

SENIOR CONSTABLE UPSTON

Q1 This is an electronic record of interview between Senior Constable David Upston on the, from the Sydney Water Police and Robert Green at the Tuggeranong, Canberra office of his practice. The date is the 20th of the 7th, '99 and the time on my watch is now 4.45pm. Also seated to my immediate left is Detective Senior Constable Gray from Bega Detectives. Robert, for the purpose of the interview, could you please state your full name?

A My full name is Robert Vivian Green - - -

Q2 And - - -

A - - - and I live at 77 Brereton Street, Garran, A.C.T.

Q3 And your date of birth?

A 25th of June, 1945.

Q4 And your occupation?

A I'm a solicitor.

Q5 O.K. Robert, as I explained to you prior to conducting the interview, Detective Senior Constable Gray and I are making inquiries into the 1998 Sydney to Hobart Yacht Race and in particular we've been brought here to talk to you today, that we received information that you were the owner of a vessel and participated in the race. Is that correct?

A That's correct.

Q6 And what was the name of your vessel?

A The name of the boat is Gundy Grey. Gundy Grey's an Adams 40, it's a steel hulled cruising yacht, centre cockpit and aft cabin.

Q7 O.K. And we understand that you had some difficulties with a life raft. Is that correct?

A That's correct.

Q8 O.K. And that's what basically we'd like to talk to you about today. How long have you owned Gundy Grey?

A I bought it in August 2 years ago, just on 2 years.

Q9 And who was the previous owner?

A The previous owner was Brian Raye and I bought the boat up in Mooloolaba.

Q10 O.K. Now have you participated in any Sydney to Hobart Yacht Races before this?

A No, this was the first Hobart that I'd been in.

Q11 Right. O.K. And your crew, what sort of experience did they have?

A It was varied, our most experienced crewman was a bloke called Colin Lockheed. Colin has done a couple of Hobarts before this one, but he was a member of the Portobello syndicate. Portobello's a Canberra Ocean Racing Club yacht and is owned by a number of people and it regularly does trips up to Lord Howe Island and Noumea and places like that. So Colin's done a number of trips. He's only done two Hobarts, but he's done a number of trips to Noumea, Lord Howe Island and he spent 4 months in a yacht going around New Zealand including 2 months south of Stewart Island down to the

sub-Antarctic islands down there. So Colin was very experienced. We had in addition to Colin three other crew members, all of whom had done Hobarts previously. They had gone down in Portobello the year before. There were seven of us altogether on board. I hadn't done a Hobart before, but I've done a lot of sailing in Sydney and in Canberra. And we had two other crew members both from Brisbane who had limited sailing experience although one of them had been on the boat coming down from Brisbane. When we brought it down from Brisbane, three of us had brought it down from Brisbane and Alan Potts was in the crew, he'd come down from Brisbane, I'd brought the boat down from Brisbane and another fellow had come down from Brisbane but he wasn't part of the crew.

Q12 O.K. All right. So basically there's out of the seven of you - - -

A Mmm.

Q12 - - - there's quite a lot of experience as far as sailing and yachting in general.

A That's right. Yes.

Q13 O.K. Now - - -

A I forgot one of our fellows had also sailed on a yacht out from Italy to Australia. So there's been plenty of experience. I was very aware that when we were meeting the Hobart requirements that I hadn't done a Hobart myself and that it was certainly part of the Hobart requirements that you had to have at least half the

crew had done extensive trips before. So we went out of our way to look for people who'd done, you know, the necessary experience.

Q14 Right. O.K. You're the owner of the vessel?

A Mmm.

Q15 Right. What role did you play on the boat?

A I was skipper and we had Colin Lockheed as navigator.

Q16 Now - - -

A We split the boat into two watches and basically there was watch on, watch off all the way down.

Q17 All right. O.K. Well, now let's, let's talk about a life raft - - -

A Mmm.

Q17 - - - that you had on board. What, what make was that life raft?

A We had a Pacific model R.F.D. life raft which we'd bought in about September, no, it might have been August '97.

Q18 Right. And that - - -

A That life raft had been serviced about 3 months before the race, but in fact, yes, that's right, that's the life raft we took down.

Q19 Right. So that was, that was recently surveyed.

A Yes. It was less than 2 years old, recently, you know, done its annual check.

Q20 Right. And who, who conducted that check?

A R.F.D.

Q21 Right. O.K. And what's the capacity of that life raft?

A Six men.

Q22 O.K. Well, we'll get back to that in a minute, but let's, let's talk about at the moment about the situation where your life raft was washed over the side. Is that correct?

A That's correct.

Q23 O.K. Can you tell us about that?

A Yes. We were about 30 miles I suppose south-east of Gabo, it was about 7 o'clock at night, it was the, you know, the afternoon and evening of the storm and probably it was very close to the peak of the storm. The boat was on starboard tack, it was laying a direct route down to Tasman Island and the boat was on storm jib only, we were doing about 8 or 9 knots and the wind was coming over the beam on the starboard side and the boat was essentially handling things pretty well. We had two of us on deck at that time. I was steering and Shane Russell-Smith was in the cockpit with me and we had five crew members down below. And at about 7 o'clock a, all of a sudden a very large wave swept in from our starboard side and Shane and I could see that it was going to break as it came up to us and it broke, we called out that there was a breaking wave, we don't know whether the people down below heard or not, but Shane and I hung on. I hung on to the wheel and Shane hung on to a stanchion in front of the wheel. The wave

swept over the top of us, it laid the boat flat in the water and as it did so the mast hit the water. We were briefly under water in the sort of flurry at the top of the wave, but after the boat popped up and it came, we were, I suppose the boat was flat for about 5 seconds or so, 5 or 10 seconds and we hung on. We had enough time to think that we'd better hang on to the thing, which we did. The boat came more or less straight up. Once it came up I noticed that the sheet to the storm jib had parted and that left us very temporarily without power in the sails. So we immediately turned the boat downwind, put the stern to the waves and ran off before the storm and I suppose it took us a couple of waves to get up to speed, back up to steerage and full control again. Now as I was turning the boat to run downwind, Shane noticed that the life raft had gone into the water and it then inflated fairly close to the boat and I turned round and could see it there and Shane watched it and the life raft basically parted company from the boat and kept on going and we didn't see it again.

Q24 All right. When, when you said you, you were knocked over.

A Yes.

Q25 All right. And you lay basically on the side.

A Yes. We, we were knocked flat - - -

Q26 Right.

A - - - with the mast hitting the water and then I think it was simply that the breaking wave just laid us flat and once the breaking wave had passed over us the boat came straight upright again.

Q27 Right. Well, just very quickly while we're on that do you recall what the stability index of your vessel is?

A We don't have a stability index for our vessel. When we were meeting the Hobart requirements we got a letter from Graham Radford, who is part of the Adams design team, and his letter to the Hobart committee was to the effect that there's something like 140 Adams cruising around the world and none of them have had a stability problem. They have raced in previous Hobarts and I think the Hobart people accepted the Adams 40 as a known design. Certainly we had no problems from a stability point of view, the boat came up immediately the wave passed us.

Q28 Right. And what category of the race did you enter into?

A We're the P.H.S. division.

Q29 There's a division, P.H.S. division?

A Yeah.

Q30 O.K. All right. Now getting back onto the life raft, the, you said that you were knocked down. When you righted yourself and after gaining composure, you noticed the life raft was not on deck.

A Well, I, it wasn't me, I was - - -

Q31 It was - - -

A - - - basically concentrating on steering the boat.

Q32 Yes.

A And the other crew member on deck was able to look around and he could see immediately that the life raft had gone off and inflated in the water. And he called my attention to it and I turned around and looked at it, but I didn't sort of keep looking at it because I had other things to do.

Q33 All right. O.K. And, and then the life raft parted?

A The, the life raft parted and just kept on going away from the boat.

Q34 Right. Where did the life raft part?

A Well, we have a, a tether attaching the life raft canister to the boat and after the life raft had gone into the water, the canister had gone into the water and life raft inflated, the tether remained attached to the boat but the far end of the tether close to the life raft had broken and allowed the life raft to, you know, get away from us. Now we didn't actually look at that until we got into Bermagui the next day.

Q35 Right. So you've still got that, that lanyard now?

A Yes, I've still got the lanyard.

Q36 And that's in fact what you've got here in front of us?

A Yes. That's correct.

Q37 And, and it shows at one end a 2 and a half to 3 inch diameter plug with a short line attached to it where that would be affixed to a fast - - -

A To a strong point in the boat.

Q37 - - - strong point in the boat.

A So one end of the line is attached to a strong point on the boat - - -

Q38 Yes.

A - - - and the other end of the line is attached to the life raft and towards that end, the life raft end of the tether, there's a pin attachment which pulls the pin on the cylinder which inflates the life raft.

Q39 Right. And there's a, there's a small knot where that's attached and then you can see at the other end a frayed section of the line?

A That's correct.

Q40 And that's where you believe the line parted?

A Yes.

Q41 O.K. Have you got any other comments about that while we're still talking about it?

A No. I, I did go to see R.F.D. about it and we discussed with it as to why the line, you know, the breaking strain on the line. It was my feeling that the, that the life raft having gone into the water should have remained attached to the boat. I'm aware that there's intended to be a weak link in the connection between the boat and the life raft so that if the boat sinks the life raft will remain floating, and in this particular case I understand that the line itself is the weak link and I accept that at some point you've got to have a weak link in the system. R.F.D. and myself discussed it. We tried to work out why the

line may have broken where it did and whether it should be stronger and these sorts of things. We couldn't reach any conclusion as to why it broke at that point. I still feel as though perhaps that strong point should be stronger than it is because in those circumstances I don't believe that the life raft should have parted company from us. Now we've speculated on it and the speculations are that there are bags underneath the life rafts which are designed to catch water to make sure that the life raft is stable, and it was suggested by R.F.D. that possibly when the life raft went out into the water it reached the end of its tether, it began to inflate, the scoops underneath caught on the water and maybe the yacht or the life raft was tugged by a wave which gave the extra pressure necessary to break the line. That's certainly a possibility and we can speculate about it but we can't reach any conclusion on it.

Q42 O.K. All right. Now I'll draw your attention to another piece of apparatus that you have in front of us which is a piece of webbing approximately a metre and a half long stitched in the centre and attached to two
- - -

A Pad eyes.

Q42 - - - pad eyes as we'd call them. In the centre of that there is a piece of cord which, what can you tell me about this?

A Yes. The life raft was mounted on the aft cabin, on top of the aft cabin on the outside of the hull, it's in a location where we can easily get at it and if we need to deploy it we can easily do that. It's secured to the boat by a strap which goes over the top of the life raft which is secured at the front and also secured by a pelican clip to a pad eye at the back. We had two problems with our life raft, one is that it parted company from the boat and the other one that it broke free once it got loose from the boat. So far as parting company from the boat is concerned, we had the installation supplied by R.F.D. These are bits as supplied by R.F.D. It was mounted in chocks supplied by R.F.D. and it was put in by a shipwright. The actual physical work of connecting the thing to the boat was obviously well done, but where the strap was secured to the pelican hook, it was secured by only virtually one venetian blind cord out and back. R.F.D. say that that should have been looped over quite a number of times, that a shipwright should have realised that. The shipwright says he simply used bits supplied by R.F.D. and he supplied only, he did what R.F.D. gave him and nothing more than that. So there's some argument between us and the shipwright as to how that was secured to the pelican cord.

Q43 O.K.

A In hindsight I have no doubt at all that it should have been far better secured and both the shipwright and

myself should have inspected that to make it sure it was stronger. So I'd certainly recommend that people be very careful about the way that life rafts are attached to their boat if they're mounted externally. For our part next time we're going to go down we'll have the same apparatus securing the life raft, we'll certainly secure it more strongly between the strap and the pelican clip and we will probably also put a strap across the boat, not only from fore and aft, just to secure the life raft as strong as possible and in fact probably, and this is what we've been thinking about, we'll have a rope going across the other way and probably have a knife at the life raft so if for any reason the clip catches or we can't get rid of the ropes in some way, we're in a position to have a knife right on the spot to cut it free.

Q44 O.K. In the event of the, the vessel sinking - - -

A Yes.

Q44 - - - you've got your life raft fixed securely and there may be a situation where somebody can't get to the life raft. With the, just for the purpose of the interview the time on my watch is now 5.00pm, the interview is suspended.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

SENIOR CONSTABLE UPSTON

Q45 The time on my watch is, is now 1 minute past 5.00 and this interview has now recommenced as a result of an

earlier phone call. We were discussing on the fixing of the life raft and in the event that the vessel sank and the persons on board cannot get to that life raft for some reason. It would be the case, the way you're talking about having it fixed to the boat, that the life raft would not be able to be deployed. Is that correct?

A Well, that would be true in those circumstances. I suppose that you're suggesting a hydrostatic release of some sort might be appropriate. I don't think so. What we've got is a steel hulled vessel, it's enormously strong, we never had any worry at any stage about the integrity of the hull or anything like that and certainly in our case I, I think that the way it was attached, had it been done properly, it would have been very secure yet, particularly with a knife stationed by it, it would have been always able to be removed easily. So I would prefer to keep systems, you know, relatively simple so that you weren't relying on machinery to work to release the life raft.

Q46 All right. That's fine. Now I'd like to take you back to something we mentioned earlier. For the Sydney to Hobart Yacht Race there is a safety inspection carried out on each boat prior to the race. Is that correct?

A That's correct.

Q47 O.K. And were you present when the safety inspection was carried out on your vessel?

A Yes, I was.

Q48 O.K. And where was that safety inspection carried out?
A At Gladesville.
Q49 And who was that done by?
A Inspector John Hornby.
Q50 Right. And is he, is John Hornby an inspector, a safety inspector for the C.Y.C.A?
A For the A.Y.F.
Q51 For the, right, and that's the Australian Yachting Federation?
A That's correct.
Q52 O.K. Now there's a procedure that's carried out where items are checked and passed. O.K. You told us earlier that you crewed the vessel with seven and in fact the life raft that you went to Hobart in is a six man life raft.
A That's correct.
Q53 Was a six man life raft checked off as an, as a safety inspection or what can you tell me about that?
A Yes. When we did your Cat 1 inspection we had on the boat at that stage, unless it was in R.F.D. for being serviced, we had a six man life raft on the boat. It had been our intention to borrow an eight man life raft to do the Hobart race because we had a crew of seven and I did speak to R.F.D. about whether or not the six man life raft which we had on the boat could be reprovisioned for a seven man life raft and I, R.F.D. told me that in the past they had done that but some years previously Australian yachts had been challenged

when they were racing over in the Kenwood Cup in Hawaii about reprovisioning six man to seven man life rafts, and things like that, and they said no, you couldn't reprovision a six man life raft to turn it into a seven man life raft. So when we knew that we had to borrow the next stage up, which was an eight man life raft, and we'd arranged with a Canberra boat to borrow their life raft and we arranged for that life raft to be serviced by R.F.D. which it was. R.F.D. delivered Portobello's life raft to us on the morning of the race and then on the morning of the race we realised for the first time that the Portobello life raft wouldn't fit into our chocks on our aft cabin. So we had a discussion amongst the crew about whether or not we lash down Portobello's life raft or whether we put our six man life raft back up on the aft cabin in its own chocks. It had been recently serviced to it sort of met the annual requirements and we figured from a safety point of view that we were in fact better off putting our own life raft back on the boat rather than an eight man life raft which didn't actually fit the provision on the boat for one.

Q54 Mmm. How, how, what sort of time elapsed from your safety inspection to the race?

A About 2 months I think.

Q55 O.K. So that's, that's a considerable time.

A Yes. In fact I would imagine though that most boats were in that position - - -

Q56 Right.

A - - - because in order to enter the Hobart the, the procedure is you lodge an application for an entry early in November, and then they post the entry forms out to you late in November and by the end of November you've got to complete your entry including your Cat 1 inspection. So every boat that went down to Hobart would have had a Cat 1 inspection which would have been at least 1 month old and in many cases they probably got their Cat 1 inspection done through the winter.

Q57 O.K. After you had your conversation with the crew and they were in agreeance - - -

A Oh, yes.

Q57 - - - to putting the six man life raft on?

A Yes. We, I can't remember who I talked to about it, but there were two or three of us there because we'd been looking for Portobello's life raft and we were in fact concerned that it wasn't going to show up.

Q58 Right.

A And it only turned up on the morning of the race. But, yeah, we talked about it and we all felt that it was definitely better to have a life raft which was securely mounted.

Q59 Right. You mentioned that there was two or three, what about the other three, did they have any conversation with you in regard to the, the smaller life raft being put on?

A I don't recall.

Q60 O.K.

A All of the crew were there at the time, it's quite possible that every single crew member knew about it.

Q61 Yes. All right. And there was no objection brought up to you though?

A None at all, no, because we talked about it and we knew that the only essential difference between the six and the eight was that the eight had extra food and provisions on board for the extra body and we all figured that if we're bobbing around somewhere off the east coast that we'd be found before we ran out of food anyway.

Q62 Right.

A But in terms of facilities, there's very little difference I think between the six and the eight.

Q63 Is there a size difference do you know?

A Look, I don't know. I think probably the eight is a shade larger but there wouldn't be much in it.

Q64 Right. O.K. So in doing that the safety certificate basically was invalid.

A Well, I wouldn't comment on that. The Cat 1 safety inspection was certainly quite good at the time. I don't know what view anyone would take of changing the life raft, we certainly changed over the life raft because we made a conscious decision, we weighed it up and we thought it was safer to go down the way we were than to put a life raft on deck which although 8 man would not have fitted the chocks.

Q65 Mmm.

A And we think we adopted the safer course of action.

Q66 Right. But - - -

A And in fact safety was the factor that we're talking about when we're talking about this very thing.

Q67 Yes.

A Yeah.

Q68 Yes. But the safety factor that, while we talk about is only that the particular life raft from the other vessel wouldn't fit your chocks.

A That's all it was.

Q69 Yes.

A Yes.

Q70 And that's the only reason why you, you didn't put it on?

A That's right. We had available to us an eight man life raft - - -

Q71 Yes.

A - - - which had been recently serviced and which was available to us - - -

Q72 Yeah.

A - - - but it didn't fit the chocks.

Q73 Right. But do you believe for all intentional purposes that the safety certificate as far as in the, the eyes of the C.Y.C.A. and the A.Y.F. would make it invalid to race?

A I wouldn't really like to comment on that. The purpose of the inspection obviously is to make the boats as

safe as can be and we adopted the course of action which made the boat safer so we think we did the right thing.

Q74 O.K.

DETECTIVE SENIOR CONSTABLE GRAY

..... Dave.

SENIOR CONSTABLE UPSTON

A What about this report that, I wouldn't mind commenting on that.

Q75 Yes. Certainly, O.K. Before us is a survey which has been forwarded to you by in fact myself at the Sydney Water Police requesting that you fill in the survey as a result of some testing that will be conducted in the Australian Maritime College at Launceston in Tasmania. Would you like to comment on that?

A Well, I've received the survey and completed it and thought about the issues of safety ever since this happened, you know, well, after the race the crew members were invited to complete a questionnaire for the C.Y.C.A. We did that and we had a number of the crew members, all the Canberra crew members, to go through that. So we've thought pretty thoroughly about the issue of life rafts and things. We've certainly had our own experience which has forced us to think about them. And in thinking about it we certainly will be well aware of the need to secure a life raft in the future. The more I've thought about it, it's made me think that life rafts are best kept up on deck because

if they are kept below deck certainly our life raft, a six man life raft, is pretty heavy. It would be awkward for one or two people to manhandle below deck. The A.Y.F. requirements are that a life raft must be got, if it's stored below deck it must be able to be kept, got to the lifelines within 15 seconds. And quite frankly I doubt whether any largish life raft could be got from below deck in a yacht at sea in a storm possibly with seasick crew members lying on the cabin sole and possibly with gear scattered in the boat. And I really think that as a result of that life rafts should be kept above deck, but from our experience if they are kept above deck obviously people have got to be mindful that the sea is enormously powerful and the life raft must be secured accordingly.

Q76 O.K. Are you aware that any life raft to be kept below deck is to be, this is in accordance with the A.Y.F. instructions, that they are to be kept in a valise style and also below 40 kilos?

A Yes. I'm aware to that. In fact when we bought the life raft our initial trip was to bring the boat down from Brisbane down to Sydney and we thought at that stage whether we'd be buying a rigid case type stored life raft or a valise type. And one of the fellows who came down with us had previously done a fair bit of sailing, including, you know, Hobarts and things like that, and we talked about whether to buy a valise or a fibre glass one. But from the outset we formed the

view that a boat was better off with a life raft up on deck where it was readily available when you needed it. So certainly, and then manhandling a life raft from below deck, which we certainly have done, we found it quite difficult. One person I don't think could do it easily and I know all the talk about scared sailors and things like that being able to do things, but in the conditions of a storm at sea it would be an awkward thing to do and I just don't believe it's possible for most of the boats to get their even soft valise type life rafts up on deck in 15 seconds.

Q77 Mmm. Mmm.

A So certainly if I've got a, anything to suggest it's that life rafts must be kept on deck and they should be kept as far aft in the boat as can be. I know that a number of yachts have them stored somewhere up near the mast, but it's certainly the case that the cockpit area is a far more stable part of the boat. If a crew member had to go down to the mast to try and get a life raft deployed down there, the boat's more violent and it's just that they're not as safe as having a, a life raft in the cockpit or certainly aft in the boat.

DETECTIVE SENIOR CONSTABLE GRAY

Q78 Mmm. All right. Have any of your crew previously deployed a life raft?

A Not as far as I'm aware. Immediately before the Hobart this year the R.F.D. actually conducted a demonstration in the pond in front of the C.Y.C. and a number of us

were up there looking at that demonstration. So, although I haven't deployed one, I've certainly seen one inflated and I knew pretty much what to expect if one went into the water and since then I've had the chance to go up to R.F.D. and actually see them inflate one too - - -

Q79 Right.

A - - - and to go through it. I, I'm aware that the C.Y.C. is going to require people to go through safety demonstrations and I can only say that I think that's an excellent idea.

Q80 Mmm. Are you aware of what provisions are in a life raft?

A Yes. I'm aware of that, I was aware before and - - -

Q81 Right.

A - - - because I'd been to that safety demonstration, but I'd also had a rough idea before. But it was very useful going to the safety demonstration because you could see, for instance, the canister being used to inflate it, you knew the, what to expect when it inflated and I've got no doubt at all that if you deployed it for the first time in a storm at sea and to hear all the hissing and carrying on that they do and the fact that they continue to hiss and deflate after they've been inflated, you worry about it. If you've been thought the demonstration I'm sure it'd be a helpful thing.

SENIOR CONSTABLE UPSTON

Q82 All right. Is there anything else now, Robert, that you'd like to add that you feel that could help us in our investigation?

A No. I, I think we've pretty much covered the field.

Q83 All right. The time on my watch is now 5.14pm. This interview is now concluded.

INTERVIEW CONCLUDED