## SENIOR CONSTABLE UPSTON

- This is an electronically recorded interview between Senior Constable David Upston of the New South Wales Water Police and Stephen Clarke on Saturday, the 8th of May, 1999 at the Hobart CIB. The time on my watch is now 1.43pm and Stephen, as I explained to you earlier, Detective Senior Constable Gray of Bega Detectives, who is now seated on my immediate left, and I are making inquiries into the 1998 Sydney to Hobart Yacht Race, and we're speaking to people that, either directly or indirectly have been involved in the race, and to find out their experiences, to assist us with the coronial inquest. For the purpose of the interview, could you please state your full name?
- A My name's Stephen Kenneth Clarke.
- Q2 And that's C-L-A-R-K-E?
- A That's correct. And I was born on the 16th of the 1st, 1952.
- Q3 And your address?
- A Care of ..... Yacht Club.
- Q4 And the postal address?
- A Is PO box 586 Glenorchy, 7010.
- Q5 O.K. And what's your occupation?
- A Area manager for the Australian Maritime Safety
  Authority in Tasmania.
- Q6 And what does that entail?
- A Maintains a network of navigational aids throughout

  Tasmania and parts of Bass Strait.

- Q7 O.K. And you sailed in the 1998 Sydney to Hobart Yacht Race?
- A I sailed in the 1998 Sydney to Hobart aboard a yacht called Allusive.
- Q8 O.K. And what experience, yachting experience do you have?
- That was my fourth Sydney to Hobart. I have my own yacht, which I took 12 months leave from work and sailed from Tasmania to New Zealand, up through the Pacific and down the Queensland coast back to Tassie over a 12 month period. I've also crewed and navigated a yacht from here down to the Auckland Islands, which is 200 miles south of New Zealand and then up to New Zealand over a one month period, and various round Tasmania, Port ....., west coast, Flinders Island, so, yeah, quite a few sea miles.
- Q9 O.K.
- A Apart from that, as part of my job we have our own seven and a half metre cat, which we do a lot of work with on the water.
- Q10 All right. Your position on Allusive, what part did you play as a crew member?
- A As crew member, assisted with navigation. In the first two day period not a lot of navigation, in the last period 50 per cent navigation and generally a cockpit hand.
- Q11 O.K. All right. I'll take you to the 27th of December, 1998, after you'd started the race and you

were commencing to sail down the, down the east coast of New South Wales, and there was an approaching storm. What can you tell me after that?

A We'd elected to head out to shore, it looked like it was going to be a spinnaker procession. We were aware that we were five to six to seven knots slower than most of the people in our class, so we talked amongst ourselves and decided there wasn't much, wasn't much sense in, in following the fleet, so we decided to do something a bit different and we headed out towards the 100 fathom line and generally followed the coast in the vicinity of 80, 60, 80 nautical miles offshore. Because we did that, the, the fleet inshore had fairly flat going and as it turned out finished up probably considerably faster than us, so we, because we were offshore with, going with the current but against the onset of the storm, the seas became increasingly shorter and slowed our progress down dramatically, so in the long run probably saved us, or saved us some serious damage anyway.

Q12 All right. Then what happened?

We, I was doing a bit of work on the radio as well, passing on position reports. We had several boats that came past that didn't have radios and I cannot for the life of me remember their names, but they hailed us, called out that they wanted to communicate, so we communicated on VHF, they'd lost HF or had various damage and we relayed that information to the relay

ship to tell them that they were withdrawing from the race, heading back to various places, heading back to Sydney for example. We had a pretty well experienced crew, but it became evident very early in the piece that they weren't happy with what was happening. chatter on the radio, I think, certainly began to frighten four of the crew in particular. Two of them became fairly distressed. We actually kept them in the cockpit most of the time, so we didn't have to have them near the radio, 'cause obviously we had to have the radio running. Then, during the day, I'm not too sure of the time, after lunch, the keel started playing up and I'm unsure whether you explained, or whether John explained to you or not. It's a hydraulic raise and lower keel and it has four hydraulic locking pins. The locking pins are mechanically sealed off with a valve, so if there's any movement in the case of the keel itself or any other part of the structure, then the keel becomes loose, because there's no way for the hydraulics to recompensate for any gap that's been created, which is a problem he's addressed since. keel began to move, the crew became distressed, so we spent a long time, John and myself, attempting to wedge it trying various things to stop it moving around. It wasn't moving far, but because it was a long way from the ..... to the bottom of the boat, the movement of the lead weight was accentuated at the top. So, in the finish we decided to, and we

tried various tacks and then in the finish it was starting to become pretty rough and it was very short and sharp rough, so that was an even worse situation, so we decided to ...... to and pull the keel up. Once we pulled the keel up and then, with the keel in the down position it only locks with two pins, in the up position it locks with four pins, and it was much more With John's boat it doesn't matter much because it has over positive buoyancy with the keel up, so with the keel up it's still completely safe, just doesn't go to windward quite as well. So, we decided to head off inshore and find some shelter. We weren't, at that stage, we were probably, I don't know, I really should have had a look at the charts before I came, probably 30 or 40 miles, maybe more north of Eden, and at that stage probably, I guess, 50 miles offshore. And we spent a very long time tacking through the rough stuff, avoiding the areas where there was a lot of drama going on, taking bearings on flares and relaying information and it just seemed like there was just flares going off everywhere around us. By that stage it was getting fairly late, it must have been towards midnight, after midnight, and that's when the thick of it was really happening, when they were all starting to run back with it. So, there was just a continuous flares, radio chatter, cries for help, and we got into Eden, once again I'm unsure without checking the log, I think it was about 3.00. And we spent a long time

attempting to repair the keel, redrilling and retapping holes, and then in the morning four of the crew elected not to go on, so we dropped those off. When we went into Eden, we didn't actually tie up alongside, as part of the rules which you guys are obviously aware of now, that you can't take on support, but crew can leave, and which four of our crew elected to leave, so we dropped them off and then went back and continued, and went back and anchored over in Boyd Bay and continued to do some more work. Then mid-morning we put to sea again and we sailed for another six to eight hours I guess, and still had trouble, still weren't happy with it, so we turned round, came back in and re-anchored again, did some more work finished and up spending approximately 30 hours in Eden before we put to sea So, what we saw of it was, well, what we did was to manoeuvre away from areas where there seemed to be a lot of congestion, people obviously going to assist other boats, there was a lot of, lot of flares going off in all different directions and a lot of chaos on the radio.

- Q13 O.K. Earlier you mentioned to me that there was a lot of difficulty with yachts maintaining radio contact with their HF, and in fact they came over and called you over to speak on the VHF.
- A Yeah. I was on the helm and we saw a boat in the distance, obviously under storm gear. At this stage, we never had much more than, I never really checked,

but I guess probably 50 knots was the maximum we ever got and some fairly horrendous seas, and it was coming towards us and the guys, three guys that were in the cockpit with me, the other guys were below, were keeping an eye on it, just which way it was coming, and we would see it for a few seconds and then it would disappear for a minute and, this was in daylight. finally it came over towards us, and I kept steering away, steering away, because it kept coming towards us, and finally, I had to put the boat about because he was really coming straight towards us, and then he did a, tried to do a lap around the back of us and then he was singing out and we couldn't hear what he was singing So, we .... up and then he sort of came along out. the stern of us and just kept singing out "VHF, VHF", and we realised what he wanted. So, we had the HF turned up fairly loud, so it probably drowned out the VHF. And we talked to him and he just said, we have no VHF and can you contact them and tell them we're heading back to Sydney and withdrawing. They didn't have any obvious damage, reefed right down. And there was another boat that came past and we sort of just waved, they were obviously fairly well damaged, you know, bits and pieces laying all over the place, but they waved as if they were O.K. and kept going. One of the major problems was radio protocol. That went to pieces fairly early and I would have hoped to have seen that a bit better.

O14 What do you mean by the radio protocol?

Vessels in distress, well, the standard protocol a Α vessel in distress got priority and then someone would break in who'd just happened to have heard them and wouldn't give them a break for them to say, or for the radio relay ship, for example, to answer that break in, yes, we've got you distress, we'll pass it on. Whereas, and it was all happening in such an area that if the HF wasn't working, it would amaze me, you know, it was a very small circle of disaster, you could have done it all on VHF. So, yeah, there was a lot of those just interrupting and smothering out other boats and I think that's one thing that needs addressing very badly, it really needs a lot of work done on that. If they just had have followed the basic radio protocol, it could have been a lot better.

Q15 Do you have a radio operator's licence?

A Yes I do.

Q16 And is that for, what type of radios?

A That's a restricted radio operators certificate of efficiency.

Q17 O.K.

A I've got an unlimited Coxswain's ticket, so .....

Q18 Yes, it is. You mentioned earlier that you sighted some red flares. Were these vessels close to you?

A Unknown. Very difficult to gauge the distance of the flare. There was one that we sighted, we took bearings on and I ..... off on the chart, but by then there was

another three or four vessels that had radioed in the exact same flare, and I think it was about 10 miles off or something. And then there were other flares that we were guessing was 20 miles off or even more, and there were some that looked, looked like they were next door, and I said to John, lets go and have a look at that one, because there was no radio contact with it, and before we actually did anything about it, we were deciding whether we were gunna tack over as well to go and have a look at it, they, they were some 12 miles off or something like that, so, yeah, it's amazing how far they can be seen.

Q19 But of the ones that you thought were close, within 10 miles away, did you discuss going over and assisting?

A Yes, we did. Yeah. We discussed that, but we, we, I don't know whether John brought it in, but he had a fair bit of just pad papers, just writing down lats and longs and I was running a lot of them off on the chart from where we were, but there were so many people on top of them already, we thought it was just ridiculous sending to many boats to the one spot, and there wasn't one that we calculated that was on its own, that was worth going to to assist.

Q20 M'mm.

A And there was always two or three very close to the area.

Q21 M'mm. Were you experiencing the rudder difficulties at that time, would that have played a part in your

decision not to - - -

A The keel.

Q22 Yeah, the keel, sorry.

No, because the keel was up, and once the keel was locked up, then it never, never played, that was the end of story. The only thing that was a problem was that we could, normally we'd point not quite as high as the real performance boats, but we were loosing probably 10 degrees of our normal tack angle to windward, because, well, obviously we couldn't sit the people on the rail and it didn't perform as well to windward, so we were suffering with that.

Q23 M'mm.

A But no, we would've addressed any of the calls if they had have been in our immediate area, that's for sure.

Q24 M'mm. Were you seasick at all?

A No.

Q25 Were a number of the other, pardon me, a number of the other crew suffered seasickness?

A Yes.

Q26 Not being the master of the vessel, but obviously with your experience, did you see that that may have caused problems?

I think the biggest problem was that, as I said, four of the guys were distressed, really distressed. I think that was compounded by the chatter on the radio and I said to John in the finish, well, we both said it to each other at the same time, you know, we're just

gunna have to, one of us sit by the HF, turned it right down, keep it down a bit quiet, because, you know, it was help me, I'm sinking, somebody help, and you know, all that sort of stuff, so you can imagine what it's doing to us when we've a few problems of our own.

Q27 M'mm.

I had a fair bit to do with the boat as it was being built, I put a lot of time into it as well, and I was confident in the extreme that there was nothing much the matter with it. We'd addressed any really major problems with it, so I was totally confident with it, and I think probably one of the main things was that the guys that weren't too happy about it really didn't know a lot about the integrity of the boat.

Q28 M'mm. What sort of distress, when you mention they were under distress - - -

A Um -

Q28 - - - what reactions were they having?

Visually, they had fear in their eyes. They were, they missed watched, didn't want to come onto watch, didn't want to come into the cockpit, but you know what it's like when you look into a man's eyes and he's frightened shitless. And they were, they were frightened in the extreme.

Q29 We won't mention any names of course of these people, but were they experienced as far as sea - - -

A Well, they - - -

Q29 - - - sailing goes?

Α

They are guys that sail round here, fairly famous if you like, around Hobart. The crew that we took in the Sydney to Hobart did the Mariah Island race as a shakedown before it and we did have some troubles in that race, and John, myself and one of the other crew actually spoke about three of these particular people who were all off, crew off another boat. And in the Mariah Island race we did actually express concerns amongst John, myself and one of the other crew about their ability at sea rather than in the harbour, but the three of them had done extensive offshore sailing. And when I went to New Zealand in my boat, I got a bit of a bashing in far worse conditions than it was in the Sydney to Hobart. I was hove to for three days in, wind speed indicator was jammed right round, it stops at 70 and it was jammed at 70 for over 24 hours with seas just absolutely mountainous and they were going across Bass Strait at the same time, and a very similar thing happened on this guys boat which John was crewing They were taking that up to Mooloolaba and they had some troubles on that trip as well. So - - -

- Q30 With, with what?
- A With three guys, same guys.
- Q31 As far as their ability to maintain composure?
- A Yes, I think that was one of the biggest problems.

  They were just frightened, that's all there was to it.
- Q32 Mm. Did you feel that it jeopardised the general running of the boat?

I've spoke to the four of them since then and I've said to the four of them that I believed they compromised my safety by getting off, because we elected to continue. I still maintain that, it was their decision at the time, but I would never never sail with either of the four of them again for that very reason. We sailed the boat up, I was the delivery crew as well, with four. I was quite confident that we can sail back with five without any problems at all. The four that took the boat up were four of the guys that stayed with the boat. I had a lot of confidence in the other three. One of the other guys, I've sailed with before in the Sydney to Hobart. He's not what you'd call an excellent sailor, but he was a good hand. You tell him to do something and he'd do something, and we didn't have any problems about going on. already discussed that we wanted to finish the race but we wouldn't be pushing the boat because we didn't have the crew to handle certain, specific situations, for example, with spinnaker in marginal conditions.

Q33 M'mm. Now, you've mentioned the wind and the wave.

What sort of indication can you give me for the wave heights that you experienced?

yeah, we decided we could continue with five.

A Where we were it changed quite dramatically from when we were offshore to when we got inshore. I think a lot of the stuff we were experiencing was sort of 100 miles north of the main storm area, so I think the wave from

A

Q34 But do you, did you think at the time you were helming the vessel that that was the best way to attack the wave?

We were, we weren't straight into the waves, we were beating to windward at that stage, we were slightly freed sheets. So, the angle of attack would have been 40 to 45 degrees, so a lot of the times we were sort of ..... our way up the waves, not to the point where it would broach us, but enough to get over the top and then down the other side, rather than just bashing straight through the waves.

Q35 Mm.

We, we had to take probably about four or five bites at getting down to Eden because we didn't have the ability to go to windward and also we didn't want to bash straight into it.

Q36 M'mm.

A So we wanted to take more, more eased sheets rather than trying to beat straight into it.

Q37 All right. You mentioned earlier about the Allusive having an over positive buoyancy. What do you mean by that?

With the keel up, it still has sufficient buoyancy to rate as positive buoyancy with the keel up, so there is no, there is a lot of vessels that they must keep the keel down to remain legal, whereas this thing's built as a cruiser racer and that was one of his stipulations when the boat was built that it still have positive buoyancy with, positive stability, sorry, not buoyancy.

Did I say buoyancy before, did I?

Q38 Yes, yeah.

A I meant stability, sorry, correct that.

Q39 O.K. Yeah.

A Positive stability with the keel up.

Q40 O.K. Stewart?

## SENIOR CONSTABLE GRAY

Q41 So far as communications, you were talking about radio protocol. Did you hear any lengthy conversations between a boat called Team Jaguar and the radio relay ship?

A Yes.

Q42 Would you like to comment on that?

A Team, that was probably one of the things that probably hurt most, as far as I'm concerned, but Team Jag and

the relay ship and Sword of Orion, the comraderie that grew between those guys as they spoke to each other and then finally when the guy was washed overboard, was just sort of one of the things I'll never forget in me life. But yeah, there was a lot of talk. I don't whether it was unnecessary or not. I'll say again, you know, the protocol was a big problem, but because there was just so much happening, I don't think, I don't think you could do much about it. I'd like to, this is obviously a record to comment Lou for the way he handled it, I thought it was fantastic. I don't think I heard him get off the radio for probably 36 hours.

043 Mm.

A Yeah. They were on the radio a lot, for sure, but so was everybody else.

I've been informed from previous people I've spoken to in relation to this inquiry, that in fact some of the conversation between Team Jag and the radio relay ship centred around sandwiches and can't wait to see you to, did you hear any sort of that conversation? Joking conversation in the midst of a major problem?

A No. There was so much happening.

Q45 Yeah.

No, I did not, I didn't hear anything about that.

There were certainly a lot of things being said that were unnecessary. I found it difficult to come to grips with people being told to turn their EPIRBs off, 'cause being in the business, I'm aware that it doesn't

matter how many are burning, they can track them all. I found that a bit of a shock. And also probably one of the worst things that Lou probably said was that unless you're in immediate distress, you know, we've got to give way to some of the other boats. That's why probably there should have been some sort of secondary HF bought into play, where it wasn't and it is available. And there was plenty of other people in the area like ...... were well within range, they could have been dedicated to the frequency for a certain area and split it up, rather than the whole lot going back through Lou, but I say again, he did a fantastic job with what he had to work with.

Q46 Now, when the four blokes left the boat, did they discuss that prior to getting into Eden?

Α ......

Q47 Did they sit around as a - - -

A No.

A

Q47 - - as a foursome and sort of discuss it, or -?

No. The problem is where, where the locking pins are in an area, and you met John this morning, that he's only bloke that can get in there. I'm really scratching to pass spanners in to him, and he's the only person that could get into that area to do what needed to be done. Most of us went to our bunks and at various times got up and give him a hand, this was sort of about 3.00 in the morning, till daybreak. And then I'd gone to me bunk, I was up forward, and the first I

knew about it was John said to me, "What about you, Steve, are you staying or going or coming or what's happening?" I was half asleep, and I said, "What are you talking about?" He said, the guys are getting off. What are you gunna do?" And that's the first I heard about it, but since then I know that they had discussions some time during the night about it, but I was unaware of it. And probably about, I'm not too sure of the time, probably 9.00 or 10 o'clock we made it over and just nosed up to a tug, on the outside of a tug, and put them off and passed their luggage over with very little being said and left. And I think we were all in so much shock and I was so disqusted I couldn't say anything, or it could have ended up a bit violent, but as I said, I was just amazed they wanted to get off.

- Q48 Did you, did you attend the weather briefing prior to the operation?
- A Yeah.
- Q49 ..... Were you happy with that set up and the way it was delivered?
- Yes. I don't think the, under the circumstances I don't think they could have predicted anything different, they knew it was going to be a reasonable sort of blow, everybody was aware of it, they reinforced it quite a few times. The weather briefings that you could collect any time just outside the sailing office, they were great. They were handing out

facsimiles all the time.

Q50 Mm.

I know a lot of people have said that they didn't believe the warnings were sufficient enough, but we certainly knew what was coming up. We ........... and we didn't have a weather fax, we only got our weather the same as everybody else, via radio.

Q51 Right. Now, so far as the liferaft demonstration and flare demonstration which was held at the CYC prior to the race, were you aware of that?

A No, but I might add that I've done extensive training

Q52 All right.

A - - - in that.

All right. O.K. We, as part of our training for work we do Hewett helicopter underwater escape training, and in that there's a fair bit of liferaft work, flares and everything else. Probably too busy drinking beer to worry about the demonstration to be quite honest.

Q54 O.K.

A But I wasn't actually aware it was on.

Do you feel that either yourself of John, in the manner that you held the vessel, put anyone in jeopardy or that at any time anyone's life was in jeopardy, as far as would make these, the four crewmen want to get off?

No, definitely not. I think the vessel was handles as well as it could be in the circumstances. They were pretty trying conditions. At, you know, even the guys

that were obviously not too happy about being out there, you know, they were, everybody was reinforcing everybody else, you know, are you clipped on, is your harness right, you know, are you happy with everything, want a drink, so all that sort of thing went on. That was all good. I really began to notice it when, you know, I'd been up for probably three hours and were about the change watch and the guy who was gunna take the helm from me, I said, "Your turn". He said, "No, no". He was just around the corner in a quarter berth. "No, no, I've just had a go", and I said, "No, you didn't. I've been on the bloody helm for half an hour and you haven't been up here for three hours". "No, no, I'm not coming back up. And I think that was the start of it. ...........

Q56 All right. Is there anything now, Stephen, that you'd like to add that may assist us with any of our inquiries perhaps? Thoughts?

Thoughts. Major training in the radio side of it. I knew AMSAR was there with the coordination, but had absolutely no contact with them because that's not the way it happens. As you know. It might have been a bit more comforting to other competitors if they were aware that something else was happening other than just Lou talking to all the vessels. The secondary frequencies certainly have got to be, that's got to be straightened out and there's plenty of coast radio stations, whether they're just your volunteer coastal patrols or

Α

whatever, all the way down the track, everywhere down the track, and they could be assigned secondary frequencies away from the major distress frequencies, and like I said, split the group north of X latitude, we'll talk on this frequency, and south we'll talk on that frequency. I don't know. There's easy ways around it, but it would immediately cut the traffic by I don't know how much was happening on 50 percent. VHF, we were listening to little bits on VHF, but I believe there was quite a significant amount on VHF. I was mainly concentrating on the HF, which is probably something in hindsight I should have been monitoring I believe that we were, we were a long way out to sea, which as I said in the first place, probably saved out bacon, but everything was happening between us and the shore and further south, so we never really in a situation where we probably needed, although we certainly would have done if we had to. I'm, I've always been, I know you've got to start somewhere to, to go in one of these races, but I think there should be a demonstrated experience shown by every person on I think the rule is at the moment 50 per cent board. experience. And it's like, when you start a job, you know, you can't go into a new job and have the You've got to get the experience experience. somewhere, but it's certainly not the place to pick up experience. It's too far from home. I believe that the Mariah Island race this year, just with the

Tasmanian yachts is mandatory, so I think that's a good thing. It gives them a bit of a taste of it. But maybe they could lift the percentage of the experience against non experience would help. I'm not too sure whether the restricted radio operators certificate of proficiency is the level they need. Maybe something higher, something with a bit more training. It's pretty easy to get, very simple.

Q57 M'mm.

Α

It's a licence, once you get it, you don't ever have to be checked on it again. Maybe some radio procedures, some testing could be done before the race. I'm sure I think that I'm probably the only person on board that's ever seen a liferaft blown up. As part of our training with the, the work, with riding a liferaft for example, getting into a liferaft. think that would all, you know, if it just saved one life would be worth it. I think another thing too, that if people had to inflate a liferaft, get into the water, even here in the harbour on a nice winters day and get into it and then stay in it for a couple of hours it would certainly change their mind about abandoning ship as well. And I think that was brought home in the Fastnet race that ..... all the boats that all the people had died, died from vessels that were still floating later on. So, I think there's a lot of work to be done, especially around liferafts, abandoning ship and the radio.

Q58 O.K. With your, just one more question, with your, your harness and lanyard that you wore on that particular race, was that your own or was that supplied by the boat?

A No, I've got my own, I always keep my own.

Q59 And what brand is that?

A It's just the standard, standard off the shelf, whatever the Australian standard is, I've got that ..... in the boat and I bought one probably less than 12 months before the race, but I'd keep my own and when I take it off I put it in my wet weather pocket and nobody else uses it. I'm pretty sure that it doesn't get damaged. I also carry my own strobe and flashlight in my pocket at all time.

Q60 How are you aware that it complies with the Australian standard for yachting harnesses?

A It's got a label on it, Australian standard, whatever the standard is.

Q61 O.K. All right.

A That's in the, that's in the pre-race checks too. John had, I'm moored two or three boats along from him, so a lot of the gear we took with us was actually off my boat as well. So, it was all laid out and we actually went through the harnesses, that they were to the standard.

Q62 Mm.

A Actually, it was a fairly extensive check that we went through being a new boat.

## SENIOR CONSTABLE UPSTON

Q63 Was that an additional equipment to what should normally be carried, that you took on board from your vessel?

No. Some of the gear that he didn't have, I just, for example, hand bearing compass, I threw my flare box on as well, which was extra. He had sufficient flares, I threw mine on. They ...... all my charts. Hand bearing compass. My, I've got two little hand held VHFs, I threw them on as well, I had my harness, and yeah, a few other things. Mainly navigation gear.

Q64 Was John aware that you had the hand held VHF radios?

A Yes.

Q65 O.K.

A ..... were on the nav locker, I think, below the charts. I can't quite remember where they were.

Q66 Anything further?

A (NO AUDIBLE REPLY)

INTERVIEW CONCLUDED

Q67 All right. Well, thanks, Stephen. The time by my watch is now 2.25pm. This interview is now concluded.