

# Sounds of Disquiet

Guy Wallace crunches the path between verandahed Furneaux Lodge and the jetty that juts into Endeavour Inlet, a timber finger over the green waters of the Marlborough Sounds. At the end of its bleached planks worn by a thousand salty feet, he stops and scans the bay, and it all comes sweeping back. On Wednesday December 31 1997 Wallace was working in the bar at Furneaux, a century-old lodging in the outer Queen Charlotte Sound with no road access but legendary New Year's parties, and poured drinks for 1500 revellers until well after *Auld Lang Syne* had been drunkenly warbled.

Just before 4am he was picking up rubbish in the grounds when a couple asked if he could take them to a nearby bach by water taxi. By the time Wallace pushed off from the jetty in the small Naiad dinghy, he had five passengers – the initial couple, Hayden Morrese and Sarah Dyer, Amelia Hope and Rick Goddard – and a single man.

Most people will be familiar with the outline of what happened next. On reaching the yacht *Tamarack* to drop off Amelia Hope and Rick Goddard, Wallace found Ben Smart and Amelia's sister Olivia Hope, who was upset all the berths on *Tamarack* were taken and was anxious to return to shore to find somewhere to sleep.

Ten years ago Olivia Hope and Ben Smart disappeared from the Marlborough Sounds. Scott Watson was later jailed for their murders but, as Mike White discovers, there are now mounting doubts police got the right man. More seriously, challenges from key witnesses and even the father of one of the victims raise questions as to how Watson was convicted in the first place.

MIKE WHITE IS A NORTH & SOUTH SENIOR WRITER. PHOTOGRAPHY BY MIKE WHITE.

As they set off, the single man on the water taxi offered them a place to stay on his boat, so Wallace dropped Olivia, Ben and the mystery man off at this yacht, then delivered Morrese and Dyer to their bach.

It was the last anyone saw of 17-year-old Olivia or 21-year-old Ben.

What followed was one of New Zealand's biggest, most expensive and most controversial investigations, leading to the arrest of Scott Watson five months later and his conviction in September 1999.

I was a reporter on the local newspaper, *The Marlborough Express*, that drought-scarred summer and can remember first hearing about the case when Olivia's father, Gerald

Hope, went on radio insisting his daughter's disappearance wasn't some youthful elopement.

By then I'd been a journalist for just over a year and there was undeniable excitement having the country's biggest story on your patch. In the months that followed I spent a lot of time in the Sounds, watching police searches, helping the families scour the coastline for clues, watching the Navy survey the seabed and later pull a mysterious object from the depths that turned out to be just a lost sail.

I dealt with the families often – mainly the Hopes – tiptoeing around their growing grief while convincing myself I was helping







by keeping the issue in front of people who might remember something vital.

From January 12, when his boat was publicly pulled from Waikawa Bay near Picton, it was clear Scott Watson was the prime suspect but neither he nor his family would speak. So we got most of our information, on and off the record, from the police. And by the time he was arrested we were convinced he was the right man. When the guilty verdict was delivered I recall, with embarrassment now, walking around my lounge punching the air in triumph – we'd been right; the jury had vindicated all our faith in the police.

But in the eight years since, I've learnt more about the case than I ever knew at the time. And as I have, I've grown increasingly uneasy about the way Watson was investigated, the paucity of evidence against him and the eventual verdict. Many others – including Gerald Hope – remain unsettled about the case, and Watson's family are still fighting for his freedom. But despite a welter of evidence suggesting he may be innocent, the authorities remain silent, legal appeals remain stalled and Watson, now 36, remains in Christchurch's Paparua Prison.

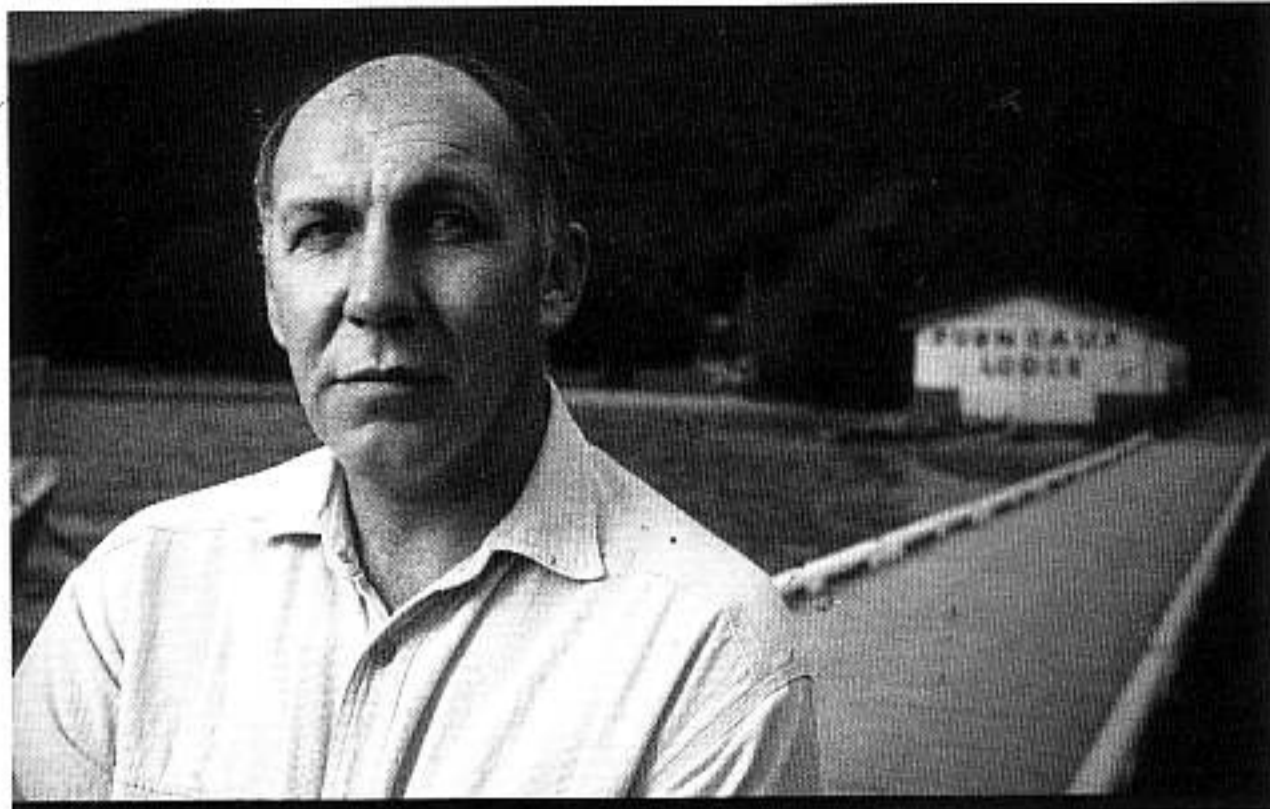
In March this year, Auckland journalist Keith Hunter published a damning book on the case, *Trial by Trickery*. It was a detailed analysis of events and a stinging attack on those who'd put Watson away, including the police officer who led the case, Rob Pope (now Deputy Commissioner of Police), the legal team who'd prosecuted Watson and the judges in the High Court and Court of Appeal.

The book had been commissioned by Penguin Books following Hunter's 2003 television programme on the case, *Murder on the Blade?*, which attracted nearly 550,000 viewers and won the best documentary category at the following year's New Zealand Screen Awards.

But after two legal opinions suggested his claims could result in defamation suits, Penguin dropped the project.

Convinced he could prove his allegations by using police files and court documents, Hunter published the book himself, fully realising the risks involved, including losing his house if he was successfully sued.

Sitting in his Herne Bay home, his hair and lawns needing trimming, 65-year-old Hunter remembers when the case broke being convinced Watson was guilty. But as he learnt more he became unsure, and in 2001, when Waiheke Island yachting Mike Kalaugher lent



**Days after taking over the inquiry, Rob Pope (above) decided Scott Watson was likely to be the man water-taxi driver Guy Wallace dropped off with Ben and Olivia. But Watson was clean shaven and had short hair, whereas Wallace said the mystery man was unshaven and had wavy, medium-length hair.**

him a draft of his own book on the case, *The Marlborough Mystery*, Hunter realised what a great story it was and began work on his documentary and later his book, hoping to provoke a review of the case.

So far Hunter's book has sold 4000 copies but there has been virtually no official response from those he and others are accusing of deception and deliberate distortion of facts.

"I don't think the justice system gives a damn about getting it right. To me, this is so open and shut, so black and white, so utterly disgusting that I can't imagine any community letting it go on, and I just hope I live in one that won't."

In 2002 UMR Research polled 750 people and found 59 per cent believed Scott Watson was guilty. By 2005 that had dropped to 44 per cent and in 2007 it was 42 per cent. It's hardly decisive or definitive but seems to indicate a growing ill-ease, a national gut feeling that something might not be right.

Foremost among concerns about the police investigation is that they were tunnel-visioned.

Rob Pope, then a detective inspector, arrived from Christchurch to take over the

case, known as Operation Tam, late on January 5. At that stage police were following information from water-taxi driver Guy Wallace, who was adamant he dropped Ben and Olivia off at a 38-40 foot wooden ketch (two masts), which he described in detail. (This was supported by Hayden Morressey, who was also on the *Naiad*.)

Wallace also described the mystery man as being unshaven and having wavy, medium-length hair.

By Sunday January 11 Pope had decided Scott Watson, who was clean shaven and had short hair on the night, and who owned a 26-foot single-masted steel sloop, was somehow likely to be this mystery man.

Pope says Watson began to "stick out like dogs' balls" but couldn't explain why, other than he appeared to have "the right sort of agenda and pedigree".

These included having a police record, supposedly being a drinker, dope smoker and loner, having a chip on his shoulder and an explosive temper.

(Watson does have a record, mainly from when he was a teenager, for burglary, theft and cannabis offences. There was also one charge of assault when he was 16 and two of possessing an offensive weapon. He served two short spells in jail in 1989 and



1990. But he had incurred only one minor conviction in the eight years before he became the police's prime suspect in the Hope-Smart case.)

By that weekend, just a few days after he arrived in Marlborough and with hundreds of witnesses still to interview, Pope was able to say: "We can be fairly certain that this ketch does not exist."

Despite numerous possible sightings of the distinctive ketch Wallace described, including some by experienced boaties, it was effectively ruled out.

Charter boat operators Ted and Eyvonne Walsh, who insist they saw the mystery ketch on New Year's Eve at Furneaux and two days later along with many of their passengers, remain bitter about how they were treated and their evidence discounted.

"I felt it didn't matter what I said or how forcefully I put it, they weren't really willing to listen," says Ted. "You're told you don't have a memory. How do you make it up?"

A number of witnesses who subsequently came forward with sightings, some of whom later gave evidence for the defence, were told their information wasn't wanted or their statements were not followed up.

Police, many from Canterbury's flatlands, were often flummoxed getting to grips with nautical nuances inherent in the case. I spoke to one witness who told an officer his own boat was pulled out of the water for maintenance and was "on the hard". The policeman had no idea what the term meant and refused to write it down, believing it was a salty vulgarity.

When Watson's self-built yacht *Blade* was lifted from Waikawa marina and trucked to Woodbourne Air Force base for examination, it was the first signal he was a prime suspect. A public demonisation of Watson began, with police often doing little to stop rumours about him that began swirling. An example was the story that when Watson's boat was seized its anchors were missing, the inference being they'd been used to weight down the bodies. Despite there being three anchors on the small boat, including one in plain view on the foredeck when it was hauled from the water, Pope refused to discuss whether police had found any, allowing speculation to continue.

The day *Blade* was seized also saw the first of numerous searches of the homes of Watson's parents, Chris and Beverly, and his sister, Sandy. Again, this led to a damaging caricature of the whole family and plenty of rumours. I remember hearing lots of them: Watson was a bad and violent bastard; his

family were dangerous and weird. Ugliest of all: Watson was sleeping with his sister.

Pope rebuts suggestions police besmirched Watson or his family behind the scenes. "We deal with facts, not innuendo and rumour."

And, despite police documents showing Sandy Watson and her recently separated husband were asked if she was sleeping with Scott, Pope denies the incest rumour came from police and says he has no knowledge of his officers ever passing it on.

But Gerald Hope is absolutely adamant there were rumours coming from police, including suggestions of incest.

"There was always whispering here and there, dropping seeds into us about this and that like the incest stuff and the dysfunctional family. 'Bloody family, they're all bloody cop-haters and anti-social types', that sort of thing. And for us middle-class people who don't run families that way, I was suddenly confronted with the fact there was somebody at Furneaux Lodge capable of doing what was supposed to have happened. That's why I remember saying, and I hate having said it, 'If we can't have our kids back then we'll nail the bastard'."

At one stage early in the investigation, while family and friends were traversing the Sounds for signs of the Ben and Olivia, police gave key searchers six copies of

a damning suspect profile on Watson, including his police record. Police say this was on the understanding these would be returned. However, they found their way into the hands of the missing pair's parents and subsequently to the media.

Hope believes the profile was distributed by the police with the knowledge it would be passed on by the searchers – to colour the family's view of Watson. He says it certainly created "the responses you'd expect parents would give".

Despite subsequently saying that "really, our course was set from that day", after interviewing Watson on January 12, Pope publicly maintained the fiction Watson wasn't a suspect, only a witness. As a result media and others continued to spread innuendo about Watson without the tightened restriction of sub-judice rules that apply to anyone facing charges.

The Watson family were convinced efforts were made to isolate them from the Picton community. Neighbours Beryl and Paul Karona remember an officer telling them confidentially that police knew Scott Watson had killed Ben and Olivia and it was best they didn't associate with them.

Selected media were privy to police thinking and actions. At *The Marlborough Express* we supported the police, trusted their meth-

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Auckland journalist Keith Hunter.





ods and were kept in the loop, being tipped off as to where they'd be searching. I knew the night before Watson was arrested that it was going to happen, allowing us to marshal resources and have stories ready to go.

Police at times appear to have used heavy-handed tactics in interviews. The transcript of a nearly three-hour interview with key witness Guy Wallace on January 11 makes disturbing reading as he is repeatedly accused of lying and covering up, with strong suggestions he was himself somehow involved with the couple's disappearance.

Amelia Hope, Olivia's sister, was reduced to tears after interviews, according to her father: "She had a hell of a grilling at one stage by police."

At the time, Gerald Hope thought his daughter was just emotional, but having seen how she was cross-examined for emotional effect during the trial, he now believes she was placed under huge duress.

**T**he Hope-Smart case was one of the country's biggest news events of modern times — two attractive young people murdered in the glorious Marlborough Sounds, 1500 potential witnesses, yet no bodies, weapons or obvious crime scene.

The public and media interest was unprecedented, the pressure on Pope and the police to find the killer, enormous.

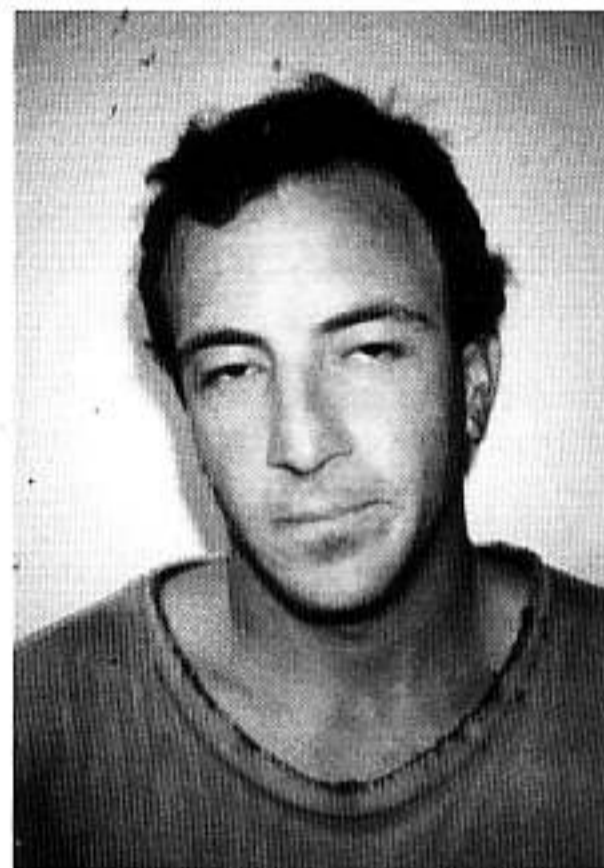
But by mid-April, nearly four months into the investigation, police still didn't have anyone aboard the *Naiad*, the last people to see Ben and Olivia, identifying Scott Watson as the mystery man who offered them a place on his yacht.

By this time Guy Wallace, the crucial witness, had been shown Watson's photo at least three times — by police and by a TV reporter. Each time he'd said Watson wasn't the mystery man.

On April 20 police tried a different picture of Watson in a montage of eight photos shown to witnesses for identification purposes. The new photo showed Watson halfway through a blink, mimicking a description of the mystery man as having hooded eyes. Wallace said he believed photo number three (of Watson) looked like the man he'd transported on the *Naiad*. However, he added that at the time the person had facial growth and longer, bushy, wavy hair that was more unkempt, and a fringe.

A photo of Watson on the night shows he had short, tidy hair, a receding hairline in the front and was clean shaven. Wallace

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also noted it was the eyes that stood out for him more than anything — but the photo of Watson was an unnatural one, caught part way through a blink.

Another crucial witness, Furneaux bar manager Roz McNeilly, also identified Watson from the same montage, including the blink photo, as the person most like the mystery man she and Wallace had seen drinking bourbon at the bar because of the way his eyes looked.

(A noteworthy aside is that Watson's spirit of choice was rum and he'd been drinking this earlier in the evening, raising the question that if he was the mystery man at the bar, why he would suddenly switch to bourbon?)

But McNeilly also insisted the man she remembered had longer hair (as well as previously describing him as having stubble). Police told her the person she'd identified could have had a haircut and cleaned himself up. But the photo taken on the night clearly shows Watson was already short-haired and shaven. In a sworn affidavit McNeilly now says she was never shown this photo of Watson taken on a yacht just

before he went ashore to Furneaux. She first saw it after the trial and immediately realised Watson was not the man she'd seen at the bar.

"I thought I was helping catch a murderer — now I feel like I've put an innocent man in jail."

**E**ven before the Crown opened its case in the High Court at Wellington in June 1999 it was working to give itself the best chance of winning. It vetted all potential jurors, accessing their police records from the Wanganui Computer, which allowed it to potentially challenge anyone with convictions. While this appears to happen frequently in trials, the overall fairness of the exercise has been challenged by Hunter and other critics.

Under the Juries Act, only those with serious convictions are barred from serving. When the defence appealed against the vetting, Justice Richard Heron ruled this was commonly practised and it was "in the overall interests of justice to have per-



sons without convictions sitting as jurors” as long as the defence had the same information. Thus, the prosecution was able to weed out anyone who may have spent time in prison and may have been sceptical about the crucial Crown evidence that Watson had stunningly admitted his guilt while in custody. (More on this later.)

For the first 11 weeks of the trial the prosecution brought nearly 500 witnesses in front of the jury. While perfectly entitled to, this had the effect that for nearly three months the jurors heard only the relentless Crown case other than defence cross-examination of witnesses.

Gerald Hope, who sat through much of the trial, now feels very uncomfortable about the way the Crown ran the case. One of the events he remembers that provokes his uneasiness was a prolonged examination where his daughter Amelia was asked about rings she and Olivia had recently exchanged. This was drawn out until Amelia finally broke down in tears.

“It was pure theatre and the whole thing must have had a huge emotional effect on the jurors. At the time it wrecked us emotionally because we didn’t know that was coming up.”

Hope now feels it was emotional manipulation. “We don’t understand the law but it certainly didn’t seem to have anything to do with evidence. It just made us [Hope and wife Jan] so angry and increased our dislike for the defendant. I imagine it had that effect on the jury as well.”

When the defence opened its case, Watson’s lawyer Mike Antunovic was cut down in his opening address by the judge, who refused to allow him to reflect on evidence already presented.

While some lawyers spoken to agree with the judge’s action, another of Watson’s current lawyers, Greg King, describes it as “one of the worst judicial interventions I’ve ever seen”.

Justice Heron had been involved in the case long before the trial. In May 1998 he permitted an application from Pope to bug Watson’s boat and his sister’s house. In doing so he accepted the veracity of numerous statements by Pope as to Watson’s character, plans, appearance and actions, many of which were never used in the trial because they could never be proven. It is unclear how such “secret” information may have prejudiced Justice Heron, but his final words to the jury may be indicative:

“It would of course be of considerable benefit if you could put this dreadful event in the

## “I thought I was helping catch a murderer – now I feel like I’ve put an innocent man in jail.”

Furneaux bar manager Roz McNeilly.

life of our country to finality by a verdict according to law but only in accordance with the oaths and affirmations you have taken.”

How the jurors took this nobody knows, but they may have concluded that only a guilty verdict could give “finality” to the case.

**T**he police and Crown case was that Watson returned from the party at Furneaux around 4am on the water taxi driven by Guy Wallace, invited Ben and Olivia back to his yacht, then murdered them.

Watson had originally told police he returned to his yacht *Blade* alone, about 2am – though, not wearing a watch, he couldn’t be sure. His lawyers cross-examined another water-taxi driver, Donald Anderson, who’d told police he took a lone man to a yacht that had a name reminding him of an edged weapon, so the defence based its case on this evidence.

Several people on the two yachts rafted up with *Blade* recall Watson arriving back on his boat, obviously alone, and looking for company to continue partying with.

So the defence was confident this proved Watson didn’t come back with Guy Wallace, Ben and Olivia as the prosecution was arguing.

However, at the very end of the three-month trial, on the second day of the Crown’s closing address, the prosecution announced Watson had actually made two trips back to his yacht – at 2am with Donald Anderson then again at 4am with Guy Wallace, Ben and Olivia.

The defence says it was stunned by this “two-trip theory”, not having understood or foreseen the Crown argument of Watson’s movements. It could be forgiven for this. Earlier, the Crown had appeared to challenge the 2am trip with Anderson and not once had it presented any evidence from the 500 witnesses about seeing Watson go back to shore between 2am and 4am. None of the water-taxi drivers had been questioned about this. Nor had any of the security guards on the jetty that night or any other revellers at Furneaux Lodge. Conse-

quently, the defence hadn’t asked any witnesses about it either.

Despite a total lack of visual evidence of Watson’s having made this trip, prosecutor Paul Davison QC insists an incident on shore involving Watson occurred around 3am and thus sheer logic suggests he must have returned from his yacht at some stage after his 2am trip out to *Blade*. But this missing link was never tested by either side as it was only clearly raised after all witnesses had finished giving evidence.

(Keith Hunter argues that Watson – who, remember, didn’t have a watch so was guessing at times – in fact did return to his boat alone but it was after 3.30am and not 2am as he’d estimated.)

Davison, who labels Hunter’s criticisms of the prosecution as “totally misconceived, mischievous” and “ill-informed”, says the issue was “more than adequately dealt with and I just can’t imagine that competent defence counsel wouldn’t see it just as clearly as I saw it and everybody else saw it”.

Mike Antunovic responds: “With the greatest respect to Mr Davison QC, that’s just utter rubbish. The two-trip theory was a major departure from the Crown case and there was just no way we could foresee it.”

The issue was one of the grounds for the defence appeal to the Court of Appeal but was rejected, with the court saying there had been “extensive cross-examination” of this and associated issues. The defence and others who have studied the court transcript continue to dispute this and plan to use it as a ground for further legal action.

Whatever the reality, it seems bizarre that such a crucial piece of evidence about Watson’s movements wasn’t thoroughly canvassed during the trial. Despite there being 1500 potential witnesses that night, absolutely nobody saw him return to shore.

If you believe the Crown theory, how then did he get there? After months of investigations, police were obviously unable to find anyone who’d taken him. One would assume if he swam, those who saw him later might notice. If he used his own dinghy, why wouldn’t he have returned in it, and how did he get it back, given the Crown argued



he went back to *Blade* with Guy Wallace? If he used someone else's — might they not have noticed and reported it?

Why did nobody in the boats beside *Blade*, hear him leave to go back to shore, hear or notice him later returning on the Guy Wallace water taxi, or hear him board his yacht with Ben and Olivia?

Davison put it to the jury in his closing address thus: "Was it just hitching a ride with a passing boat? Who knows? There was a dinghy attached to the back of his boat. There were other dinghies around. It was a short row. It was a short trip in any boat. Does it matter?"

For those who value certainty when someone is accused of something as serious as murder, Davison's words to the jury are little short of chilling.

**S**o what were the crucial pieces of evidence Watson was convicted on?

Firstly there was the "blink photo" identification by Guy Wallace, from which he now resiles. Back in Picton working as a carpenter, Wallace is bitter about how he believes he was pressured by police and feels guilty he identified Watson from the montage, insisting he wasn't the man he dropped Ben and Olivia off with.

"I feel I've been shafted by the cops. As far as I'm concerned Scott's innocent, always has been."

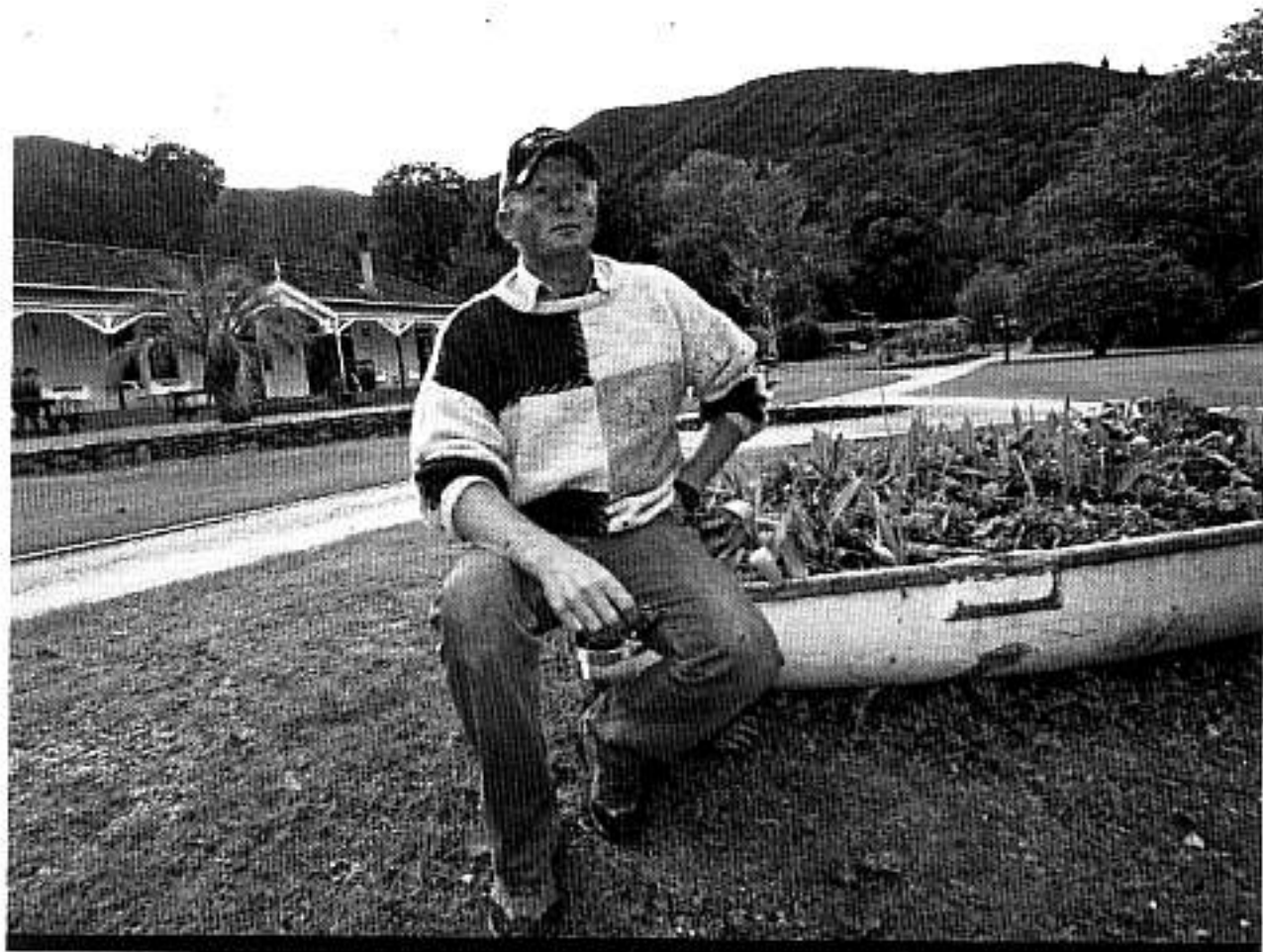
Idly rolling a cigarette while admiring a sprinkling of snow on the highest peak in the Sounds, Mt Stokes, Wallace says hardly a day goes by when he doesn't think about the case, and still insists he delivered Ben and Olivia to a ketch.

The police case rested on Wallace being absolutely right about the man he dropped Olivia and Ben off with — yet, despite a boating background, utterly wrong about the very detailed description of the ketch he said he took them to.

"I travel to work on water every day and you're always looking — always looking for that ketch. What I feel shithouse about is that I dropped them off and I had the opportunity not to drop them off."

The second crucial piece of police evidence is the so-called secret or protected witnesses — criminals who claimed Watson confessed to them in prison. Secret witness A recanted his testimony in 2000, saying he'd lied.

Secret witness B claims Watson — who'd been warned about jailhouse snitches and



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Water-taxi driver Guy Wallace (pictured back at Furneaux Lodge): one of the last witnesses to see Ben and Olivia.

kept his silence throughout the investigation, even to his girlfriend, who was secretly reporting to the police — told him (a virtual stranger) about murdering Ben and Olivia. Watson never even shared a cell with witness B. The "confession" was supposedly given through the peephole in Watson's cell door. A man with an extensive and violent criminal history, witness B received a phone and car from police and an arguably light sentence on other charges he faced.

I met secret witness B once when he came into *The Marlborough Express* agitated about his position as an informant in the case. He never consented to go on the record with anything, but suffice to say, using basic journalism criteria for credibility, I'm not sure I'd have been comfortable believing what he told me anyway. Rob Pope defends the use of the two jailhouse informants despite there being strong international opposition to evidence from such sources being allowed in trials. He says police were obliged to use the information because it was "relevant and contributory", and it was up to the jury to decide if it was trustworthy.

The final and perhaps strongest piece of evidence was two hairs found on a tiger-patterned blanket on Watson's boat that were matched to Olivia by DNA.

About 400 strands of hair were taken from the blanket. An initial examination of them was carried out by ESR forensic scientist Susan Vintiner on January 22 1998. She isolated 11 that appeared to have roots that might give a DNA analysis (none did) but found no blonde strands that matched Olivia's hair, which she'd seen in newspaper photos. On March 7, after samples of Olivia's hair were sent to the laboratory, the tiger-blanket strands were again examined. Most were short and dark. This time Vintiner found blonde strands — one 15cm long and the other 25cm — which she'd overlooked before. Tests showed these were from Olivia or someone from her maternal blood line. Vintiner had shortly before been examining sample hair from Olivia, taken from her home on two occasions, leading to suggestions there may have been accidental contamination of the tiger-blanket hair. There was also never any real explanation for a mysterious 1cm slit in the bag holding Olivia's sample hair, Vintiner only offering that she may have inadvertently cut the bag while using scissors to open the envelope it was in. Frustratingly, no count had been taken of how many strands of Olivia's hair were collected from her home, so nobody could check if any were missing.

Without the blonde strands of hair even



Rob Pope concedes it would have been difficult to bring a case against Watson. The events at ESR leave many unsettled about whether even the hair evidence can be trusted. Few tests were ever done for Ben's hair as it was too similar to Watson's.

**B**lade now swings on a mooring in Waikawa Bay near Picton, kept tidy by Chris Watson but rarely used. The unfortunate irony is that Ben's parents, John and Mary Smart (who chose not to speak on the record for this story), have shifted to the bay and can see *Blade*, the yacht their son was supposedly murdered on, every time they gaze out towards the spectacularly beautiful Sounds, where forested ridges strike up from sheltered bays.

When you climb aboard *Blade* a couple of things are immediately apparent.

The first is the lack of space to sleep. Apart from Watson's berth at the front, there is only a thin seat on the right of the saloon which would fit one person. There is a potential berth on the other side of the saloon if you drop the table down but this isn't able to be securely fastened and there is no squab to cover it, meaning a very uncomfortable night.

So presuming it was Watson who invited Ben and Olivia on to his yacht, unless he instantly thought while on the water taxi that he'd murder them, where did he imagine they might sleep? Would he have given up his own bed? Would one of them have dosed on the floor? Or outside in the cockpit? Or twisted themselves around the table which didn't have a squab on it? Perhaps the answer to one of these is yes but even Gerald Hope, who's been on *Blade*, admits it's not the kind of boat his daughter was likely to have been happy staying on.

Presuming they did stay on board, was Watson really prepared to murder them, and possibly rape Olivia, when only a fender width – less than 30cm – separated them from the yacht he was tied up to, and which had nine people on board? Sound wouldn't have been the only problem – any movement on yachts is easily transferred when rafted up. If Watson did overpower Ben and Olivia there, somehow nobody just centimetres away on the other boat noticed anything – including Olivia desperately scrabbling at the hatch. (Scratches on the inside of the hatch were key Crown evidence – see page 58.)

Maybe he moved before murdering them? But *Blade's* clanking engine is in the entrance of the saloon – mere centimetres

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from anyone sleeping there. It's incredibly noisy inside the cabin and it's difficult to imagine anyone sleeping through its being started, given there was insufficient wind for Watson to sail away.

There are possible answers to all these seeming illogicalities. The jury who went aboard *Blade* must have considered all the facts and theories. However, enough questions remain about what happened that night to still cause many people serious doubts.

**R**ob Pope has heard all these things before. He hasn't read Keith Hunter's book (he sent the complimentary copy Hunter forwarded him back to the author, unopened) but claims there's nothing new in it. Pressed, he says this understanding comes from "a couple of comments I've heard around the place. No one's given me any great detail. They just say it seems to be the same old same old."

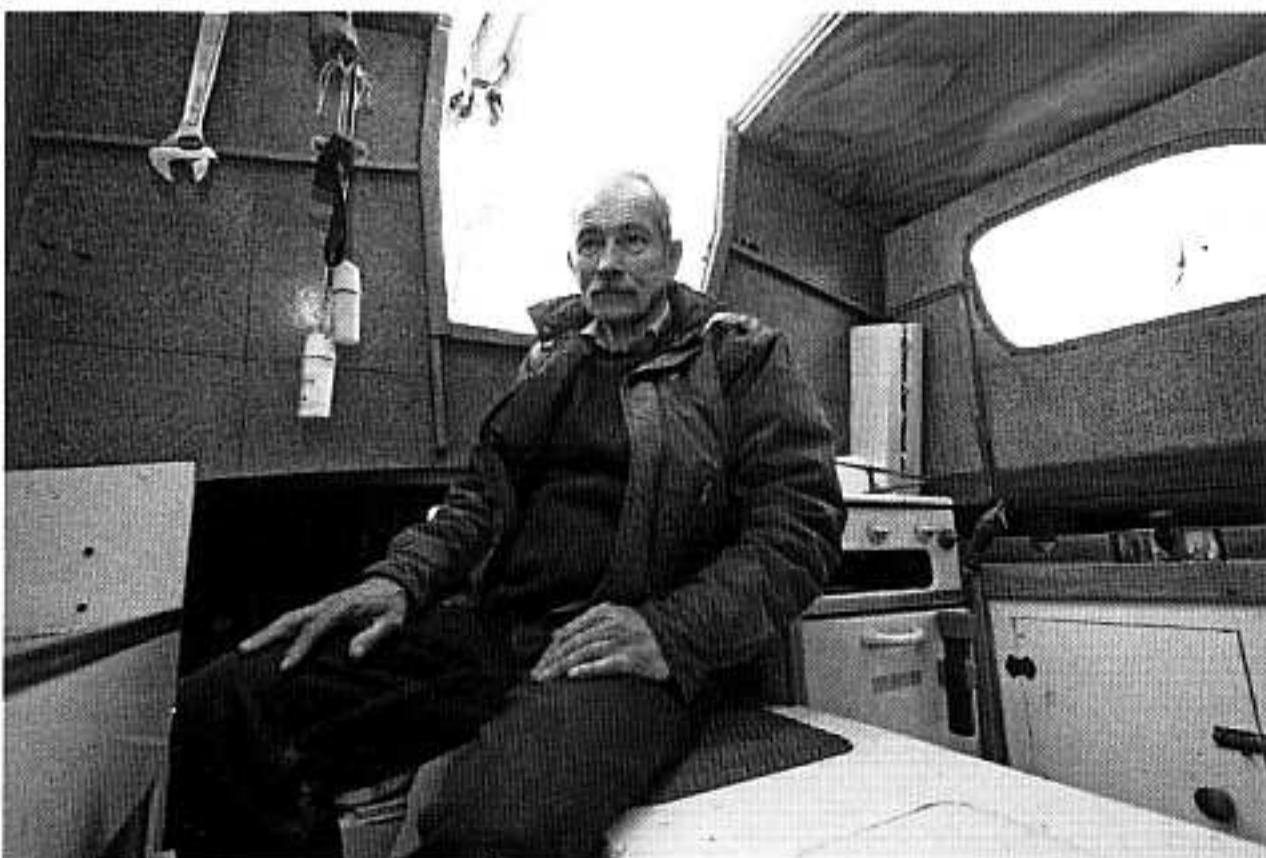
Not having a clear knowledge of what's in *Trial by Trickery* doesn't stop Pope from

challenging Hunter's authority to criticise the investigation, repeatedly indicating the proper place for the case to be heard was in the courts – and this one has gone as far as the Privy Council.

"Trying to elevate that book as something new, something startling, runs totally contrary to very carefully considered court testimony, very strongly challenged both in the defence and prosecution. And then to actually say a jury that's been charged with finding guilt or innocence is wrong, on the basis of a person's view, looking from a distance. He has the luxury and comfort of sitting in a lounge or in front of a computer [and saying], 'Ooh, that's not right', or 'They've obviously stuffed up here – they've done this, they've done that'. It's done without any form of accountability.

"I don't know this fellow Hunter from a bar of soap; he may be well intentioned but being well intentioned doesn't necessarily mean that a whole legal and investigative apparatus has to knee-jerk to the fact he has a view. And that view is formed, rightly or wrongly, on information the police and the police alone have gathered. So what's new?"

Chris Watson inside his son's boat *Blade*.





He has a view — everybody has a view.”

Having refused to read the book, Pope can be forgiven for not realising what new evidence Hunter has gathered. But his position also seems to deny anyone the right to say the legal system can get things wrong and provide supporting evidence. In 2006 former High Court judge Sir Thomas Thorp suggested 20 New Zealanders were wrongly imprisoned when he called for an independent body to review miscarriages of justice.

And perhaps the distance Pope refers to, which Hunter has had for the six years he's investigated and reviewed every available document on the case, allows a dispassionate assessment, not influenced by the pressure, drama and emotion of either a police investigation or courtroom trial conducted under intense media scrutiny.

The generally cheery and likeable Pope, a career cop and perhaps the country's best-

works as an engineer at the local fish factory while wife Beverly is a cook at a waterfront cafe in Picton. They've got five grandchildren, two cats and a veggie garden and aren't the gangsters that many would caricature them as.

There's no chance of retirement soon; the cost of their son's case prevents that. (Watson's legal aid bill is still the highest in New Zealand at \$623,740 — but his current legal challenges are not publicly funded.)

They've never done the sums on what it's cost them financially but it's been “thousands and thousands”, says Chris. “You just do it.”

The cost obviously goes much further. Bev Watson, who addresses every letter to her son as “Scott Watson, Innocent Man”, says the case has wrecked their lives.

When Scott was arrested and their house searched repeatedly, then bugged, they clung to the belief that reason would

theory you cut him right out of the equation and go on what you can prove.”

Many people ask why Scott Watson has never spoken publicly other than to say “you're wrong” after the jury announced its verdict and, “This is a bloody farce; I'm an innocent man”, when given a 17-year non-parole sentence.

“But what [would Scott] say?” argues Chris. “I'm not involved, I went to the thing on New Year's Eve, I went about my business, the police came and took me away'. Do you have to weep and wail and do emotional things for the press? They can get stuffed. Anything he says will be misconstrued, misused or picked over.”

Public perceptions of Scott Watson's character have not improved while he's been in prison. His marriage (now over) and his sending lewd pictures from a cellphone (a second case attributed to him was bogus) have won him little public sympathy.

“It's bad PR,” admits Chris. “But he's not, and we're not, PR men. I often wonder if we'd have been better off hiring a PR man than a lawyer.”

And that's a persistent issue — time and again people will say they don't know if Watson killed Ben and Olivia but he's a bad bastard anyway and it's probably better he's in jail.

Despite his quiet manner and attempts to pursue Scott's case with “the utmost reasonableness”, Chris Watson has frequently confronted the police who turned his family's life over.

“What else can you do? Be submissive and be a sheep? That's what they want. I want them to admit they stuffed it up. The pleading to the judges doesn't turn me on any more — it's extremely distasteful. I want those people to admit their justice system is crap. Whether it will happen or not is another matter.”

It will if Mike Antunovic and Greg King have anything to do with it.

In 2000 the Court of Appeal rejected a number of arguments from Watson's defence, saying it was satisfied there had been no wrong decision in law nor that a miscarriage of justice had been demonstrated, but Antunovic firmly disagrees with that judgement.

He gets angry recalling the case and believes it is indeed one of New Zealand's greatest miscarriages of justice. “And I won't change my thinking till the day I die.”

King, another of the country's highest-profile defence lawyers, joined Watson's le-

## “Scott's not, and we're not, PR men. I often wonder if we'd have been better off hiring a PR man than a lawyer.”

Scott's father Chris Watson.

known one, argues in dense police-speak but is clear proper process has been followed and says Hunter's accusations need to be proven with the same scrutiny as the courts.

Pope says he won't shy from any inquiry into the case, which is what Hunter and others are seeking.

“But a new inquiry on what? There's nothing to hide about this investigation. If anything it's probably one of the most publicly trawled inquiries in recent times. At what point do you say stop?”

When the truth's been uncovered, says Scott Watson's father Chris, who for 10 years has quietly and meticulously dissected the police and prosecution case against his son.

Born in Connecticut, Chris Watson shifted to New Zealand at the age of 12 and got into sailing when a neighbour in Christchurch bought a small yacht. Later the family took to sea for 12 years, sailing around New Zealand, stopping to work for six months then moving on. It was here Scott got his love for boats, buying his first yacht at 20 before building *Blade* on the family's Picton property.

Chris Watson turned 60 in March and

eventually prevail.

“We thought there would be someone with a brain — some stable, normal person among them,” says Bev.

By the end of the trial they were convinced Scott would be acquitted. The prison guards had brought in his clothes and his lawyers had a bottle of wine ready.

And so it's gone on, their hopes raised at the Court of Appeal, then the Privy Council, only to be crushed each time.

“You get tired of feeling like your stomach's dragging on the floor,” says Chris. “You keep plodding on and you hope that each time you come around a corner you'll find somebody that's honest.”

Chris Watson is the quiet back-story to the headlines Ben and Olivia have generated ever since they went missing. But he's acutely aware that whatever he says, people will potentially dismiss it as parental prejudice.

While David Bain had eloquent ex-All Black Joe Karam championing his cause, Scott Watson has parents who were viewed with suspicion from day one.

“So I've approached this from what I could prove,” Chris says. “It's no use getting Scott's story because everything he's said they've said is a lie. So I've worked on the



gal team when it applied to the Privy Council for leave to have the case heard there. This was declined, with no reasons given.

"I think it's one of the most questionable convictions entered by a New Zealand court. When I look at the evidence I don't think there was enough to convict him. In fact I think the opposite. I think there was a very substantial body of evidence which precluded him from being the killer."

Among many concerns King has is what he calls the "shifting sands" of the prosecution case when it claimed Watson made a second trip ashore to Furneaux.

"There's not one skerrick of evidence to show he did that. So what you're doing is

als, it would be difficult to say the same of Act Party leader Rodney Hide.

Hide says Hunter's book is the most shocking thing he's ever read and is lobbying MPs to take action. "If it was another country's legal system I'd find it amazing. But the thought it's about New Zealand is unbelievable. I don't see how you can read this book and not be shocked to your core."

Hide says the issue goes beyond Watson; he questions the entire legal system. And when the serious accusations made against top figures such as Deputy Police Commissioner Rob Pope remain unanswered, people's faith in the justice system is left in tatters, the MP says.

## Olivia's father Gerald Hope insists that if he could be convinced Watson was not guilty, he'd work to free him.

bringing in a verdict based on pure speculation and guesswork. That's not a trial, that's a witch-hunt."

King helped defend Vicky Calder in the poisoned-professor case also headed by Rob Pope. Calder, accused of poisoning her former lover, was acquitted at a second trial. And King says the same police pattern of tunnel vision evident there was repeated in Watson's case — "focusing on your person and finding the evidence to fit the person rather than sitting back and finding the person that fits the evidence".

Pope dismisses this, saying police had 130 potential suspects, although Watson quickly became the key one.

King says New Zealand's justice system isn't effective at redressing miscarriages of justice, but within the next year he'll present what could be Watson's last legal shot — a petition to the Governor-General who, in consultation with the Ministry of Justice, can recommend a pardon or that the case be referred back to the Court of Appeal.

"It's easy to be seen as some bleeding-heart liberals. But all I'm saying is any conviction has to be able to withstand the closest scrutiny. To me that's what 'beyond reasonable doubt' means. The families of Ben and Olivia are entitled to go to bed at night 100 per cent satisfied the right person has been locked up. And in this case I don't think there's evidence to show Scott Watson was the right person."

While some may indeed caricature lawyers such as King as bleeding-heart liber-

"This is more serious than anything I can imagine and the silence from our justice system is truly deafening."

**A**cross Cook Strait in Marlborough, where late frosts threaten the grape vines that smother its valleys and support its economy, Gerald Hope is equally amazed nobody has responded to Keith Hunter's book or challenged his allegations of wrongdoing.

"It's a provoking read. He's presented some really searching evidence and raised a lot of really powerful questions and it's been done systematically, coherently and objectively."

When Scott Watson was found guilty Hope believed police had the right man, but his confidence has been shaken in the years since as he's reflected on how they and the court process worked.

"What we got was a conviction but we never got the truth. And that's the part that still really rips me up. At the end of the day we're no further ahead than we were on the first or second or third of January of 1998. It's circumstantial evidence so you're having to believe a story. And parts of that story are shallow — incredibly shallow. If you weave the whole story together and accept one version of it you have to go along with a rightful and justified conviction. But there are parts of it that just don't gel."

Hope says he now feels extremely unhappy about the way the police acted.

"You trust in the institution of the police to give you the absolute truth. You don't expect it to be interpreted and given to you in diluted form or selectively."

"We had high expectations that a man of Rob Pope's experience would be able to get to the bottom of what happened. And he appeared to do that — to get a result. But it was a story that was woven around the suspect."

"I'm not saying [Scott Watson] is not guilty. What I'm saying is let's clear up the doubt."

To help do this, Hope wants to sit down with Scott Watson and hear him express his absolute innocence and how he feels — something he believes is a simple request (and one Chris Watson says he's open to). Hope insists that if he could be convinced Watson was not guilty, he'd work to free him.

However, that would leave Hope and the other family members utterly bereft as far as knowing what did happen to Olivia and Ben, and with 10 years of the most extreme emotions all for nothing. What's worse, it would mean the one chance to find out what really happened and to do something about it in those first days of January, when they were searching for a ketch, had been lost forever. And that almost unthinkable prospect is one Hope admits has made him reluctant to go down the path of considering police may have got the wrong man, as it would leave the families knowing only that Olivia and Ben had been abducted and disappeared, never to be seen again.

"But if that was the truth you'd have to accept it. Because you'd rather know the truth than something that was fabricated and wrong. I could deal with that better than Watson being in there if the conviction is unjustified, because I'm not at all unsympathetic."

Hope, just re-elected as a Marlborough District councillor, recently came across photos of Olivia. "And you look through from the baby to the photograph on the *Tamarack* and you think, a whole life just disappeared like that. Very, very hard to come to terms with. This whole loss is totally unresolved."

"If I wake up in the morning and suddenly something floods back into my mind or when we go to sleep at night — I just have to pull a blind down otherwise you don't sleep — the 'what if' scenarios — you just have to blank it off, you don't go there."

"The one thing that always remains is that we never found the truth. We thought we would. We thought the process we were going through would actually be the truth. But it hasn't been. That's the hardest part." ✦



# Watson's Yacht *Blade*: the evidence

## Ketch vs Sloop

Water-taxi driver Guy Wallace, who had been around boats for a decade, insisted he dropped Ben and Olivia off to an old-style two-masted, 38-40-foot timber yacht (ketch) with brass portholes, a blue stripe on the hull and lots of rope work.

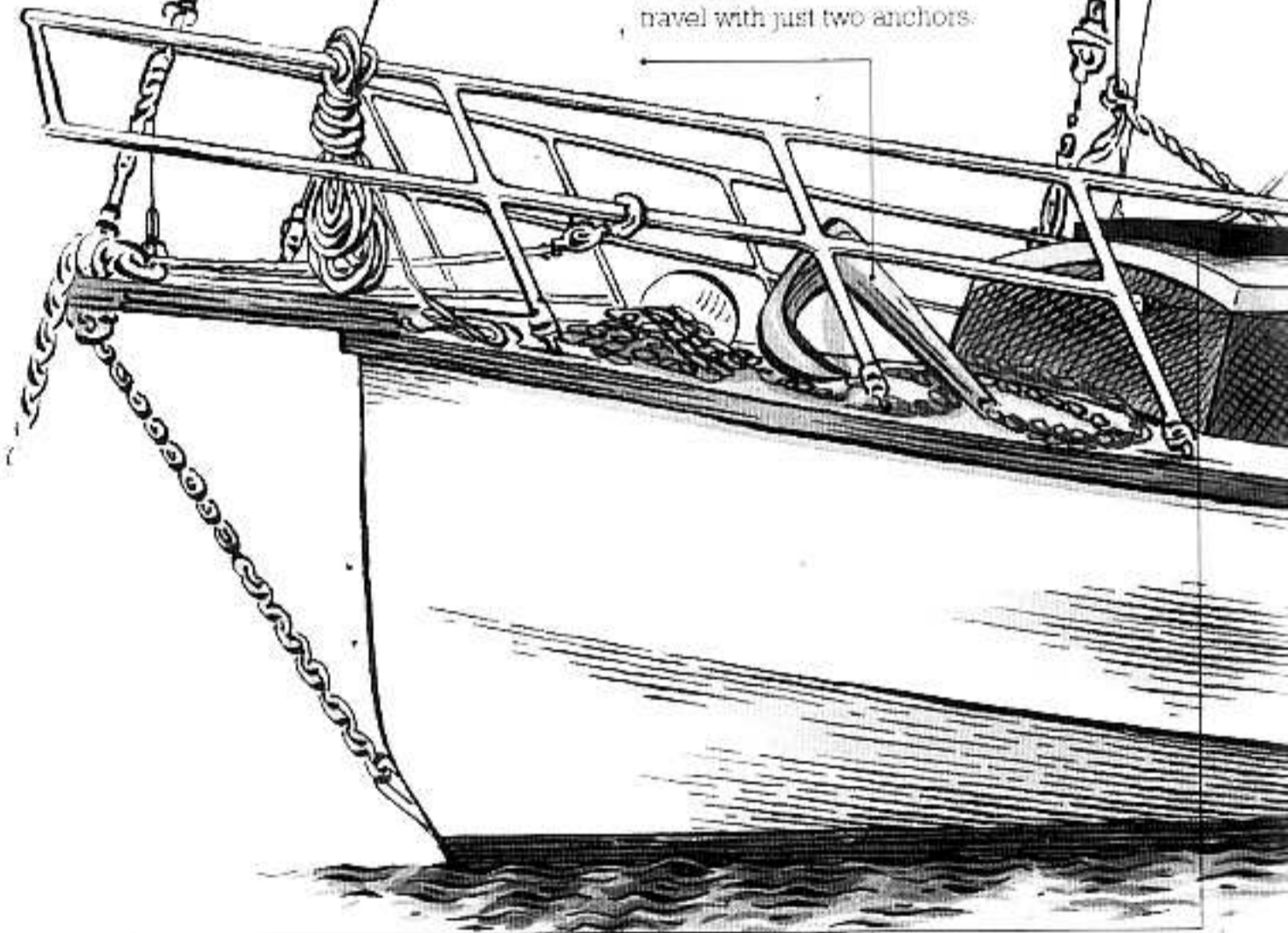
Watson's yacht is 28-foot steel, homebuilt, has one mast, no portholes, no stripe and no rope work. Descriptions from Wallace and other water-taxi passengers clearly point to a larger yacht that floated higher in the water than Watson's. Wallace commented in court that the only similarity between the two yachts was that they both floated.

## The Erie Bay Trip

Police claimed Watson took Ben and Olivia's bodies into Cook Strait on New Year's Day, dumped them, then returned to Erie Bay and lied about the time he arrived. The man who gave Watson the paint for his boat initially said Watson arrived between 10am and midday. Over subsequent weeks this estimate of Watson's arrival time gradually changed until he and his children said Watson arrived around 5pm. A father and son on an interisland ferry are the only people who claim they saw Watson's boat in Cook Strait — about 4:30pm. Keith Hunter recreated the trip from where they saw it to Erie Bay. It took two hours 30 minutes, making it impossible for Watson to have arrived in Erie Bay before 7pm if the police theory is correct.

## Anchors Were Missing

Soon after *Blade* was taken by police a rumour circulated that it was found with no anchors aboard, the suggestion being they'd been used to weigh the bodies down. Police refused to comment on whether *Blade* had any anchors despite the fact one anchor was plainly visible on the foredeck when the yacht was seized. There were another two on board. Boats often travel with just two anchors.



## The Hatch Scratches

The Crown suggested extensive scratching of a rubber material inside the forward hatch was evidence of Olivia desperately scrabbling to escape the killer Watson. However, the hatch can be fastened only from the inside, unless some heavy object is holding it down from outside. If Olivia was desperate to get out, why didn't she just untie the cord securing it and push it open? The scratch marks go right to the edge of the foam — in an area you can't get your finger into if it's shut — suggesting the marks could have been made only when it was open. Watson and others always maintained the hatch had been scratched by his nieces. The scratches that were so evocative at the trial hadn't even been noticed by police until March 1998 despite trawling over the boat for evidence.

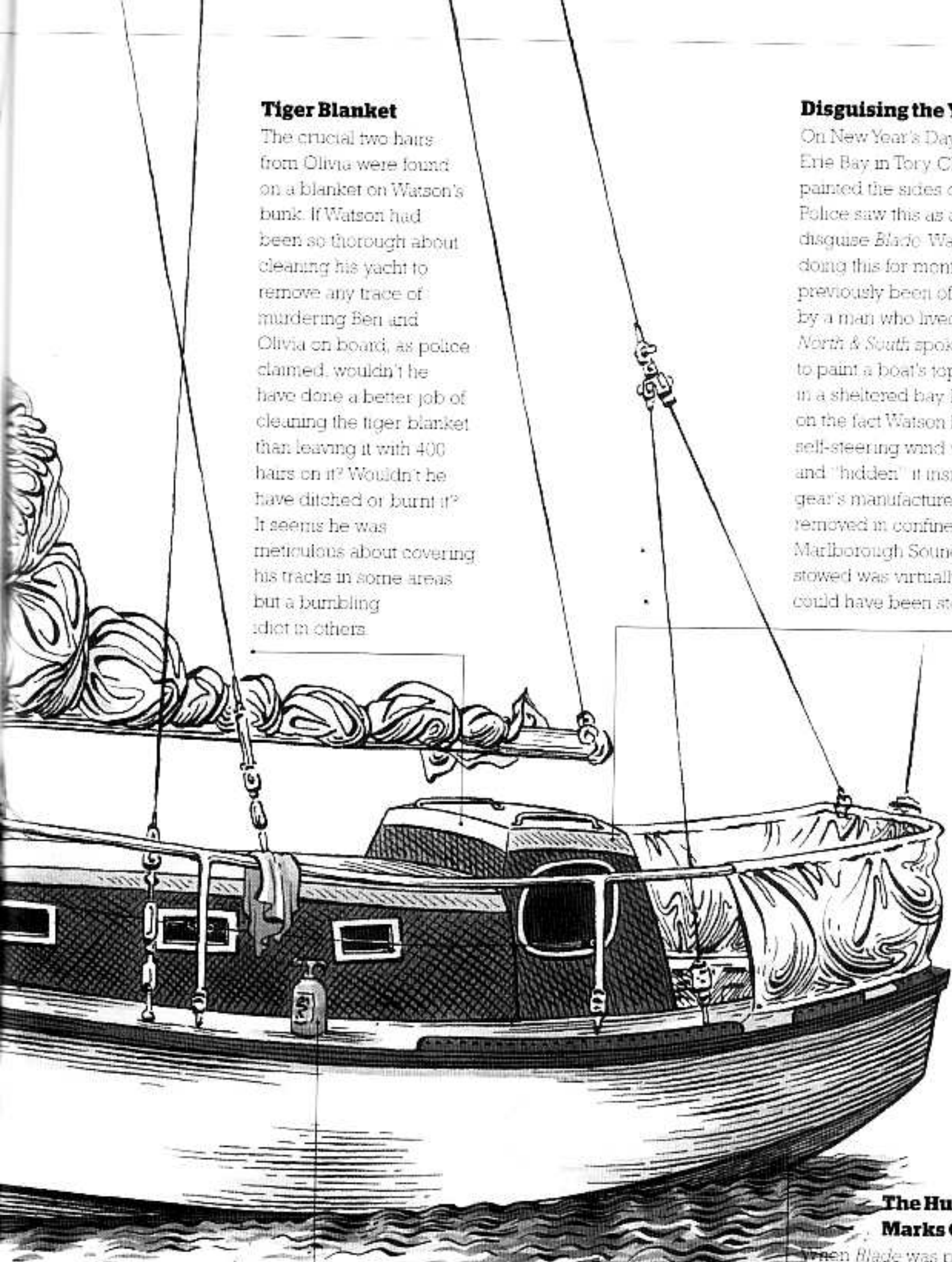


### Tiger Blanket

The crucial two hairs from Olivia were found on a blanket on Watson's bunk. If Watson had been so thorough about cleaning his yacht to remove any trace of murdering Ben and Olivia on board, as police claimed, wouldn't he have done a better job of cleaning the tiger blanket than leaving it with 400 hairs on it? Wouldn't he have ditched or burnt it? It seems he was meticulous about covering his tracks in some areas but a bumbling idiot in others.

### Disguising the Yacht

On New Year's Day Watson went to Erie Bay in Tory Channel and later painted the sides of his cabin blue. Police saw this as a deliberate attempt to disguise *Blade*. Watson had talked about doing this for months before and had previously been offered the blue paint by a man who lived in Erie Bay Yachting. *North & South* spoke to say it's normal to paint a boat's topside while anchored in a sheltered bay. Police also seized on the fact Watson had taken down his self-steering wind vane from the stern and "hidden" it inside. The steering gear's manufacturer recommends it be removed in confined waters such as the Marlborough Sounds, and where it was stowed was virtually the only place it could have been stored on the yacht.



### Extensive Cleaning

It's widely believed Watson cleaned the inside of his boat so thoroughly that he even wiped the inside of cassette covers. But ESR scientists giving evidence at the trial said that in nearly all places, only 30 to 50 per cent of hard surfaces inside the boat had actually been wiped down. The number of fingerprints found was no more or fewer than experts would have expected to find in such an area. Of the cassette tapes tested, only half were found to have been wiped clean. Watson always said he'd cleaned the inside of the boat, including wiping the tapes, after a rough voyage down from the North Island in December 1997. *Boaties North & South* spoke to are adamant that cleaning tapes is normal because introducing salt into the cassette player will wreck it.

### The Hull Had Mysterious Marks On It

When *Blade* was pulled from the water, there were areas on the hull near the stern where weed had been rubbed away. It was suggested this might have happened when Watson lowered the bodies into the water. The marks are consistent with his having tried to clean the hull with clear areas where it would be impossible for any supposed shrouded bodies to rub against. 'And if the bodies were weighted, how did they float sufficiently to rub under the hull near the keel?