INQUIRY OFFICER’S REPORT INTO THE DEATH OF LANCE CORPORAL JARED WILLIAM MacKINNEY

Reference:
A. ADFP 06.1.4 – Administrative Inquiries Manual

INTRODUCTION

Preamble

1. On 24 August 2010, elements of Mentoring Team Delta (MT-D), Mentoring Task Force 1 (MTF 1), were conducting a partnering and mentoring foot patrol with ANA (Afghan National Army). Australian Light Armoured Vehicles (ASLAVs) were in an overwatch fire support position to the northwest, with 120mm mortars in dead ground to the west with call sign Echo, and a 155mm gun at was also in support. Apache helicopters were on minutes notice if required. At approximately 0913 hours local time the patrol was engaged by insurgents (INS) in the vicinity of DERAPET. The INS were utilising prepared firing positions and engaging the patrol from multiple firing points, including Qualas in nearby villages in the TANGI VALLEY as well as the aqueducts south of the Rud (river). The patrol returned fire from positions in an aqueduct near the Rud, about 80m from the INS and from a high feature known as the feature to the south. Call sign Foxrot a section including Lance Corporal (LCPL) Jared William MacKinney, were called forward to support the patrol on the feature. At approximately 0946 hours local time, LCPL MacKinney was shot by INS and fatally wounded.

Appointment and Terms of Reference

2. I, Colonel Boss, having been duly appointed by Air Chief Marshal Allan Grant Houston, AC, AFC, Chief of the Defence Force (CDF), to inquire into the death of Lance Corporal Jared William MacKinney in accordance with the Terms of Reference attached to the Instrument of Appointment (Enclosure 1) herein submit my report.

Inquiry team

3. The inquiry team consisted of myself as the Inquiry Officer and the following Inquiry Assistants:

   a. Lieutenant Commander
   b. Warrant Officer Class Two
   c. Corporal and
   d. Corporal

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Inquiry methodology

4. The methodology adopted for this inquiry was consistent with the Instrument of Appointment and Terms of Reference which specified, amongst other things, that:

a. the inquiry is to be conducted in a timely manner;

b. the Inquiry Officer follow as closely as practicable procedural guidance contained in reference A;

c. the inquiry is not intended to be a substitute for a Commission of Inquiry and has a more limited scope and purpose;

d. the inquiry be conducted so as to minimise adverse impacts on the conduct of ADF operations in the Middle East Area of Operations (MEAO).

5. Annex A contains details of the procedure and method adopted by this inquiry. Enclosure 1 contains foundational inquiry documents such as the scoping document, the instruments of appointment (new and original), statements of independence and impartiality and the running sheet, as well as written correspondence between the Inquiry Officer and the Appointing Authority. Enclosure 2 contains documentary evidence considered by this inquiry. Enclosure 3 contains statements and electronic records of conversation of witnesses interviewed. Each document is tabbed and indexed at the beginning of the enclosure. It should be noted that where times are identified that these are to be read as being approximate times only. There were a number of instances where accounts of times varied between witnesses to a minor degree. These variations were not significant in the context of this report.

6. On 23 Sep 10 the Terms of Reference were expanded to include inquiry into the issues raised by a member of MTF 1 via the Australian media. This variation to the Terms of Reference is at Enclosure 1. This variation did not direct me to conduct a general inquiry into offensive fire support and as such I was required to maintain a nexus between issues inquired into and the death of LCPL MacKinney.

NARRATIVE OF EVENTS

Training and deployment of Mentoring Task Force (MTF)

7. MTF 1 completed mission rehearsal and force preparation in between Nov and Dec 09. MTF 1 commenced a Relief in Place (RiP) into the MEAO on Jan 10. It conducted Reception, Staging, Orientation and Induction (RSO&I) training at Al Minhad Air Base (AMAB) in the United Arab Emirates prior to deploying into Afghanistan. It then completed The RiP was completed by Feb 10.
MTF 1 Role in URUZGAN PROVINCE

8. MTF 1 was under operational control of Commander Combined Team URUZGAN (CTU). CTU is under the overall operational control of Commander International Security Assistance Force (ISAF).

9. The MFT 1 mission was set out in Operation (OP) [redacted]. It was to partner and mentor assigned ANA units and contribute to capacity building in URUZGAN province in order to support the ISAF security and reconstruction/development lines of operation.

10. MTF 1 tasks include the following:
   a. Mentor the supported ANA KANDAKs,
   b. Assist in the mentoring of HQ 4th ANA Bde,
   c. Be prepared to [redacted],
   d. [redacted],
   e. Provide a Provincial Mentoring Team (PMT) to work with the Provincial Reconstruction Team (PRT) in the delivery of managed works,
   f. Be prepared to [redacted], and
   g. [redacted]

11. The Operation Order (OPORD) for OP [redacted] issued 02 Oct was the primary document for missions and tasks in the MTF 1 Tactical Area of Responsibility (TAOR). This was updated by Fragmentary Orders (FRAGOs) issued for [redacted]. FRAGO [redacted] was the extant FRAGO for the period that covered 24 Aug 10.

12. MTF 1 was divided into six teams (MTF 1 to MTF 6) divided between different TAORs within URUZGAN. MT-D was based at PB HADRIAN, with a TAOR which included PB ANAR JUY located to the east of the village of DERAPET. Under FRAGO this its task was to conduct Normal Framework Operations, including taking over responsibility for PB ANAR JUY from Aug 10.

Clearance of DERAPET
13. Over the days preceding the patrol into DERAPET, MT-D, in partnership with the mentored ANA, developed a plan to patrol into the village of DERAPET. The mission was to conduct a fighting patrol from PB ANAR JUY in order to clear DERAPET in the vicinity of the TANGI VALLEY.

14. All members regardless of rank reported that they had ample time to prepare up and down the chain of command. All members reported feeling that they knew exactly what they were to do and felt confident in the plan.

15. From [REDACTED] and from MT-D’s experience in DERAPET, it was expected that INS would oppose the patrol. The numbers of INS anticipated was in the region of 15 to 25. It appears that on this occasion there were somewhere in the region of 80 to 100 INS. This number was not inconsistent with the actions anticipated [REDACTED] in that INS were believed to have the will and capacity to transport fighting age males to the DERAPET area in response to a MTF patrol.

Forces involved

16. The Australian call signs were as follows:

a. Alpha Infantry,
b. Bravo Joint Terminal Attack Controller (JTAC),
c. Charlie Forward Observer (FO),
d. Delta Infantry,
e. Echo Infantry,
f. Foxtrot Infantry,
g. Golf (Inc Explosive Detector Dog (EDD) Handler) Engineers,
h. Hotel Explosive Ordnance Disposal (EOD),
i. India Snipers,
j. Juliet ASLAV (gun cars),
k. Kilo ASLAV (gun cars),
l. Lima Infantry,
m. Mike Infantry, and
n. November (Inc EDD Handler), Engineers.

17. Afghan Forces. [REDACTED] (ANA) [REDACTED] (approximate).
18. Coalition, Jet, Apache Attack Helicopters, Aero Medical Evacuation (AME), 120mm mortar, and 155mm gun (US).

SYNOPSIS OF THE INCIDENT

19. **Date, time and place of incident.** The incident took place on 24 Aug 10 at approximately 0946 hours local Afghanistan time. The site was in the vicinity of DERAPET (TANGI VALLEY).

MT-D TASKORD 02/10

20. On 24 Aug 10 a patrol from MT-D’s PB ANAR JUY, under the command of Lima, was partnering and mentoring (ANA).

21. **Events prior to the incident and local atmospherics.** It is likely that the INS had been observing the Coalition Force (CF) reconnaissance on 23 Aug 10 of an overwatch position to be used in the mission. During the evening of 23 Aug 10 INS began encouraging local nationals to move away from this. This continued to occur in DERAPET as well as in... on the morning of 24 Aug 10. At this time the INS began to ready pre-prepared firing positions from which to attack the patrol in the area of a Quala complex identified as... It appears that secondary positions in the aqueducts supplying the local living areas were also prepared to enable the INS to move freely between locations.

22. On 23 Aug 10, Engineer assets had attempted to clear an overwatch position but were forced to withdraw due to failing light and the complexity of the search.

23. At hours local time on 24 Aug 10, Kilo moved with the Engineers to complete the clearance and establish the overwatch position. Meanwhile Foxtrot
moved to establish a blocking position to the West of DERAPET. Foxtrot was hours.

24. Kilo and Alpha reported the arrival of a number of fighting age males in a white minivan as well as seeing increasing numbers of local nationals leaving.

25. Alpha moved to overwatch locations west of DERAPET. Alpha and the 120mm mortars established a mounted blocking position with the remainder occupying an overwatch position on location by local time.

26. The main patrol commanded by Lima with ANA elements, moved through the overwatch position occupied by Kilo in order to collect. The patrol then continued South-West to DERAPET. The main patrol and the ANA married up with Foxtrot at hours local time and commenced the clearance of DERAPET at hours local time. Lima directed Foxtrot to follow the patrol at a distance of Elements of the patrol and ANA were sent to the high ground described as the feature, while other elements including Lima and the remaining ANA moved along an aqueduct to the south of the river.

27. At hours local time the patrol in the aqueduct halted to investigate a suspicious item. At 0913 hours local time the patrol reported contact from small arms fire from multiple firing positions to the North and East on the north side of the river.

28. Kilo moved at 0920 hours local time in order to support Lima and the ANA who had to identify their position. Kilo was able to engage the INS firing positions within and DERAPET identified to them by the patrol and Bravo.

29. At 0908 hours local time Bravo requested a fire mission from in order to have the mortars ready for action.
A request was put through to Oscar and at [ ] hours local time CTU authorised use of the airspace for the fire mission. As soon as the fire mission was called the mortar crew were poised for instant action with a crewman holding a mortar to the mouth of the tube. Bravo did not subsequently call the mortars into action as he determined that they were not the appropriate weapon system for the task. He was concerned that the mortars had [ ] effect on the civilian village of [ ].

30. Lima and ANA became pinned down in the aqueduct to the north of DERAPET between the Qualas and the river. The [ ] so Kilo was unable to engage. Bravo attempted to guide Kilo onto the INS location.

31. Meanwhile at 0936 hours local time, Foxtrot moved forward to reinforce elements of the patrol and the ANA who had taken up fighting positions on the [ ] line known as the [ ] feature. Members reported heavy fire that was sustained and accurate. Bravo was in this location and was returning fire while indicating targets for Kilo. Bravo was in the location that he had been directed to by the overall commander.

32. The incident. As Foxtrot engaged the INS, LCPL MacKinney was struck in by a single INS round in the left upper arm. It was not possible to identify where the round was fired from as fire was coming from multiple firing positions including the Qualas in the village of [ ]. The village was to LCPL MacKinney’s left when he was hit.

33. Immediate actions. At 0946 hours local time a 9 Liner (casualty report) warning order was sent and at 0955 hours local time a 9 Liner was sent. Soldier 1 and Soldier 2 arrived and commenced immediate first aid and Cardio Pulmonary Resuscitation (CPR). Other medics arrived and CPR was continued until LCPL MacKinney was taken onto the AME. Attempts
were made to LCPL MacKinney prior to the arrival of the AME in order to
These attempts were unsuccessful.

34. The Engineers performed a search of the AME Landing Zone (LZ) whilst
under fire and the AME came in under fire. LCPL MacKinney was CASEVACED
from the location with medics continuing to apply CPR.

35. The patrol attempted to identify the point of origin of the INS fire. The
ANA moved to an alternate position to engage the INS. Bravo was able to guide
Kilo onto the INS positions established in the tree line.

36. Lima waited minutes while a Apache helicopter arrived. Once
it engaged the patrol began a fighting withdrawal to Foxtrots location. The Apache
helicopters conducted a repeated gun run on the tree line East of the patrol's position
to aid the withdrawal.

37. At hours local time a , placed overhead by CTU, that had
been unable to and therefore participate, left the area.

38. At local time an , came on
station and waited for direction from Bravo for targeting. The patrol was still in
contact and sent a warning order for ammunition re-supply by Delta in
's location. Meanwhile Bravo was continuing to co-ordinate assets to effect a
break contact.

39. At 1105 hours local time Bravo was receiving sporadic fire while the
identified a in the vicinity of .
40. **Bravo** was advised that a 155mm gun with precision guided munitions, was available and waiting for orders. The 155mm gun was not to fire unless commanded to do so by **Bravo**.

41. **Kilo** was running low on ammunition and advised **Lima** that if fire from **Kilo** was needed to break contact he needed to do so shortly.

42. At [redacted] hours local time the 155mm was laid on to a Quala complex identified as [redacted]. **CTU** gave permission to fire. **Bravo** [redacted].

43. At 1135 hours local time information was received that the INS were posturing to re-engage.

44. At [redacted] hours local time the 155mm fired [redacted]. Although the initial direction was given “on my command” the command to fire was not given by **Bravo**. This was due to a difference in fire control orders between [redacted] and Australia. I was informed by CO MFTF 1 that this issue was being addressed at the time of interview.

45. By the time the [redacted] was delivered the patrol had already broken contact using fire from the Apache and [redacted].

46. At 1145 hours local time **Kilo** was engaged by the INS with [redacted] gunfire. **Kilo** engaged the INS in the aqueduct in the vicinity of [redacted].
47. At 1146 hours local time the 155mm had ceased action and the Apache returned to the airspace for ammunition re-supply. Once this was complete they began withdrawal to the PB.

48. As the patrol was making its way to the PB they met with the ANA force that had been reacted by the ANA commander. Also arriving at this time were elements of Oscar that had reacted to the contact. Lima turned these reinforcements back. The mortars were stood down. An A10 Warthog ground attack aircraft that had reacted for the contact was not required to engage.

49. Although the mortars were available they were not called for by Bravo as he assessed that they were not required given the circumstances of the action. He was satisfied that fire from Kilo and the Apache helicopters were the most appropriate fire support. At no time did the overall commander call for mortar fire.

50. Subsequent actions. LCPL MacKinney’s remaining equipment was collected and placed on a stretcher. At the end of the contact it was returned to marry up with LCPL MacKinney’s possessions for repatriation.

AME. The time line for AME was as follows:

a. 9Liner sent at 0955 hours local time,

b. Wheels up from hours local time,

c. Wheels down at incident site hours local time,

d. Wheels up from incident site hours local time,

e. Wheels down at Role 2 Medical Facility MNBTK 1033 hours local time.

Authority to conduct the operation.
51. The operation was authorised under the MTF1 OPORD of 10 and subsequent FRAGO dated Aug 10 for Aug 10. I am satisfied that the patrol conducted by MT-D on 24 Aug 10 was duly authorised and approved under OP as well as having specific approval from CO MTF 1. It was within the authority of CO MTF 1 to authorise the task.

Involvement by civil and Service authorities

52. The local Australian Defence Force Investigative Service (ADFIS) representative opened an ADFIS investigations into the incident IAW DI(G) ADMIN 45-2 – Reporting and Investigation of Alleged Offences within the Australian Defence Organisation. I am not aware of any other Australian, Afghan, Coalition or civilian involvement in the incident.

53. The Queensland State Coroner exercised jurisdiction over LCPL MacKinney’s death. A post-mortem was conducted at Brisbane on 1 Sep 10. The ADFIS member present was

Deaths and injuries

54. Official confirmation of death for LCPL MacKinney was at 1040 hours local time on 24 Aug 10 by the Regimental Medical Officer (RMO) at the Role 2 facility, MNBTK.

55. There were no other casualties or reports of injuries resulting from the contact.

56. At all times following the death of LCPL MacKinney his remains were reported as being treated with dignity and respect by his comrades. An Honour Guard was placed on his remains from the time of his arrival at MNBTK until he was repatriated. A memorial ceremony was held at MNBTK before his departure and a Ramp Ceremony conducted.

ANALYSIS OF THE INCIDENT

57. Environmental conditions. Weather on the day was dry and fine. Visibility had good visibility Visibility at ground level was good to approximately 1100m. There was a significant amount of dust in the air due to wind and the contact that hampered visibility for the Apaches.
58. **Operational conditions and factors.** The operation was well planned with good support. There was an issue with obtaining clear air space from CTU but this did not affect the ability of Bravo to call for offensive fire support. Bravo was trained, qualified and authorised to use offensive fire support in circumstances where air clearance had not been obtained from CTU. It was Bravo's decision to use only Kilo and Apaches for offensive fire support. This was his role as the subject matter expert for the patrol. This decision was not inconsistent with his training and the tactical directives that were in force in Afghanistan.

59. **Pre-operation intelligence.** Intelligence reports prior to the patrol predicted INS activity and noted the movement of local nationals from the area on 23 Aug 10. The numbers involved were greater than anticipated by the patrol. In any event, the numbers of INS does not appear to have made any difference to the outcome, indeed OC MT-D stated that his planning would have been little different had the greater number of INS been anticipated. I am satisfied that there was no weakness in the intelligence reporting process.

60. **Pre-operation planning.** Planning for the patrol was a deliberate process undertaken at various levels within MTF and in detail by MT-D. The troops involved had a high level of confidence in the plan. All members felt that they had been fully informed through orders. Offensive fire support from the mortars was identified as part of the offensive fire support plan with Kilo. No weaknesses were identified in the planning process or in the plan.

61. **Orders.** The orders down the chain of command were good with a detailed concept of operations passed to every level: Orders were disseminated via the chain of command. The time for planning was in excess of the rule. There was no weakness identified in the system.

62. **Command and Control.** CO MTF1 had over view of the planned patrol and had approved the mission. OC MT-D was intimately involved in the planning and had approved the plan. Lima was the commander on the ground. He had
conceived the plan and was intimately involved in its planning and execution. He discussed the plan in detail with Soldier 3, the ASLV commander. Lima remained calm and effective as a commander under fire. There were no weaknesses identified in command and control.

Offensive fire support

63. The plan detailed offensive fire support to be provided by 155mm gun, call sign [redacted] and 120mm mortars, call sign [redacted] sited in the [redacted] position. Rotary and fixed wing were [redacted] Apache attack helicopters were identified as able to deploy with minutes notice to move. Significantly, the mortars were identified [redacted]. There is no evidence of weakness in the offensive fire support plan. Of significance to this inquiry is the fact that mortars were on site and an integral part of the fire support plan.

64. The fast air close air support (CAS) in the form of a [redacted] was deployed by CTU but was unable to [redacted]. As a result, CAS could not be employed. I was informed that ISAF had been made aware of the [redacted] and that the issue was being addressed.

65. Air clearance for use of the 155mm gun was significantly delayed due to [redacted]. I was informed that these issues were being addressed by CTU with a reorganisation of the [redacted] and test exercises planned. Significantly however, [redacted] did not call for the 155mm gun to fire a mission. [redacted] was trained, qualified and authorised to call for fire from the 155mm gun without air clearance from CTU. Had [redacted] wished to use the 155mm gun he would have been able to do so at any time regardless of approval from CTU.

66. The mortars were available and standing by on site. The mortars were from [redacted] and were an integral part of the patrol plan. The mortars were [redacted] working as an integral part of the Australian / Afghan patrol. This is the very essence of coalition operations. The mortars were brought into action by [redacted] but were not called on to fire. There was a delay in clearance of air space by CTU. However, [redacted] was trained, qualified and authorised to fire the 120mm mortars
regardless of approval from CTU. Bravo determined that mortars were not required. The commander on the ground, did not request mortar fire from Bravo.  

67. The Apache attack helicopters did engage on order from Bravo. A pilot reported to CTU that visibility was poor and targets were not visible. Despite this the Apaches were able to put down sufficient fire with the Apache gun for the patrol to break contact.  

68. Kilo was acting in a static fire position in the overwatch position. Kilo was able to provide good fire support with the ASLAV gun. The ASLAV crew were also engaging INS positions with the medium range armament.  

69. Due to the nature of coalition operations, there was a need for CAS. This was not however a platform that was identified in the plan. There was also delay from CTU in clearing air space. However as Bravo was trained, qualified and authorised to call in offensive fire support regardless of air clearance from CTU, there was no hindrance to a fire support mission being called in. I am satisfied that there were sufficient permissions in place to enable the timely use of offensive fire support had Bravo required it. I am therefore satisfied that there was no weakness in the offensive fire support. Specifically there was no failure to make mortar support available.  

Individual training  

70. LCPL MacKinney’s role required the skill and training of an infantry rifleman. I have reviewed his PMKeyS entries and I am satisfied that he was fully qualified for the role. LCPL McKinney had completed all of the pre-deployment training required of him. He was highly respected as a soldier by all members.  

Protective equipment  

71. LCPL MacKinney was wearing his issued Combat Helmet and issued Body Armour System with plates fitted both front and rear. There is no evidence of any failure in his protective equipment.
Human factors

72. At the time of the incident the members of the patrol were alert and well prepared. Reaction to contact was in accordance with training. There is no evidence of fatigue or lack of training, awareness or knowledge of the mission. Contact with INS was anticipated.

Operational factors – conclusion

73. The patrol into DERAPET was well planned. Troops on the ground were well informed and understood the mission and commander’s intent. Contact was expected. Offensive fire support was available for the action. There was however significant obscuration of the battle space creating difficulty for the Apache helicopters to engage and, as Bravo was receiving fire he was hampered in bringing offensive fire onto targets.

74. There were a number of issues identified over the passage of information relating to the deployment of offensive fire. I find however that these did not affect the ability of Bravo to engage with mortars, nor did it affect the outcome in relation to LCPL MacKinney. There is no evidence that had offensive fire support in general, and mortars in particular, been used at an earlier stage that these could have targeted the INS from whose weapon the round that killed LCPL MacKinney was fired.

75. Bravo was the officer whose role it was to co-ordinate offensive fire support on the ground. Bravo was trained, qualified and authorised to use both mortars and 155mm weapon systems to support the contact. Bravo was trained, qualified and authorised to engage with these systems without air clearance from CTU. Bravo applied his professional judgement to the situation and concluded that the Apaches in conjunction with Kilo assets were sufficient for the task and could be employed within the rules of engagement.

76. I am satisfied that the patrol commander did not call for mortar support and that Bravo was competent in his management of the offensive fire support. I note both officers were directly involved in the contact, receiving and returning fire and that Bravo was in the location to which he had been directed by the commander on the ground. I am further satisfied that use of mortars during the contact would not have prevented the death of LCPL MacKinney given the low probability of a mortar hit being made directly onto the INS that fired the round. Fire from Kilo was in any event being directed onto observed targets and could equally have targeted the unknown INS.

77. While some natures of ammunition were exhausted, there was no evidence of any member having exhausted all ammunition by the end of the contact. There was in any event a re-supply undertaken so that ammunition was available on site.
POST - INCIDENT EVENTS AND FACTORS

78. **Medical treatment.** Members at the scene provided first aid and continued to give CPR to LCPL MacKinney until arrival of the AME. Given the nature of his injuries, a catastrophic thoracic trauma, I am satisfied that LCPL MacKinney was killed instantly and that no medical assistance whatsoever could have revived him. Eye witness reports are consistent with this. CPR and first aid were administered immediately and continued throughout his evacuation. I am satisfied that there was no weakness in the system of battlefield care provided to LCPL MacKinney.

79. **CASEVAC.** No weakness was identified with the CASEVAC, which was effected well within the time of 90 minutes identified for Category casualties. The AME was conducted under fire to the credit of the AME team and the members preparing the LZ and giving first aid to LCPL MacKinney.

80. **Identification of remains.** Identification of LCPL MacKinney was made by REGIMENTAL SERGEANT-MAJOR (RSM) MTF 1. His identity discs were also available.

81. **Repatriation.** Repatriation to Australia of LCPL MacKinney’s remains was in accordance with all relevant directives. His remains were treated at all times with honour and respect. A memorial service was held by MTF 1 at MBT on 27 Aug 10. Ramp ceremonies were conducted at each staging point and Honour Guards were mounted around the clock prior to his repatriation.

**Issues raised in media**

82. On 23 Sep 10 my Terms of Reference were expanded to include issues raised by a member of MTF 1 which found their way into the media. The member was interviewed by me as part of the inquiry.

83. There were a number of issues raised in the communication. Firstly, that had there been mortars in support that LCPL MacKinney would not have died. As part of this inquiry it has been determined that mortars were in support of the contact. The assertion that there was no mortar support is therefore incorrect.
84. It has further been determined that mortars were not called in by Bravo because in his professional opinion they were not the appropriate weapon system for the circumstances. Bravo determined that Kilo's guns and the Apache attack helicopters were the optimal weapon systems.

85. A review of Bravo's actions and decision making was conducted by an independent, senior, qualified and experienced JTAC / JFO officer as an expert witness to this inquiry. In particular, the expert evidence was that it was therefore an appropriate exercise of discretion by Bravo not to employ the mortars. The expert confirmed that from the available evidence, in his opinion, Bravo complied with the practices and standards to be applied by a JTAC in relation to offensive fire support in contact. As a result of the expert evidence, I am satisfied that there was no negligence by Bravo in relation to his employment of Kilo and Apaches as the offensive fire support for the contact or in his preference for these assets over mortars and 155mm gun.

86. It is noted that when interviewed in the course of this inquiry the member described the communication recounted to the media as a form of venting by him as part of the grieving process for his comrade. It is most likely that at the time the email was written the member was grieving and searching for something to blame for the death of a close mate. I am satisfied that the comments were therefore not an accurate reflection of observations made in relation to the contact, but as a release of pressure from a very emotional situation.

87. It is also noted that the member was not on the high ground with Foxtrot and LCPL MacKinney. The member was in the aqueduct with Lima and therefore had no view or appreciation of the conditions on the feature where Bravo and LCPL MacKinney were.

88. At interview, the member stated that his view was in fact that intervention by mortars would not have made any difference to LCPL MacKinney's death. I am satisfied that the comments reported in the media did not represent any genuine complain but were simple expressions of grief.

89. The second issue raised was in relation to intelligence reports. The member declined to make a statement in relation to this issue but gave the inquiry officer to understand that his concern related to the post contact report which he felt was not sufficiently detailed. He stated that he had read the report which he felt was not sufficiently detailed.

90. I have reviewed the contact intelligence reports and I am satisfied that the report to which the member was referring was in fact a report from two days prior to
the contact in which LCPL MacKinney was killed.

The report for 24 Aug 10 gave an appropriate account of the contact for that day, describing a very substantial contact. I am therefore satisfied that there was no failing in the intelligence reporting for the incident on 24 Aug 10.

91. Comments were also made in relation to ammunition. As set out above, I am satisfied that no member exhausted his total ammunition supply. There were certainly some ammunition natures that were exhausted but all members retained at least some ammunition for their personal weapon. Ammunition was also made available in re-supply. I am satisfied that there were appropriate measures in place for re-supply and that there was sufficient ammunition for the contact as planned and as it unfolded.

Other factors

92. Drugs and alcohol. There is no evidence of drugs or alcohol consumption as a factor in LCPL MacKinney’s death.

93. Other. There were no other factors contributing to the incident.

Performance of duty

94. There is no evidence of any failure of duty by any person. Specifically I can find no evidence that Bravo failed in relation to the employment of offensive fire support on 24 Aug 10.

Conclusion

95. I am satisfied to the requisite standard that LCPL MacKinney was killed in action by a round fired from an INS weapon. I am satisfied that the earlier engagement of offensive fire support from 120mm mortars would not have altered the outcome in relation to LCPL MacKinney. Indeed use of the mortars in the context of the contact had the potential to cause casualties to own troops as well as casualties amongst any civilians remaining in and destruction of civilian homes.

96. Given the nature and intensity of the contact it is remarkable that no other casualties were sustained and validates the training and preparation of the members of the patrol. I am satisfied that the death of LCPL MacKinney was as a direct, and sole, result of enemy action. I found no evidence of any substantial weakness or deficiency in relation to the incident involving LCPL MacKinney.

97. In the course of this inquiry I have discovered no issues that would benefit from further consideration by a CDF Commission of Inquiry (COI). A COI is unlikely to discover any further relevant material, information or evidence in the
context of the incident that would make any significant difference to the conclusions of this report.

Findings

98. I find that the circumstances associated with the death of LCPL MacKinney do not warrant the appointment of a COI.

Recommendations

99. I recommend that a COI should not be appointed into the circumstances surrounding the death of LCPL MacKinney,

BOSS
Colonel
Inquiry Officer