

**REPORT OF THE POLICE COMPLAINTS AUTHORITY
ON THE POLICE RESPONSE TO A 111 CALL REPORTING A CAR FIRE
WHICH RESULTED IN THE DEATH OF CLAIRE ELIZABETH HILLS
AT MANGERE, AUCKLAND ON 28 APRIL 1998**

Introduction

On the morning of 28 April 1998 Claire Elizabeth Hills died in a car as a result of a fire in that vehicle while it was stationary, adjacent to the clubrooms of the Onehunga-Mangere Soccer Club, Domain Road, Mangere, Auckland. The fire was reported to the Police by a 111 call made by a member of the public and received in the Police Northern Communications Centre. The purpose of this report is to disclose the results of an investigation carried out into the Police response to that 111 call.

Narrative of events

A member of the public, while walking, observed what she described as “*flash*” in the area of the Soccer Club clubrooms. She observed a person walking around in between the clubrooms and a car. The flash died down and she continued walking towards the area. Very shortly thereafter she then observed a person running back from the car towards her at which time she saw the “*whole car go up in flames*”. She made her way to a house in nearby Coronation Road to ask a person there to raise an alarm. From her evidence and the fact that the watch being worn by Claire Hills stopped at 5.47am it is possible to conclude that the fire in the car started at approximately 5.47am.

A Coronation Road resident was approached by the woman who made these observations as he was driving out of his driveway to go to work shortly before 6am. He returned to his home from where he made a 111 call at 6.05am and spoke to the Police. He passed on appropriate information about the fire and its location.

The Police operator to whom he spoke at the Northern Communications Centre told him that he would contact the Fire Service. Despite that undertaking the Fire Service was not contacted by the Police operator and a “job” was not created to provide for the despatch of Police units to the scene.

The Fire Service was eventually notified of the fire at 6.24am when a call was received from another member of the public whose husband had seen the fire while walking in the area.

A Mangere fire unit was despatched, arriving some 7-8 minutes after receipt of the call at 6.24am. The fire was extinguished but not before very extensive damage to the car occurred.

The body of Claire Hills was then discovered in the rear portion of the car, a Mazda 3-door hatchback. Police were advised of this by the Fire Service and shortly thereafter attended the scene.

The times recorded in this narrative are approximate and may vary slightly from real time. This resulted from discrepancies between the timekeeping mechanisms in Police Northern Communications Centre and the Fire Service. That deficiency has not been critical to the findings in this report. (The Authority has been advised that this issue has been addressed. The timestamps (clocks) used in Communications Centres have been synchronised).

Involvement of Police Complaints Authority

No complaint about the Police response to the 111 call has been made by any member of the public. However some weeks after the incident the matter was reported to the Authority pursuant to a Memorandum of Understanding between the Authority and the Police Commissioner. This Memorandum records an agreement that incidents of serious misconduct or serious neglect of duty that are internally reported within the Police shall be reported to the Authority. In turn the Authority shall deem such notification to be notification of a complaint and shall respond in the same manner as the Authority would with a complaint. For the purposes of the Memorandum misconduct or neglect of duty is deemed to be serious if it constitutes a criminal offence or is of such significant public interest as to put at risk the reputation of the New Zealand Police.

An investigation was directed. It was conducted by an Auckland Police Inspector and reviewed at various levels, including Police National Headquarters, before reference to the Authority for final review.

Release of Public Report

The public interest in this matter justifies the release of a public report pursuant to Section 34 of the Police Complaints Authority Act. When an investigation under the Act involves a death the Authority would normally defer the release of a report until the conclusion of an inquest conducted by the Coroner, allowing the Authority to take into account evidence which may be disclosed at such a hearing. However a homicide investigation being conducted by the Police is still continuing and as a result an inquest is unlikely to be held in the near future.

The Authority has decided not to defer the release of this report any further, now that disciplinary proceedings against the Constable who took the 111 call have recently been concluded. The disciplinary proceedings are reported on later in this report.

Focus of investigation

The investigation was directed at the Police response to the 111 call and more specifically the actions of the Constable who received that call in the Communications Centre. As it became clear that that Constable did not alert the Fire Service as he told the caller he would, the investigation then focused on two principal issues that arose as a consequence of that failure.

Those issues were:

1. If the Fire Service had been advised by Police of the fire upon receipt of the 111 call at 6.05am might it have been possible for the life of Claire Hills to be saved?
2. Did the failure of the Police to advise the Fire Service upon receipt of the 111 call adversely affect the subsequent criminal investigation by the destruction of potential evidence and if so to what extent?

These two issues will now be addressed.

The time of death of Claire Hills

A post-mortem was conducted by a pathologist Dr A D Cluroe. She was able to conclude that Claire Hills was alive at the time the car was set alight. She was also able to express the opinion that death would have occurred within ten minutes of the fire igniting.

During the investigation a further opinion was sought from a Wellington pathologist Dr K Thomson. He expresses the opinion that given the circumstances of the fire Claire Hills would probably have been dead within five minutes of the fire ignition and certainly dead within ten minutes.

As the fire started at 5.47am it is possible to conclude from the opinions of the pathologists that Claire Hills would have been dead no later than 5.57am. This was some eight minutes prior to the receipt of the 111 call. When eventually notified of the fire the Fire Service took 7-8 minutes to reach the scene. If the Fire Service had been alerted at 6.05am an appliance could have arrived at approximately 6.12am or 6.13am which is some fifteen or sixteen minutes after the latest time at which Claire Hills died.

The Authority has therefore reached the conclusion that if the Fire Service had been advised by Police of the fire upon receipt of the 111 call at 6.05am it would still not have been possible for the life of Claire Hills to be saved.

Destruction of potential evidence

The failure of the Police officer who took the 111 call to report the fire to the Fire Service resulted in a delay of twenty minutes in that Service arriving at the fire scene. This investigation examined whether that delay affected the progress of the resulting homicide enquiry and if so, to what extent.

On the available evidence, the car would have been burning for some forty-five minutes prior to the arrival of the first fire unit at 6.32am. By this time the vehicle had been completely gutted.

On this issue the pathologist Dr Cluroe expressed the following opinion:

“Claire Hills body was in an advanced state of burning, being partially cremated, particularly the peripheries of the limbs. As a result of this extensive burning it is quite possible that evidence on the body could have been lost or destroyed. Had the body been found earlier in the process before the advanced burning to the body had occurred then it is possible that more evidence in the form of body surface injuries may have been detected”.

The Detective Sergeant who was appointed Officer in Charge of the scene was in no doubt that if the Fire Service had been alerted earlier then the Police would have recovered more forensic evidence from both the body and the vehicle.

The Fire Investigation Officer employed by the Fire Service, who investigated the fire, was also of the view that if the Fire Service had been advised earlier the deceased's body would not have been subjected unnecessarily to the full fire intensity and forensic evidence both in relation to the body and the motor vehicle may have been preserved by earlier fire suppression activities.

From these various opinions the Authority has been able to conclude that forensic evidence that would or may have been useful to the homicide investigation was either lost or substantially degraded through the late arrival of the Fire Service. Furthermore, the degree of damage both to the vehicle and the body of Claire Hills hindered the homicide investigation team in respect of the reconstruction of events preceding and following on from the vehicle being set alight. The late notification to and the arrival of the Fire Service at the fire scene impacted adversely on a homicide investigation.

It has not been possible however to establish the precise degree of this impact.

Officer taking 111 call

The Police officer who took the 111 call at 6.05am acknowledged that he informed the caller that he would advise the Fire Service of the fire and he did not do so.

It is also established that no call details were entered into the Police despatch system. This latter failure may have been the result of operator error or oversight although the Police officer when spoken to during the investigation did not acknowledge that.

Accordingly checks were made during the investigation. It was concluded that at the relevant time the CARD system was functioning normally and that (apart from the comment which follows) the work station operated by this officer was functioning correctly. The Constable received calls both before and after 6.05am for which he successfully entered an event into the system. There were however two calls received about unrelated events at the desk of this Constable at 6.10am and 6.23am in respect of which the Constable believed he entered an event but no event was created. The work station has a rotating log system which is sequentially over written (usually within 48 hours). If there had been an attempt by the officer to enter an event which was not accepted, the event log would have disclosed it and the reason for that. However the event log for the relevant work station had been over written by the time this issue was investigated. It has not been possible to reach a positive conclusion that the failure to enter call details was attributable solely to operator error or oversight.

Nevertheless the admitted failure of the Police officer who took the 111 call to advise the Fire Service was clearly a neglect of duty.

Following the investigation therefore a charge was laid against the officer under Regulation 9 (40) of the Police Regulations 1992 which provides that:

“The following shall be offences of misconduct or neglect of duty on the part of any sworn member for the purposes of the Act:

.....

(40) negligence in the discharge of the member’s duties”.

The officer pleaded guilty to this offence. Subsequently the Police Commissioner exercised his disciplinary jurisdiction and imposed a monetary penalty.

Summary of conclusions

As a result of this investigation the Authority concludes that:

- (i) The Police Constable who took the 111 call at Northern Communications Centre at 6.05am was clearly guilty of neglect of duty when he failed to report the call to the Fire Service as he told the caller he would.
- (ii) If the Fire Service had been advised of the fire by Police upon receipt of the 111 call at 6.05am it would still not have been possible to save the life of Claire Hills.
- (iii) The failure of the Constable did result in the loss of forensic evidence in relation to both the car and the deceased’s body that would or may have been useful to the homicide investigation although it is not possible to determine the precise extent of such a loss.

Judge N C Jaine

POLICE COMPLAINTS AUTHORITY

20 July 1999