museum of Modern Art. (p. 14)

Therefore, it is not that an art theft helps create the value of an artwork, but rather, it is the notoriety of the theft, especially, of its financial value that creates awareness of the financial value associated with that illicit act for the criminal and the public. As Museum Administrator 2 stated in a response to the public's view of art theft:

It's so episodic... when they steal a Munch its great... But that's like the tip of the iceberg, so that has to do with the notoriety of the theft... if the story is sensational then the public becomes aware of that; because, they have a tendency to latch onto the negative... It was stolen, they don't want to say it was stolen, but was only part of the multibillion-dollar business. In fact, the general popular news reporting doesn't go in depth in anything.

Media exposure, especially when it has to do with multi-million dollar limited quantity artworks, plays a role in how the public values the artwork, not just financially, but as a community resource as well. What was passé becomes popularized through the media. Museum Administrator 1 discussed, in reference to the de-assessing of artwork from his museum due to ownership issues, that although it was tragic that some pieces in the collection were sold, the publicity about the museum and the collection due to the media coverage created an increased interest in the art and its value as a commodity for the community. Museum Administrator 1 stated:

Well, as they say any press is good press. I have seen uptick in walk-in numbers coming through the Museum. We have seen an uptrend in walk in people coming into the Museum to view the collection. Whether that is due to the press, or us moving closer into town, we don't know for sure, but I think the collection is a little more well-known, specifically here in xxxx (town) just because of the press that has been out there. I think it

also gives the community a little more ownership in the collection as well knowing better the essence of the collection, and I don't want to say like value in terms of moneywise, but the value as in this collection being here in the community.

The financial value of the collection and the artwork remained unaffected; however, the media attention on the art and collection gave relevance and value for the public.

The internet as a viable media tool also has an impact on the art community and the valuation of art by providing market players accessibility to buy and sell works. Its use as it relates to art criminals is twofold. In one sense, it aids the criminal by providing a level of anonymity in his activities. In the other sense, it aids in the dissemination of information to pursue art criminals. As Lawyer 2 stated, "I actually think that the change of the market would probably be dictated more so by the internet than it would be, or the ability to actually have exposure to information than they didn't have before... the internet has really globalized the whole... I would say it's a dilemma not the solution... it provides protection for the thief." However, in the case of combating an art theft, the first action taken by an insurance agency after a theft occurs is to alert the media sources to help combat the illicit activity. Insurance 2 stated, "The concept is the first thing you want to do is get it out into the world." Therefore, the social contextual information provided through media sources indirectly influenced the justification of the value of art. As Art Administrator 2 stated, "It gets back to awareness, so something that did not have a particular value before may have a value now." This information through media sources does not create a co-evolving relationship, but validates the value placed on an artwork and an art theft.

Therefore, it is not that an art theft helps create the value of an artwork, but rather, the notoriety of the established financial value associated with that art creates a high demand for a limited supply. As Art Lawyer 2 stated, "My guess is that it's already bought and sold before its stolen, so...I think that it's generally brokered first and then the theft occurs... Well , it actually doesn't meet the standards of basic economics it's a...I have the demand and then I create the supply it's not the other way around."

Market Manipulation

The business relationship of art as a commodity was the dominant response by stakeholders. Figure 4.8 reflects that 61% of the total responses by stakeholders related to the business relationship of art.

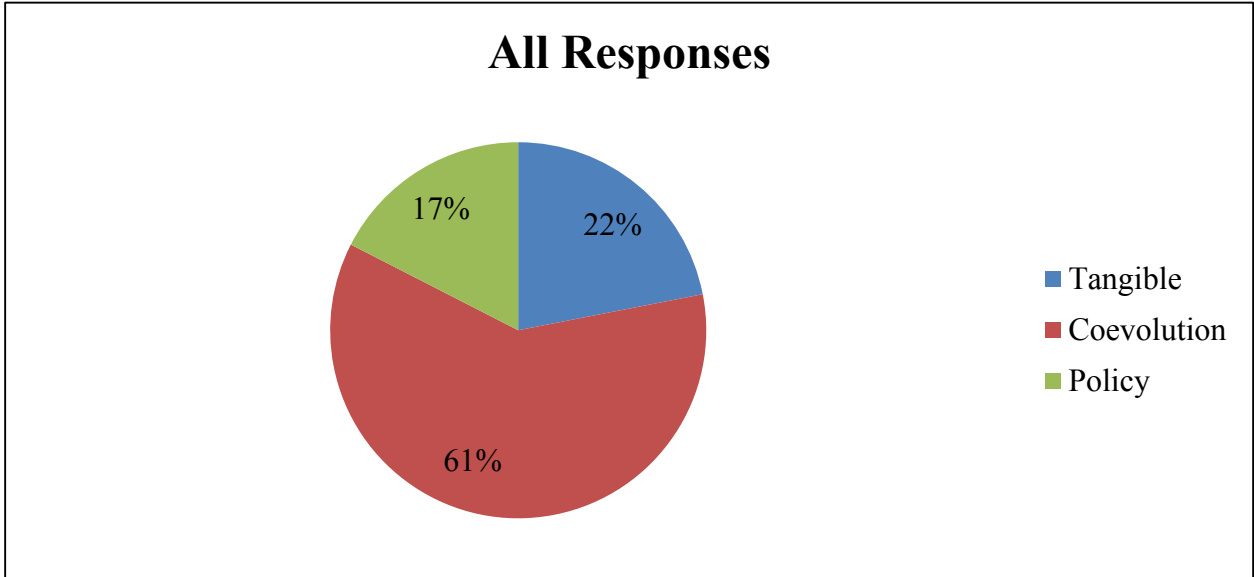


Figure 4.8 All Stakeholder's Responses Categorized by Tangible, Coevolution, and Policy

Within this 61% of stakeholder responses related to the co-evolutionary relationship, responses were coded as relating to NEP and EEP. Each of these categories of responses was further coded according to financial, artistic, and political value. Whether discussing NEP or EEP the co-evolutionary relationship is clearly a financially valued function. When comparing all of the stakeholders' responses in NEP and EEP, the response makeup is also very similar. See Figure 4.9 and 4.10:

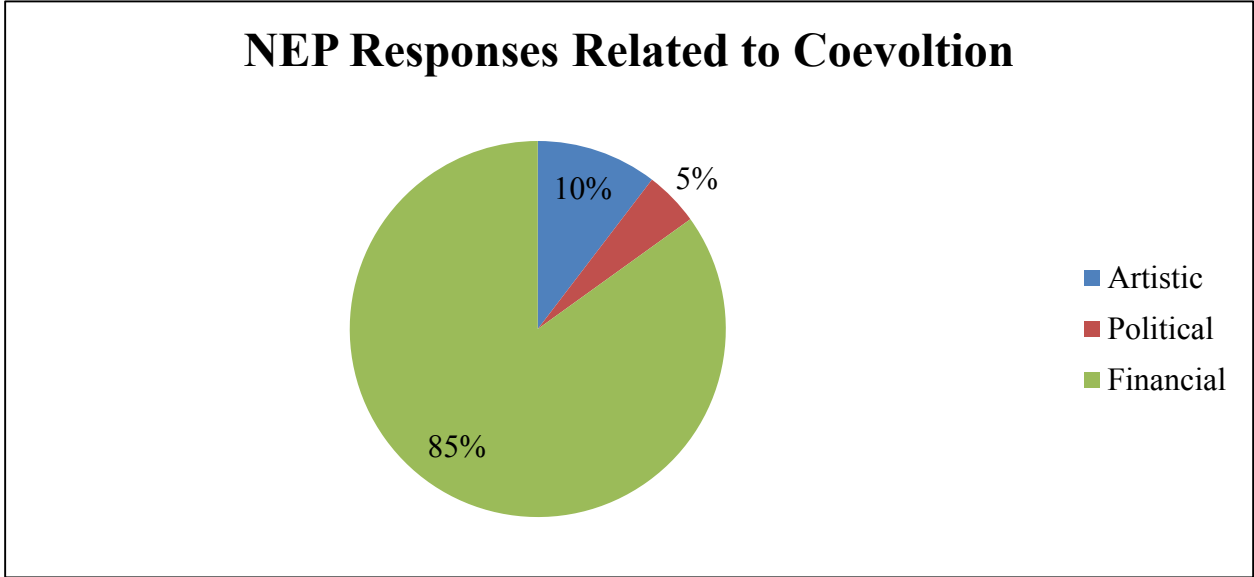


Figure 4.9 All Stakeholder's NEP Responses for Coevolution Related to Value

EEP Responses Related to Coevolution

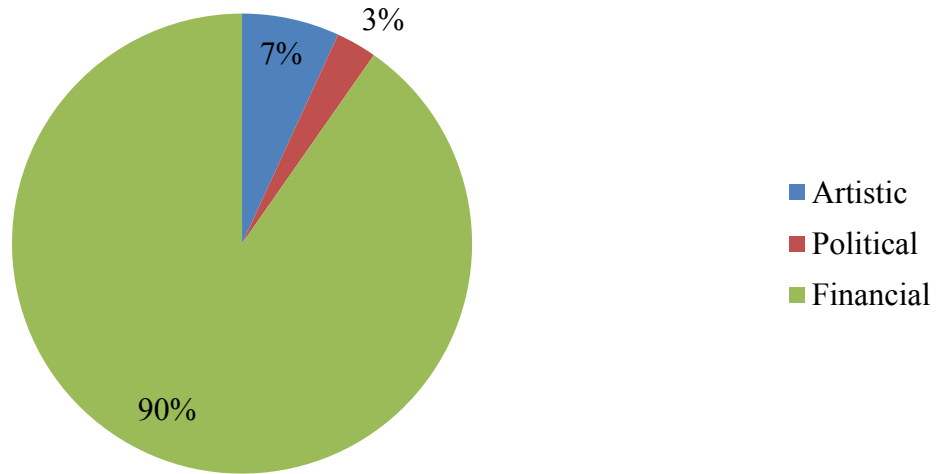


Figure 4.10 All Stakeholder's EEP Responses for Coevolution Related to Value

An examination of the responses of the same data by stakeholder groups indicates that for each stakeholder group whether NEP or EEP, financial was the dominate factor. See Figures 4.11 and 4.12.

Stakeholder NEP Responses Related to Coevolution

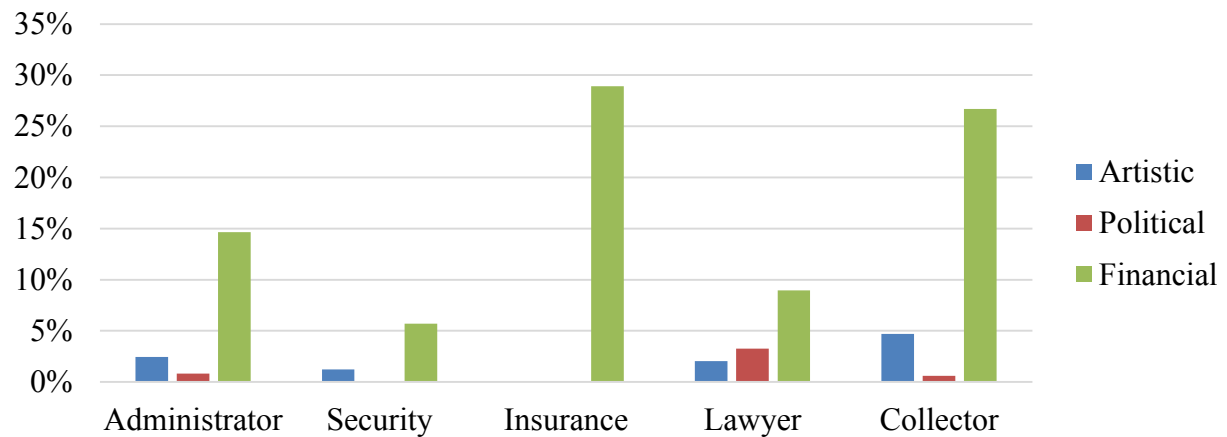


Figure 4.11 All NEP Responses for Coevolution Categorized by Stakeholder for Value

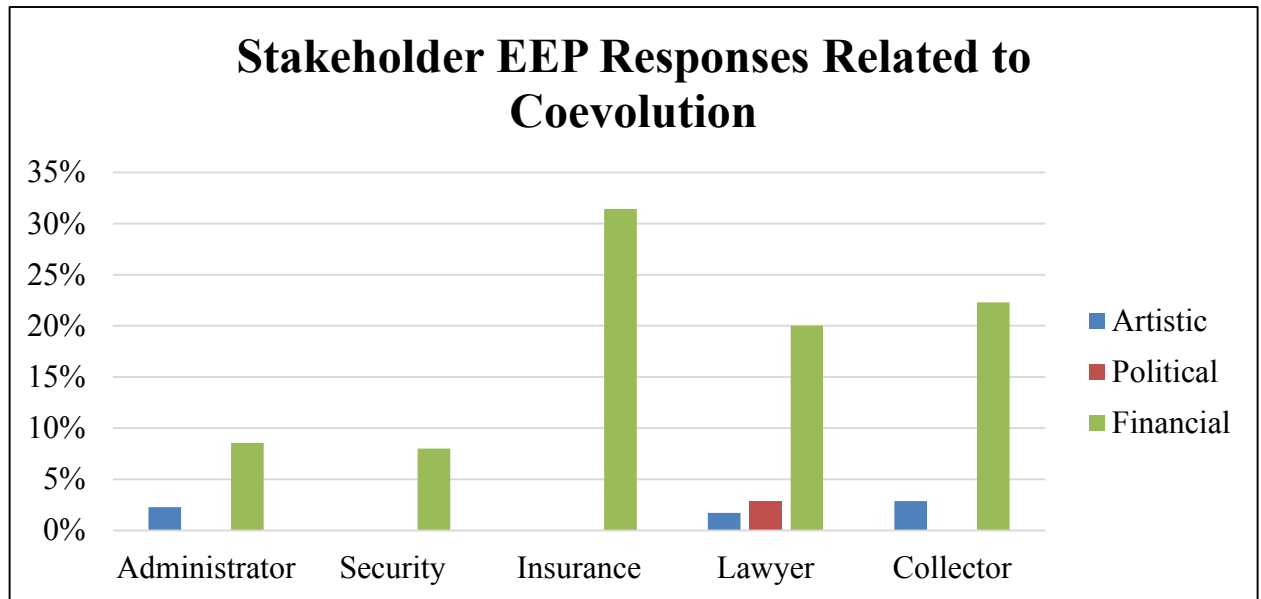


Figure 4.12 All EEP Responses for Coevolution Categorized by Stakeholder for Value

Analysis of the actual responses revealed not a direct co-evolutionary interaction between the value of art and art theft, but an indirect relationship to the value of art only in specific cases. It did not reflect an overriding bearing on the value of art. Stakeholders noted these influences through examples of price fixing or inflating prices of a commodity.

Price-fixing occurs when two entities agree they will sell a product at a fixed price. Usually, it is to prevent the discounting between two competitors, which is also illegal. In this example case, a group of bidders agreed not to drive the price up against each other above a fixed price. In the following example, Collector 1 presumed that the product was then sold through a private transaction at its true market valued price, which was much greater than the fixed purchase price. As Collector 1 explained:

You know if someone wants to sell something that I have no market for here I will handle it for them. Like for instance, I bought an old master oil painting. The artist died in 1667, I think. This guy calls me, I think in 1998. Do you buy old master oil paintings? Well, I said I don't know. You got one? He said, yeah... He came walking in about 4 o'clock, and when I looked at it, I knew what it was. I knew that the frame was period, and it looked...everything looked right about it, and I couldn't believe it... He said, well I've got to have \$10,000. I said buddy, let me tell you what I want to do. I said, I wouldn't give you \$10,000 for this until I had it verified... So, I go to New York. I meet with the

head of the old master department (at Sotheby's), and he misunderstood why I needed to know something immediately. He said, can I buy this from you? I understand you need the money. I said, no. I don't need the money my client needs the money. I need to know what it is worth, so he estimates it at \$12,000. Well, I come back. That's the reserve on it, \$12,000. He said it could go up to \$50,000... The moral of the story is that was in the midst, in the height of when the Sotheby's crowd would take underground the things, and I know since, that they held the bidding to \$12,000. A group of them agreed you know, and then they took it underground. They restored it, and it's probably hanging in a museum in Europe, and they probably sold it for a half a million; because, it's a Jacob Duck, and I have seen many of his very similar oil paintings hanging all over the place in Europe.

Price-fixing interferes with normal supply and demand. In this illicit case, it did not affect the value of the artwork, which already had value, but deferred the value for a specific buyer, disrupting the normal market forces.

Further, during the period when US Courts prosecuted Christie's and Sotheby's for fixing the rates charged to sellers at auctions, Collector 2 had purchased an artwork at auction. As Collector 2 stated, "you know both Sotheby's and Christie's were indicted and prosecuted for price fixing basically... and I received a lot of compensation from that, more than I ever thought I would get."

Although price-fixing is an illegal action, the laws of supply and demand legally allow a wide latitude in setting a price. Collector 2 responded to a question about how he decides the price to sell a work by revealing that he does not have a standard formula, but prices the work to cover costs. He stated: "It depends upon how much money I need (laughing)... I don't (have a standard inflated formula) but people who run like street level galleries probably do; because, they have fixed overhead costs, and if they are going to be in business, on average they want a certain markup" Collector 1 subsequently replied:

If you can't mark things up two and a half to three times you can't stay in business. It cost me \$24,000 a month to even open a door here, so you have to be able to mark things up two or three times. The idea that I'm going to pay \$10 and sell it for \$10,000 is ridiculous. I have been doing this a long time. You know, you just have to be fair with individuals.

Art as an Evolving Asset Class

The role of art ownership is changing. Along with its aesthetic qualities, collectors and investors are purchasing art as an investment, and using it as a financial asset. In the current economy, art is a viable financial investment associated with financial portfolios and wealth management. As Collector 1 stated: “I think art has gone out of sight in being the right investment...people are looking to take their money that they lose 50% in the stock market, and put it in something ...that the value will maintain.” As Museum Administrator 2 stated:

You know it’s like the stock market. There are ups and downs in the art market, but generally speaking, it’s been fairly robust continuously, and again, particularly if you have old masters like Lucas Cranach, or you’ve got Moran. Some of those values will indeed will continue to go up, particularly as more key people are in museums, so that you don’t have...they’re not out on the marketplace.

This increasing valuation of art plus the new role it is playing as a wealth management asset has increased the need for protection of this investment. Investors seeking to protect their investments from theft, accidental loss, and title/ownership loss are seeking insurance solutions. As stated by Insurance 2, “Insurance doesn’t create the value. The artwork has value and we’re insuring that value. We’re not... it doesn’t create the value. We’re risk driven, and that’s what I tell our underwriters. I tell everyone this. We are completely risk driven.”

When discussing the risk of an artwork for insurance purposes, the risk of theft is minimal. As Insurance 2 stated, “Theft is less than 5% of the real insurance world loss, so we have to look at it... when we go surveying a museum as much as I look at theft I’m looking at water damage more dramatically than I’m looking at theft.” Therefore accidental loss insurance maintains the value of the art by a means of loss control. Insurers cannot examine the risk to the art from just a theft perspective, which is only one example of risk to an artwork. Instead, they include the risks associated with the facility management and the shipping of artwork. Depending upon the risk assessment of that artwork, insurance premiums would be more or less expensive. However, in assessing the valuation of art for insurance purposes, underwriters must know the artworks liquidity within the market place. As stated by Insurance 3:

When you’re talking indexes, it’s very much a macro thing, so an underwriter, generally speaking, is insuring if it’s a contemporary collection or old masters collection, they’ll know the values around maybe, or if it’s an artist that’s not so well known, the

underwriter will do research to see if it's a real artist with real marketplace... One, is the value real based on the fact that the market exists, and two, if there's a subsequent loss in value claim is there enough justification in the marketplace to talk about a percentage loss in value. If it's one painting that the person paid or over paid for that there is no real market for that one artist, you know, you're going to have a devil of a time insuring it, or determining what the real loss is in the event of a theft or a damage or loss in value situation. When you talk about indexes, I get nervous because we're talking about a macro or a basket of goods right, but generally speaking an underwriter is looking at a collection. Most collections tend to be pure around a specific kind of artist.

Establishing the financial value of an artwork is based on either a market transaction or a third party appraisal. A market transaction assists in estimating the financial value of an artwork through comparable artwork sales. Insurance 1 stated, "It's either based on a third, you know an arms lengths market transaction. Somebody buys it at auction, somebody buys it from a dealer, and of course our lawyers and art historian will make sure that the price has some validity so there is no moral hazard." In this case, it is relevant to know how that artwork financially fits into the context of the art market. For example, as Insurance 2 illustrated:

So, they have to understand, for argument sake if... we'll go back to the late 80s where the Japanese market really pushed the contemporary market through the roof, and then when their economy sort of failed, you know, all of these pieces that people had bought for high numbers now are really worth 50%. An underwriter has to know that market, and he has to not necessarily the specifics of that piece, but he has to know that the market is shifting, and he has to be in front of the curve just like if gold goes up, the value of our jewelry climbs, and the price is going to go up. The underwriter has to know that the risk is changing.

A third party appraisal complying with USPAP (Uniform Standards of Professional Appraisal Practices), requires that an appraiser looks at the ownership of an artwork in making a decision about value. Insurance 1 described USPAP as the following:

USPAP was created for real property appraisals back in the 80s, and then every other asset class has adopted the standards, so under a real property appraisal, the appraisers are allowed to assume clear title because there's title insurance behind it. In the art world, because there's so many potential title challenges that they can't use an ordinary

assumption, they have to use what's called an extraordinary assumption. Which basically says, I need to make this assumption in order to create some sort of value, but by the way, if this assumption does not play out to the accurate, these are the potential ramifications around the value.

Title insurance provides risk management for the ownership of an artwork. While general art insurance policies provide coverage against accidental loss, title insurance provides insurance against title loss or questions regarding the true ownership of a piece of art. Provenance is a record of the physical history of a piece of art, but it does not cover an artwork's ownership history. Title insurance validates the ownership against liability from ownership issues and creates the proper paperwork trail for commodity exchange. Lawyer 2 stated:

I mean certainly if you had title insurance for it and you would have paid a nice premium for it, the liability of whether it's stolen or not ends up in the hands of the insurance company that's out the money now...I think it's good practice; also it facilitates the selling of a piece not only the ownership of it but the selling of it because if the owner one day wants to sell, there's all the proper paperwork...If they could do that for a house where they are going to do a title search for a house to make sure that everything is in order or any piece of property they, should be doing it for these pieces that are going for multiples of what a dwelling would go for.

Title insurance, as stated by Insurance 1, was "started as a partnership with the idea of bringing due diligence to the transactional side of the art market as opposed to the art historical side."

Title insurance is a tool to provide accountability in a market that lacks transparency. As investors view a particular work of art as a viable investment, title insurance helps to create this transparency by making the work an asset with more liquidity. Increasing the liquidity of a work, increases its value as a financial asset. As Insurance 1 stated:

In order to have an asset class you have to take out the risk characteristics that really exist only in the art world, and in no other asset class, and that is ownership. Ownership is the keystone to making an asset, you know, have value. If you have ownership what value does it have, and so by taking out this major risk component it makes the work more liquid, meaning more people are willing to buy it. The transaction becomes more transparent and people are willing to pay more for those works that you can take the risk characteristics out of. So in the extreme case, we believe that ultimately there's going to

be a bifurcation in value between, as you call it, the illicit market and the legal market, but even in what we tend to deal with is the more gray area. By taking out that risk characteristics it increases the value of the work of art and it increases the liquidity. In order for art to be a viable asset class there needs to exist good faith among the pool of investors that the asset is stable in terms of ownership.

While the analysis did not reveal a co-evolutionary relationship from the stakeholder's responses, it did reveal a relationship between the value of art and art theft. In the case of the media, an art theft indirectly supports the value of art. Through media exposure, the publicity of the theft brings more people into museums. Additionally, the sensationalized stories add contextual data to the art. Market manipulation, though not art theft, has a negative impact on the value of art. It also leads to increased litigation resulting in a negative impact on value. Illicit activities surrounding art has also created an environment that results in a negative impact on the value of art as an asset class. Unless you can ensure the quality of the investment, people will be less likely to invest in it as an asset.

Policies and Procedures: Protecting Artwork, Affecting Value

The findings in this section represent an analysis of stakeholder's responses that had a bearing on policies and procedures that affect value. Stakeholder responses were categorized in one of three categories related to the value of art: The tangible art, the co-evolutionary business relationship of art, or the policies and procedures that could affect art. Then, within each category, responses were coded according to their value content as defined by Conklin as financial, artistic, or political. Of the categories, policies and procedures garnered the fewest responses with only 17% of the total responses. See Figure 4.8.

Within this 17%, responses were coded as relating to NEP and EEP. An examination of both sections indicates that, of the stakeholder responses coded under policy, stakeholders referenced financial value most of the time representing 91% of their responses. See Figure 4.13.

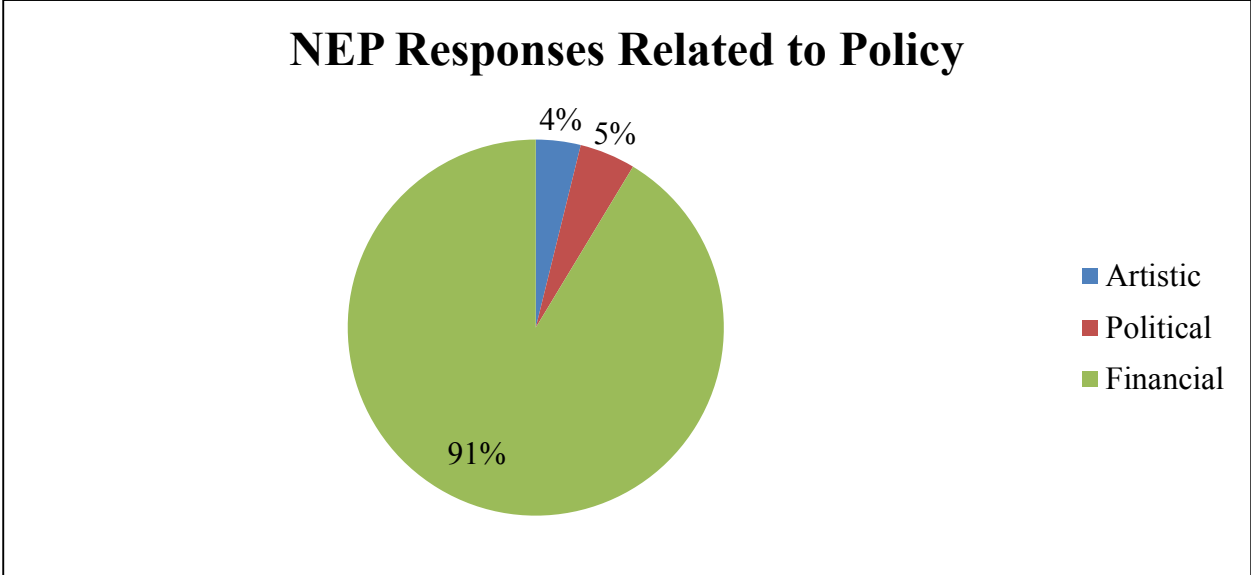


Figure 4.13 All Stakeholder’s NEP Responses Related to Policy

The related Figure 4.14 indicates that although Lawyer, Collector, and Insurance Stakeholders made the most comments, all of the stakeholders did speak about policy related issues in their comments coded as NEP.

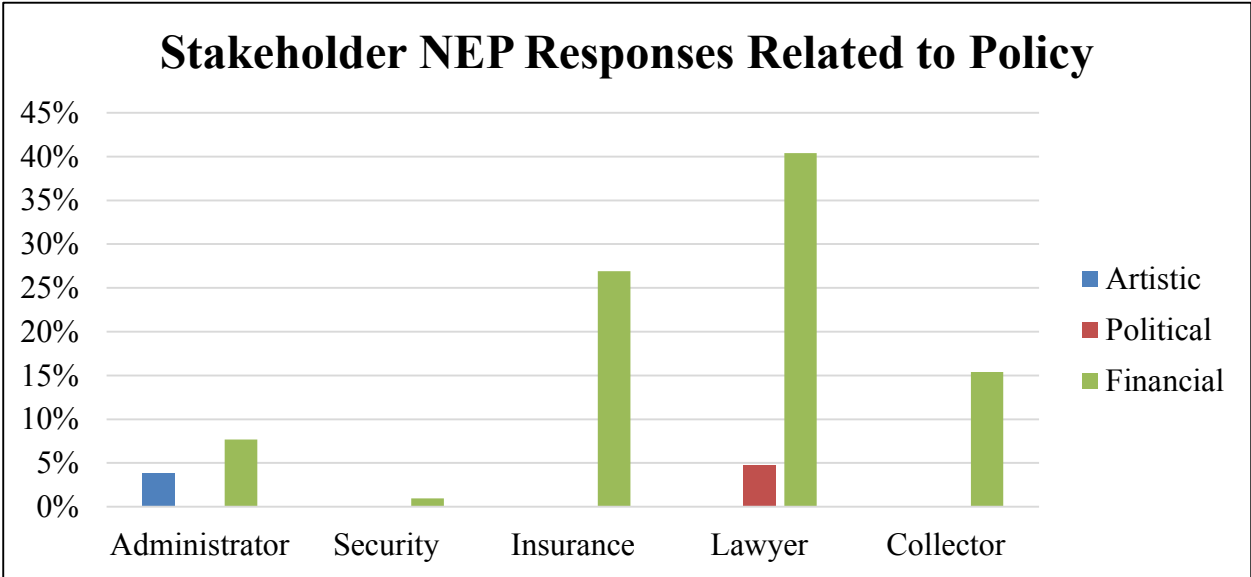


Figure 4.14 All NEP Responses Related to Policy Categorized by Stakeholder

The makeup changed somewhat when examining the EEP responses. See Figure 4.15.

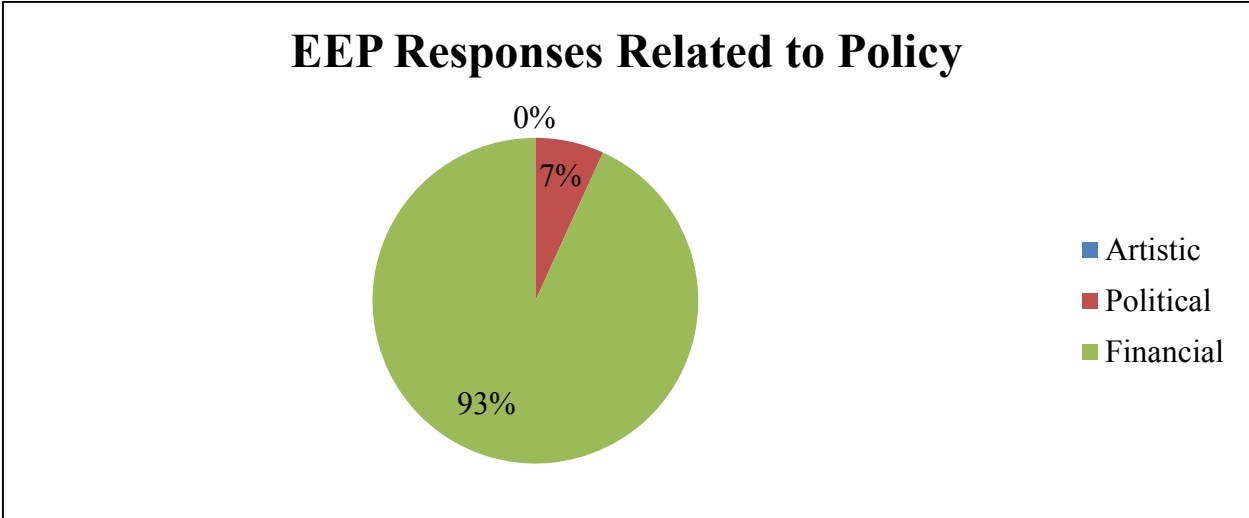


Figure 4.15 All Stakeholder’s EEP Responses Related to Policy

Financially coded comments remained dominate and there were no artistic comments in this segment. The related Figure 4.16 indicating responses by individual stakeholder groups, shows that lawyers are the dominate stakeholder group in responses coded as EEP.

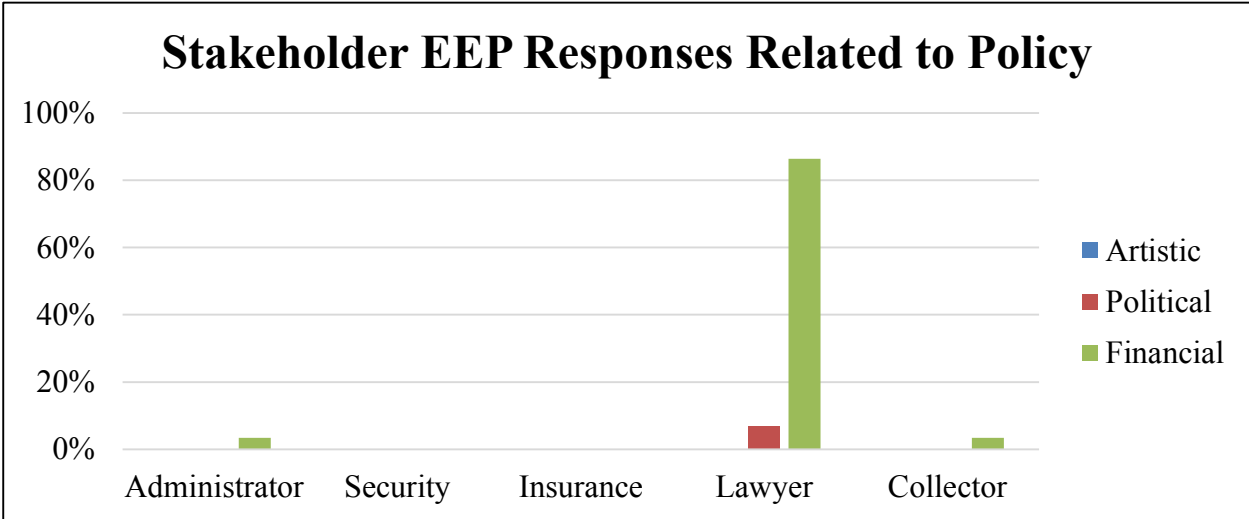


Figure 4.16 All EEP Responses Related to Policy Categorized by Stakeholder

Therefore, although the stakeholder’s responses regarding policy and procedures made up only 17% of their overall answers, an examination of the responses did reveal an indirect relationship of policies to value. This indirect relationship occurred with reference to tax laws and litigation activities among the Lawyer Stakeholders.

Tax

Stakeholders provided two examples that illustrate how policies and procedures affect value under taxation laws. The first example is associated with valuing an artwork with a basis in the illicit market in order to define a value in the legal business market for tax purposes. The second example refers to tax law changes, and how those laws have bearing on the value of donated artwork. Under the examples, the policies and procedures applied to taxation circumstances were not part of NEP, but rather fell under EEP.

Sonnabend Case

Through the discussion of the effects policies had on value, Insurance 1 conveyed the following EEP example. In this case, the estate of Mrs. Ileana Sonnabend submitted an estate tax return that included the 1959 artwork *Canyon* by Robert Rauschenberg. The unique characteristics of this work led the IRS to issue a valuation that was \$65 million greater than that given by the Sonnabend appraisers.

The artwork *Canyon* 1959 by Robert Rauschenberg was inherited by the children of Mrs. Ileana Sonnabend when she died in 2007. This artwork included a stuffed bald eagle, which is a bird under federal protection. Under the 1940 Bald and Golden Eagle Protection Act and the 1918 Migratory Bird Treaty Act, it is considered a felony to possess, sell, purchase, barter, transport, import or export any bald eagle alive or dead (Cohen, 2012). Insurance 1 further explained:

Sonnabend buys it in 1970, and 1971ish the US government under the Wildlife Protection Act make it illegal to own, buy, sell, exhibit anything with an eagle on it. So, the Sonnabend's go to the US government and say, so what is it you want us to do? Do you want us to destroy this iconic painting? They ultimately agree that they can keep what's called dominion in control, and they would also allow the work to be exhibited at the Metropolitan Museum of Art. Dominion in control is very important in the way estate tax works because only in the art world are you taxed the dominion and control ... If you possess the work of art you have to pay taxes on it even if you have to give it back because there's an ownership dispute. Under USPAP, which was only adopted two years ago, USPAP says you have to look at ownership to establish the value. So, xxxx (the lawyer) went out to three appraisers who all said there is zero value to this work of art; because you can't own it, you can't sell it, you can't exhibit it, you can't do anything with

it, so they shouldn't have to pay taxes on it. And, the US government says oh, no, no, no I bet there's an underground illegal Chinese guy who would probably pay \$65 million dollars for that, so you owe 35% on \$65 million. So, they're taking that to tax court. That is the extreme on how ownership effects value, and as this case gets litigated, either USPAP is going to take precedent, or not, and that's going to start setting up the ability to use all of these tools that are used in every other asset class.

Although three independent appraisers, including Christies, valued the work at zero, the IRS appraised the work at \$65 million, and, therefore, demanded the owners pay \$29.2 million in taxes plus an \$11.7 million penalty (Cohen, 2012). However, if an owner cannot legally sell a work, is there really a market value for it? Contrary to the consensus among the majority of the stakeholders in this study, the IRS contends that there is in fact an illicit market that will purchase known illegal works. In an article regarding the Sonnabend case, the author stated, "While art lovers may appreciate the IRS's aesthetic sensibilities, some estate planners, tax lawyers, and collectors are alarmed at the agency's position, arguing that the case could upend the standard practice of valuing assets according to their sale in a normal market" (Cohen, 2012, para. 11).

The IRS's appraised value came from the Art Advisory Panel. Created in 1968, the Art Advisory Panel of the Commissioner of Internal Revenue makes recommendations to the Art Appraisal Services unit of the IRS. The Panel helps the IRS review all tangible works of art for tax purposes. It has been a common practice that the IRS accepts the recommendations of the Panel. During FY 2011, the IRS accepted 93% of the Panel's recommendations (Breus, 2010). According to a statement from one of the panel members, Stephanie Barron, the senior curator of 20th-century art at the Los Angeles County Museum of Art, that exhibited *Canyon* for two years, the group evaluated *Canyon* solely on its artistic value, without reference to any accompanying restrictions or laws (Cohen, 2012). While this study's stakeholders considered artistic value as a component of the overall value, with many cases considering that portion of value priceless, it is difficult to assign a dollar value to a particular piece without considering all of the contextual and market forces affecting that piece. In fact, it is a responsibility of the panel's functions to take into account any restrictions or laws when making an assessment on an artwork's value.

The IRS does have somewhat of a basis for accepting the assessment as stated in an article by Novack (2012):

It's true that the government has long asserted (with some support from case law) that contraband items in an estate (drugs, stolen art, stolen jewels or a purchased artwork that turns out to be a protected antiquity, say belonging to foreign government or a Native American tribe) can be valued for estate tax purposes at their black or "illicit market" value. But usually, the deceased showed a readiness to traffic in the black market. (para. 10)

In this instance, however, there is no indication that anyone in the Sonnabend case engaged in black market affairs. Therefore, the postulation now is that the IRS or taxpayers will utilize an illicit black market in order to value art regardless of the owner's activities. Insurance 1 responded that the Sonnabend value ruling should be "Zero value. Zero value... What, is the government supporting illegal transactions? Half these claims come in on import export, so what are you going to illegally export something so you can sell it for \$65 million dollars? Is that really what the government is saying?"

It is worth noting that for the 2010 through 2012 fiscal years, the Art Advisory Panel of the Commissioner of Internal Revenue have had a seemingly leveling effect on value. In all three years, they recommended a reduction on charitable contribution appraisals, but recommended an increase in estate and gift appraisals. Therefore, there has been a decrease in valuation associated with a charitable deduction for tax purposes associated with art, but an increase in valuation on items associated with estate and gift appraisals for taxes paid (Art Advisory Panel of the Commissioner of Internal Revenue, 2010, 2011, 2012).

Unintended consequences from policies and procedures related to taxation were also noted in the effect on art donations. Tax laws, such as the Tax reform Act of 1986, whether unintentional or intentional generated a shift in the gifting of art by collectors and artists. Such policies affected the value a collector or artist could claim as a deduction. Lawyer 1's response about unintended consequences of laws relative to tax laws stated:

Well you know I'm not sure whether it's intended or unintended. I think that Sen. Grassley who is very involved in those changes in the tax law and the donation rule, felt that in general, not as I suppose it applies to fine art, but in general, the rules applying to donations to charitable organizations were being abused. I think they probably were being abused, and he closed up a lot of the loopholes. In so doing, you know, he did change the rules as they applied to the donations of fine arts. Whether that he intended it

or not is hard for me to tell; because, yes it reduces the number, well I don't know if it really reduces the number of donations, it means that the donor is going to take... get less of a tax deduction, and I don't know if that really affects donations. I mean, I know the donors who are very wealthy and good connected, are unhappy about it, and the museums which pretty much do what the donors want them to do, they're unhappy about it, but one can say why should somebody donating a work of art get a huge tax advantage that basically all the rest of us have to pay for by increasing the in taxes that we pay. Back in 1966 or so with the Tax Reform Act, they changed the rules for when an artist donates his own work. He can only... the artist can only take the value of the materials, not the fair market value of the artwork. Whereas if I am a collector, I can take the fair market value of the artwork as my deduction, and that probably had a more significant impact on donations to museums than the Pension Reform Act changes from the Sen. Grassley stuff. There again, and actually logically, it makes sense, but the artist does not get the full fair market value from... if you analyzed it from the way the tax law works, it actually makes sense, but it does not.

As Museum Administrator 2 remarked to the change in donations, especially as it affects the value artists can claim for donations, "Once upon a time, artists could donate their own work for full value. Actually, some of the artists took advantage of that and spoiled it, and it's never been rescinded." Nevertheless, tax laws are a real part of the market valuation, and they have a broader market effect beyond the targeted taxable item.

Litigation

The policies and procedures established affecting the value of artworks, whether intentional or unintentional, has contributed to litigation circumstances in the art world, which is on a rise. As Lawyer 1 stated:

Now there is more litigation ...because, the value of art goes up. If you have been defrauded of a \$17 million painting, you're more likely to sue than if you've been defrauded for a \$1000 painting, so as the economic value of art goes up, people are more likely to sue if they feel that they have been defrauded, or they have bought a work of art that doesn't have good title. So, in that sense there's more litigation going on. In the area where there is a lot of litigation is the Holocaust looted art, but again there's no special

legislation that deals with that. That's just under stolen property and statutes of limitations kinds of issues.

Financial litigation and litigation associated with authentication of artworks, and ownership disputes is on a rise. As Insurance 2 stated:

You know, there's probably more litigation today on issues whether it be valuation issues, issues to deal with authenticity that are not insurance necessarily related, but they are out in the marketplace, and so, the lawyers who are out there having these disputes... well say the Warhol foundation now is deeming this piece a non-Warhol. Well, now the owner is saying hey wait a minute I bought that for X dollars. I'm suing the Warhol foundation which we all know... Calder you know there's been several, so we're seeing a lot more litigation not necessarily internally in the art world, art insurance world but in the art world in general.

Museum Administrator 2 also stated:

This issue about the Egyptian... the difficulty now with collectors and auction houses because of the restrictions of repatriation that is happening that if you do not have good paperwork or provenance people are not willing to, in other words, collectors are getting sort of... Christie's won't take it if you don't have proper documentation because they could be sued or whatever. However, it also depends on the value of some of these things. If it's a couple hundred bucks, I don't think anyone is going to challenge you.

There is no specific policy or policy change that caused the litigation to increase. Instead, it is a function of value in the sense that as the value rises, the expense and effort of litigation becomes more viable. A key aspect of litigation cases is ownership. Provenance, which includes a history of possession, does not necessarily include a clear history of ownership. As stated by Insurance 1:

Provenance is not a chain of title... provenance is just a historical document that art historians keep adding to. It doesn't talk about anything about how the estate has passed it on, or where somebody has used art as collateral for a loan, or whether multiple buyers invested in the work of art, or whether the gallery has paid off the consigner. I mean...

There are so many risks out there beyond just, you know the theft.

Further, Insurance 1 stated:

What's happening, is many of the artist authentication boards are closing down under the weight of litigation, and so the artist estates are not authenticating anymore. The experts in the field are saying well geez if those well-funded artists' estates can't afford litigation, how can I. So, they may give an opinion that says something like I think it should be, but just like any other legal opinion will have all the outs. The only way to manage it is through chain of title.

The increase of litigation introduces uncertainty into the market for both buyers and sellers. Overall, this has a negative impact on value. While litigation and "much of the legal work that goes on, is the application of general law specifically to things that involve art," as stated by Lawyer 1. Policy makers could enact new laws that are more art specific, or the market could simply adapt to the existing environment.

New Laws Needed

The policies and procedures established to protect artworks have an indirect effect on the value of art. Although there are specific cases where policies and procedures affected the value of art, as illustrated through the Sonnabend case, the majority effects are minimal. The majority of the art law field designed to protect art operates under standard law. During this study, stakeholders did not see the need to promote the development of additional policies and procedures specific to art. As Lawyer 1 responded to laws related to art:

Laws that are out there on things like theft and things like stolen property and fraud and forgery. All of those things are general laws that you know if I steal your car I'm treated under the same laws if I steal your painting. So the laws develop in the context of these more general issues because we don't have generally speaking a special law on theft of art.

Cases involving the theft of art may fall in the realm of prosecution under general property law cases.

The majority of stakeholders did not recommend the development of new laws specific to art cases in order to protect the art and the value of art. Instead, the focus should be on enforcement of laws that already exist. As Lawyer 2 stated:

In the United States I still do believe that it's a very balanced system, I really do believe that we have a system of laws that are drafted and constructed based on what is right... If you fine tune them too much then you might actually cross into constitutional issues...

So, it may not necessarily be theft as a result of tax laws or property laws or anything lacking in legislation for art itself, but it could actually be there is certain leniency in criminal law.

Make the punishment fit the crime, and enforce the criminal laws that exist. Insurance 1 deferred the protection of art to a market base solution. In the response to the need of new laws regarding art, Insurance 2 responded, “It wouldn’t be a law I think, I think common sense always rules.”

While Insurance 1 stated, “I just believe that market solutions are better than new laws; because, everything I’ve ever done, every time there’s a new law, somebody figures out a way around it.”

Although the majority of stakeholders did not recommend the development of new laws, Collector 2 did indicate the need of additional policies and procedures for collectors and dealers in order to obtain a more accurate valuation of an artwork offered through the internet sites representing major and minor auction houses. Collector 2 responded:

(Some policies and procedures) are definitely not adequate. A perfect example would be on the Internet ... I think that the buyer has to beware, but shouldn’t be misled, and I think that it’s not unreasonable to expect legitimate auction house to give a very accurate portrayal of what the condition is like when you buy coins or stamps. Because, with those collectibles, condition is basically everything... I mean the major auction houses would feel that they have certain standards that they adhere to, but on an overall basis, I would say a lot of people are being misled.

The stakeholders in this study largely expressed that the existing policies and procedures in an increasing art theft market are likely sufficient. Although increased litigation is disruptive to the market and thus value, market players will ultimately adapt to this environment. Already, title insurance, that is providing ownership protection, is an example of market players adapting.

CHAPTER 5

CONCLUSION

The focus of this study examined the dualism of value and motive relative to the context of art and art theft. The study was exploratory and descriptive in nature conducted through an inductive grounded theory design combining content analysis and open-ended qualitative interviews. The guiding question throughout this process asked:

- What is the relationship between the value of art and art theft?

In order to explore this question this study examined three additional research questions.

- What determines the value of art? Does this value affect motive? If so, how?
- What is, if any, the co-evolutionary relationship between the value placed on an artwork and art crime?
- How do policies and procedures established to protect artworks also affect the value of art?

The organization of this chapter includes a summary of the answers to each of the questions developed throughout the context of the study followed by reflections and future study possibilities.

Is There a Relationship Between the Value of Art and Art Theft? Yes, but...

Summary of Findings

The relationship between the value of art and art theft does exist. However, this relationship is not co-evolutionary. The value associated with art, primarily the financial value, does have a direct relationship with art theft. As the financial value of art increases, so does the incentive for a criminal to steal it. On the other side of the co-evolutionary equation, the information from this study did not support a direct interaction between theft and value. The rise in art theft has only minor and mixed effects on value. These effects are not necessarily on the financial value of art, rather they also apply to the other components of value that make up a work's total value. Conklin's separation of value into artistic, political, and financial components as motivators to steal art also applies to how the stakeholders in this study valued art. While the financial value, the dollar value of a work, is the common language, there are tangible and contextual aspects of art that stakeholders referred to with terms such as priceless and irreplaceable. These other aspects would fit into the same category sets that Conklin used for

value as crime motivators. Among this set of stakeholders, art theft was rare, but when they did reference it, they often expressed its effects on value using the artistic and political aspects of value.

What Determines the Value of Art? Does This Value Affect Motive? If so, How?

Stakeholder responses to the study's first question, what determines the value of art, and does this value affect motive revealed several observations used to answer the overall question. When stakeholders commented about an artwork's value, they usually presented their answer in terms of a dollar amount. In fact, this held true for 74% of the total responses. At one point, Museum Administrator 1 classified the museum's art collection when he stated, "With the artists that we do have in the collection the value is astronomical from what I can fathom. The story that the collection tells, and each picture in itself has a very unique story." In this statement, he has classified the value in terms of financial and historical. Later in the interview, when asked about his personal assessment of the collection, as previously cited, he commented, "I can only speak for the foundation and its board and myself and my coworker. We value the collection for its artistic value, and its historic value." In his second and personal statement, the financial value is omitted, and the artistic and historical values take precedent." Museum Administrator 1 does consider value in more than one context, yet when he used artistic and historical types of value, he did not quantify them. Speaking in terms of dollars makes it easier to quantify a response, and thus the financial value of art is a common reference that all stakeholders related to in conversation. Even when stakeholders saw a value other than financial in an artwork, they tended to convert that value into its financial benefits. Like when Museum Administrator 3 related the story of the Egyptian mummy when answering a question about political value. He described the value as follows, "that particular piece, you can't get another one, so there is no value on that as far as I am concerned. It is priceless." Then he went on to express its value as an asset to the museum's educational program. "It's the basis for our largest education program, so it's priceless to us in the way of income. We are booked solid every year for that program." Since all of the stakeholders in this study were involved in various professions related to the arts, this observation may belong more to their business culture as a necessary instrument for business practices than to the general public.

Knowing how individuals value art does make a difference. Take for example, the relationship between museums and insurance agencies. Museums have collections with

significant value, and due to the nature of their business, they tend to assume unique risks. As Museum Administrator 2 stated:

Museums have this dual responsibility. What is the point of having collections if they are not actually available to see? On the other hand, the most risky thing you could possibly do, not just from a theft standpoint, but from a conservation standpoint is to actually put them on physical view; because, were also in the business of preservation.

The risks are more than just theft, and museum administrators seek insurance policies to mitigate some of those risks. Insurance companies assume the risk with a guarantee of financial replacement in case of loss. In the case where a piece of art is dropped and damaged, and the insurance pays for the restoration of that work then the interests of both the museum administrator and the insurer have been met. The insurance company pays its financial obligation, and conservators restore the artistic value of the work for the museum administrator. However, when a thief steals a work of art, or if an accident like a fire destroys a work of art, then the insurance company meets its obligations by replacing the financial value, but the museum, although receiving a financial compensation, has lost an object with an intrinsic value that cannot be replaced. Administrators consider many of these pieces priceless, and some pieces are central to an entire collection. Security 1 stated, “When you have a Museum like ours where nothing can ever change, and you can’t replace a piece that is stolen... it’s debatable about how much insurance you should have on particular pieces.” Insurance 3 echoed this sentiment:

Most of these works are seen as priceless. If they had insurance, it couldn’t replace it anyway so most museums staff curators see themselves truly as protector of the permanent collection and nothing, no insurance policy other than perhaps paying for restoration could ever replace what they have.

While the interests of the two parties have not been met, the missed opportunity occurred early in the process. Since the insurance company is only concerned with the financial loss, most of the company’s focus will center on those areas that present the greatest risk of financial loss. In assessing risk, Insurance 2 stated:

Theft is less than 5% of the real insurance world loss, so we have to look at it... when we go surveying museums, as much as I look at theft, I’m looking at water damage more dramatically than I’m looking at theft. I’m trying to find out who was handling the work.

I'm trying to find out who has physical access to storage spaces. What levels of deterrent from the general public area to the private areas are there?

Despite the very high level of experience and institutional knowledge gained by insurance companies evaluating different facilities, when they evaluate a particular museum, their focus is not on theft. This does not suggest a bad business practice. After all, when compared to accidental losses, theft is a very low risk to any particular work of art. Yet, the consequential intrinsic loss due to theft to a museum may be very high. The risk and consequences of theft to any particular facility are unique, and an administrator cannot shift the responsibility of accounting for that risk to an individual or organization whose interests don't line up with his own. Insurance 2 also noted this observation:

You know, if you have a Museum that's had several losses over the past few years you have to ask yourself... They have an alarm. They have this. They have that. They have all the bells and whistles, but yet, something is wrong; because, things are getting damaged or lost or whatever it may be, but yet, if you read the facilities report, and you put it against another Museum that's had no losses, it probably reads... Paper doesn't tell you about the quality of the... On paper, everything looks very similar. In practice, when you meet the people and talk to them and understand their passion for their jobs and their, you know... why they care so much.

Museum administrators did recognize the financial value of their collections and it did affect their actions in their dealings with art. As stated by Museum Administrator 1 in regards to value and his collection:

All of our extremely valuable pieces are housed in the museum area located inside the xxxx (company) headquarters building, so we have half of one of the wings for the museum and all of our extremely valuable pieces are located in that museum proper area. So, there is only one way in and one way out of this area so...it just sort of worked out that those pieces fit into the story that we were trying to tell in the Museum.

The financial value of art, although present should not be a discriminator for patrons viewing a collection, or for thieves evaluating a collection. Museum Administrator 3 stated the following when it came to sharing museum information about the value of the Museum's collection:

There is one piece of information that I don't share with my husband, my sister, my priest, no one. That is the value of the collections. I have had security guards in the past

ask me, what's the most valuable thing here, and I will not answer that question. I will not tell xxxx (my spouse). I will not tell anyone; because, that is something no one needs to know.

With respect to a motive to steal, stakeholders did tend to consider the financial aspect as the primary motivator. Using a rise in the number of art thefts as a basis, Lawyer 1 contended, "What I'm saying now is the financial value. Political and aesthetic and cultural value of the work is the same." The conclusion from this stakeholder is that regardless of what the other aspects of value may be, for the criminal, it is primarily financial. Insurance 2 offered a counter argument:

I mean, you know, contemporary works have done very well, but you don't hear a lot about a lot of contemporaries thefts. It seems to be that the real popular thefts are the thefts from museums out of Europe, or things like that really don't have anything to do with the recent rise in values. They are paintings that have been around for in some cases 50 or 100 years or more... I think it's a stretch to tie the increase in thefts.

Insurance 2's response does not negate the financial aspect as a motivator, but it does introduce room for other motivators like artistic and political. Indeed, stakeholders did cite artistic qualities 19% of the time. They also mentioned political motivations, but typically in terms of art destruction associated with conflicts, not art theft.

What Is, if any, the Co-Evolutionary Relationship Between the Value Placed on an Artwork and Art Crime?

The analysis of this study did not support a direct co-evolutionary interaction between art theft and value. However, stakeholder responses did show relationships between the value of art and art theft. As mentioned above, the dominate viewpoint among stakeholders was that the very high valuations placed on art tended to be the driver behind art thefts. In every illicit act, the criminal faces a risk of capture. Without a perceived value that outweighs the consequences, the criminal would not commit the crime. For the criminal, the motive for a crime is directly proportional to the gain and inversely proportional to the risk. Custodians of artworks often protect their art more today through electronic alarms and surveillance. This alone does not necessarily increase the risk to a thief as it often comes with a reduction in security personnel. Museum Administrator 2 stated: "It's a tradition here, it's almost over-secure in terms of manpower surveillance; because, ultimately, you know, you can have all the electronic devices

you want, it's still human surveillance that is the best security." Therefore, while the risk of capture may have increased, the consequences after capture have changed very little. After all, the public perception remains that art theft is a victimless crime. Art Lawyer 2 describes a criminal's possible perspective when weighing the prospect of serving a sentence in a minimum-security prison versus a legal profession when he stated:

They know how to get around the law; they know that I get a slap on the wrist with this. I know I have to make sure that I am out of sight for that period... and at the end of the day it could actually turn out to be no more than what anybody else does. We put ourselves in prison in corporate law for twenty years, what's seven?

This increase in reward due to the increasing values of art without a corresponding increase in risk leads to the existence of a direct relationship between value and art theft; however, responses did not indicate a direct relationship between art thefts and value. Instead, stakeholders cited select activities resulting from illicit acts, not necessarily art theft, that did exert varying positive or negative influences on value.

The power of the press, whether accurate or sensationalized, did seem to have a positive effect on value. Media activities did not cause direct changes in the financial value of art; however, they did increase the awareness and highlighted contextual information about art. When Museum Administrator 1's museum was forced to de-assess several of their works, the press reported the story accurately. Museum Administrator 1 stated, "It was tragic that we lost some of the pieces in the collection, but at the same time, it got word out about the collection and about the work at the Museum that is here in the community." This is important since how we as a society perceive and assign value to an artwork is the basis for that work's value. Press stories, sometimes straying toward sensationalism, that assign and highlight extraordinary values associated with stolen works also had a positive influence on value. Museum Administrator 3 when responding to what factors increase the value of art stated, "rarity, scarcity, something that's been hidden away for many years and then all of a sudden resurfaces. People love that. That seems to be one of the driving... when a piece resurfaces that hasn't been seen in many many many years people go crazy. Like a feeding frenzy." The recent discovery of over 1,400 artworks found in the possession of Cornelius Gurlitt in his Munich apartment exemplifies this concept. Many of these paintings appear to be associated with the confiscation of art by Nazi Germany. While German investigators are not releasing specific details in this case, the frenzy

has begun. The Wall Street Journal reported the story stating that German authorities had recovered 1,406 works, but they “declined to provide an estimated value of the trove” (Torry, 2013, p. A9). CNN published a story on the same date reporting 1,500 works of art “confiscated by the Nazis” (Jones, 2013, para. 1), and “estimated to be worth more than \$1 billion” (Jones, 2013, para. 2). Through these often-sensationalized stories the press, which normally causes a case of sticker shock to the public when they expose them to the large amounts of monies exchanged during major art transactions, can now add perspective to those stories, and sensitize the public when they express the same or higher values for artworks stolen from institutions. They bring awareness to the size and scope of the art collecting community. This adds a certain validity to the prices that exist in the market.

Market manipulation through price fixing has occurred as noted through convictions against well-established organizations like Christie’s and Sotheby’s. Collector 1 and Collector 2 operate in different regions of the country; yet illegal actions at Christie’s and Sotheby’s affected them both, demonstrating the scope of influence of these two auction houses. Collector 1 presumed that he was the victim of price fixing where bidders held the bidding at \$12,000 for a Jacob Duck. It is his speculation that the buyer restored the artwork and sold the work for a significant gain. His case may represent the illegal bidding practice called ring formation. Ring formation is an illegal networking activity where bidders make a secret agreement to depress prices. Collector 2 was affected directly by Christie’s and Sotheby’s 2002 anti-trust conviction, and was able to receive compensation from the settlement. Fraud and forgeries also occur. Collector 1 stated:

I went into a marble shop in Rome... I import new marble from China and sell it for just what it is, new marble from China. The Italians go buy the same stuff, they take it... I’ve been in the showrooms. They have techniques for making it look old, blowtorches on the marble, they oil it down, they round the noses. They do all this stuff and then they put it out there on the stand, and ask a quarter of a million for what... 200 years old and Italian? Bullshit. It’s Chinese marble they’ve re-created.

These activities, although extending beyond art theft, do have a negative impact on the legitimate market.

The financial values of art are validated through market transactions, and these values continue to rise. Investors are seeking art as a growth investment, and history supports this as a

trend. According to Insurance 3, “I think that the rise in value is exciting because of the world having so much capital around, and the people are using more and more of their investable assets to buy art.” Insurance 2 recognizes the growth of the art market, but he cautions stability in certain sectors. He stated, “We’ll go back to the late 80s where the Japanese market really pushed the contemporary market through the roof, and then when their economy sort of failed. All of these pieces that people had bought for high numbers now are really worth 50%.” Highly desirable paintings from old masters with a limited supply would be more stable and present less risk to an investor; however, these works often have storied histories that include ownership gaps. Ownership rights, which art theft can affect, also have a negative impact on values in the legitimate market. Ensuring a good provenance may provide some protection against fraud and forgeries, but it does not necessarily provide protection against ownership issues. One private company is using art title insurance as a market based solution to ownership issues. For art to thrive as an asset class, each individual art investment object must be stable in terms of ownership, thus increasing its liquidity. Possibly a new paradigm will emerge. Insurer 1 stated:

We believe there’s going to be a bifurcation of the market. Those works that can get title insurance and do, and those works that don’t. The works that don’t are probably because they can’t. We are almost never approached with a work that somebody knows is a problem. We are, you know, 99.9% of the time, we are approached by either the good faith buyer or the good faith seller.

This not only provides an immediate solution to investors and collectors by assuming the ownership risks; over time, it will increase the viability of art as an asset class by either reducing the supply of works with incomplete or fabricated provenance, or by making those works much more expensive.

How Do Policies and Procedures to Protect Artworks Also Affect the Value of Art?

Policies and procedures established to protect art generally work well with limited effects on value. The effects on value that stakeholders noted occurred indirectly on a case-by-case basis, and were directly attributable to the financial value. Although, stakeholder groups considered policy and procedures as having the least influence on value, and held that most policy and procedures operated under NEP, those changes still precipitated significant reactions. Policies are written as a reaction to real or perceived problems. With respect to financial aspects, they are designed to modify behaviors that developed through normal economic conditions, or

illicit activities that emerged under the same normal economic conditions. Policy makers may attempt to target only the illicit activities, but often they must necessarily affect the environment under which those activities developed. Tax laws encouraging donations needed modifications; because, the taxpayers were abusing them. As stated previously by Art Lawyer 1:

I think that Sen. Grassley who is very involved in those changes in the tax law and the donation rule, felt that in general, not as I suppose it applies to fine art, but in general, the rules applying to donations to charitable organizations were being abused. I think they probably were being abused, and he closed up a lot of the loopholes. In so doing, you know, he did change the rules as they applied to the donation's of fine art's.

Changes to the laws to curb abuse also affected the actions of those making good faith donations, thus the law makers in practice suppressed a segment of the market. Lawyer 1 stated, "I understand that it discourages donations, so you know, it's up to Congress to make that balance."

The IRS case against the Sonnabend estate represents an example where officials enforced a policy without regard to the policy's intent. This case involved the artwork *Canyon* 1959 by Robert Rauschenberg. Mrs. Ileana Sonnabend owned the work, and it was part of her estate inherited by her children. The work included a stuffed bald eagle, which due to various protection laws in the United States, rendered the piece unsellable despite a permit that granted Mrs. Sonnabend possession rights. Thus, this work did not represent a transfer of wealth through the settlement of the estate, as it has no monetary value. To assign it a monetary value the IRS created a market that may or may not exist. They presumed that a recluse billionaire in China might want to buy it and hide it. Even if such a market did exist, how can the IRS define the parameters under which it operated? As previously stated by Wittman (2010), "On the black market, stolen art usually fetches just 10 percent of open-market value" (p. 15), yet the IRS assigned the full appraised value to the Sonnabend piece on the assumption that the heirs might somehow fetch this price through this theoretical market. This freedom to apply an arbitrary value to a work that will never be confirmed through a legal market transaction may set a precedent through the enforcement of policy on a single work that could present a significant ripple effect across the entire art market.

Still, in general stakeholders understand the limitations of policies and laws. Lawyer 2 stated, "I do think that criminals who actually truly are professional criminals, where they are making a living at this, owe themselves the responsibility of knowing the law, and some of them

are very good at it... They know how to get around the law.” Even when criminals are caught, punishments from the courts often do not match the crimes. Courts prosecute those involved in the illicit market, but often let them off with light sentences, or criminals take advantage of statutes of limitation laws and receive no punishment at all. As an example, Art Lawyer 1 stated:

I don't anticipate any special legislation happening, so I don't really spend my time worrying about that, but I think that courts could apply general principles that are available. In some cases, involving particularly stolen art, but art looted during the Holocaust they're trying to decide whether to cut off the claim; because, you know, the theft took place 60 or 70 years ago. I think that what they need to do is apply some of those general principles with a good understanding of the historic and psychological factors that affect how long does it take for the victim to find out where the stolen property is located, that kind of thing.

Art Lawyer 1 doesn't anticipate special legislation to solve this problem nor does he necessarily consider it a requirement to achieve the same effect. Instead, Art Lawyer 1 stated, “So, it doesn't require a special law, I think it requires sometimes... the court or the judge applying, you know, having a good understanding... of the historical circumstances and using that in forming the judge's decision.”

Although stakeholders generally considered current laws adequate, certain emerging circumstances are challenging the effectiveness of these laws. Technology advancements are an example as they present new challenges to existing copyright laws. Museum Administrator 3 noted this changing market and the impact that technology has on his collection. Through technology the public has unlimited access to his collection, and he has concerns of the law keeping up with the protection of his museum's collection. Museum Administrator 3 stated, “At this point and I find that the technology is far out running the laws. So, that has been a big hindrance. I think that the legal profession and the legal aspect, but it's not just in the arts it's in every, it's in you know medicine in every, you know it's just the nature of the beast. The laws can't keep up with the technology, and that is... I would say one of my biggest problems.”

Similarly, the continuing rise of art as an asset class is attracting a new type of collector whose interests in art is focused less on its intrinsic value and more on its extrinsic value. In a recent auction in November of 2013, Christie's sold a triptych portrait by Francis Bacon for \$142 million. Similarly, Sotheby's sold an Andy Warhol for over \$100 million (Wolff, 2013).

These prices seem to defy all normal economic standard principles of supply and demand. Art Lawyer 2 stated, “you never heard of the auction prices today just ten years ago. When somebody would pay two million dollars for a Stradivarius... ten years ago, those were world records. Now, all of the sudden, we’re up to eight or ten million dollars for a Stradivarius or for a Guarnerius, and it very often comes from an anonymous source.” Just as in Art Lawyer 2’s example, the names of the two purchasers at the Christie’s auction were not revealed. Regarding the new investors, Wolf stated in a recent USA Today article, “The fact that financial trading is the business of so many new collectors, and that the international art market now provides a viable and ever more liquid alternative currency, one that is almost entirely unregulated, ought to suggest a reason for their interest” (Wolff, 2013, para. 9). Despite claims that current policies and procedures are adequate, the lack of transparency in art markets is fueling speculation that criminals are using the markets for money laundering and other illicit activities. Although the stakeholders of this study rejected the formation of new policies, certain aspects of the evolving art market suggest that some of the current policies will have to be modernized. Much of the resistance to new policies stemmed from a preference to allow the market to continue to adapt to its environment. Insurance 1 stated, “I just believe that market solutions are better than new laws; because, everything I've ever done, every time there's a new law, somebody figures out a way around it.”

Reflections

The value of art exists in terms of financial value, artistic value and political value, but it is difficult to weave them into parts of the whole. Stakeholders recognized all three, but there was not a clear delineator to determine a dominate aspect. One aspect that does stand out as an influence is the stakeholder’s vested interest related to his position. However, even then depending upon the individual stakeholder or circumstance under which you discuss value, the emphasis could change. This does not hold true when looking at value as a motive for theft. When stakeholders discussed the motivation to steal art, the motivation was a single reference to one specific value type.

In the same manner, there is no single formula to determine a protection scheme against theft that balances access, security, and insurance. Each custodian must evaluate his needs and develop his own course of action. In a market setting where art patrons both buy and sell art, the collection often consists of unrelated pieces that have price tags on them, and the tags often

become a discriminator between works. Patrons expect a collection to change as they buy and sell the works, so in the case of a loss due to theft, the custodian could easily replace the work. However, in a museum or private collection, the loss of any one piece affects the story of the entire collection, and is therefore, very difficult to replace. When examining this topic further, it could be beneficial to add galleries and auction houses to the contextual framework.

While there are many resources available to aid in the combat of art theft, like the use of technological resources to aid in prevention, there are still significant losses. Stakeholder responses in this study indicated that the financial value of art correlates to the primary motivator to steal. Reducing that incentive by using tools such as art loss databases to restrict the financial gain of stolen works is in line with the stakeholder's responses. Further, art is an evolving asset class, and not just for collecting. In order to protect this commodity, a market base solution may provide the best alternative. Instead of looking at it from a criminal punishment perspective, a viable answer to combating art theft and protecting financial assets may be in the form of a market base perspective. Investors must protect themselves from ownership litigation issues. In the short term, title insurance, while not eliminating the risk, does shift the risk away from the owner. In the long term, a major paradigm shift in the market from a drive to use art as an asset class could render works without a clear provenance or title less valuable. As Insurance 1 indicated, there could be a bifurcation of the market.

A key component to combating art theft is to develop a common dialogue. While the value of art correlates with the motivation to steal art, art theft is only one of many risks that art stakeholders face today. The magnitude of this risk is unique to each artwork or collection. The media is not a reliable outlet to develop a common awareness as it often creates a sensationalized story when reporting high profile art thefts while tending to ignore the more common art thefts. In order to increase awareness, facilities are needed to collect data, act as repositories for new ideas, and disseminate that information throughout the art world. Stakeholders in this study cited the American Association of Museums (AAM) and the Lawyers' Committee for Cultural Heritage Preservation (LCCHP) as examples of such facilities that are providing these services.

AAM's efforts in this area are succeeding. As art theft, art litigation, title challenges and ownership issues increase, so does the need for information services. AAM already has such a presence in the art community when it comes to the development of policies and procedures. As Museum Administrator 3 stated, "We always follow AAM guidelines, and the reason we do that

is because they are the best practices and procedures. We develop our own policies to fit our needs in accordance with their guidelines.” The evolving actions of AAM and other like-minded supporting organizations of art and cultural preservation are effective. As Collector 2 stated in regards to the development of an education forum, “it’s large enough and important enough for there to be alliances among the major people all over the world.”

The LCCHP, through education and advocacy, is an organization that promotes the preservation and protection of cultural heritage resources worldwide. Their aim is to expose especially the law community to the evolving developments in the area of cultural heritage. As Lawyer 1 stated:

I think mostly there was a feeling that there needed to be more attention paid, and law school education to the field. So really the organization... Legislation is a tiny part, and I don’t even think the lawyers’ community has ever done anything with legislation, but its primary goal is to educate those laws students and lawyers and general members of the public. So, one of its main things was to raise the profile of art and cultural heritage law in the teaching in law schools through things like, they started the writing competition, the court competition. Those are things that all gear towards law students as well as lecturers and programs and things like that.

Future Studies

This study, being exploratory and descriptive in nature, lends itself to a plethora of possibilities for further research. Two areas stand out for future study. The first area includes further study into the motivation for individuals or groups who might participate in destructive art crimes based on the political value of art or cultural icons. The second area for research, relates to the IRS’s contention that an art market exists for stolen works. A minority number of stakeholders did corroborate the IRS’s position. Therefore, what is the market for stolen art?

Although stakeholders discussed the political value of art in this study, the majority of their responses did not equate the political value of art to a major motivator to steal art. However, further research could investigate how the political value of art contributes to the motivation of destructive crimes related to art. The majority of stakeholder responses in this study sighted that the primary motivator to steal art was for the financial value of art. However, this type of motivator does not exist when you destroy a work of art or cultural icon. As Lawyer 1 stated, “you don’t destroy something for economic value because you destroy the economic value along

with everything else.” Art has value within a culture as part of its contextual framework. Therefore, a political destruction crime is an intentional loss of cultural heritage or cultural icons. This issue was not pursued in this study, since it is outside of the scope of art theft. However, as political tensions mount in the world, a rise in this type of activity may occur without the pretense of an open conflict. Therefore, the political value of art may have a greater degree of relevance to activist leading them to target those cultural icons, which symbolize opposition.

The existence of an illicit market for stolen art warrants further research. Is there an illicit market that deals with stolen works that cannot be bought, sold, or brought back into the legal market? One part of the current strategy to combat art theft is to try to make the artwork unsellable. Authorities ensure rapid dissemination of art crime information and maintain databases of stolen art in an effort to restrict its emergence on the open market. However, if a significant market exists where works will never be brought back to the legitimate market, then current strategies may not be sufficient. In the IRS case against the Sonnabend estate, the IRS contends that such a market does exist. Lawyer 2 supported their position when he stated, “My guess is that it’s already bought and sold before it’s stolen, so...I think that it’s generally brokered first and then the theft occurs.” This is contrary to the majority views of stakeholders. Security 1 contended, “There is no grand collector out there who has these pieces.” As well, Insurance 3 stated, “People hear about what we do for a living. They say, what like Thomas Crown Affair, and I always get a kick out of it, it doesn’t exist.” Still, if a market does exist, even on a small scale, then strategies beyond the Art Loss Register may be required. Additionally, stakeholders in this study focused on art theft opportunities and motives at the point where the crimes occurred, and concluded that the primary motives at those points were financial. The existence of tiered levels of criminal activity above those of the actual thief may involve different motivations at those levels not discovered in this study.

Perhaps by raising the awareness of the public to the illicit activities surrounding art, there could be potential for additional resources provided to aid organizations in their efforts to protect artworks and our cultural heritage. As Museum Administrator 3 stated in regards to solutions to art theft, “One of the things that would help is if museums had larger security budgets. I know speaking from here, I mean... to me this is minimal. We’re doing our minimal duty as far as security.” As discussed in Wittman’s book *Priceless* (2010), past education campaigns focusing efforts to increase the public’s awareness and attention regarding tobacco,

land mines, and HIV yielded action by governments because of the increased public opinion. Until more attention is given, art theft and illicit activities will continue.

APPENDIX A

INSTITUTIONAL RESEARCH BOARD (IRB) OF REVIEW

Office of the Vice President For Research
Human Subjects Committee
Tallahassee, Florida 32306-2742
(850) 644-8673 · FAX (850) 644-4392

APPROVAL MEMORANDUM

Date: 5/4/2012

To: Marion Wylly

Dept.: ART EDUCATION

From: Thomas L. Jacobson, Chair

Re: Use of Human Subjects in Research
Motives of Art Theft: A Social Contextual Perspective of Value

The application that you submitted to this office in regard to the use of human subjects in the proposal referenced above have been reviewed by the Secretary, the Chair, and one member of the Human Subjects Committee. Your project is determined to be Expedited per per 45 CFR § 46.110(7) and has been approved by an expedited review process.

The Human Subjects Committee has not evaluated your proposal for scientific merit, except to weigh the risk to the human participants and the aspects of the proposal related to potential risk and benefit. This approval does not replace any departmental or other approvals, which may be required.

If you submitted a proposed consent form with your application, the approved stamped consent form is attached to this approval notice. Only the stamped version of the consent form may be used in recruiting research subjects.

If the project has not been completed by 5/3/2013 you must request a renewal of approval for continuation of the project. As a courtesy, a renewal notice will be sent to you prior to your expiration date; however, it is your responsibility as the Principal Investigator to timely request renewal of your approval from the Committee.

You are advised that any change in protocol for this project must be reviewed and approved by the Committee prior to implementation of the proposed change in the protocol. A protocol change/amendment form is required to be submitted for approval by the Committee. In addition, federal regulations require that the Principal Investigator promptly report, in writing any unanticipated problems or adverse events involving risks to research subjects or others.

By copy of this memorandum, the Chair of your department and/or your major professor is reminded that he/she is responsible for being informed concerning research projects involving human subjects in the department, and should review protocols as often as needed to insure that the project is being conducted in compliance with our institution and with DHHS regulations.

This institution has an Assurance on file with the Office for Human Research Protection. The Assurance Number is FWA00000168/IRB number IRB00000446.

Cc: David Gussak, Advisor
HSC No. 2012.8163

APPENDIX B

SAMPLE LETTER TO PARTICIPANTS

Marion Johnston Wylly
Florida State University PhD Student
Heading:

February 28, 2009

Mr. D. Doe
“X” Museum
Heading:

Dear Mr. Doe:

Thank you for your informative conversation on Monday, July 24, 2010 (for example) regarding how art-crimes affect your museum. I am looking forward to our meeting on August 24, 2010 (for example) to further discuss this topic, view your facility, and conduct research for my doctoral dissertation at your site.

As we discussed via phone, I am a doctoral student pursuing a PhD in Art Education with a concentration in Arts Administration. I have an extensive background in the arts area, and I am familiar with many of the challenges facing arts organizations to day. However, I am especially interested in how the rise of art crimes affects the field. Your information about this topic will be a tremendous asset to my research.

Thank you for your time and interest. I appreciate your participation in my research; the identity and address of your organization will be kept confidential. After the dissertation is completed, I will send you a copy of the findings.

Sincerely,

Marion Johnston Wylly
PhD Candidate
Florida State University

APPENDIX C

INFORMED CONSENT

Human Subject Committee

Informed Consent Form (for Adults)

Motives of Art Theft: A Social Contextual Perspective of Value

I HAVE BEEN INFORMED THAT:

1. Marion Johnston Wylly, who is a PhD Candidate, has requested my participation as part of the research for her dissertation involving art theft. She is working towards a degree in Art Education with a focus in Arts Administration from Florida State University.
2. The purpose of the research is to examine the relationship between the value of art and art theft. The justification for the research is to contribute to the overall knowledge of art theft and illicit art trade by providing a base of information for future studies and aid in the development of theories about art crimes.
3. My participation will involve answering questions concerning my knowledge of the arts, art theft, and illicit art trade through an interview process. The expected duration of the subject's participation is the length of the conducted interview. However, the tentative date for the completion of research is May 2010; therefore, I understand that I could be contacted up until that time regarding new questions or clarification of previous interview answers and responses.
4. There are no foreseeable risks or discomforts if I agree to participate in this study.
5. Although there may be no direct benefits to me, the possible benefits of my participation in the research will contribute to a more complete understanding of the relationship between the value of art and art theft, and, therefore, criminal motivation.
6. The results of this research study may be published but my name or identity will not be revealed. The researcher will do the following to maintain confidentiality of my records: Marion Wylly will only cite and use information with my permission. To further maintain confidentiality, the researcher will immediately after the interview code the responses to the open-ended questions. If I have any confidentiality needs or concerns, I will address them with Marion Wylly, David Gussak the Dissertation Chair, or the Human Subjects Committee as they arise.

7. In case of injury, I expect to receive the following treatment or care, which will be provided at my expense: N/A, No foreseeable risk or discomfort involved in this research project.
8. I will not be paid for my participation.
9. Any questions I have concerning the research study or my participation in it, before or after my consent, will be answered by:

Marion Wylly (Researcher)

████████████████████
████████████████
██████████████
██

David Gussak (Dissertation Chair)
Florida State University
Department of Art Education
Tallahassee, Fl. 32306
850-644-5473
dgussak@fsu.edu

10. If I have questions about my rights as a subject/participant in this research, or if I feel I have been placed at risk, I can contact the Chair of the Human Subjects Committee, Institutional Review Board, through the Office of the Vice President for Research, at 850-644-8633.
11. The nature, demands, benefits and any risk of the project have been explained to me. I knowingly assume any risks involved: N/A, No foreseeable risk or discomfort involved in this research project.

I have read the above informed consent form. I give permission for audiotape and videotape sources to be used in the research described above. Furthermore, I understand that I may withdraw my consent and discontinue participation at any time without penalty or loss of benefits to which I may otherwise be entitled. In signing this consent form, I am not waiving any legal claims, rights, or remedies. A copy of this consent form will be given (offered) to me.

Subjects' Signature: _____ Date: _____
Other Signature (if appropriate): _____ Date: _____

APPENDIX D

SAMPLING OF INTERVIEW QUESTIONS

Dissertation Over-riding Question:

- What is the relationship between the value of art and art theft?

Objective Questions:

- What determines the value of art? Does this value affect motive? If so, how?
- What is, if any, the co-evolutionary relationship between the value placed on an artwork and art crime?
- How do policies and procedures established to protect artworks also affect the value of art?

General Interview Questions:

- Tell me about yourself?
- Tell me why you became involved in the arts as a career?
- Tell me about when your interest in art in your particular field surfaced, if at all?
- According to Conklin, the value of art can either be financial, artistic, or political. How do you value art in accordance with this definition of value?
- Tell me how, if any, the value of art has changed since your involvement with the arts?
- What influences have had a bearing on that change in value?
- Tell me what you think about the relationship between the value of art and art theft?
- Tell me what you think motivates a criminal to steal art?
- How, if any, has the art field changed since your beginning involvement in the arts?

Interviewee Specific Questions:

Art Insurance:

- How does your insurance agency determine the value of artwork for policy purposes?
- Tell me about the procedures involved in evaluating a work of art or an art collection for insurance purposes?

- Who are the people within your agency that assign value to artwork, and how do they determine the value of art?
- When discussing art insurance relative to the current market, how does your agency forecast factors that will influence a policy?
- If an artwork is found stolen, how does this impact the insurance policy?
- Do you require a level of provenance to insure an artwork?
- Tell me about your organization's input regarding the development of policies and procedures protecting artworks?
- What affect does an insurance policy have on an artwork's value?
- Tell me your views about title insurance?
- What influence, if any, do stakeholders have on an insurance policy?

Museum Administration:

- Tell me about the procedure your museum undertakes when collecting or de-assessing art?
- How do you determine what pieces you will collect and/or sell?
- Tell me about your policies and procedures in place to combat art theft?
- Tell me your thoughts about insuring your artwork?
- Do you collaborate with other museums or organizations to combat theft or illicit trade? If so, what type of information do you share?
- How have you seen, if any, the value of the art in the collection change during your tenure? What influences have had a bearing on that change in value?
- What is the relationship between the value of an artwork and its location displayed in the museum, and attention to security measures of the piece?
- What are the criteria for determining if an artwork is displayed? Have you ever not displayed an artwork due to security reasons?
- What are, if any, the security measures provided for those artworks on display above a certain value? What is that value?
- Tell me your thoughts about insuring your artwork?

Security/Law Enforcement:

- Do you collaborate with other organizations to develop, implement, or evaluate policies and procedures regarding art theft?
- What security measures are in place to combat art theft?
- What type of training does your staff receive regarding art theft?
- What types of resources are allocated to art theft?
- Tell me about a situation when security was at a heightened level of alert?
- Tell me why you think an art theft criminal chooses certain objects to steal?
- What artworks, if any, are at a higher risk than others for theft? If so, what factors are included in your assessment of risk?
- What affect does insurance have on an artwork's risk of theft?
- What factors increase an artworks risk of theft?

Art Lawyers:

- Tell me about your views on art theft, and how that relates to law?
- What and who are the main drivers that impact the policies, procedures, and laws related to art?
- What impact does the market have on the development of policies, procedures, and laws?
- When policies are developed, what consideration, if any, is given to the impact these policies will have?
- Tell me about what laws, if any, have an effect on the value of art, and how?
- Some countries define ownership of art in terms of common laws and others in terms of civil laws, do you think these differences would affect the way a criminal would traffic art?

Art Collectors:

- Tell me how you select an artwork for purchase?
- What is your procedure before collecting a piece of art?
- Tell me how you determine how much money you will agree to pay for an item?
- What paperwork do you require prior to the purchase of art?

- Tell me about, if any, a situation where an artwork did not have adequate paperwork, provenance, or title?
- Tell me your thoughts about insurance?
- Tell me how you have seen the value of your artwork change, if any, during your ownership? If so, what influences have had a bearing on that change in value?
- Tell me about your views of art theft, and how that relates to your own collection?

APPENDIX E

SAMPLE OF OPEN CODING CHART

Table E.1 Coding Chart

Open Coding Chart	Artistic	Political	Financial	Legality
Museum Administrator #1				
Growing up I always had been attracted to going to museums. In textbooks I would always get distracted by the pictures that were involved that told a story. And after working for 15 years in the restaurant industry, I started off as a volunteer docent here at the Museum and once I completed the docent training course they asked me to come on board full-time so I never really started out intending to go into the Museum industry, I just sort of fell into it and have fallen in love with it.	NEP (-) /C			
Our collection tells more of a story or the history of our country where as most museums are art museums are just a collection of art. Whereas when you walk through ours you literally walk through a pre-Columbian America up to the impressionist era, and walking through each time period in American history, and how our country evolved... and it's almost like a textbook in pictures if you will.	NEP (-) /C	NEP (-) /C		
With the artists that we do have in the collection the value is astronomical from what I can fathom. The story that the collection tells, and each picture in itself has a very unique story, and just the history of the collection and the more I study and learn about the collection and how xxxx (the original collector) put the collection together is truly fascinating.	NEP (-) /C		NEP (-) /C	
We are not currently adding to the collection the collection itself is owned by the xxxx (corporation), and they have loaned it to a nonprofit foundation which runs and operates the Museum who I work for. And right now the company, from what I understand, is not doing any more art buying right now. The collection is not growing. We do loan out to other institutions, and we're trying to get a couple of loans to come to us as well as to fit into our collection.			NEP (0) /C	
Response to question about hanging desicions and restrictions: No, myself and my coworker, when the Museum moved at the end of last year, were tasked with the job of re-hanging the whole collection; not only the Museum collection, but the collection that is at the headquarters as well, and we have the ability to re-hang and reorganize as we see fit. We even went to the extent of	NEP (-)			

Table E.1 Coding Chart (Continued)

Open Coding Chart	Artistic	Political	Financial	Legality
purchasing movable Museum walls that we could reconfigure our gallery if we want to.				
Response to question about loaning pieces: Well, for pieces to go out whoever wants to borrow them has to submit a formal request, and then we take that to our board and they approve we loan it out if they don't approve we inform them for our party that would like to borrow it, I'm sorry that piece is not available to be loaned out.			NEP (0) /C	
I would assume it would be because of insurance reasons or just the particular value of a certain piece that they just don't want to risk it traveling depending upon the condition of the frame and all of the other stuff that is involved with that, goes into that decision.			NEP (0) /C	
That was all done before I came on board here, but from what I understand most of the collection was purchased at auction from either Christie's or Sotheby's and xxxx (the collector) selected each piece, and at Christie's in Sotheby's they all do an inspection before there auctioned off and that information is given to the buyers before the auction so that they can get a condition report and etc. The few pieces that were bought from other private collections I don't know to what extent that was done for the condition of it	NEP (0) /C			
Response to question about collection sales: A few major pieces, that we were really sad to see go, but most of that 60 were smaller were small pieces, yes we were very sad for each piece to go, but if you were to walk into the Museum and not know that anything could've ever been sold, you would not find any gaps in the collection. A.. very seamlessly done			NEP (0) /C	
Our insurance carrier requires an appraisal every set number of years. Um, I do know of one appraisal that has occurred. I think it was about a year ago or little over a year ago, was the last time a full appraisal of the collection was done.			NEP (-) /C	
The insurance, from what I understand, the insurance policy requires that the collection be appraised every... I have no idea, will just say 3 to 5 years an appraisal needs to be done with the collection. I guess to adjust for insurance rates that the collection's value has gone up or gone down or stayed the same or whatever.			NEP (-) /C	
I don't know the specifics on the insurance.			NEP (-) /C	

Table E.1 Coding Chart (Continued)

Open Coding Chart	Artistic	Political	Financial	Legality
<p>Response to trend changes: Well, as they say any press is good’s press. I have seen uptick in walk-in numbers coming through the Museum on whether we have seen an uptrend in walk in people coming into the Museum to view the collection. Whether that is due to the press, or us moving closer into town., we don’t know for sure, but I think the collection is a little more well-known, specifically here in xxxx (our town) just because of the press that has been out there. I think it also gives the community a little more ownership in the collection as well knowing better the essence of the collection, and I don’t want to say like value in terms of moneywise, but the value as in this collection being here in the community.</p>	NEP (0) /C			
<p>It was tragic that we lost some of the pieces in the collection, but at the same time, it got word out about the collection and about the work at the Museum that is here in the community.</p>			NEP (0) /C	
<p>Response to question - Do you think about art theft as you view your own collection? Yes, every day when we do the art check to make sure that all of our friends are here with us.</p>	EEP (0)			NI
<p>Response to questions about theft policies at the museum: Yes, we have policies set up to prevent theft and accidents and so forth and so on.</p>			EEP (-) /C	NI
<p>Response to museum training on theft/security: Well, we just recently attended the American of Associations of Museums annual conference in Minneapolis a couple of months ago. That was very reassuring for me, and and the worker and the president of the board. It was the first time that any of us had been. It was refreshing to find out that yes we are headed down the right track, our goals are realistic and attainable, but there was a whole lot of new information that we are able to gain from that conference.</p>			NEP (-) /C	
<p>Response to changes after attending the training: (We) reevaluated our procedures and found that they were the correct procedures notifications if something were to come missing. We had that set up correctly and found out that we were doing everything just right we were quite pleased with that.</p>			NEP (-) /C	
<p>Response to views on motivation to steal art from specific collection: I would lean towards artistic value or the value of a painting done by a particular artist.</p>	EEP (0)			I
<p>Response to laws most affecting the museum: I would say that the laws that we most concern ourselves with are following the non-profit foundation laws. Making sure that we follow all those by the letter; because, it is so easy to get tripped up with the non-</p>			NEP (0) /P	

Table E.1 Coding Chart (Continued)

Open Coding Chart	Artistic	Political	Financial	Legality
profit laws; because, it can be quite confusing at times, and making sure that every receipt is accounted for and everything that goes along with that. For instance, I ordered an Uncle Sam costume for our xxxx (festival) event and I had to make sure I gave the receipt for that to the president of the board for her to submit it to the accountant to make sure that it is recorded a cost specifically for a non-ticketed event open to the public.				
Response to how interviewee values art: I can only speak for the foundation and its board and myself and my coworker. We value the collection for its artistic value, and its historic value. As for the company and its board, I can't speak to how they value the collection.	NEP (-)	NEP (-)		
Response to theft check responsibility: Me and my coworker flip-flop. I'll do it one day and she will do it the next. We flip-flop back-and-forth.			EEP (-) /C	NI
Response to security at the museum: Yes, we have security guards. There is one here 24 hours, seven days a week, and then we have cameras everywhere.			NEP (-) /C	
Um, from what I understand it would be a little bit of all of that. The insurance requires certain things that have to be done, i.e. the art check has to be done. When a loan is done, certain stipulations have to be met such as who will insure the piece in transit, what atmospheric conditions will the piece be housed in when it arrives. Certain guidelines have to be met. Everything that goes into a loan agreement, which can be quite complicated, and I don't remember the third part.			NEP (-) /C	
Response to hanging considerations: We went through the collection and decided on what different types of galleries we wanted to have. For instance, we have a Hudson River gallery, an Indian gallery, a Civil War, a general genera Impressionist, a Colonial American, an American Revolutionary gallery, an Ashcan gallery --- which is also set up, and a colonial dining room, and then we also have furniture and sculpture throughout the Museum as well. So, once we got the paintings figured out where we wanted to go, it was just a matter of placing the furniture and sculpture in places to where they fit into the Museum, but did not interfere with the viewing of the paintings.	NEP (0)	NEP (0)		
Yes. Basically once we figured out what gallery a piece.. we wanted a piece to go in, and what other pieces we wanted in that gallery, it basically boiled down to size and wall space available. So, we would maximize the amount of paintings we could fit into a	NEP (0)			

Table E.1 Coding Chart (Continued)

Open Coding Chart	Artistic	Political	Financial	Legality
gallery by looking at the wall space available and the size of the paintings and then working those two things together to figure out how it would best be viewed and how we would fit the most into that gallery.				
Um, all of our extremely valuable pieces are housed in the Museum area located inside the xxxx (company) headquarters building so we have half of one of the wings for the Museum and all of our extremely valuable pieces are located in that museum proper area so there is only one way in and one way out of this area so...it just sort of worked out that those pieces fit into the story that we were trying to tell in the Museum.	NEP (0)		NEP (0)	
Um, not with art theft. We are working with other museums in xxxx (this state) for disaster response and disaster prevention which came about due mainly to the April 27 tornadoes of last year it sort of was an eye opener for everybody along with the hurricanes from the year before that for museums down on the coast so the xxxx (State) Museum Association.. we're working with them to sort of mediate removal of art from museums down on the coast that would be closed for in case of hurricanes and yes we have storage and can bring stuff here or if there's a tornado in the central part of the state and your Museum is affected other museums can come in and help us move art to other secure locations as well and we are it just in the beginning stages of that			NEP (-) /C	

APPENDIX F

ILLUSTRATED FINDINGS

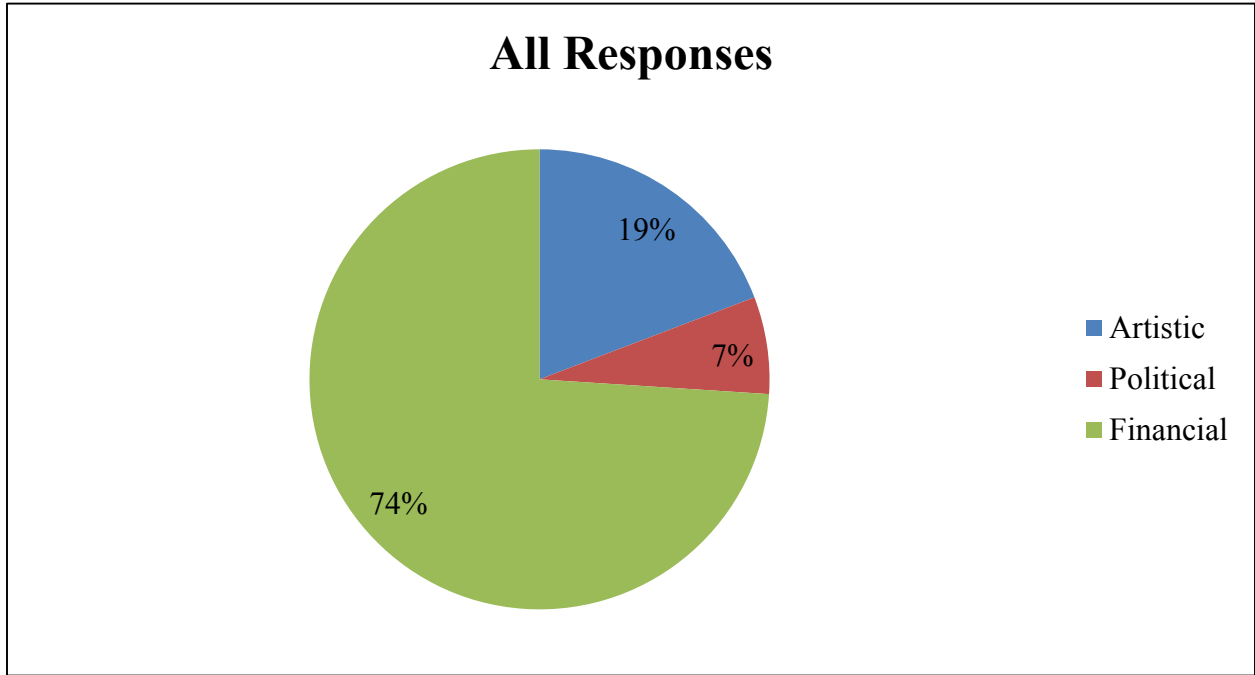


Figure F.1 All Stakeholder's Responses for Value

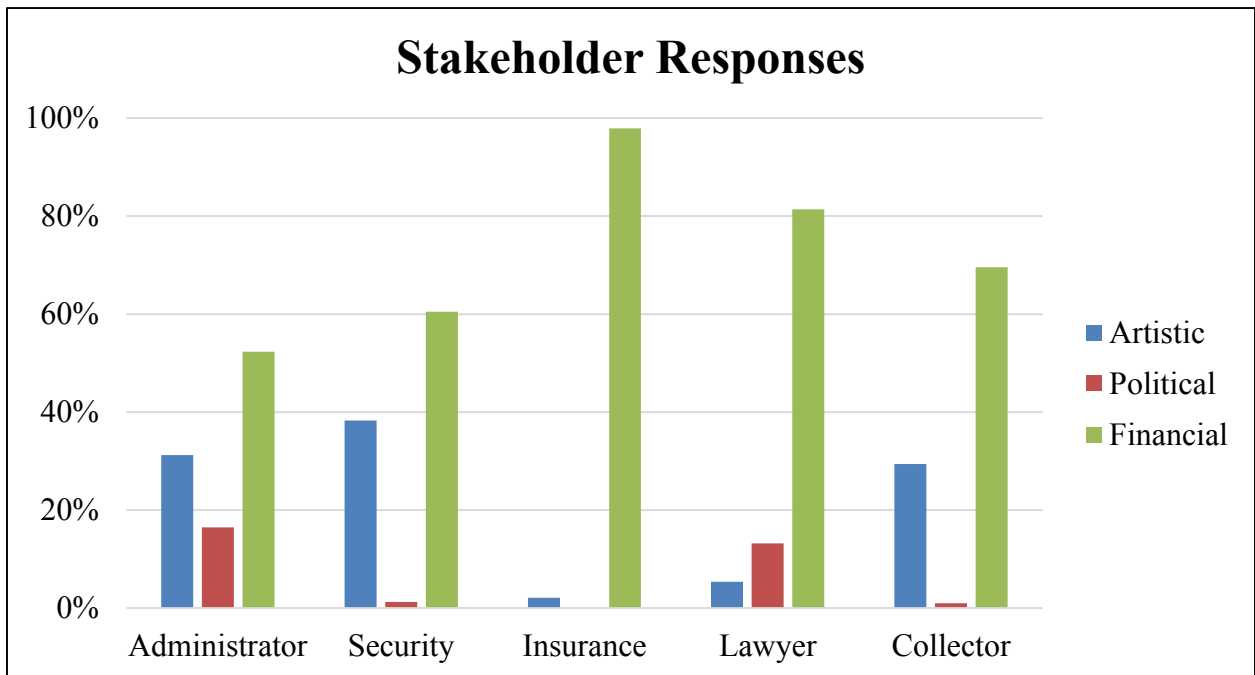


Figure F.2 All Value Responses Categorized by Stakeholder

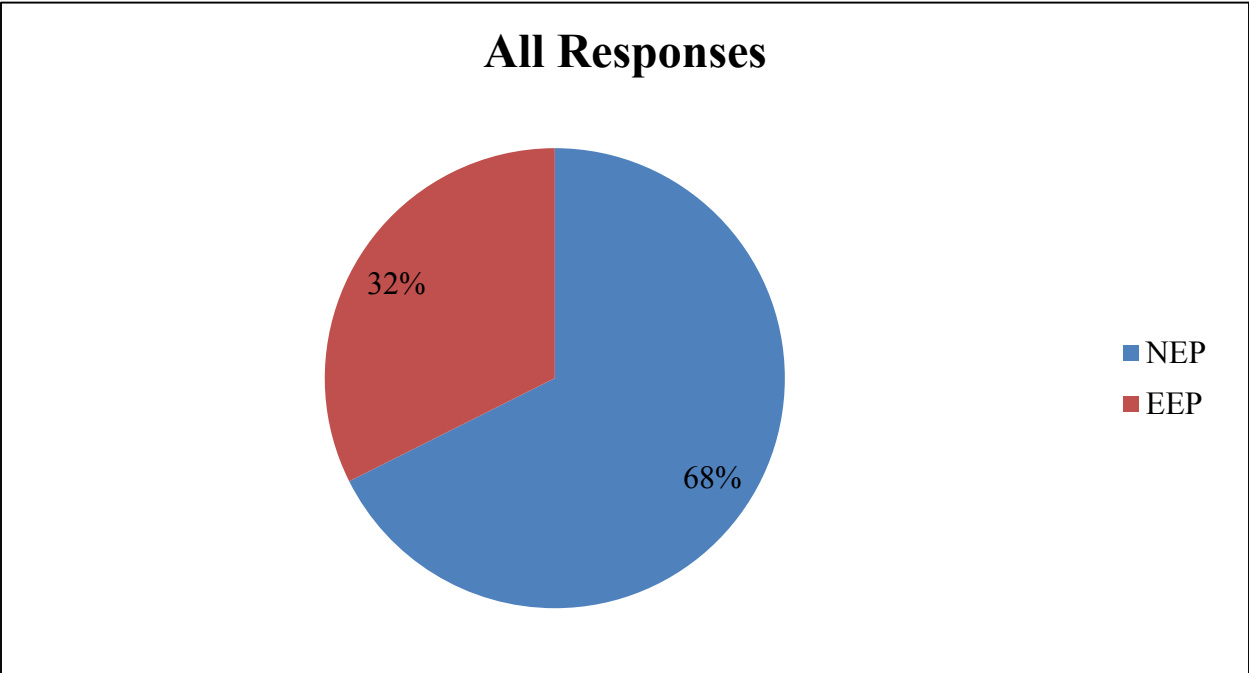


Figure F.3 All Stakeholder Responses for NEP versus EEP

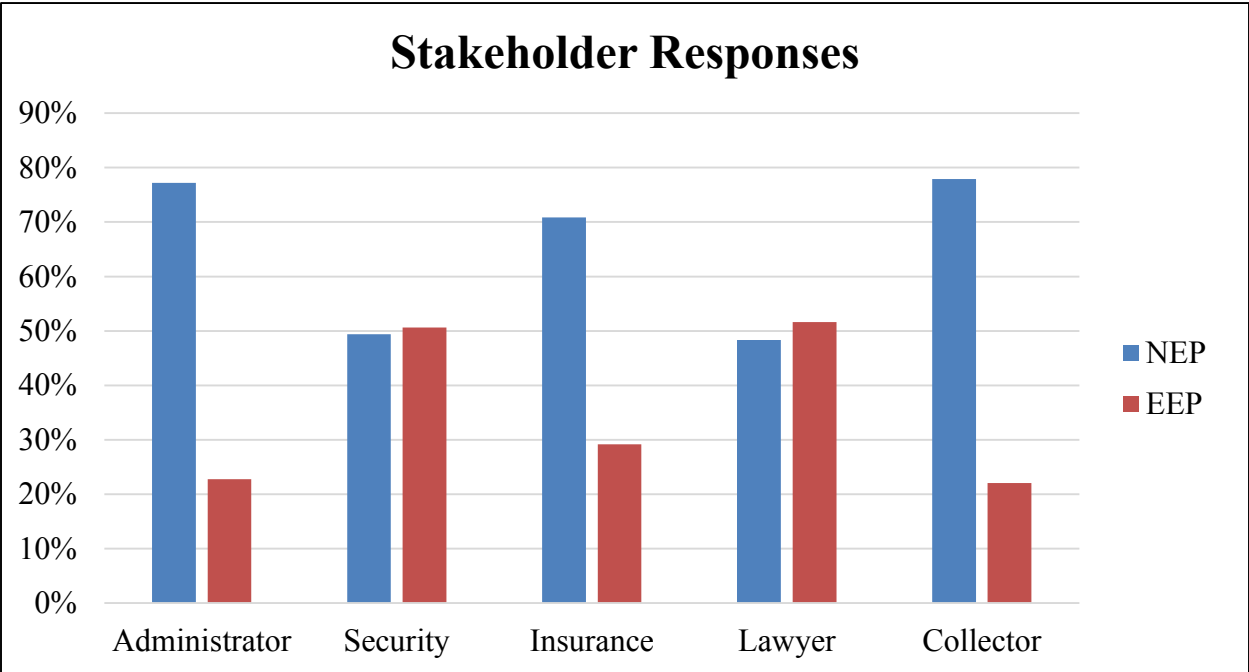


Figure F.4 All Responses for NEP versus EEP Categorized by Stakeholder

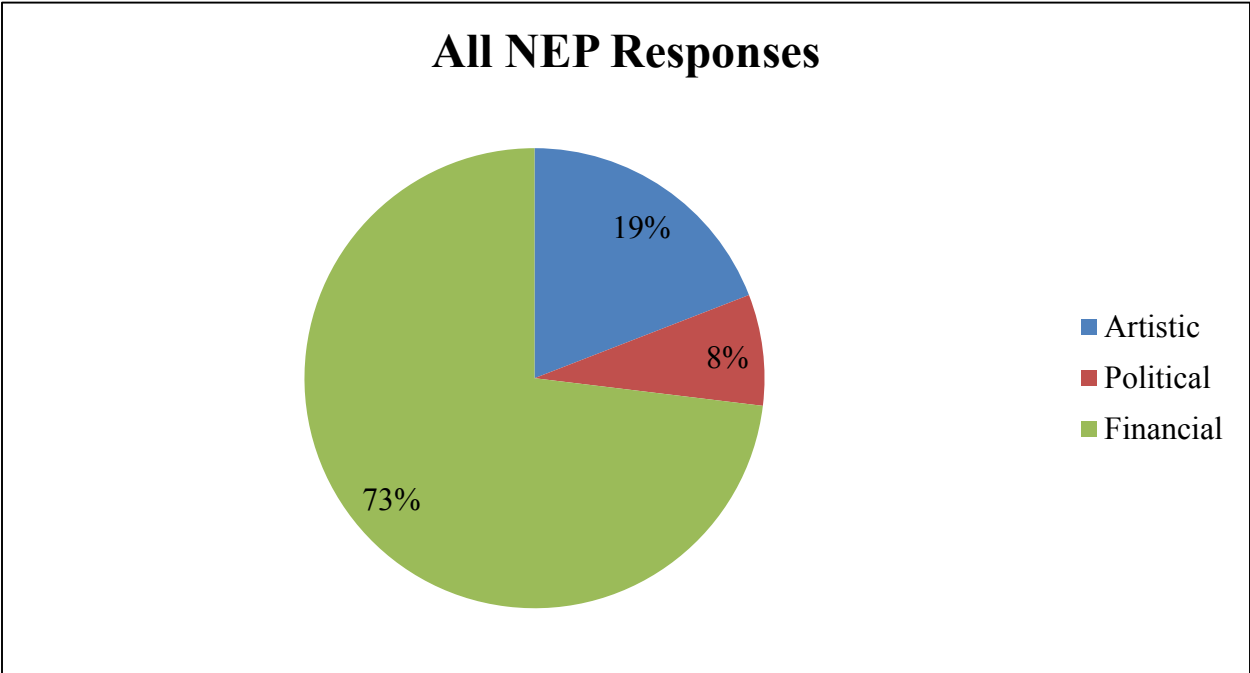


Figure F.5 All Stakeholder’s NEP Responses Related to Value

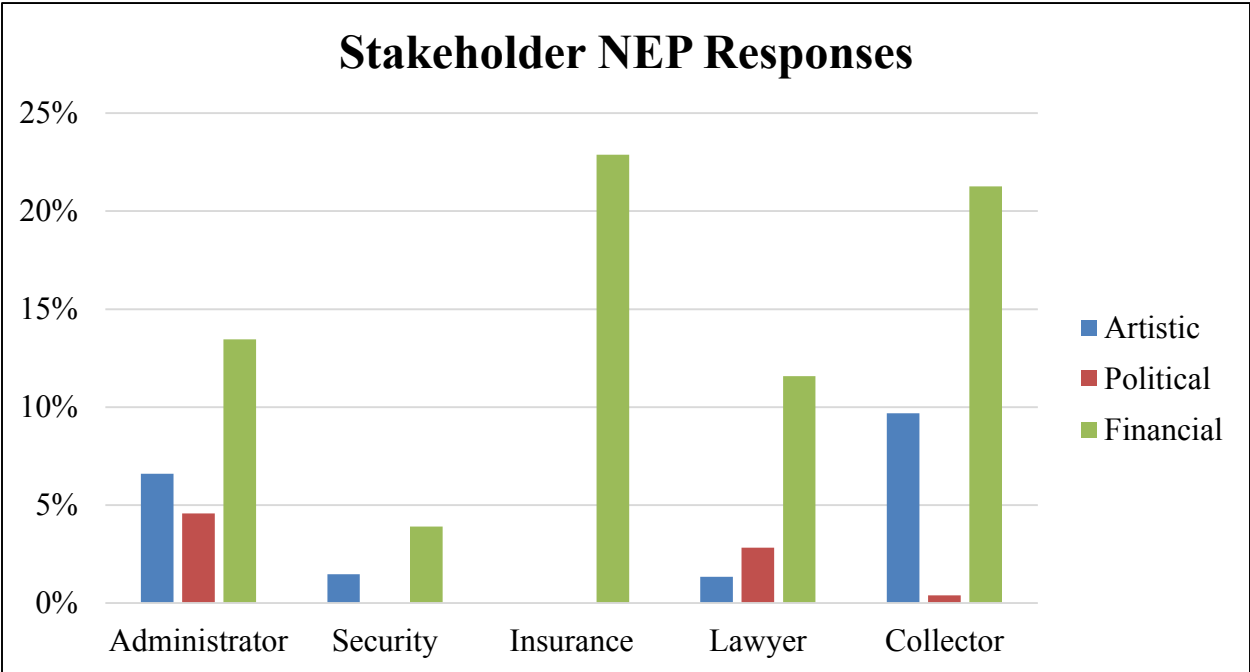


Figure F.6 All NEP Responses for Value Categorized by Stakeholder

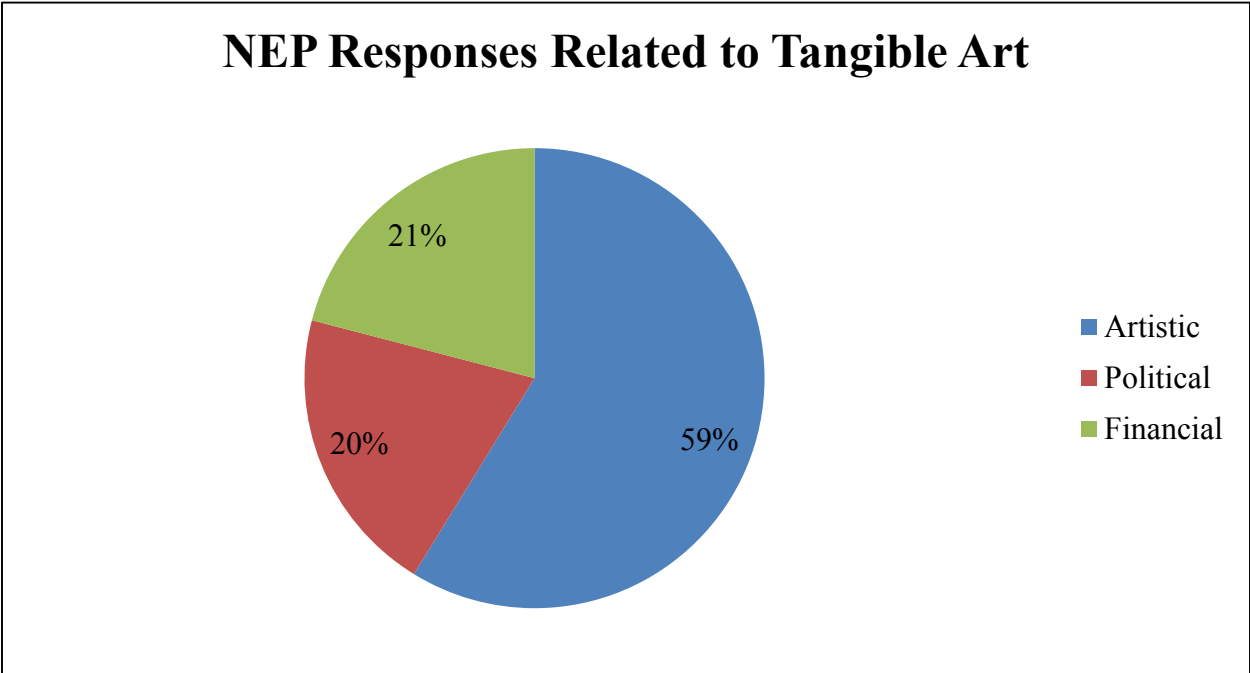


Figure F.7 All Stakeholder's NEP Responses for Tangible Art

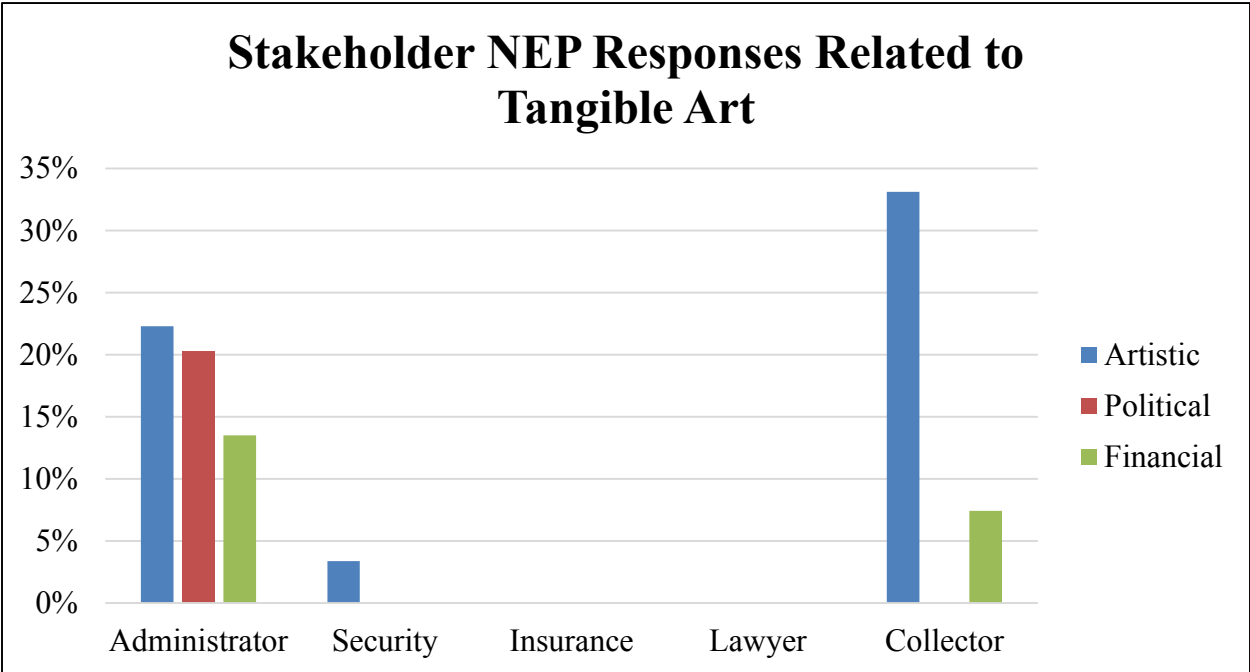


Figure F.8 All NEP Responses for Tangible Art Categorized by Stakeholder

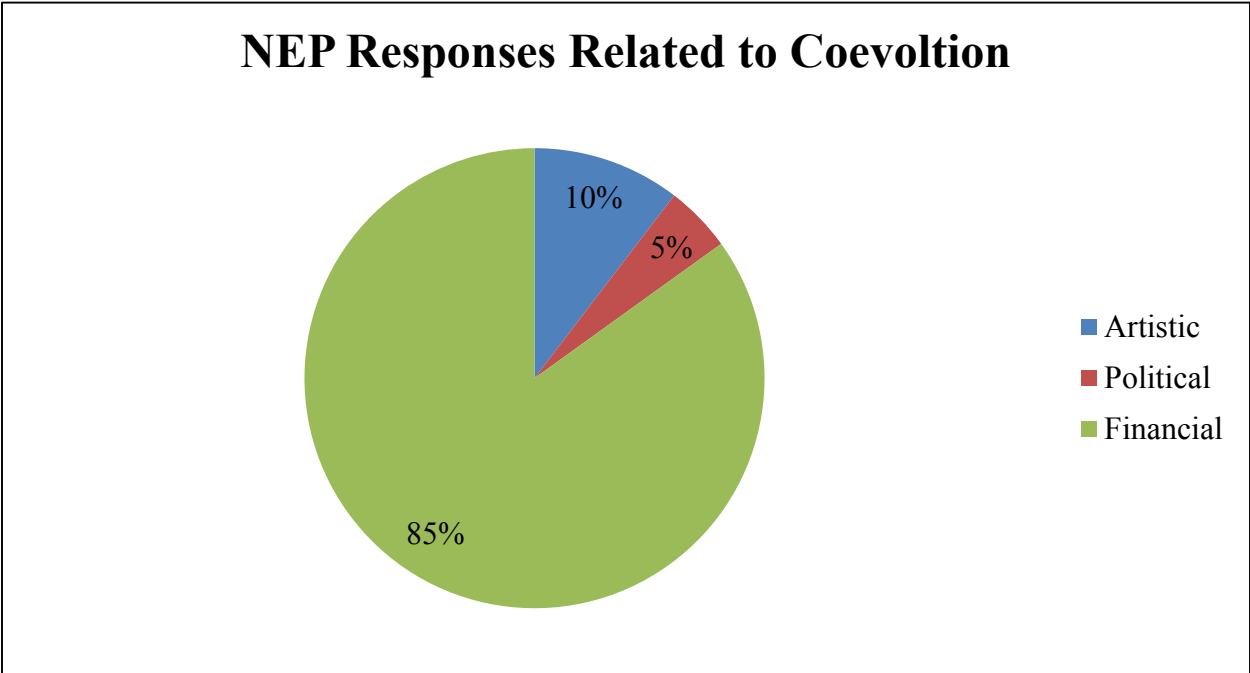


Figure F.9 All Stakeholder NEP Responses for Coevolution Related to Value

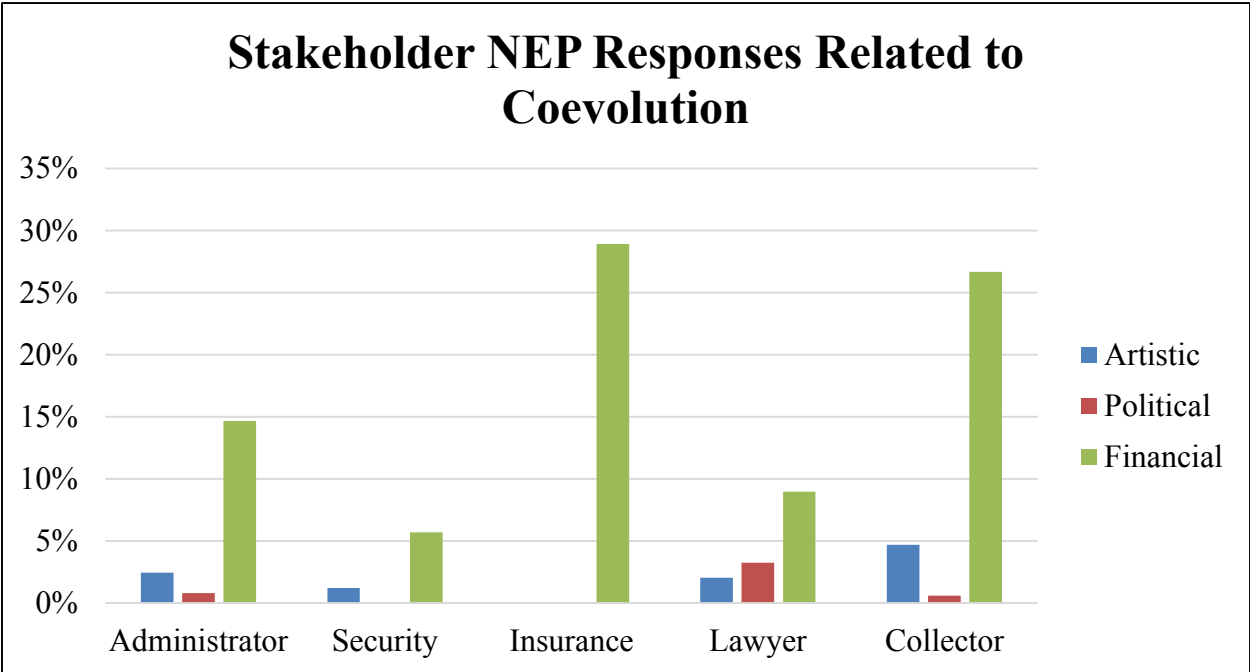


Figure F.10 All NEP Responses for Coevolution Related to Value Categorized by Stakeholder

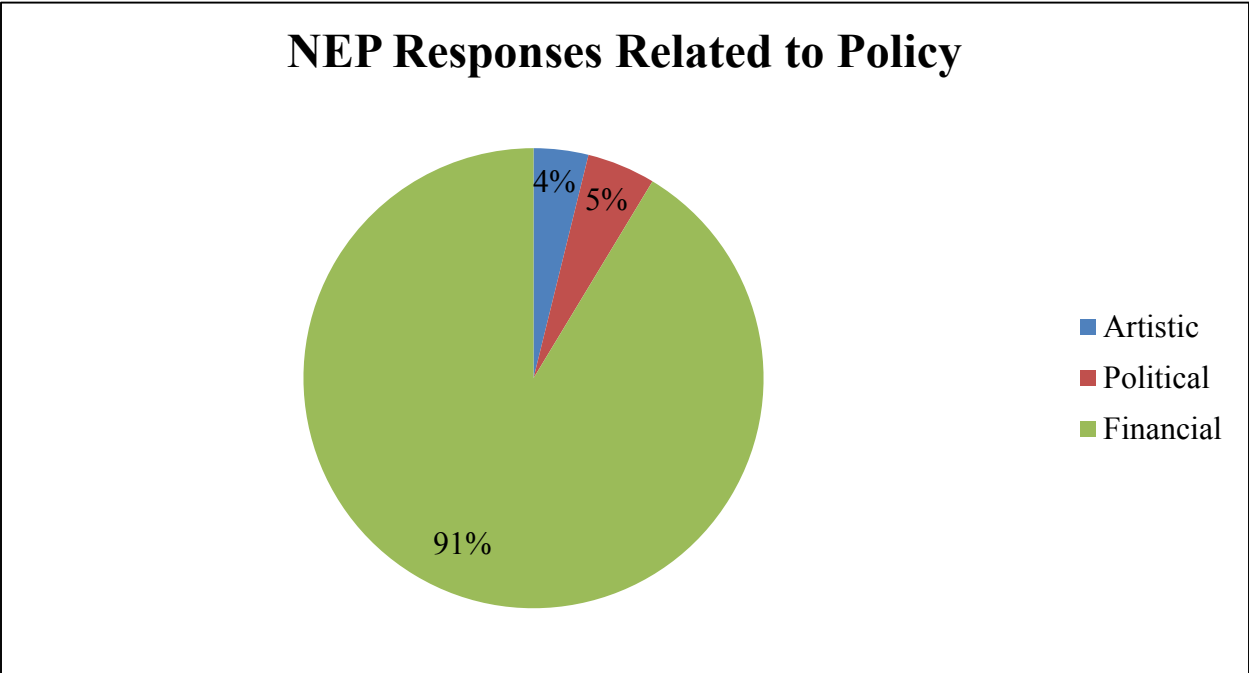


Figure F.11 All Stakeholder’s NEP Responses for Policy Related to Value

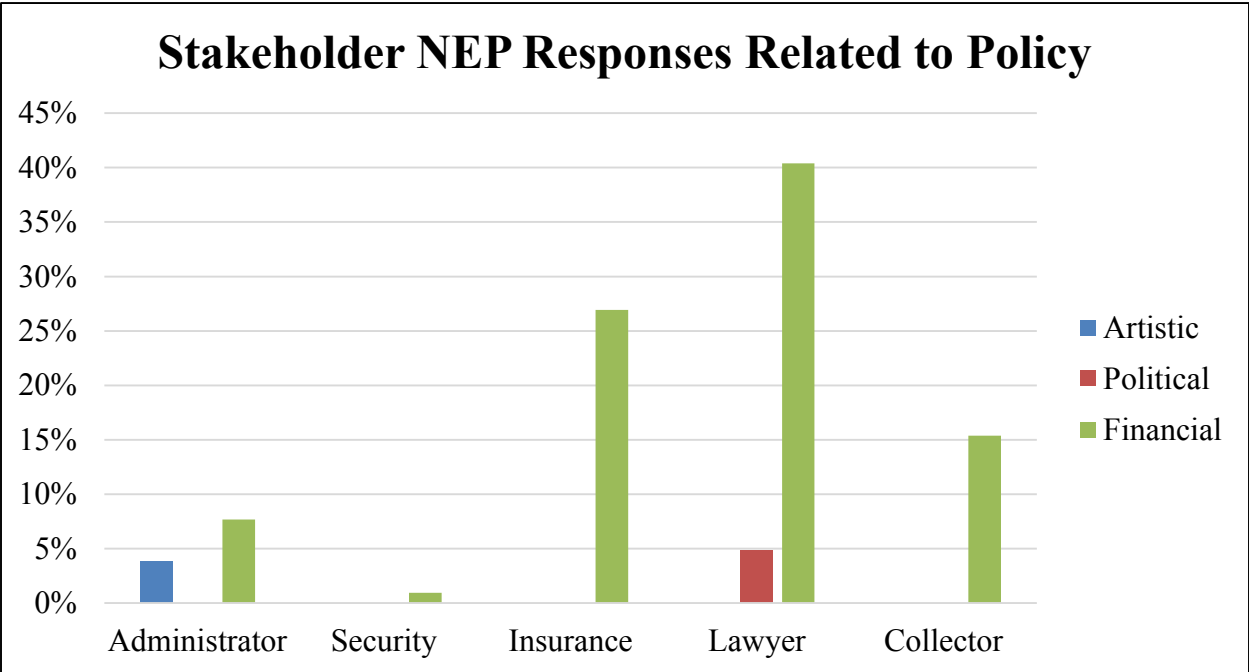


Figure F.12 All NEP Responses for Policy Related to Value Categorized by Stakeholder

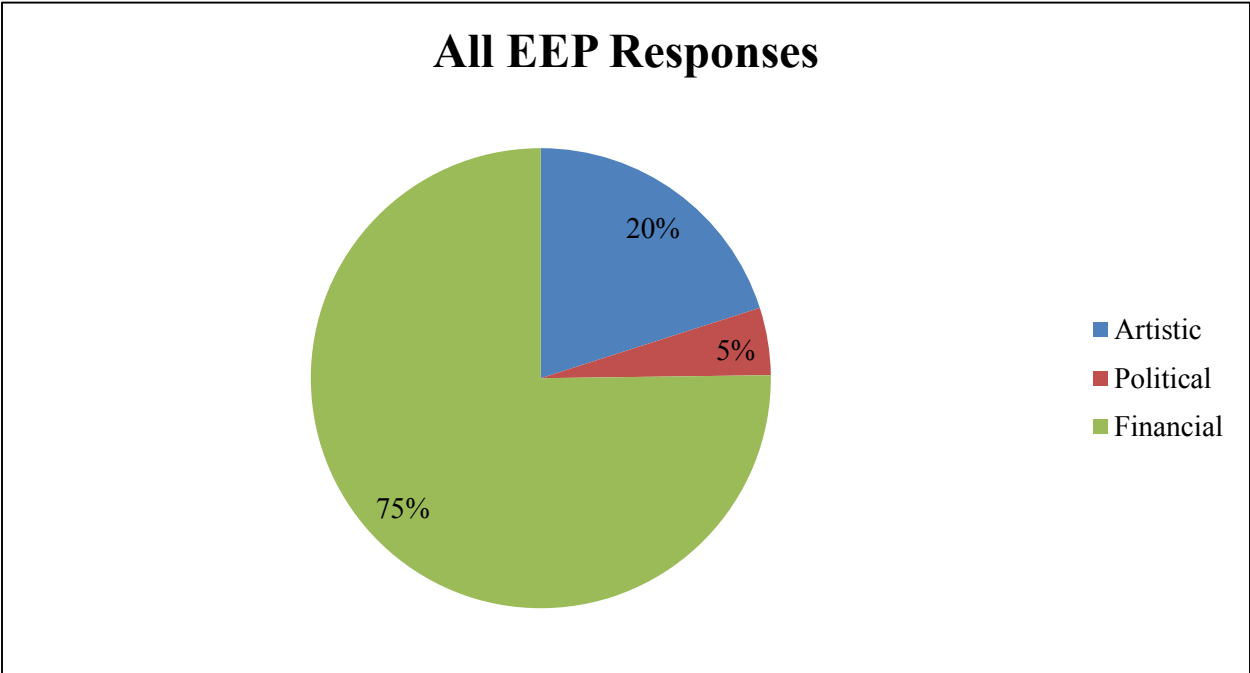


Figure F.13 All Stakeholder’s EEP Responses Related to Value

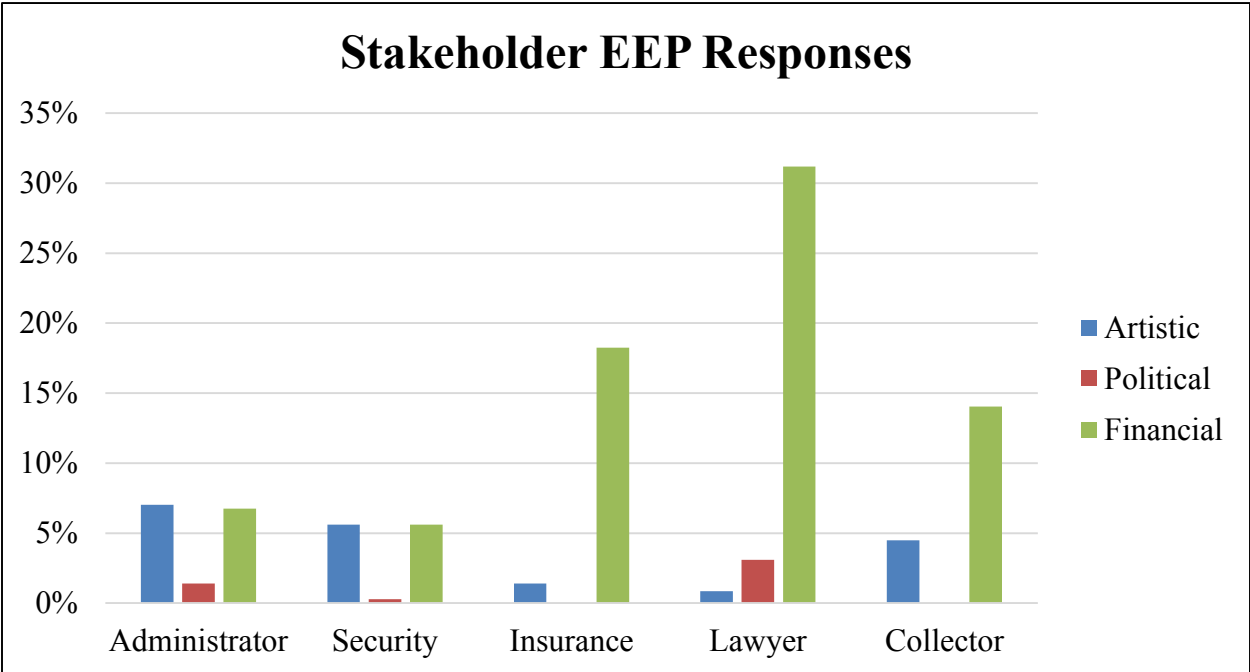


Figure F.14 All NEP Responses for Value Categorized by Stakeholder

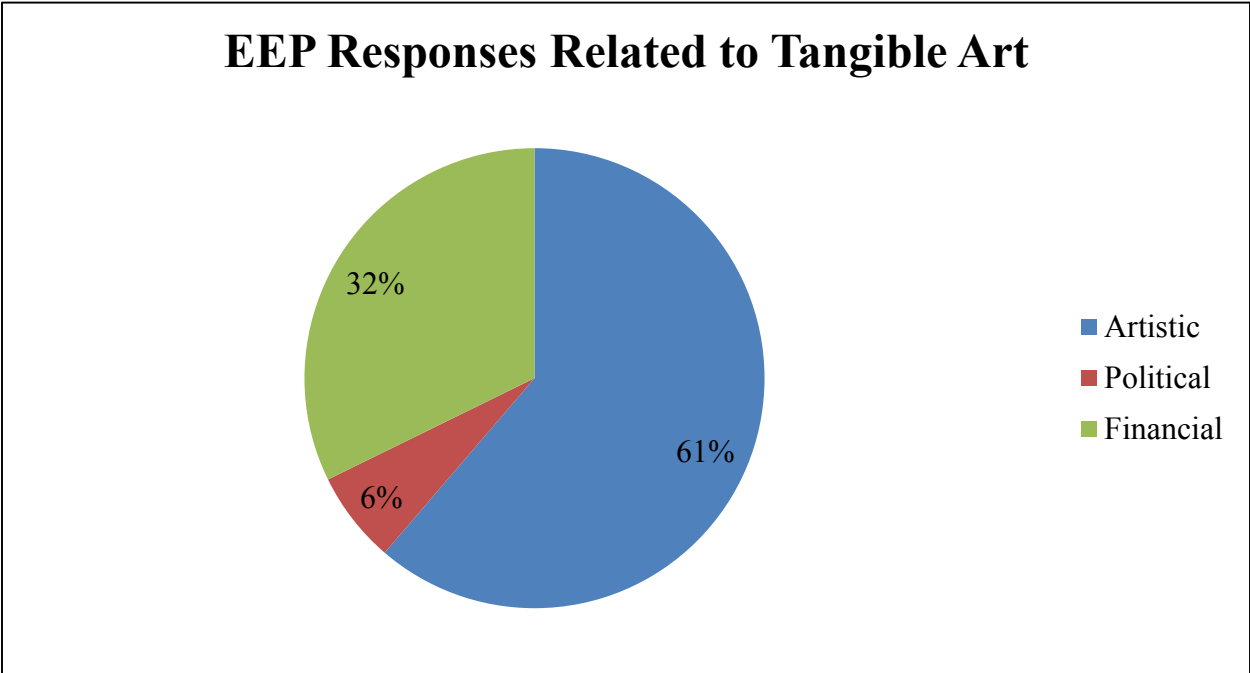


Figure F.15 All Stakeholder’s EEP Responses for Tangible Art

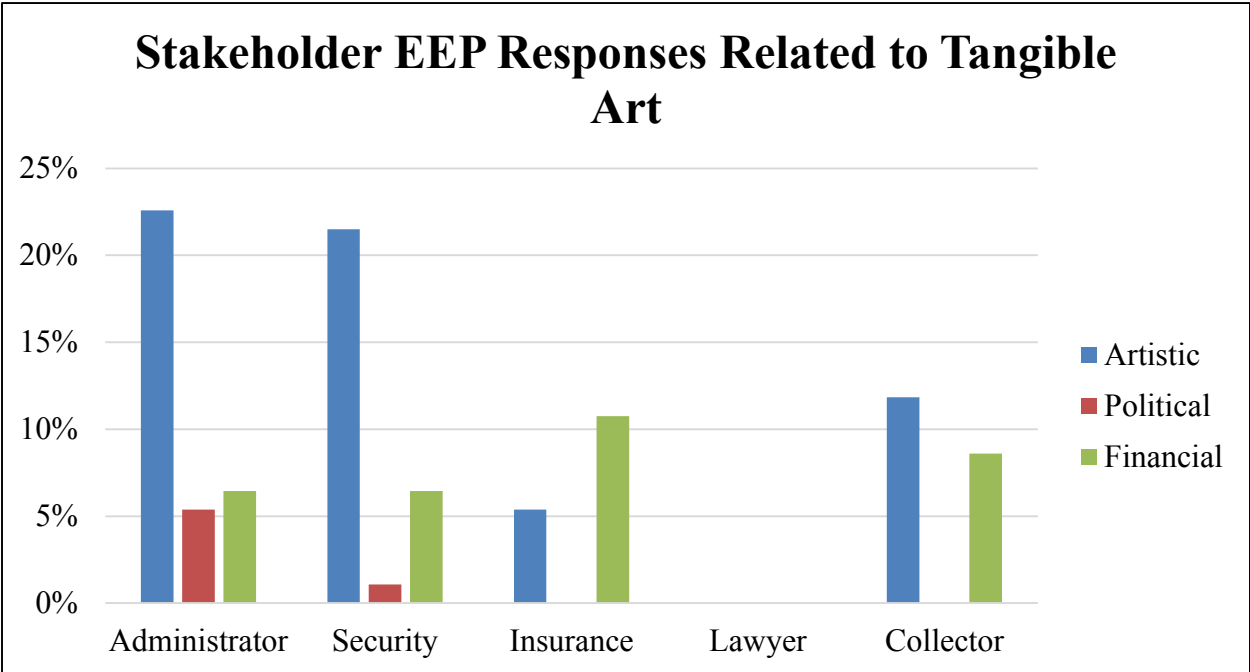


Figure F.16 All EEP Responses for Tangible Art Categorized by Stakeholder

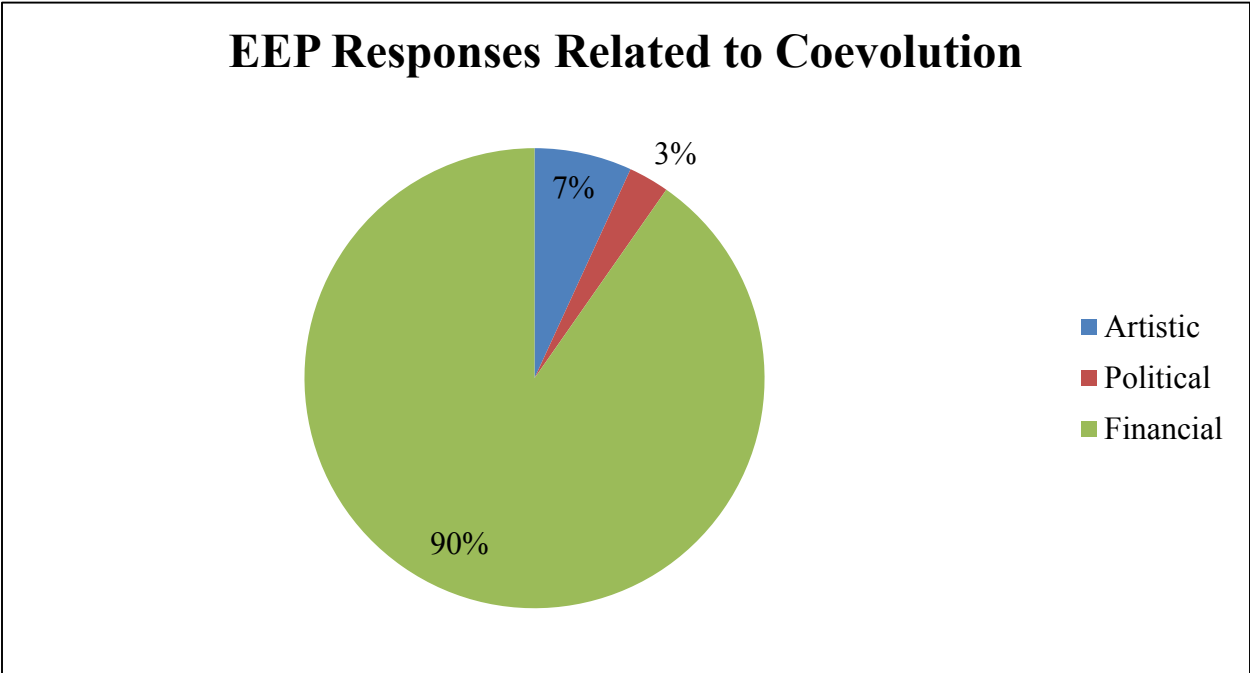


Figure F.17 All Stakeholder’s EEP Responses for Coevolution

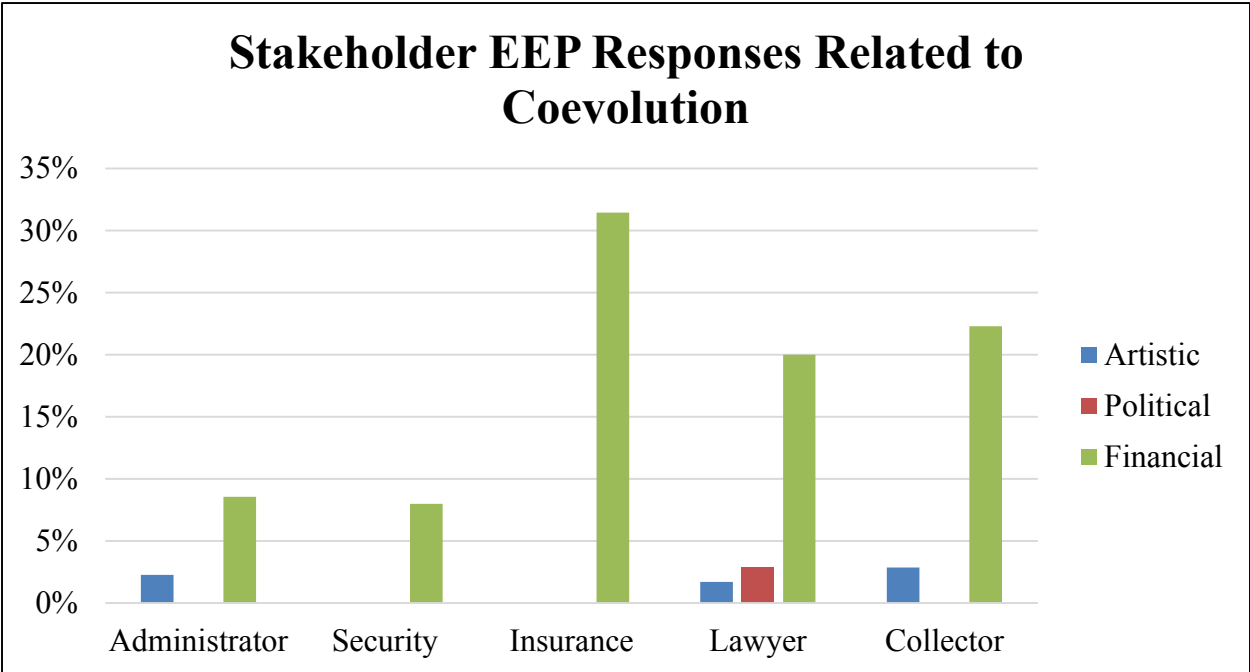


Figure F.18 All EEP Responses for Coevolution Categorized by Stakeholder

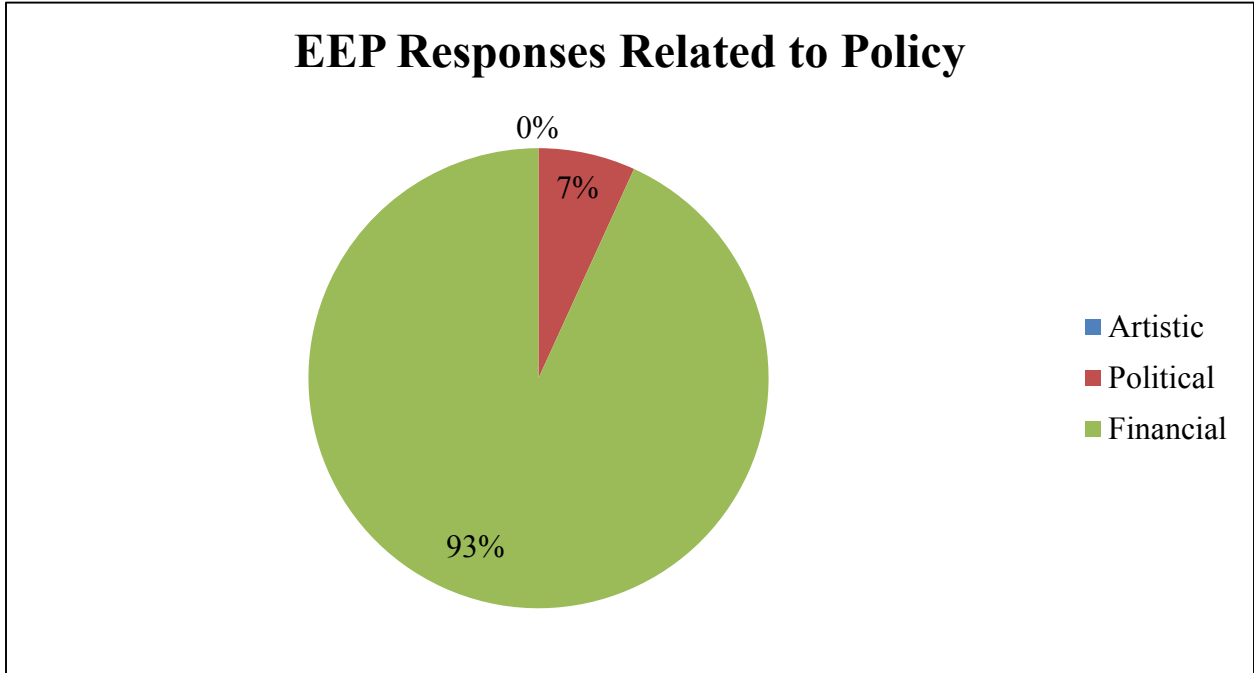


Figure F.19 All Stakeholder's EEP Responses for Policy

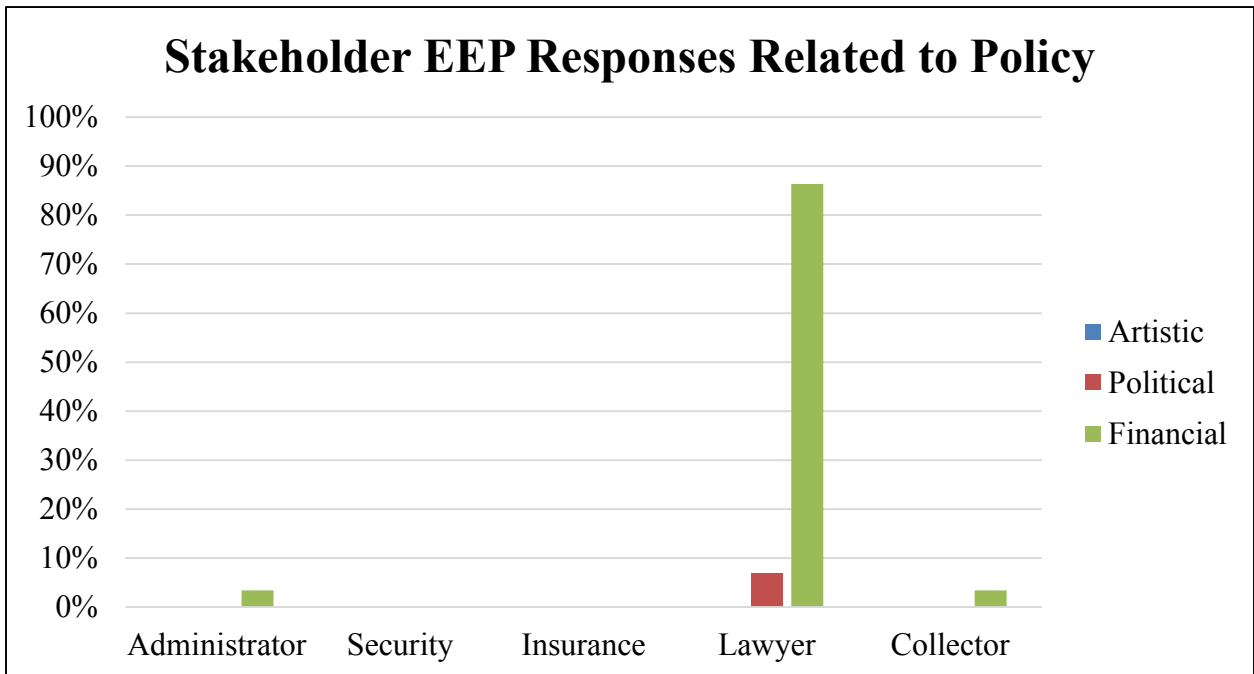


Figure F.20 All EEP Responses for Policy Categorized by Stakeholder

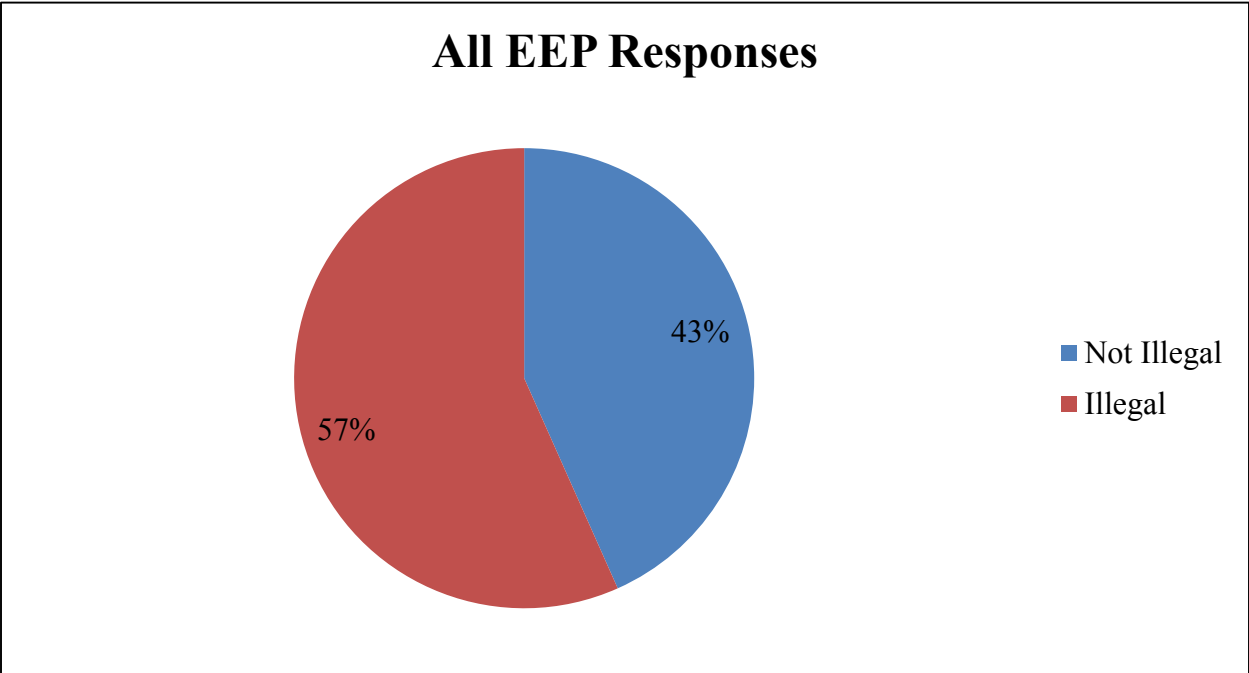


Figure F.21 All Stakeholder Responses for Illegal versus Not Illegal

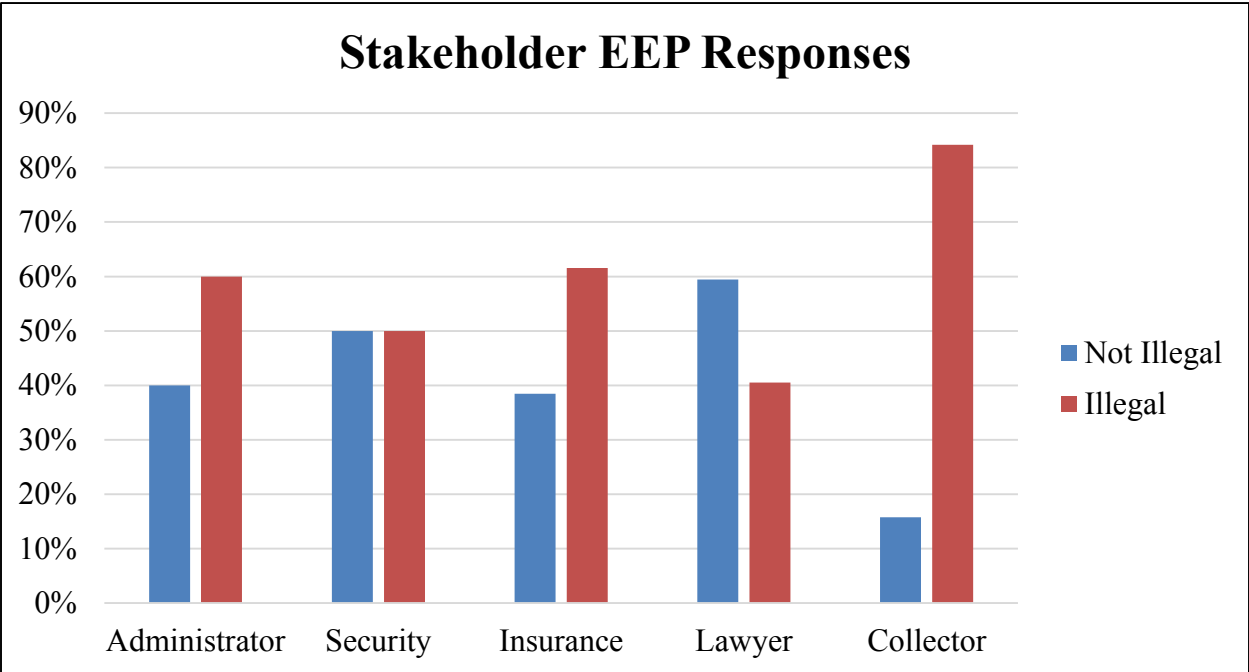


Figure F.22 All Responses for Illegal versus Not Illegal Categorized by Stakeholder

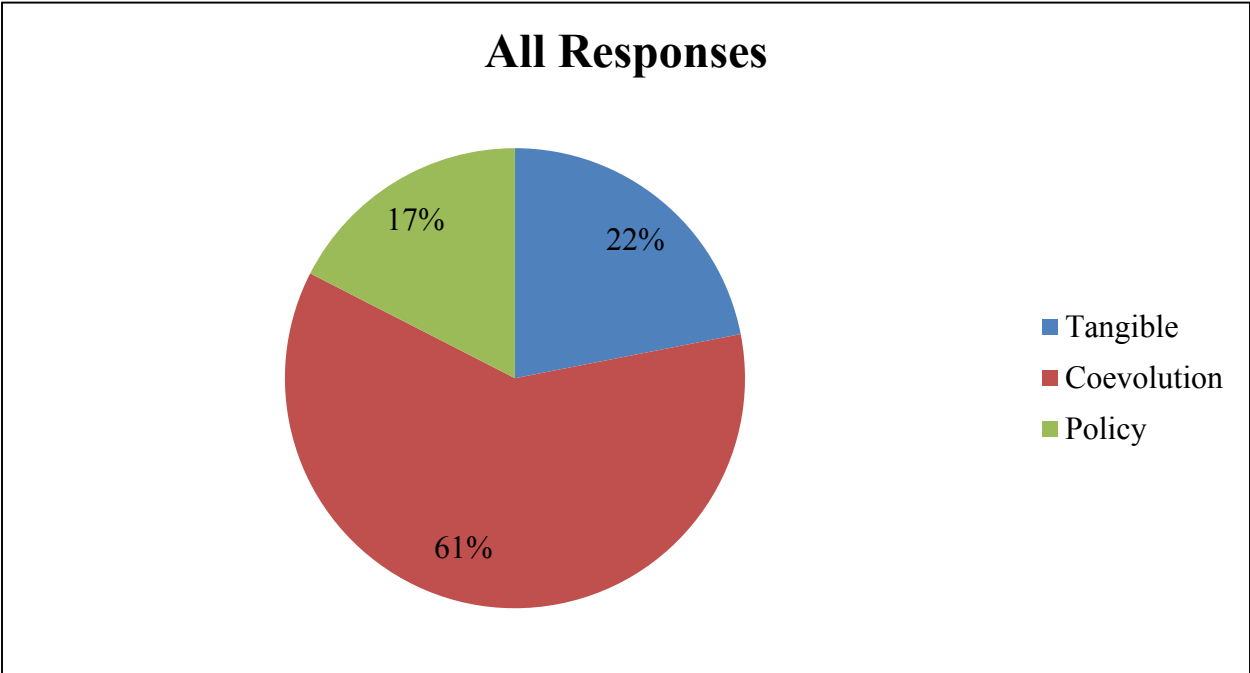


Figure F.23 All Stakeholder’s Responses Categorized by Tangible, Coevolution, and Policy

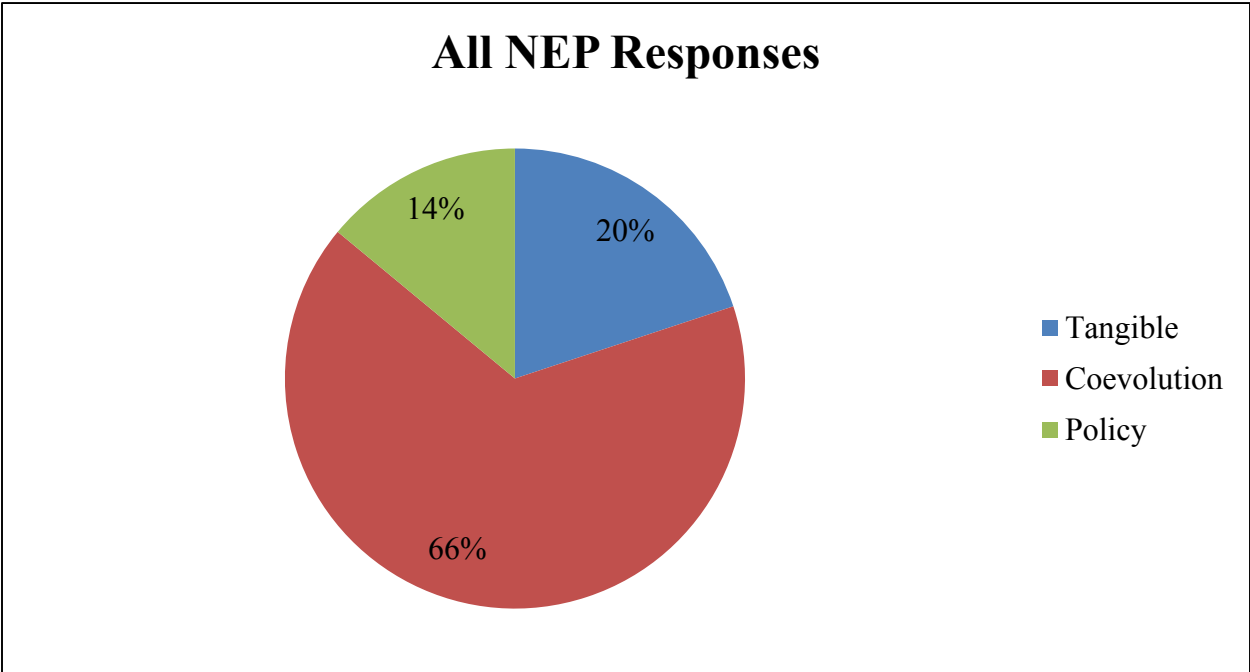


Figure F.24 All Stakeholder’s NEP Responses Categorized by Tangible, Coevolution, and Policy

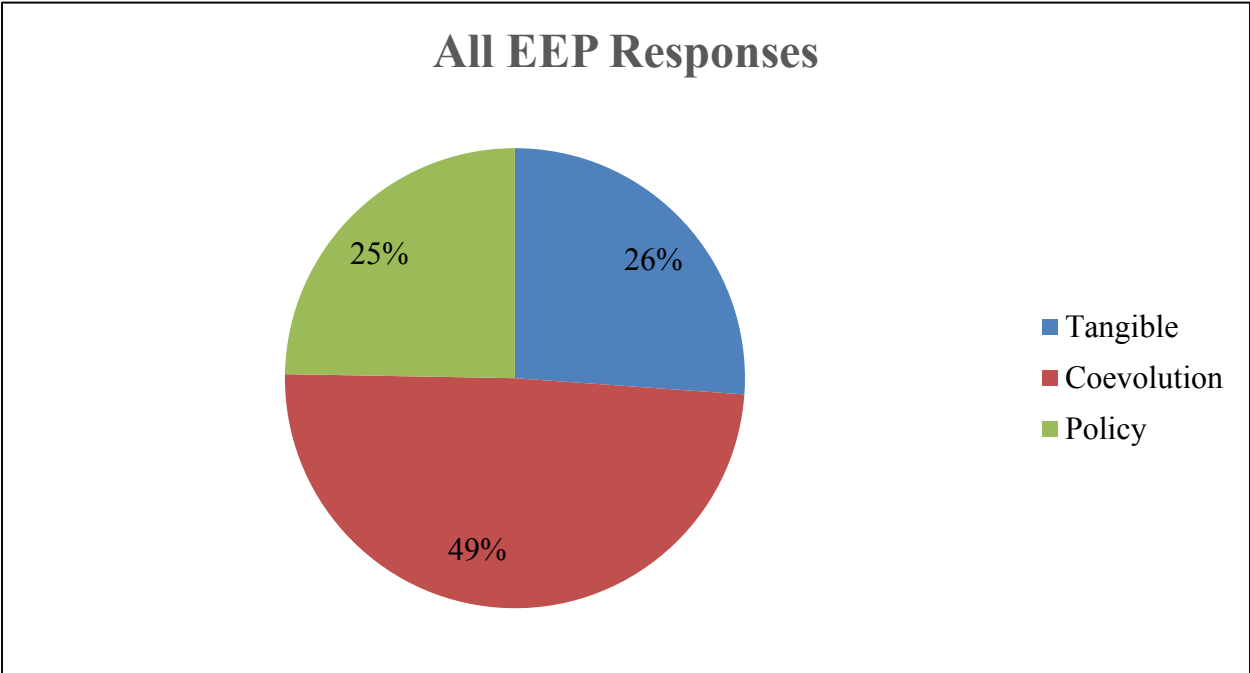


Figure F.25 All Stakeholder’s EEP Responses Categorized by Tangible, Coevolution, and Policy

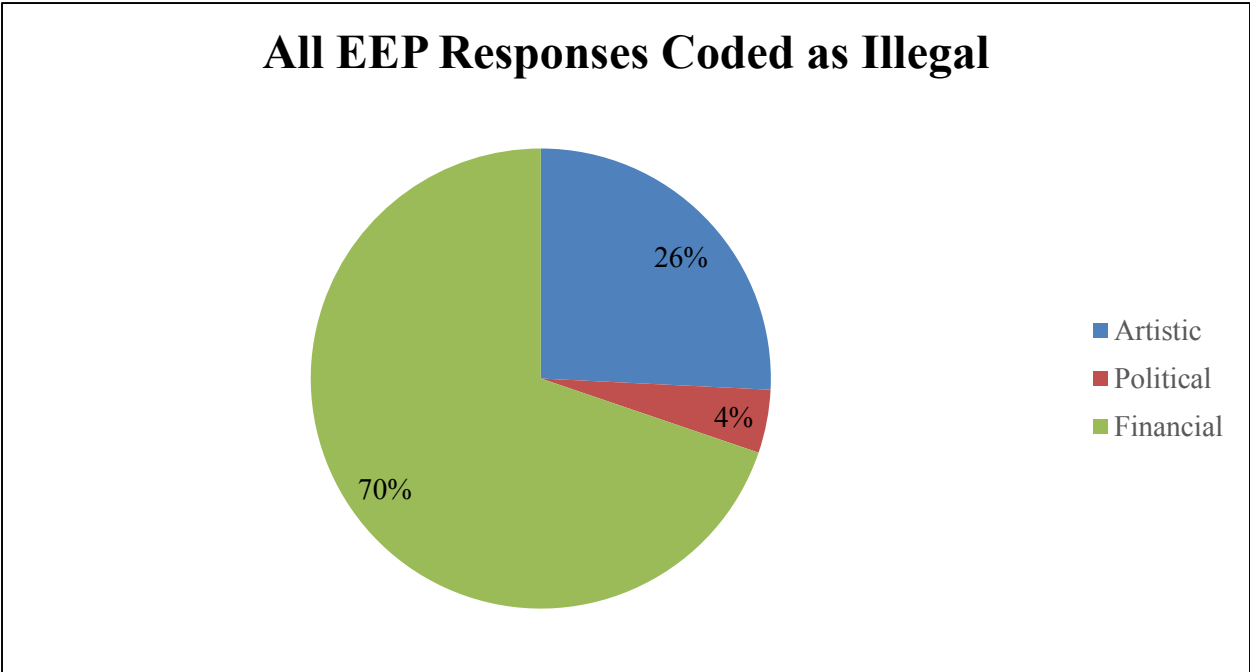


Figure F.26 All EEP Responses Coded as Illegal

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BIOGRAPHICAL SKETCH

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