



DAVID W. G. RIDLEY
Senior Coroner for Wiltshire and Swindon

	<p>REGULATION 28 REPORT TO PREVENT FUTURE DEATHS</p> <p>THIS REPORT IS BEING SENT TO:</p> <p>The Rt Hon Mark Francois MP Minister of State for the Armed Forces Whitehall London SW1A 2HB</p>
1	<p>CORONER</p> <p>I am DAVID RIDLEY, Senior Coroner for Wiltshire and Swindon</p>
2	<p>CORONER'S LEGAL POWERS</p> <p>I make this report under paragraph 7, Schedule 5, of the Coroners and Justice Act 2009 and regulations 28 and 29 of the Coroners (Investigations) Regulations 2013. http://www.legislation.gov.uk/ukpga/2009/25/schedule/5/paragraph/7 http://www.legislation.gov.uk/uksi/2013/1629/part/7/made</p>
3	<p>INVESTIGATION and INQUEST</p> <p>On 26 January 2009 my predecessor, David Masters, opened the Inquests into the deaths of Captain Tom Sawyer and Corporal Danny Winters following the repatriation of their bodies into the UK from Afghanistan. The delay in the progress of the Inquest was due to waiting for the outcome of a Service Inquiry into not only Tom and Danny's death but also the deaths of 2 Danish soldiers who were killed in an incident involving the Javelin missile system 2 years earlier in Afghanistan. Delay also arose as a result of waiting for a decision out of the Supreme Court relative to Article 1 (Jurisdiction Overseas) of the European Convention on Human Rights and the application of Article 2 in relation to Military Operations overseas. The investigation was finally concluded on 11 March 2015 at the end of nearly 3 weeks. I recorded as a conclusion a Narrative Conclusion and recorded that both Danny and Tom died as a result injuries caused by an explosion following the Javelin missile being launched and striking the compound roof where Danny and Tom were located in Mirmindab area, Nahr-e-Saraj District, Helmand Province, Southern Afghanistan on 14 January 2009.</p>
4	<p>CIRCUMSTANCES OF THE DEATH</p> <p>I have set out below the Narrative Conclusion that I recorded as follows:-</p> <p><u><i>Narrative Conclusion</i></u></p> <p><i>Danny died as a result of unsurvivable blast injuries caused by an explosion when a Javelin missile fired by friendly forces at approximately 2050 on 14 January 2009 struck the roof of an unnamed compound lying approx 1300m South West of FOB Gibraltar in the Mirmindab area of the Nahr-e-Saraj District of Helmand Province, Afghanistan. Danny was killed outright.</i></p> <p><i>The following factors contributed to the firing of the Javelin missile:</i></p> <ul style="list-style-type: none"><i>a) Poor weather conditions with low visibility and intensely pitch black night time conditions;</i><i>b) The late arrival of the Delta Company Javelin crew at the over watch rooftop position at Compound 4 resulting in an inability to create a full battle card due to low visibility;</i>

- c) *The late arrival of Zulu Company into position at the unnamed compound (Nitrogen) and at significantly reduced numbers resulting in Zulu Company not permanently marking their position with combat identification markers;*
- d) *As a result of items a) and c) above the inability of the rooftop platoon to secure a known permanent fix on Zulu Company's location;*
- e) *Intelligence indicating the presence of enemy forces in the area and earlier enemy contact prior to the incident;*
- f) *Ineffective communications between an intermediary and the commander of the rooftop platoon;*
- g) *Loss of situational awareness on the part of key personnel;*
- h) *Mistaken positive identification of Zulu Company's position as the location of enemy forces; and*
- i) *The failure to include in the Javelin safety case its use in the anti personnel role resulting in the inadequate assessment of the risk of using that weapons system in that role*

I would add further that the operation itself involved members of the British Armed Forces as well as members of the Danish Armed Forces as coalition members of ISAF.

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CORONER'S CONCERNS

During the course of the Inquest the evidence revealed matters giving rise to concern. In my opinion there is a risk that future deaths will occur unless action is taken. In the circumstances it is my statutory duty to report to you.


The **MATTERS OF CONCERN** are as follows. –

Radio Equipment

During the course of the investigation I had access to hand written radio logs. There were essentially 2 radio nets of interest in relation to the investigation of this incident, firstly the BATTLE GROUP NET in respect of which I had some of the logs and secondly the FIRESNET in respect of which no logs materialised despite efforts to locate them and this even included attempts during the course of the final Inquest hearing.

As I indicated in Court I find it hard to understand that in the 21st Century that there is still a huge amount of dependence on hand written radio logs in respect of which "Coms" are recorded subject to the judgement of that particular signaller relative to the skills of that signaller in recognising what is relevant and what is not. One of the objectives of a Coronial Inquest where especially Article 2 is engaged, as was the case in this Inquest, is to consider matters with a view to the prevention of future deaths and of course this is an area which overlaps between my Coronial function and that of a Service Inquiry. The absence of records/logs in relation to the FIRESNET in my view was not helpful in getting to the bottom of what went wrong especially as regards the communication between Tom, as a Forward Artillery Observer with Zulu Company, and his Danish counterpart "Soldier I". I found that on a balance of probabilities that something a step away from express instruction to fire was said by Tom to Soldier I which was then mutated when he relayed the signal to his colleague Soldier A, located on the rooftop of the compound providing over the watch where of cause the Javelin detachment which fired the Javelin missile was located. It was Soldier A who gave the order to fire. I found on the balance of probabilities that there was ineffective communication between Soldier I and Soldier A.

Investigating such matters requires the best evidence available and as regards current technology I am surprised that there is not the ability at least at one end of the radio communications network to for example, securely digitally record the encrypted signals along the lines of say a cockpit voice recorder. For security reasons such recordings could then be decrypted and made available to any subsequent investigation that needs to be carried out. I

	<p>fully appreciate that such a system may not be appropriate for those actually on the ground for reasons of additional weight but it was clear to me that communications were being monitored back at the Forward Operating Bases and that perhaps may be a location where communications being monitored/relayed could be recorded at the same time. It may be the case that technology would allow some form of recording say on a 2 hour loop on equipment given to soldiers on the ground but as I said earlier I am conscious of the amount of weight soldiers on the ground have to carry in respect of their combat kit and weapon.</p> <p>It is worth noting that Tom and Danny's respective families were also concerned as regards the absence of FIRESNET logs.</p> <p>Monitoring of the BATTLE GROUP NET in such a way would have also been helpful although there were some logs in relation to communications over this net. The benefit of having accurate records of communications bolsters the integrity and thoroughness of any investigation and may have highlighted matters warranting further consideration with the view to the prevention of future deaths. I am sure that such a system would be beneficial to future investigations aimed at the prevention of future deaths.</p>
6	<p>ACTION SHOULD BE TAKEN</p> <p>In my opinion action should be taken to prevent future deaths and I believe you the Minister of State for the Armed Forces have the power to take such action by way of a review.</p>
7	<p>YOUR RESPONSE</p> <p>You are under a duty to respond to this report within 56 days of the date of this report, namely by 12 May 2015. I, the Coroner, may extend the period.</p> <p>Your response must contain details of action taken or proposed to be taken, setting out the timetable for action. Otherwise you must explain why no action is proposed.</p>
8	<p>COPIES and PUBLICATION</p> <p>I have sent a copy of my report to the Chief Coroner and to the following Interested Persons</p> <p>The Treasury Solicitor The Defence Inquest Unit Parker Bullen Solicitors</p> <p>who may find it useful or of interest.</p> <p>I am also under a duty to send the Chief Coroner a copy of your response.</p> <p>The Chief Coroner may publish either or both in a complete or redacted or summary form. He may send a copy of this report to any person who he believes may find it useful or of interest. You may make representations to me, the coroner, at the time of your response, about the release or the publication of your response by the Chief Coroner.</p>
9	<p>Dated 16 March 2015</p> <p>Signature  Senior Coroner for Wiltshire and Swindon</p>