

DETECTIVE SENIOR CONSTABLE GRAY

Q1 This is an electronically recorded interview between Detective Senior Constable Stewart Gray and Mr David Evans at the Cruising Yacht Club, Adelaide, Northhaven, on the Friday, the 23rd of April, 1999. Also present seated to my right is Senior Constable David Upston from New South Wales Water Police and seated directly opposite me to my right is Constable Sherie Rethus, that's R-E-T-H-U-S, from the South Australian CIB. The time on my watch is now 2.19pm. Just for the record, David, could you just please state your full name?

A Certainly. It's David Austin Evans.

Q2 Your date of birth?

A 8th of the 8th, '43.

Q3 Your current address?

A Current address is 42 Belfast Street, Henley Beach, 5022.

Q4 And your current occupation?

A Current occupation is racing manager of the Cruising Yacht Club in South Australia.

Q5 How long have you held that position for?

A Since March this year.

Q6 O.K. Now, if you could start by, if you could give us some background sailing experience?

A Sure. I started sailing in Victoria when I was 10 years old on VJs. I've had a lot of experience sailing all sorts of off the beach boats and some further experience in keel boats. I was vice commador of the

Darwin Sailing Club and did some offshore racing up there and around the islands racing, etcetera. And I've done some offshore racing here, in link, Adelaide linking racing and I guess I've been sailing for the last 40 years.

Q7 O.K. Now, as I explained to you, prior to the interview, Senior Constable Upston and myself are making inquiries in relation to the 1998 Sydney to Hobart Yacht Race. And one of our tasks has been to speak to yacht clubs in various parts of Australia in relation to the administrative side and vetting side of yachts prior to races and the various categories. Obviously, we're interested in category one because it was the Sydney to Hobart, which that is. But I believe in your case, we're going to discuss category two. That seems to be the races that you run here, is that correct?

A Category three mainly, category three.

Q8 Category three, O.K. Perhaps if you could take me from the very beginning, in a chronological order in relation to how you do or how you conduct your administrative - - -

A Sure.

Q8 - - - procedures as far as that's concerned.

A O.K. Every year we bring out our year book which is circulated to every member of the yacht club, whether they be racing members, every member. Included in that are our sailing instructions and our program for the

year.

Q9 Right.

A And you've noticed the first line on our inshore and offshore racing program is all boats entering in offshore races must have a current safety certificate.

Q10 Right.

A We then go on to point out, let me find an offshore race for you. Any offshore race, it's noted what, what category it is, the offshore is cat three.

Q11 Right.

A So, basically, the sailing instructions are as per our year book which is, start here, and they will continue on safety, safety inspections, radio consistent reports, everything else - - -

Q12 Right.

A - - - relative to our sailing instructions.

Q13 Right.

A From there we have a supplementary list of instructions such as we've put out here. This particular one I'm showing is sailing instructions for a two-handed race from Adelaide to Arina where we note again that this is a cat three race and every yacht competing must have a current certificate to cat three.

Q14 Right.

A So, it's not a lot of difference that we highlight in all the other instructions are as per our year book in there.

Q15 Right.

A So, we're doing it with sailing instructions every time. So, that's basically how we go it, how we go about administering the safety part of it. The IMS division all have current IMS certificates which only run for 12 months anyway and they all run out in, in June. But every one of our IMS boats have a current IMS certificate. If that certificate wasn't available, we would not accept their entries in races.

Q16 Right.

A I don't believe we could probably legally stop them from racing but we certainly wouldn't or enter them as a, as a starter in a race.

Q17 Right.

A But all the boats have a current IMS certificate.

Q18 O.K. Now, when the, when the entries start coming in, do they come to you?

A Yes.

Q19 O.K. And the procedure you adopt there is to ensure the safety certificate is present and stayed current?

A Yeah.

Q20 And you look at the IMS certificates?

A Correct.

Q21 Now, on the IMS certificates, what of interest are you concerned with?

A A, that's it's a, the first thing I do is make sure it's a current certificate which is what I'm interested in basically, to see that it's been correctly,

correctly done, that it's been registered back through Sydney because Sydney keep a register of IMS boats as you're probably aware. They send us a disk with the boats registered with the current certificates. So, basically, it's a fairly fool-proof system because if they're not on, if they're not on the disk, the certificate from the IMS headquarters in Sydney, they probably have not got a current certificate. So, it's a quick and easy way to check that if, if the certificate is current, to see if they're on that, on that disk they send out.

Q22 Right.

A But this is also a physical check which is a copy of it here and there's a copy in Sydney.

Q23 O.K. And you look primarily at the date of the certificate, make sure it's valid?

A Yes, yes.

Q24 And you look at the stability index?

A Yes.

Q25 And you look at the calculated limited positive stability?

A Yes.

Q26 Is that correct?

A M'mm.

Q27 And the reason you do that?

A A, if you're going in offshore races they must, they must meet some fairly strict criteria in, in stability. And just off the top of my head, I've forgotten what

they are at the moment, but they are layed down for offshore racing. It doesn't affect us a great deal because we don't have cat 0 or so forth, all our races, as I say are mainly cat three and there are a cat race two now island race which is actually conducted by the Royal South Australian Yacht Squadron.

Q28 Right.

A And out boats can compete in it but once again, they must have cat two to go into those races.

Q29 Right. Now, is there anywhere in there, in your member year book where you mention the current IMS certificate and stability requirements, apart from the safety certificates?

A No.

Q30 O.K.

A Not, not to IMS. IMS by the way, is a small part of our racing.

Q31 Right.

A And we could count the number of current boats on one hand - - -

Q32 Right.

A - - - that in IMS racing in

Q33 So, run a number of, a number of divisions, PHD - - -

A We run a number of them, yeah.

Q33 - - - THS - - -

A We run, we run them in different divisions.

Q34 Right.

A But there's, there's IMS division one, division one is basically fast keel boats, if you like - - -

Q35 Yeah.

A - - - that don't measure up to IMS, they have a division one. They're still subject to a safety inspection - - -

Q36 Yeah.

A - - - for cat three or cat two, whatever it may be but they do not have an IMS certificate - - -

Q37 Right.

A - - - because they carry masts and spinnakers and all the rest of it.

Q38 Right.

A We have a cat two which is a thing like an Austral club boat. That type of boat goes in, some 30 footers that go in division two. We have a division three which is once again, the slower boats, Peon 30's and things like that. And then we have a trailable, sorry, we do have a trailable division which is pretty self explanatory and we have a cruising division which is, we an encourage new sailors into the cruising division where they, where by they don't use spinnakers. It's, now, we are a keel boat club, we're not an off the beach club as you can probably appreciate. We have plenty of facilities down the coast for off the beach boats, so we concentrate on keel boats and trailable boats because have the

facilities to launch them.

Q39 Right. As so far as the boats in the other, other divisions which are not IMS, do they have a stability index?

A That I can't, I don't know.

Q40 O.K.

A I don't know.

Q41 How, when you take entries from them, are they, do they supply an ABS certificate?

A They, they supply a safety certificate which is taken a copy directly out of the blue book, the AYP blue book.

Q42 Right. O.K. Now, can you tell me why, from your point of view, it is so, it is so important to ensure that these things are better corrected? From your point of view or from a club point of view.

A Well, quite obviously, we don't want to lose any lives and or boats for that matter. So, it's, safety to our mind is, is more important than anyone finishing a race. I'd rather they got back safely than finish a race.

Q43 Right. Now, it's the case that is hasn't happened yet, that you had to, sort of, failing a boat or, sort of, told someone that they can't enter the race because you've only been in this position since March.

A That's right.

Q44 What procedure would you adopt or what procedure have you got in place to, to in fact do that if that arises?

A Well, we have safety officers appointed by the club
- - -

Q45 Yeah.

A - - - and they're the ones that actually do the, physical, do the physical check and issue the safety certificates.

Q46 Right.

A It is left in their hands. If they don't believe the boat is safe - - -

Q47 Yeah.

A - - - and the boat, and that particular boat doesn't have a safety certificate we will not accept his entry into any race.

Q48 O.K. So, as far as your, your concerned, if you have an entry and it doesn't have an IMS certificate, what procedure would you adopt then?

A If we had, well, we would tell him that he, he cannot enter the race as an entrant.

Q49 Yeah.

A But like I said before, I don't believe we can physically stop him racing - - -

Q50 No.

A - - - but we wouldn't accept him as an entrant.

Q51 Would you do that in verbal fashion or a written fashion?

A Probably in a verbal fashion.

Q52 Right. O.K.

A It's never happened, so -

Q53 That's all right. Dave?

SENIOR CONSTABLE UPSTON

Q54 David, you were sailing earlier that most of your races are cat three races and under an IMS division of cat three, that gives a stability index of 110 degrees. Now, for example, if some of those yachts don't fall in the IMS category or perhaps they don't hold a current IMS certificate and they still wish to enter or enter another division of the race, do you still insist that they supply an, an IMS certificate?

A Not an IMS certificate, no. What type of certificate they issue for stability, I can't tell you because I don't know.

Q55 Right.

A But I'm sure our safety officers would be able to give you more depth of, depth of information on that one.

Q56 O.K. Have you heard of the term "grandfathering"?

A No.

Q57 O.K. With the - - -

A

Q58 Well, for instance there's a, there's a clause in the, in the Sydney to Hobart Yacht Race from the CYC that there's a grandfathering clause where they allow a vessel with a certificate not being current for an IMS of less than a, of greater than 110 degree but less than 115 degrees. And if the, if the, if the yacht has proven itself in the past, they can enter under a grandfathering clause, in fact they will allow the

race, the boat to race under, under previous history.

A Sure.

Q59 However, it still doesn't comply with, with the IMS

- - -

A Right.

Q59 - - - cat one of 153, correction, 115 degrees. When you, we'll talk about later on, who is your, your safety officer?

A Dave Woods.

Q60 O.K. And he, he supplies you with certain certificates?

A Yes. We have two safety officers. Dave Woods is the senior one and we have another one, Alex Hater, who is also approved by the club, he happens to be a sail maker and he's approved by the club as a safety officer and can sign certificates and won't sign, believe me, if they're not up to scratch.

Q61 Right. And, and he, he issues you with those certificates and you vet them as a whole later - - -

A

Q61 - - - at a later date, prior to the race?

A If possible, they actually issue them to the skipper of the boat and they give them, it's up to them to give me the copy of it.

Q62 O.K.

A Not the safety officers, it's the owner of the boat that's responsible to give me the certificate.

Q63 And that's signed then by both persons?

A Yes.

Q64 Right. Do you then confer with David if there's an irregularity, if - - -

A If there's an irregularity he won't issue it, full stop.

Q65 What - - -

A I've never seen one that's had an irregularity on it.

Q66 Yeah.

A Well, that I'm aware of.

Q67 Has there ever been the case where you have not allowed a, a yacht to race - - -

A No.

Q67 - - - in any of your races?

A No. No. Keep in mind I've only been here since March.

Q68 Right. Have you heard of any others that have - - -

A No. I have not heard of any, no.

Q69 Right.

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Q70 So far as the entry forms concerned, the entry form is accompanied with funds to enter a series?

A Can do, all, all charged to their account.

Q71 Right, O.K.

A In fact, we've got a series coming up if you want to have a look at one of the entry forms.

Q72 O.K.

A That's the winter series, it's due to start on the 30th of May.

Q73 Are you aware that, that when there is a situation of

a notice of race entry forms and there's exchange of, of monies, that's there's a legal duty obligation?

A A duty of care?

Q74 Duty of care?

A Absolutely, yeah.

Q75 Can you go on from that? I mean -?

A Well, I believe it's our, it's our responsibility to ensure A, that the, that we, we are confident that the boat meets the required standards to compete in that particular race. B, we supply correct instructions for that boat to compete safely and so forth in the race and one example came up recently where they were going to down to American River which is an overnight race from here. And because a buoy was silting up down at American River we had to rewrite instructions to give the larger boats the alternative of doing a 720 instead of rounding the mark, 720 degree turn. But it's, I think it's our duty of care to keep those skippers advised of that sort of thing, even though they're printed out, or lots of them are printed out and notices to mariners, I guess they don't all read them, we do.

Q76 Obviously, if everything's done correctly, that within your legal duty, that, that certificates comply and boat comply and safety certificates comply, IMS comply. You've discharged your duty of obligation, haven't you?

A We still have further obligation to - - -

Q77 Yeah.

A - - - to make sure we have radio contact and that type of thing - - -

Q78 Right.

A - - - for the entire race and are in a position to get help to people if they need it, bearing in mind most of our races are within the gulf so we can get our rescue boats out fairly quickly if need be. Even if they're 80 mile away, we can still get, still get to them.

Q79 Tell me, within your - - -

A I believe our duty of care, our duty of care is not over until the boats are back on their mooring.

Q80 Tell me, within your manual there, is there a clause in there which exists which relates to the responsibilities of a skipper to continue or discontinue at his discretion?

A That's, that's absolutely spelt out in everything you read which is the AYF blue book and everything else.

Q81 Yeah.

A That it's, it's, if a skipper wants to race, he can. If he feels for any reason he can't, that he doesn't race. It's just, once again, duty of care on the skipper to look after his crew.

Q82 Do you think that, certainly if a skipper had to make a decision at sea, based on his own, you know, his own decision, do you think that you still have an obligation to, to a certain degree to ensure that he's, he's, he's given appropriate information to assist in making that decision?

A Absolutely. The weather forecast and so forth, he's entitled to receive and so forth and any information that's available. I mean, if a, if a competing yacht in the race happens to spot a semi submerged container he would normally be expected to radio that back and hopeful everyone in the fleet by the central control would get that message, that there is a danger in, in a nominated area, look out for it.

Q83 Yeah. So, I guess what I'm saying to you is it, is it your, as you already said, your duty doesn't really stop at, you know, once the race starts, there's that obligation to - - -

A No. I think it, I think stops when they're back on the, when they're back safe and signed off.

Q84 O.K.

A We actually have a sign off sheet now too which I think is going to be coming into the blue book next year
- - -

Q85 Right.

A - - - for offshore races where previously, they only had to sign on and they've never had to sign off.

Q86 Right.

A They could be put through on the radio that they're pulling out or whatever, but now there is sign off sheet where they must sign off as well so we know that they're back and they've finished the race because they can finish at midnight and we don't always have people on duty at midnight.

Q87 Yeah, certainly. Do you have any ideas or views, any suggestions in relation to, would, would assist us in our inquiry from, from your point of view, or racing
- - -

A From personal experience, I've never even done a Sydney to Hobart.

Q88 Right.

A So, it's pretty hard to comment on something you haven't done. I've been to the safety nights and so forth that we have here after the last Sydney to Hobart and there was some fairly horrific conditions. And I guess you would never, never understand how people feel. And one of the points I believe is, from heresay I guess is that people sometimes tend to leave the boats too early, they could stay aboard the, because the If the yacht is not in any immediate danger of sinking and so forth, it's quite safe and it's probably better to stay on board the boat than get into a life raft to be quite honest. And some people tend to panic a little bit but there again it's, if your boats rolled over three or four time, it's, I guess all you want to do is get off the damn thing.

SENIOR CONSTABLE UPSTON

No. I have nothing further.

SUSPECT

I think the other, the only other thing is the experience part of it, I think everybody should read

Pete Goss' latest book who was in the, in the
..... race, the guy that picked up Dinelly in
the, in the southern ocean and you can see what sort of
experience people need to go ocean racing. You just
can't get on and go for a Sunday sail in ocean racing.
But that's, there should be some compulsory reading as
well as compulsory training for offshore people.

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Q89 A course setup, or course type thing or a ticket to do
it?

A A ticket would be handy certainly, so if a guys done at
least one Hobart, he must get some sort of rating that
he knows what it's all about. But there again, you
could have a nice easy Hobart or you do one like you
had last time, so -

Q90 That's right, yeah.

A Yeah. I guess but if he's done four or five Hobarts,
I guess he's pretty qualified race in anything
including

Q91 O.K. Nothing further?

A No.

Q92 The time now is 2.35. This interview's concluded.

INTERVIEW CONCLUDED