

Befriending Stowaways

By Michael Heads
P&I Associates (Pty) Ltd

The recent incident at Durban, South Africa, involving stowaways allegedly forced off a vessel in the harbour has received worldwide coverage.

The facts of the matter were that 7 stowaways hid on board the vessel whilst she was at Mombasa and the stowaways then made themselves known to the crew after the vessel had sailed from that port. The vessel was on route to Durban.

The crew followed the IMO guidelines with regard to stowaways found on board a vessel. The stowaways were kept in confinement and given 3 meals per day. They were given clothes. They were allowed 30 minutes of exercise each day. They were given bathroom facilities. However, the Master failed to notify the owners of the presence of Stowaways on board the vessel. The crew then broke the cardinal rule when it comes to stowaways in that they allowed the stowaways to befriend them.

Stowaways will always seek to befriend the crew in the hope that the crew will feel sorry for them. They will tell the crew gruesome tales of life in the home countries and that the reason that they are stowing away, is to get to Europe or North America in order to seek out a better life for themselves.

Crew's should be advised not to befriend stowaways, as stowaways are not their "friends". The case of the vessel at Durban is such an example.

The crew felt sorry for the stowaways and the master failed to report the presence of stowaways on board the vessel to the Owners. Had the Owners been aware of the fact that stowaways had boarded the vessel they would have reported the matter to their P & I Club who in turn would have contacted the local P&I Correspondents to assist in having the stowaways removed from the vessel and arranging for their repatriation.

When the vessel arrived in Durban, the stowaways were not declared to the port authorities and the crew agreed to allow the stowaways to sneak off the vessel at Durban since the vessel was not heading to what they would term a favourable destination. The crew listened to the stowaways rather than following the proper guidelines. In order to avoid detection by Port security personnel on the quayside the Stowaways climbed off the vessel by way of a rope, fixed to the offshore side of the vessel, and dropped down into Durban harbour where they would swim to a more remote quayside, no doubt in search of the next vessel to stowaway on.

However, the plan was not executed as was envisaged and as everyone had in mind and as result two of the seven Stowaways drowned. The five surviving stowaways made it to the quayside where they then alleged that they had been forced off the ship. The Police were called in and the master and 3 crewmembers were arrested,

The stowaways made statements to the Police, which they subsequently enhanced in a later statement made to the Prosecuting Authorities. The stowaways subsequently became

the victims and the crew the accused.

The Stowaways turned on the crewmembers who they had befriended on the way to Durban in order to get off the vessel. Although the vessel was on route to South Africa, the stowaways would most probably have used the same tactics if the vessel were going to Europe. The Stowaways befriend the crew in the hope that the crew will feel sorry for them and will then help them to get to where the stowaways want to go.

The incident in Durban turned into a tragic accident. The plan went horribly wrong and two stowaways died. The crewmembers were charged and were arrested, *inter alia*, with murder. This charge was subsequently dropped to Culpable Homicide. Culpable Homicide in South Africa is also known as manslaughter in other Jurisdictions.

The crewmembers subsequently agreed a plea bargain. They were in a foreign country and were miles from home. They had no idea about their futures. They were frightened and scared. No doubt various people who met with crewmembers told them rather grim stories about South African prisons. They missed their families and their support bases and English was not their first language. They found themselves in a very difficult situation.

We urge all P&I Clubs to advise their members to inform their crew of the IMO guidelines with regard to stowaways. Once stowaways are found on board a vessel the incident should immediately be reported to the Owners and the crew should never think of the stowaways as being their friends. Stowaways will not be the crew's friends when something goes wrong. In fact, as this case clearly illustrates, they will turn against the crew as quickly as they befriended them.

The crewmembers in this matter were heavily fined and received suspended prison sentences in terms of the plea bargain.

We would like to further warn ship owners that since this recent incident the Police now attend on all vessels arriving at Durban with stowaways and they question the stowaways to ascertain where and when they boarded the vessel and how the crew have treated them. In view of the above it is essential that the master and crew follow the IMO guidelines for handling stowaways and furthermore ensure that the master properly documents all actions taken within those guidelines.

Michael Heads
P&I Associates (Pty) Ltd.
Durban, South Africa
31 January 2006