



Conference of the Australasian Branch of the
International Association of Auto Theft Investigators

*"Gone in 60 Seconds" but a life-time in the making -
Auto Theft and the Causes of Crime*

by

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*"Gone in 60 Seconds" but a life-time in the making -
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Introduction

I am honoured to have been invited to address this conference of the Australasian Branch of the International Association of Auto Theft Investigators and delighted to welcome all delegates to that conference to Perth. I particularly welcome those who have travelled long distances to attend the conference and trust that your stay in our beautiful city makes your journey worthwhile. Unfortunately there is good reason for Western Australians to pay particular attention to auto theft and its repercussions, given the recent upward trend in offences of that kind in this State.

Acknowledgement

I commence by acknowledging the traditional owners of the lands on which we meet - the Whadjuk people who form part of the great Noongar clan of south-western Australia, and pay my respects to their Elders past and present and acknowledge their continuing stewardship of these lands. Visitors to Western Australia may not be aware that the place at which we meet is of particular significance to the Whadjuk as we meet on land which was either reclaimed from, or adjacent to the river known to the Whadjuk as the Derbarl Yerrigan, and which we know as the Swan River. That river, and other freshwater bodies on the sandy plain between the scarp and the sea are of particular significance to the Whadjuk, as the birthplace and home

¹ I am indebted to Dr Jeannine Purdy for her very considerable assistance in the preparation of this paper, although responsibility for the opinions expressed, and any errors, is mine.

of the Wagyl, a serpentine creature of particular significance in their spirituality.

"Gone in 60 seconds"

Part of the title of this paper has been taken from the title of a film produced by Jerry Bruckheimer and starring Nicolas Cage and Angelina Jolie, which was released in 2000. For those who don't know of it, the plot centres on retired master car thief Randall "Memphis" Raines, who gave up on a life of crime because of the negative influence it was having on his younger brother Kip. However, Kip nevertheless follows in Memphis' footsteps and a mobster threatens to execute him unless Memphis steals 50 cars specified by the mobster and Memphis decides to do it in one night. Perhaps predictably the last segment of the film involves a protracted police chase of Memphis after he was caught in the act of stealing a 1967 Ford Mustang Shelby. Perhaps equally predictably, the bad guy is killed, the stolen cars are returned to police, and the wayward Kip buys Memphis a rusty old Mustang in gratitude, thereby demonstrating his return to the straight and narrow path.

As I am sure you would all be aware, the reality of car theft is rather different to the glamorised Hollywood version - not least because cars are often stolen in much less than 60 seconds - a relatively recent UK report suggests that in the UK the average time taken to steal a car is around 10 seconds.²

² Alan Jones, 'Gone in 60 seconds? Cars now stolen in just 10 - six times faster than 10 years ago' (UK) *Mirror* (30 December 2012).

Theft of the means of transportation - a brief Australian history

It is interesting to note that there is nothing new about the theft of the dominant means of transportation in any community, and in Australia, offences of that character helped shape the early history of our nation.

Mary Reibey

A portrait of Mary Reibey graces the Australian \$20 note. She is represented as a bespectacled benign aunt or grandmother. However, her contribution to the development of the colony of New South Wales only came about because she was transported to the colony in its early days after being convicted of stealing a horse at the age of 13. As usual, there are differing accounts of the offence. In her official biography it is asserted that:

The whole episode which resulted in her conviction as a felon at the age of 13 and transportation to New South Wales was probably no more than a high-spirited escapade attributable to lack of parental control, for her parents were dead and she lived with her grandmother.³

This attribution of her offence to lack of parental control has a contemporary resonance, given the frequency with which car theft by juveniles and young adults is often associated with family circumstances, perhaps more dysfunctional than those in which Mary was raised.

A blunter version of Mary's offence is provided by the Mary Reibey Institute:

³ G P Walsh, 'Reibey, Mary (1777–1855)' *Australian Dictionary of Biography* (1967) at: <http://adb.anu.edu.au/biography/reibey-mary-2583/text3539>

After her parents died, Mary's grandmother raised her and sent her to be a house servant. However, she ran away from her employer and, dressed as a boy, was arrested for stealing a horse.⁴

Mary's subsequent history provides a good illustration of the beneficial consequences which flow from rehabilitating young offenders. Mary Haydock was transported to Australia on the *Royal Admiral* arriving in October 1792. During her journey she met Thomas Reibey, a young Irishman who was then in the service of the East India Company. They married in 1794 when Mary was 17. They developed farming property in the Hawkesbury area before Thomas entered the world of trade, in which he prospered. He and his partner purchased vessels which engaged in trade with the Pacific islands, and with the settlements on Tasmania before he died in 1811 of a lingering illness. After his partner died a month later, Mary Reibey was left with seven children and total control of a diverse business empire which included hotels and various trading enterprises.⁵ However, it seems that her rehabilitation was not entirely complete, as in May 1817, at the age of 40, she was found guilty of assaulting one of her debtors.⁶ It may also be that her portrait on our currency depicts a rather benign view of a woman who appears to have been fairly hard-nosed commercially.

At all events, Mary became a very prominent business woman within the colony, and took a philanthropic interest in the church, education and works of charity generally.

⁴ Mary Reibey Institute, 'Mary Reibey' available at: <http://www.reibeyinstitute.org.au/about/mary-reibey/>

⁵ Note 3.

⁶ Note 3.

Moondyne Joe

Closer to home, Moondyne Joe is about as close as Western Australian history gets to a colourful charismatic bushranger. After being transported to Western Australia for the theft of food, he commenced his criminal career in Western Australia with the theft of a horse, although accounts of his offence vary. On one version, after being arrested for branding an unmarked horse, he escaped taking the "evidence" with him – re-stealing the horse, although in another version it is said that he stole the horse of the resident magistrate.⁷

The notoriety of Moondyne Joe's subsequent criminal career derives largely from his enthusiasm for escaping from custody, as a result of which a special cell was created in Fremantle Prison in order to contain him.

Ned Kelly

Perhaps the most infamous Australian horse thief is Ned Kelly, the eldest son of an Irishman transported to Australia for stealing two pigs. One of Kelly's earliest convictions, earned at the age of 17, was for horse stealing for which he was sentenced to a term of imprisonment for 3 years. After serving that term, he worked for a couple of years before joining his stepfather in (once again) stealing horses.⁸ In an early example of what today might be called "rebirthing", the Kellys used advances in technology to rebrand horses without the trouble of making special brands - rather, they used iodine

⁷ 'Moondyne Joe' WANowandThen (23 July 2014) at <http://www.wanowandthen.com/Moondyne-Joe.html>

⁸ John V Barry, 'Kelly, Edward (Ned) (1855–1880)', *Australian Dictionary of Biography* (1974) at: <http://adb.anu.edu.au/biography/kelly-edward-ned-3933/text6187>

to burn new branding marks onto the skin of the horse,⁹ just as contemporary thieves have found ways of altering vehicle identification numbers.

Ned Kelly's criminal career started and ended with horse stealing, as horse stealing was one of the offences amongst others of murder and outlawing that led to his execution at the age of 25.

Horse stealing generally

The three examples I have chosen are symptomatic of the proliferation of horse stealing in the early days of the colony. As George E Boxall noted in his *History of the Australian Bushrangers*:

No doubt many of the bushrangers were captured and punished as horse-stealers. The two crimes have always been intimately related in Australia. Horses were a necessity to bushrangers, and a man who would steal a horse would not be likely to hesitate to stick up an unarmed man if money or gold might be obtained by that means, and they were quite as liable to be arrested while stealing a horse as when robbing a man. For two or three years it was almost impossible for any honest man to keep a horse.¹⁰

Punishment and deterrence

This historical interlude illustrates an issue of contemporary relevance relating to the relationship between punishment and the prevalence of offences. As Boxall wrote more than 100 years ago:

Australians still strive to abolish brutal crimes by punishments no less brutal, although the history of the colonies affords such ample evidence of the futility of these means.¹¹

Neither transportation nor substantial terms of imprisonment under a brutal prison regime appear to have had a significant effect in

⁹ George E Boxall, *History of the Australian Bushrangers* (1899) at: <http://gutenberg.net.au/ebooks12/1201551h.html>

¹⁰ Ibid.

¹¹ Ibid.

discouraging horse theft in the colonial days. For reasons which I will develop below, there is reason to think that a majority of contemporary motor vehicle thefts are committed in circumstances in which increasing levels of punishment, even significantly, are unlikely to deter offenders.

Motor vehicle theft in Australia

Long-term trends

As delegates to this conference will be well aware, the rate of motor vehicle theft in Australia has declined very dramatically over the last 20 years or so. For example, in 1995-96, 126,871 vehicles were stolen throughout Australia.¹² By contrast, in 2013-14, 53,953 vehicles were stolen.¹³ When account is taken of the significant increase in motor vehicle registrations over that same period, the decline in the rate of motor vehicle theft is even more remarkable. In 1994-95, the rate of motor vehicle theft reported was 1,205 per 100,000 vehicles,¹⁴ whereas in 2013/14, the equivalent rate was 298 per 100,000 - a decline of 75%.¹⁵ It seems likely that much of this decline can be attributed to significant improvements in the security of motor vehicles including the mandatory installation of immobilisers. However, for reasons which I will develop a little later, those technological developments have had other less desirable consequences.

¹² Karl Higgins, 'Exploring Motor Vehicle Theft in Australia', *Trends & issues in crime and criminal justice* (February 1997) 1.

¹³ National Motor Vehicle Theft Reduction Council, Dashboard: '1.1 AUS – Motor Vehicle theft summary, 2009/10 to 2013/14' at: <http://ncars.on.net/dashboard.aspx#tab1>

¹⁴ Note 12, 3.

¹⁵ Note 13.

Medium term trends

The same trend is evident in the medium term. Drawing from the data maintained by the Australian Bureau Statistics provided by victims of crime, between 2001 and 2009 motor vehicle theft declined by 57%.¹⁶

Short-term trends

A more modest rate of decline is evident in the national figures for the last four years, over which the total number of motor vehicle thefts around Australia decreased by 8.6%, and the rate per 1,000 registrations declined from 3.59 to 2.98.¹⁷

Recent trends in Western Australia

However, the short-term trend in Western Australia has moved in the opposite direction. According to figures from the National Motor Vehicle Theft Reduction Council, between the year ended 30 June 2010 and the year ended 30 June 2014, motor vehicle thefts in this State rose from 6,223 to 8,889, or in rates per 1,000 registrations, from 3.25 to 4.05.¹⁸ Other sources of data display similar trends - an increase from 6,245 in 2009-10 to 8,499 in 2013-14.¹⁹ These figures are consistent with ABS data drawn from victims of crime, which report a significantly higher victimisation rate for Western Australians in relation to motor vehicle theft (1.1%) than for Australia overall (0.6%).²⁰ A similar contrast exists in relation to victimisation rates for theft of items from motor vehicles in which the Western Australian

¹⁶ Rick Brown, 'Explaining the property crime drop: The offender perspective', *Trends & issues in crime and criminal justice* (February 2015) 1.

¹⁷ Note 13.

¹⁸ *Ibid.*

¹⁹ WA Police, Monthly Verified Crime Statistics: 2009/10 & 2013/14 'Western Australia'.

²⁰ Australian Bureau of Statistics (ABS), 4530.0 – Crime Victimisation, Australia, 2013-14, 'Victimisation experiences in Western Australia'.

rate of 5.3% is significantly higher than the overall Australian rate of 2.9%.²¹

It is not clear to me why recent experience in Western Australia should run counter to the Australian trend, or to previous medium term and long-term trends in Western Australia. I would be very interested to hear whether any delegates to this conference are able to proffer any explanation for this worrying local trend.

Recovery rates

Data showing the proportion of stolen motor vehicles recovered provides information which is useful in a number of respects. First, it provides some indication of the extent of motor vehicle theft that is motivated by profit. Motor vehicles that are stolen and altered so as to obscure the fact that they are stolen before being on-sold are unlikely to be recovered. Conversely, if the motor vehicle is recovered, it is significantly more likely that the motivation for the theft was opportunistic, rather than a desire for profit by resale. (Unfortunately, of course, although a vehicle might be "recovered" that does not mean it remains roadworthy.)

Identification of the motivation for motor vehicle theft provides some insight into the extent to which offenders are likely to be deterred by increasing levels of punishment. So, participants in a scheme for the sale of vehicles which have been stolen and "rebirthed" are more likely to be deterred by the prospect of higher levels of punishment than offenders who seize the opportunity to steal a motor vehicle

²¹ Ibid.

while skylarking at night and without premeditation or forethought, or perhaps while under the influence of alcohol or drugs or both.

Although there are, of course, temporal fluctuations in recovery rates, over the long-term period to which I have been referring, they have changed from around 85% or 90% to around 70% more recently.²² This nonetheless suggests that profit motivated motor vehicle theft is less significant in the overall incidence of the offence than opportunistic offending. That conclusion is reinforced by data with respect to the time distribution of motor vehicle theft, which shows that the greatest risk for motor vehicle theft is the hours between 10 pm and midnight on a Saturday evening, with other time periods around that time on each of Saturday and Friday night also being times of high risk. The same data shows that the risk of theft is much higher between 4 pm and midnight than at other periods of the day.²³

The proposition that most motor vehicle theft is opportunistic is reinforced by recent research conducted by Dr Natalie Gately in Western Australia.²⁴ That research showed that the most common method by which vehicles are being stolen is first by stealing the car's keys (41%), that the most common location for a car to be stolen was the owner's home (68%), and that fewer than half of those surveyed for the purposes of Dr Gately's study had left their keys in a secure location and not in plain sight while at home (48%).²⁵ This research is significant because, of course, even though a vast majority of cars are

²² Note 12, 3; Note 13, '1.1 AUS – Profit motivated motor vehicle theft summary, 2009/10 to 2013/14', '1.1 AUS – Short term motor vehicle theft summary, 2009/10 to 2013/14'.

²³ Note 13.

²⁴ I note that Dr Gately is to speak at this conference.

²⁵ Edith Cowan University, 'Car keys vital to preventing theft' (Edith Cowan University News, 20 October 2014).

fitted with immobilisers (93%), those devices are useless if the thief has the keys to the car.

Different research by Dr Gately, involving a survey of burglars, found that the majority of those who committed burglaries did so spontaneously via doors or windows which were unlocked, and spent fewer than five minutes entering a property, and that the most common incentives to burgle were valuables being left in clear sight, coupled with a lack of activity around the premises or in the neighbourhood.²⁶

Media reporting of this important study included a report to the effect that the police estimate that about 30% of home burglaries are committed for the purpose of stealing keys and cars.²⁷

Western Australia was one of the first jurisdictions in the world to require immobilisers to be fitted to motor vehicles.²⁸ It seems clear from Dr Gately's research that, as other observers have noted, those devices have "created a new breed of criminal, with two in three passenger vehicles now stolen by 'sneak thieves' who enter homes to obtain car keys before taking the vehicle from the garage or driveway".²⁹ So, to put it bluntly, by using technology to discourage motor vehicle theft, we have inadvertently encouraged home burglary. Consistently with studies in this area, I think most people would find a

²⁶ Natalie Gately, Jennifer Fleming, Nathalie McGinty and Anthony Scott, 'The "oldest tricks in the book" don't work! Reports of burglary by DUMA detainees in Western Australia', *Trends & issues in crime and criminal justice* (October 2014).

²⁷ Phil Hickey, 'Less than half of West Australians leave their car keys in a safe spot', Perth Now (21 October 2014) at <http://www.perthnow.com.au/news/western-australia/less-than-half-of-west-australians-leave-their-car-keys-in-a-safe-spot/story-fnhocxo3-1227097435770>

²⁸ Police Minister Kevin Prince, 'National body follows WA's lead as car theft figures fall' (Media Statement, 15 November 2000).

²⁹ Trevor Paddenburg, 'WA top state for car thefts with a vehicle stolen even [sic] hour' Perth Now (23 November 2014) at <http://www.perthnow.com.au/news/western-australia/wa-top-state-for-car-thefts-with-a-vehicle-stolen-even-hour/story-fnhocxo3-1227131772720>

burglary much more alarming and offensive than the theft of a motor vehicle.³⁰

Motor vehicle arson

A similar observation may be made with respect to advances in forensic technology such as the use of DNA samples to detect offenders. Anecdotal experience suggests that there is a distinct tendency for opportunistic thieves of motor vehicles to attempt to obscure their identity by setting fire to the motor vehicle after they have finished using it. The potential dangers associated with this behaviour are obvious.

Police chases

Attempts to apprehend motor vehicle thieves can have other unintended consequences, most notably deaths associated with police pursuit of stolen vehicles. According to the Australian Institute of Criminology, over the three years between 30 June 2009 and 30 June 2011, there were 39 deaths associated with motor vehicle pursuits in Australia (not all of which would relate to stolen vehicles) - with 11 of those deaths being in Western Australia.³¹ Over the 20 years since 1989-90, there have been 206 deaths associated with motor vehicle pursuits, which accounts for almost 11% of all deaths in custody.³² These figures do not include the deaths of innocent passengers and third parties whose deaths are caused by motor vehicle pursuits.

³⁰ Studies suggest that in approximately 20% of burglary cases, the psychological trauma experienced is extensive (Note 26, 1).

³¹ Mathew Lynneham and Andy Chan, *Deaths in custody in Australia to 30 June 2011 - Twenty years of monitoring by the National Deaths in Custody Program since the Royal Commission into Aboriginal Deaths in Custody* (2013) 116.

³² *Ibid*, 11, 116.

However, this is an area in which modern technology can assist. In Western Australia, police helicopters have been very effective in reducing the need for police to actively pursue motor vehicle thieves at close distance on the ground. The helicopters enable stolen motor vehicles to be followed at a safe distance, and are less likely to cause offenders to drive at excessive speed in order to avoid detection because rational offenders will understand that they can never outride the helicopter.

Reducing motor vehicle theft

As I have noted, it seems likely that the spectacular long-term decline in motor vehicle theft that has been achieved in Australia is to a significant degree attributable to technological developments including most particularly the improved security of contemporary motor vehicles. Although those improvements may have had inadvertent unintended consequences, in terms of home burglary, the extent of the reduction in motor vehicle theft has been extraordinary. However, shorter term trends suggest that the benefits of these technological advances may have largely been harvested, and that further significant inroads in relation to the prevalence of motor vehicle theft must address opportunistic offending of the kind described by Dr Gately.

Dr Gately's research shows the relative ease with which houses can be burgled for the purpose of stealing keys which are used to steal a car. One response to that research would be to suggest that residents must be more vigilant in securing their houses or in obscuring the location of their car keys. The question which this poses is whether we, as a community, should be intimidated into changing our manner and style

of life by the threat of crime. That question in turn raises a related question - namely, whether there are other means by which opportunistic crimes of this kind might be prevented, such as by increasing levels of punishment.

Punishment as a deterrent

I have already noted Boxall's assessment of the ineffectiveness of punishment as a deterrent to horse theft more than 100 years ago. More sophisticated views, to the same effect, but drawn from recent research and analysis have been expressed by the Victorian Sentencing Council:

the research ... indicates that increases in the severity of penalties, such as increasing the length of terms of imprisonment, do not produce a corresponding increase in deterrence.

It has been suggested that harsher penalties do not deter because many crimes are committed in circumstances where it is difficult to identify when, or if, offenders have considered the consequences of their criminal behaviour. In addition, otherwise rational individuals are more strongly influenced by the perceived immediate benefits of committing crime and individuals "discount" the cost of future penalties.

A consistent finding in deterrence research is that increases in the *certainty* of apprehension and punishment demonstrate a significant deterrent effect. Perceptions about the certainty of apprehension, for example, may counter the "present bias" and reinforce the potential cost of committing crime. This result is qualified by the need for further research that separates deterrable from non-deterrable populations.

Research into *specific* deterrence shows that imprisonment has, at best, no effect on the rate of reoffending and often results in a greater rate of recidivism. Possible explanations for this include that: prison is a learning environment for crime, prison reinforces criminal identity and may diminish or sever social ties that encourage lawful behaviour and imprisonment is not the appropriate response to many offenders who require treatment for the underlying causes of their criminality (such as drug, alcohol and mental health issues). Harsh prison conditions do not

generate a greater deterrent effect, and the evidence shows that such conditions may lead to more violent reoffending.³³

So, increases in the perception of the likelihood of apprehension are more likely to discourage offending than increases in the levels of punishment. Or, in other words, effective police action is more likely to discourage motor vehicle theft than longer terms of imprisonment. Although forensic technology can have adverse effects, as I have noted, clearance rates for burglary and motor vehicle theft (11.4% and 26.1% respectively in Western Australia in 2013/14³⁴) suggests that there may be room for innovative technology to improve rates of detection and clearance, and consequently increase the deterrent effect of punishment.

Stolen Vehicle Rapid Response Initiative (SVRRI)

An example of the way in which technology can assist in improving rates of detection and clearance is the Stolen Vehicle Rapid Response Initiative (SVRRI).³⁵ In December last year, the National Motor Vehicle Theft Reduction Council, together with WA Police and the Royal Automobile Club of Western Australia, announced an Australian first programme to help the owners of vehicles identified as being at higher risk of "theft by key" in the Perth area. The SVRRI will see up to 1,000 high risk vehicles covertly fitted, free of charge, with a vehicle tracking device enabling the owner to track the vehicle by a special Smartphone application in the unfortunate event of being stolen. As soon as the owner reports the theft to WA Police, police

³³ Sentencing Advisory Council, *Does Imprisonment Deter? A Review of the Evidence* (April 2011) 2.

³⁴ WA Police, Monthly Verified Crime Statistics: 2013/14 'Western Australia'. WA Police advise the sanction rate is no longer a measure for WA Police (WA Police, Monthly Verified Crime Statistics: 2014/15 'Western Australia' as at 13 February 2015).

³⁵ National Motor Vehicle Theft Reduction Council, 'Stolen Vehicle Rapid Response Initiative (SVRRI)' (News, December 2014) at: <http://carsecuritybeginsathome.com/latest-news>

will also be able to track the vehicle with the aim of safely monitoring its movements and apprehending the offender. The trial is to be by invitation only, by approaches to owners of vehicles in the "high risk group".

Of course, the advantage of this type of technique is that thieves will never know which vehicles have been fitted with a tracking device. If the devices prove to be effective in tracking and detecting offenders, it can be fairly assumed that the perception of the likelihood of apprehension will increase amongst prospective offenders with increased deterrent effect, at least among the group which the Victorian Sentencing Council describes as "deterable" offenders - that is, offenders who rationally evaluate the possible consequences of their actions. Research on the relative proportion of offenders who fall within this category would be interesting. Anecdotal experience suggests that rational evaluation of the likely consequences of motor vehicle theft is not a dominant characteristic of the opportunistic crimes described in Dr Gately's research.

Influences outside the criminal justice system

There is a tendency for those engaged in the criminal justice system, and, I suspect, the general public to focus upon that system as the appropriate mechanism through which to respond to crime. However, there is a respectable body of opinion to the effect that other factors may be more significant. For example, Dr Rick Brown³⁶ has observed, in relation to property crime generally, that the effect of

³⁶ Who is also to speak at this conference.

income may be much greater than criminal justice variables.³⁷ He refers to a study which suggests that:

the effects of income on crime are far larger than those of the criminal justice system. This suggests that measures that affect the economic well-being of the community provide more potential leverage over crime than measures that influence the risk of arrest or the severity of the punishments imposed on offenders.³⁸

These suggestions are consistent with the experience of those who work within the criminal justice system, such as myself, which strongly suggests that economic and social disadvantage are closely associated with criminal behaviour. It is I think no coincidence that Aboriginal people who are so significantly over-represented in the criminal justice system and prisons of this country, are also significantly over-represented amongst our most marginalised and disadvantaged communities.

There is however an apparent anomaly between this view of the aetiology of property crime, and the rise in car thefts over the last 4 years in Western Australia, which were times of unprecedented economic prosperity. I think that anomaly is more apparent than real. One of the consequences of the recent economic boom in this State has been to widen the gap between the well to do and the indigent.³⁹ Costs like rent, food, water and electricity have risen quickly, making life harder for those who have not tapped into the benefits of the boom and who are likely to be over-represented amongst those stealing cars.

³⁷ Rick Brown, 'Explaining the property crime drop: The offender perspective' *Trends & issues in crime and criminal justice* (February 2015) 2.

³⁸ Wai-Yin Wan, Steve Moffatt, Craig Jones and Don Weatherburn, 'The effect of arrest and imprisonment on crime' *Contemporary Issues in Crime and Justice* (February 2012) 17.

³⁹ See, more generally, Kirsten Martinus, 'Economic Stress in Perth: A Matter of Geography' (2014) *FACTBase* Bulletin 38.

On this view, Dr Brown's suggestion about the influence of affluence is entirely consistent with the recent rise in car thefts in this State.

These observations suggest that significant further reductions in the prevalence of motor vehicle theft will require us to address the causes of crime generally, and in particular the marginalisation and disadvantage of a relatively small proportion of our community. That proposition is well illustrated by a tragic case heard by the Court of Appeal of Western Australia last year.⁴⁰

The case was an appeal by a young (21 year-old) Aboriginal woman from the Pilbara whose childhood was characterised by dysfunction, dislocation, physical abuse, sexual abuse and exposure to substance abuse. She suffers from significant intellectual impairment and cognitive disability. She is almost completely illiterate and innumerate. Despite the history which she has given of alcohol abuse by her mother, she has never been assessed in order to determine whether she suffers from foetal alcohol spectrum disorder. She has never gained employment and lacks the skills to obtain any form of employment. She is particularly vulnerable to anxiety and stress which has been attributed to her traumatic upbringing.⁴¹

Her first recorded intersection with the criminal justice system occurred when she was 16 years old, when she drove an unroadworthy vehicle without holding a driver's licence. When she was a little under 18 years of age, she stole a motor vehicle and drove it without holding a driver's licence. This became a behavioural pattern, under which it was her practice to steal motor vehicles in order to get home, or go to

⁴⁰ *AH v The State of Western Australia* [2014] WASCA 228.

⁴¹ *AH v The State Of Western Australia* [2014] WASCA 228 [2].

other places, because she had no other means of transport. Although on one occasion she was severely intoxicated when she stole the vehicle, and posed a threat to herself and others, on most occasions her offences did not create any dangers to others, although they were obviously extremely disruptive to those whose motor vehicles were stolen.

As the Court of Appeal observed, the causes of AH's offending behaviour were obvious and stemmed from her traumatic childhood and physical and mental disabilities. Treatment and care was much more likely to be effective than punishment in discouraging her from reoffending. Unfortunately, she did not receive the treatment and care which should have accompanied various community-based orders made by the courts in an attempt to modify her offending behaviour, and she was eventually incarcerated, the stress of which caused her condition to deteriorate to acute psychosis which resulted in her involuntary detention at a secure psychiatric facility.

This case provides a graphic example of the ways in which a focus upon the causes of crime can reduce the incidence of crime. We have been spectacularly successful in reducing the prevalence of motor vehicle theft in this country over the last 20 years. In my view, further reductions in the prevalence of this type of crime are most likely to be achieved by increasing clearance rates⁴² and, in the longer term, getting better at addressing the causes of crime, including the identified needs of particular offenders.

⁴² That is, the rate of detection.