

REPORT

**INDEPENDENT REVIEW OF THE INVESTIGATION OF THE DEATH OF PTE HUGH DOHERTY AND THE
DISAPPEARANCE OF PTE KEVIN JOYCE ON 27 APRIL 1981 WHILE SERVING WITH IRISHBATT IN THE
UNITED NATIONS INTERIM FORCE IN LEBANON (UNIFIL)**

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INTRODUCTION

1. Independent Review

The Minister for Defence, Mr. Simon Coveney T.D., on 6 January 2015 appointed me to conduct an independent review of the investigation of the death of Private Hugh Doherty and the disappearance of Private Kevin Joyce on 27 April 1981 while serving as members of the Irish Battalion with the United Nations Interim Force in Lebanon (UNIFIL) at an observation post (OP) west of Dyar Ntar village, described as 6.22 Delta (6.22D). The Terms of Reference for the Review are at Appendix 1.

The review was to encompass an examination of all relevant documents held by the Department and the Defence Forces into the events of 27 April 1981, (excluding those relating to the follow-on searches for Pte Joyce), the reports of the Board of Inquiry of the United Nations Interim Force in the Lebanon (UNIFIL) in September 1981 and that of Col Savino completed in or about January 1984, and any written material available since the reports were prepared. A further report by Capt Frank Dwan into the disappearance of Private Joyce was outside the terms of reference of the present review.

The report of the UNIFIL Board of Inquiry is confidential. The only copy of the Savino Report is that handed into the Military Police by Ex Pte Reilly on the occasion of his statement to the Military Police in July 2012. The loose paged copy is somewhat incomplete and has been annotated by Ex Pte Reilly. Neither the original nor copies are in the Military Archives. Maj Gen Savino acknowledged that the document was a copy of his report.

I was to advise on the adequacy of the investigations undertaken for those reports and to consider their findings and conclusions having regard to the existing evidence and statements and any further interviews that I considered necessary.

I was asked to make such other findings and recommendations as are considered necessary.

I was to be provided with access to all available documentation relevant to the events or to the service in UNIFIL of the IRISHBATT in 1981 and any other documentation requested by me.

The identity and availability of those who had served at the observation post west of Dyar Ntar (6.22D) proved difficult due to the absence of records and to the passage of 35 years.

2. Methodology

This review is based on a broad search and perusal of relevant documents in the Military Archives and of interviews of over fifty persons - officers and men who had served with "C" Company of the 48th and 49th Infantry Battalion UNIFIL in 1981, and others. In particular, I have considered the statements made formally to the Military Police in May 1981 and of those who had made reports and statements to Colonel Savino.

Archival searches were extensive and complex ranging from Departmental files to military archives located mainly in Cathal Brugha Barracks and in the Curragh Camp.

I was to be provided with the names of all relevant persons, including serving or retired members of the Defence Forces, members of the families of Pte Hugh Doherty and Pte Kevin Joyce.

The Department of Defence and the Defence Forces each appointed a liaison officer to provide the necessary information required in order to conduct the review, and to identify the relevant witnesses. Both Margaret O'Leary of the Department of Defence and Captain James O'Hara, Military Police were unstinting in their help to me.

The internal and confidential UNIFIL Board of Inquiry Report of September 1981, with formal Military Police statements, and subsequent related reports and correspondence, are in the Military Archives in Cathal Brugha Barracks. That report and the information contained therein cannot, under applicable law, be disclosed or made public either in whole or in part (S.9 of the Diplomatic Relations and Immunities Act, 1967 (No. 8 of 1967) and *Mary O'Brien v Ireland, Attorney General and Minister for Defence (1989/14813P per O'Hanlon J 26 August 1994)*).

The Savino Report of early 1984 is, however, not in any of the Military Archives, either in original or copy format. An unbound, loose leaf, incomplete copy was given to the Military Police by Ex-Pte Barry Reilly in July 2012. Terms of reference given to Col Savino by Major General Prendergast, Adjutant General, dated 27 August 1981 together with some correspondence are in the Military Archives (See Section 17 & Appendix 4).

I interviewed those officers and men mentioned in the Savino Report and some of those who had served at Post 6.22D during the seventeen days from its commencement on 10 April to the date of the incident on Monday 27 April 1981.

A draft report was sent to some of the interviewees who made comprehensive and useful comments which I have clarified and evaluated and, where relevant, have incorporated them into the present review.

3. Overview of the Conflict in the Lebanon

Robert Fisk, writing in the Defence Forces Review of 2008 on the topic of the Irish in UNIFIL 1978-1995, referred to the Irish moving to Tibnin, the old crusader town, which was:

"... high enough on the Golan foothills to afford magnificent view of Irish forward position, and low enough to be in the line of sight of any Israeli or Haddad tank which chose to fire at them".

Fisk continued: *"The Irish deployment contained a number of interesting, even quaint features, in common with other UNIFIL units, the Irish envisaged the fulfilment of the mandate and thus maintained observation posts inside the Israeli-occupied zone, cut-off from the area of operations. And inevitably, the occupants of these vulnerable observation posts – at Ras, Blida and Mahabeb – would become hostages if relations deteriorated between the UN or Israel or its proxy forces. Furthermore, the Irish found themselves facing*

a largely undisciplined force of Lebanese militiamen, paid and commanded by Israel but ostensibly under the orders of a cashiered Lebanese army major whose psychotic personality could veer sharply between cloying goodwill and ferocious anger. If Irishbatt were to fall foul of the major's temper, they would have to appeal to Israel which could – if it chose – bring Haddad to heel. Israeli promises to “exercise their influence” on Haddad became one of the more fascinating psychological experiments in South Lebanon at that time. If Haddad stopped harassing Irish troops the Israelis could be thanked for exercising their now famous influence. If Haddad continued to oppose UN forces, then the Israelis would say that they had failed to restrain the man whose men were armed, fed and uniformed by Israel itself”. (page 34)

“If UN headquarters in New York failed to comprehend the realities on the ground, UNIFIL commanders did at least understand the terrain. The Norwegians were deliberately located in a mountainous region that looked not unlike their native Norway. The Fijians were put on a coastline similar to the Pacific shores of their own island. And the Irish were given a series of largely poor villages amid a series of brown, stony hills that appear at dusk remarkably similar to the hills of Mayo or Galway. Irish troops could therefore, geographically at least, identify with the land in which they would live, patrol, risk their lives and – far too often in the years to come – die”. (page 35)

“If the murders of Ptes Smallhorne and Barrett have still not been fully explained, the killing of Pte Hugh Doherty and the presumed death of Pte Kevin Joyce at their checkpoint at Dyar Ntar on the 27 April 1981 remained even more a mystery. There was no doubt that they fell victim to Palestinians from one of Yasser Arafat's PLO factions, although the motives for their deaths – which, barring evidence to the contrary, might be called murder – is much less clear than those of the killing of Smallhorne and Barrett. Initial reports suggested that PLO men had attacked the two men in order to steal their rifles. Pte Doherty was shot in the back as he tried to reach his radio. Joyce disappeared”.

I have referred to Fisk's paper originally published in *The Irish Sword* in 1996 and republished in *Defence Forces Ireland Review 2008*, 33-44 which is a sequel to his comprehensive account of *Lebanon at War: Pity the Nation* (Oxford University Press, 1990).

The title of this book is taken from the haunting poem of Kahlil Gibran: *The Garden of the Prophet* (Heinemann, 1934):

Pity the nation that is full of beliefs and empty of religion.

Pity the nation that acclaims the bully as hero and that deems the glittering conqueror beautiful.

Pity the nation whose statesman is a fox, whose philosopher is a juggler and whose art is the art of patching and mimicking.

Pity the nation divided into fragments, each fragment deeming itself a nation.

The lines epitomise the underlying currents of a failed nation into which Irish troops were immersed from 1978 as peacekeepers and, like Privates Derek Smallhorne, Thomas Barrett, Hugh Doherty and, most likely, Private Kevin Joyce lost their lives in the cause of peace.

4. UN Security Council Resolution 425 (1978) of 19 March 1978

The United Nations Interim Force in the Lebanon (UNIFIL) was set up in 1978 under UN Security Council Resolution 425 to confirm the withdrawal of Israeli forces from Lebanon, restore international peace and security and assist the government of Lebanon in ensuring the return of its effective authority in the area which had been taken over by the Israelis.

The Security Council Resolution is terse and comprehensive:

“Taking note of the letters from the Permanent Representative of Lebanon (1) and from the Permanent Representative of Israel (2);

Having heard the statements of the Permanent Representatives of Lebanon and Israel (3);

Gravely concerned at the deterioration of the situation in the Middle East and its consequences to the maintenance of international peace;

Convinced that the present situation impedes the achievement of a just peace in the Middle East;

1. *Calls for* strict respect for the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized boundaries;
2. *Calls upon* Israel immediately to cease its military action against Lebanese territorial integrity and withdraw forthwith its forces from all Lebanese territory;
3. *Decides*, in the light of the request of the Government of Lebanon, to establish immediately under its authority a United Nations interim force for Southern Lebanon for the purpose of confirming the withdrawal of Israeli forces, restoring international peace and security and assisting the Government of Lebanon in ensuring the return of its effective authority in the area, the force to be composed of personnel drawn from Member States;
4. *Requests* the Secretary-General to report to the Council within twenty-four hours on the implementation of the present resolution.”

Robert Fisk described the Security Council Resolution as a document that combined morality, naivety and folly in equal proportions (*Pity the Nation: Lebanon at War*, Oxford 3rd Edition 2001, page 134).

The UN estimated an initial six-month budget of \$68m for an international peace keeping group consisting of Battalions from France, Ireland, Norway, Senegal, Nigeria, Holland, Finland, Fiji, Nepal and Ghana.

BACKGROUND & CONTEXT FOR EVENTS OF 27 APRIL 1981

In considering the tragic events that unfolded on 27 April 1981 it is important to gain an understanding of the context within which events unfolded – the location and Command of the relevant OPs (Observation Posts), Operations Orders & Special Orders, supervision, communications and assessment of risk:

5. Location and Command of Irish Battalion and of the Observation Posts 6.22 and 6.22D

In March 1981, the Irish Battalion (IRISHBATT) was located in the south eastern area of Southern Lebanon while the Dutch Battalion (DUTCHBATT) were to the South West. IRISHBATT HQ was at Tibnin. IRISHBATT consisted of HQ company, Recce Company and A, B and C Company.

The UNIFIL Deployment map of June 1981 shows 6.22D to the north-west of the IRISHBATT area of operation, close to the border with SENBATT (Senegalese) to the north and to the border of DUTCHBATT (Dutch area) to the west of the Irish area. Observation Post 6.22D was about one mile (1.5 km) from post 6.22 by road to the village of Dyar Ntar and from there by foot on rough ground on a reverse slope to a rough cairn of low lying rocks. There were no natural or built defences or shelter. It was an exposed observation post overlooking the so-called 'Iron Triangle'. It was manned during daylight hours only.

The Battalion Commander, Lt Col S. Murphy described 6.22D (OP) as follows:

"Post 6.22D 48 Inf Bn opened a daylight observation post at AMR 1846-2915 on 10 April 1981. This post was tasked to observe to the West, Northwest and North with particular reference to personnel and vehicle movement in the IRON TRIANGLE. The post was opened following requests made by UNIFIL HQ to ensure the incoming Bn would not be encountered with the work associated with a new OP. The officer commanding (OC) 48 Inf Bn directed that the post be opened before handover. It was an unfortified cairn of rocks without any protection".

It was unclear what physical work was involved in setting up the new OP as it remained unfortified and without physical protection. It had been set up on 10 April 1981 and was not manned again after the incident of 27 April 1981. It had been first occupied by the Weapons Platoon of C Company.

6.22D was accessible only by foot downhill from the village. It was manned by troops stationed at 6.22.

"C" Company was under the command of Comdt Senan Downes. Post 6.22, manned by a platoon of 30 men at Dyar Ntar was under the command of Capt Kieran Herbert. The village of Dyar Ntar, was halfway between 6.22 and 6.22D. Post 6.22D though only 1.5 kilometres away was out of sight of 6.22.

6. Incident on 27 April 1981

Both Private Joyce (48 Bn) and Private Doherty (49 Bn) were members of "C" Company. They set out to 6.22D at 8am on 27 April 1981, the seventeenth day after the establishment of the O.P.

The manner of posting of the two privates to 6.22D at 0800 hours on the 27 April 1981 is unclear. Lt. Hugh Carthy's statement to Col Savino is relevant. He was Platoon Commander of "C" Company 49th Infantry Battalion from April to 28 October 1981 and understudy to Capt Herbert of 48th. He stated to Col Savino that he left 6.22 with Privates Joyce and Doherty for the purpose of posting them as the OP party at post

6.22D. He said they walked to the post through the village of Dyar Ntar and arrived at the post at approximately 0825 hours. Lt Carthy referred to orienting and briefing the men on their duties and staying with them for about fifteen minutes. The men were armed with rifles and had adequate ammunition, a 77 radio set and supplies.

Cpl John Russell (a Private in 1981) told me that he was mainly employed in driving and servicing the reliefs to 6.22D and other posts. He said that on 27 April 1981 he drove Private Joyce and Doherty from 6.22 to the waterhole at Dyar Ntar at 0800 hours and saw them proceed to 6.22D with weapons and a 77 radio set.

Lt Carthy could not remember making a statement to Col Savino and cannot reconcile the different statements. He had no recollection and was unable to resolve the issue or reconcile his statement with that of Cpl Russell.

Capt Herbert, in his statement to Col Savino, said that Pte Joyce and Pte Doherty were posted by Lt Carthy. He confirmed this to me. He said that he himself later visited 6.22D at 12:30 hrs approx and later returned with a visiting party - OC 48th Inf Bn, Col Stephen Murphy, OC 49th Inf Bn, Col Sean MacNiocaill, Coy Comd, Comdt S.P. Downes, Director Medical Corps, Col J. Laffan and Comdt Gavin. Comdt Downes reported that the visiting party arrived at 6.22D at 14:30 hrs approx where the post was handed over to OC 48 Inf Bn by Pte Doherty. Two young civilians carrying shotguns were at the east side of 6.22D, were recognised by Pte Joyce and remained until the visiting party left Post 6.22D at approx 15:00 hrs. Given the statements of Lt Carthy and Capt Herbert contained in the copy of the Savino Report I conclude that Lt Carthy did post Ptes Joyce and Doherty.

The last confirmed contact with Pte Joyce and Pte Doherty was that with the visiting party in the afternoon (see Section 11 below for further detail). Later that evening Pte Barry Reilly who had been stationed at As Sultaniyah and, while part of the "C" Company of the 48th Infantry Battalion, had come to Dyar Ntar to borrow money from a fellow soldier. As it happened that soldier had already left Dyar Ntar at 1530 to go to Tibnin Bridge for an 8-hour shift. Pte Reilly went to the flat rooftop of the house at Dyar Ntar, post 6.22, at about 1800 where Pte Patrick McLoughlin was the sentry on guard with a 77 radio set. He was told by Pte McLoughlin that he had been unable to communicate with the OP at 6.22D by radio during that afternoon. Pte Reilly told me that he had decided he would go by Land Rover to Dyar Ntar less than 2 kilometres away to see if Pte Doherty and Pte Joyce were waiting to be collected as they should have been. He failed to locate them. Pte Reilly said that he had mentioned the matter to the Platoon Sergeant, Sgt Scanlon, who replied that Privates Joyce and Doherty were probably drinking tea in the village.

The Savino report stated that Pte Russell had also gone by Land Rover from 6/22 to DYAR NTAR to collect the OP party as was the normal practice. When they did not arrive Pte Russell returned and informed Pl Sgt Scanlon (See para 6, p. 45/46).

On learning that the men had not been located Sgt Scanlon then drove to Dyar Ntar and also failed to locate either Pte Doherty or Pte Joyce at the rendezvous point where they should have been waiting. They should have come up the track from the OP which was downhill from the village. He returned to 6.22 and raised the alarm.

It was then getting dark and it was decided to organise a patrol which went by Land Rover to Dyar Ntar and then by foot down to 6.22D. The patrol consisted of Sgt Scanlon, Pte Barry Reilly and Pte Gerard Beattie.

On arrival at the OP Pte Reilly saw the body of Pte Hugh Doherty prone on the ground with blood on the chest. He was cold and without a pulse. There was no sign of Pte Joyce.

Pte Reilly fired approximately 15 rounds from his FN rifle to alert 6.22 of an emergency. The patrol took defensive positions and shouted for Pte Joyce but there was no reply.

Sgt Scanlon instructed Pte Barry Reilly and Pte Beattie to go back to 6.22 and alert the Platoon Commander. On the way back to 6.22 they met Capt Herbert who was already on his way to 6.22D. Pte Reilly called Company HQ at As Sultaniyah from 6.22 at about 1930 to alert them of the death of Pte Hugh Doherty and that Pte Joyce could not be located.

7. Operations Orders and Special Orders

In order to fully understand and review these events I felt it appropriate to examine in detail the orders relating to Post 6.22 and 6.22D and the Operation Orders of "C" Company itself. Operations Orders applied to the Company HQ of "C" Company of the 48th Infantry Battalion whereas Special Orders applied to the Platoon and Observation Posts.

From 3 March 1981 "C" Company was based in As Sultaniyah at Post 6.23 north of Tibnin and south west of Dyar Ntar at Post 6.22 and was under the command of Comdt Downes. Dyar Ntar platoon at 6.22 was under the command of Capt Herbert. Comdt Downes had been directed to establish a daylight Observation Post at 6.22D which became operational five weeks later on 10 April 1981.

I have been unable to locate either operations or special orders in the military archives. Such orders are however exhibited in the incomplete and poorly copied Savino report.

The orders were not, inexplicably, referred to in the UNIFIL Board of Inquiry report of 1981.

The Operations Order of 3 March 1981 in respect of Post 6.23 at As Sultaniyah and the Special Order of 3 March 1981 in respect of Post 6.22 at Dyar Ntar are included in the Savino Report. Both are comprehensive and clear.

Special Orders for the Observation Post at 6.22D at Exhibit "G" (page 57 of the Savino Report) pose some difficulties.

I propose to examine the Special Order in relation to the operation of 6.22 before dealing with the difficulty in interpreting the Special Orders for 6.22D.

Operations Orders for 6.23

The following in italics is the text of the Operations Order for 6.23, (Exhibit "E" on pages 54 and 55 of the Savino report), which sets the context for the Special Orders for 6.22 and 6.22D. As can be seen C Coy of

the 48 IRISHBATT was to take over operational control from 3 March 1981, the date of the Operations Order. Observation Post 6.22D did not become operational until 10 April 1981 some five weeks later.

RESTRICTED

*EXHIBIT "E"
ANNEX "C"
C Coy 48th IRISHBATT
AS SULTANAYAH
3 March 1981*

*OPERATIONS ORDER – C COY 48 IRISHBATT
AS SULTANAYAH*

SITUATION: C Coy 48 IRISHBATT will take over operational control of AS SULTANAYAH AO from 031300Z MAR 81 until further notice.

MISSION: C Coy deploy in AS SULTANAYAH AO by 031300Z MAR 81, and continue to

- a. Confirm withdrawal of IDF*
- b. Restore International peace and security and,*
- c. Assist LEBANESE GOVERNMENT to return to effective authority, in AO*
- d. Provide Reserve Forces and Support to forward Companies.*

EXECUTION:

- A. Concept of Operations: C Coy will occupy, man and operate Posts 6.22 DAYR NTAR, 6.23 (AS SULTANAYAH), & 6.23A. It will also provide elements to Camp Shamrock, BN Reserve, AFI, Support BRASHIT Company and escorts as detailed.*
- B. Post 6.22 (DAYR NTAR)*
 - (1) Status OP/Accommodation*
 - (2) Tasks*
 - (a) Provide guard/OP of 1 NCO and 2 Ptes for Post 6-22*
 - (b) Provide 1 NCO and 2 Ptes on Post 6-23A (TIBNIN BRIDGE CP) for 24 hrs daily*
 - (c) Provide 1 NCO and 2 Ptes on Post 6-5A (COLLIERS CP ON HARRIS TIBNIN ROAD) for 24 hrs daily under control of RECCE Coy.*
 - (d) Provide persons as detailed periodically for CP at Post 6-22 and at DAYR-NTAR, AS SULTANYAH, BIR AS SANASIL, RD JCN AMR 18792915*
 - (e) Provide patrols and man LPs as detailed in DYAR NTAR AREA*
 - (f) Provide 1 Section (2 NCO's + 6 Ptes) for BN Reserve/AFI.*
- C. POST 6-23 AS SULTANAYAH*
 - (1) STATUS OP/Accommodation*
 - (2) Tasks*
 - (a) Provide PL HQ (1 LT, 1 Sgt, 1 Sig Op) + 2 Sections (2 NCO's + 6 Ptes each Section) + 2x APC Crews (1 NCO+1 Pte each crew) + APCs to*

BN Res to include 2 x 84m A/TK Crews and AFI.

- (b) Provide camp guard of 1 NCO + 2 Ptes for Post 6-23*
- (c) Man Ops at Post 6-23*
- (d) Provide persons for patrols and LPs as directed*
- (e) Provide persons for escorts as directed*
- (f) Provide 2 Sections on attachment to camp Shamrock as directed*
- (g) Provide persons in support of Brashit Coy as directed*
- (h) Provide persons in support of Haddathah Coy as directed*
- (i) Provide for Tyre Barracks as required*
- (j) Provide persons for CP at Post 6-23 as directed*

D. Post 6.23A (TIBNIN BRIDGE)

- (1) Status Static CP*
- (2) Strength 1 NCO & 2 Ptes (from Post 6.22) and Lebanese soldiers as detailed.*

E. Post 6.5A (COLLIERS CP) AMR 18692882

- (1) Status Static CP*
- (2) Strength 1 NCO & 1 Pte supplied by Post 6.22 under command to OC Recce Coy*

SERVICE SUPPORT

- a. Post 6.23 (Coy HQ) will provide service support to Post 6.22 DAYR NTAR*
- b. Post 6.22 DAYR NTAR will provide service support to Post 6.23A TIBNIN BRIDGE CP.*

COMMAND & SIGNALS

- 1. Command*
 - (1) Coy Comdr available at all times at Post 6.23 or Mobile.*
 - (2) Post 6.22 and 6.23A under comnd Platoon Comdr Post 6.22*
 - (3) Post 5.6A under comnd OC Recce Coy*
- 2. Signals*
 - (1) As per Coy Sigs Net. Radio and Landline to each Post*
 - (2) Communications to all patrols and LPs*

_____ Comdt

*S. Downes
OC C Coy 48 Bn*

As can be seen the Operations Order is headed "RESTRICTED".

It can be seen that the mission statement for 6.23 is to continue to confirm withdrawal of the Israeli Defence Forces, to restore international peace, assist the Lebanese government to return to effective authority in the area of operation and to provide Reserve Forces and support to forward companies.

There is, of course, no reference to the task of manning 6.22D which had not yet come into operation.

In relation to tasks for 6.22 itself, and for Tibnin Bridge and Colliers Checkpoints, 1 NCO and 2 Privates were to be provided.

In respect of Signals it was ordered that a radio and landline to each post be provided. In the case of patrols and Listening Posts communications were to be provided.

Special Orders for 6.22 Dyar Ntar

The following is the text of the Special Order for 6.22 (Exhibit "F" in the Savino report at page 56)

EXHIBIT "F"

*C COY 48 IRISH BATT
AS SULTANAYAH
3 March 1981*

1. *Situation: Post 6.22 – Dyar Ntar is a platoon post with observation over GHANBATT (East), NIBATT (North East), SENBATT (Northwest) and DUTCHBATT (South West) area of operations.*
2. *Mission: the platoon at post 6.22 Dyar Ntar will:*
 - (a) *Protect post 6.22*
 - (b) *Monitor all movements in area of post*
 - (c) *Reassure local people that UNIFIL mission is being carried out in local area.*
3. *Execution*
 - (a) *Concept of operations: Because of its particular location in IRISHBATT area of operation this post is of Vital importance to UNIFIL MISSION of observing and reporting and control of movement into the rear of IRISHBATT area of operation.*
 - (b) *Tasks:*
 1. *Man Observation Post on Post 6.22 on a 24 hr watch and observe and report all unusual movements, concentrations and/or incidents*
 2. *Protect post 6.22*
 3. *Man and operate as per instructions issued CPs at post 6.23A TIBNIN BRIDGE and 6.5A COLLIERS CP*
 4. *Set up and operate checkpoint at post 6.22 and Dyar Ntar road junction ARM 1879-2195 as directed*
 5. *Patrol Dyar Ntar village and area as directed*
 6. *Man Observation Posts as directed*
 7. *Provide one section (two NCO's and six Ptes) to battalion reserve and AFI when required.*
 8. *Post Command will ensure that NO alcohol is consumed in the confines of his post and that drugs other than those prescribed by the medical officer will not be taken.*

4. *Service Support:*

- (a) *Transport: One Land Rover located at post*
- (b) *Rations: From post 6.23 (As-Sultaniyah)*
- (c) *Cook: one attached from post 6.23*
- (d) *Medical: all persons in possession of field dressings, medical chest on post*
- (e) *Armament: personal armament and amm as per location voucher*
- (f) *Ammunition: personal issue and as per location voucher*
- (g) *Night Vision Equipment: as per location voucher*

5. *Command, signals:*

(a) *Command: Platoon Commanders*

(b) *Signals:*

- 1. *Radio to company headquarters*
- 2. *Landline to company headquarters*
- 3. *Radio/signals as arranged foot patrols, Observation Posts and check points*
- 4. *Passwords issued daily by Post Commanders*

6. *General*

(a) *Other orders as issued by Battalion and Company Commander apply*

(b) *Special orders as follows issued by OC IRISHBATT apply*

- (1) *Company standing orders*
- (2) *Special orders for Observation Posts*
- (3) *Special orders for CPS*
- (4) *Special orders for opening fire*
- (5) *Special orders for shelling*
- (6) *Special fire orders*
- (7) *Operational orders "C" Company 48th IRISHBATT in As-Sultaniyah*

(c) *Attention is drawn to need for all persons to be familiar with "Guide to the use of Force and Self-Defence UNIFIL Military personnel".*

3 March 81 Comdt S. Downes

8. Setting Up and Orders for the Observation Post 6.22 D

The setting up of the post at 6.22D at the behest of UNIFIL HQ was considered by the 48th Battalion when it had started its tour of duty in October 1980.

There had already been discussions with DUTCHBATT who were concerned about the need for an observation post overlooking the so-called Iron Triangle, to the West of the IRISHBATT area of operation, which could be a route for armed elements and their supplies going closer to the Israeli border.

The request was considered by the 48th Infantry Battalion and, in particular, by Lt Col Stephen Murphy, the Battalion Commander and Comdt Downes, Commander of "C" Company. They surveyed the area to choose the optimum location. Both referred to UNIFIL headquarters at Naqoura putting some pressure on the Irish to set up this Observation Post.

The instruction given by Lt Col Murphy was that the Observation Post should be in place before the rotation of the 48th Battalion with the 49th Infantry Battalion before the three "chalks" of 22 April, the 29 April and 5 May 1981. Standing orders were issued by Comdt Downes in relation to the Observation Post.

The Battalion Commander reported, after the incident, as follows:

As a result of a recce conducted by Staff Officers from UNIFIL HQ it was recommended that an OP (Observation Post) be established west of the village of Dyar Ntar in order to gain greater observation over the area known as the Iron Triangle. I agreed with the recommendation and the requirement for an OP in this area. Prior to the establishment of the OP and up to the date of the incident this had been the quietest area in the AO (area of operations) of IRISHBATT.

In early April, I directed Comdt Downes, OC, "C" Coy that an OP be established at AMR 1846-2915. Realising the amount of work that an incoming unit has to do and the pressure on it I was anxious that the OP be established before the arrival of the incoming 49 Infantry Battalion unit. I was aware in a general way of some redeployment plans for UNIFIL and I was also aware that the redeployment would require an OP in this area.

The OP was established on the 10 April 1981. The OP was to be manned by 1 NCO and 2 Ptes during the hours of daylight from 6.22.

Lt Col Murphy commented, in the course of this review that the decision was based on a number of conferences, internal meetings and ground reces with a Staff Officer of UNIFIL and Irish Battalion and that the precise location on a raised, rocky feature with a panoramic view to the area west of Dyar Ntar was his decision. Lt Col Murphy was of the view that a full risk assessment was carried out. There is however, no documentation relating to any relevant risk assessment in the Battalion or Company papers in the Military Archives. Furthermore, there was no written orders to reduce the strength of Post 6.22D below the specified 1 NCO and 2 Privates.

It is necessary to examine the Special Orders for 6.22D which consists of a single page without the C Company IRISHBATT heading and without a date. (The Special Orders for 6.22 above were headed and dated.) (See also Section 9 below).

Special Orders for 6.22D

The orders for OP 6.22D are in Exhibit "G" in the Savino Report. They are undated. I propose to include comments after the text of the orders (*italics*):

SPECIAL ORDERS FOR O.P. 6.22D

1. Situation

As detailed by Officer Commanding "C" Company, Post Commander 22 Dyar Ntar will provide personnel to man Observation Post 6.22A (sic) for the times laid down.

The reference to OP 6.22A throughout this special order would appear to be for the OP actually properly known as 6.22D. I am informed that 6.22A (Alpha) and 6.22 B (Bravo) were foot patrols operated before IRISHBATT took over to which similar special orders would apply. It is not possible to verify this as there are no records of special orders for either 6.22 Alpha, Bravo or Delta.

The Operations Order for "C" Company 48 IRISHBATT dated 3 March 1981 (Exhibit "E" of the Savino Report) provides that "C" Company "... will occupy, man and operate Posts 6.22 Dyar, 6.23 (As Sultaniyah), 6.23A (Tibnin Bridge) and 6.5A (Colliers Check Point)...". There is no mention of 6.22A. There are in fact, three Observation Posts, 6.22A, 6.22B and 6.22C in addition to 6.22D in the UNIFIL deployment map as of June 1981. Col Philip Brennan explained to me that these had been previous posts before IRISHBATT assumed control of the area.

Col Savino had asked Capt Herbert, the Platoon Commander, why the orders he handed in referred to post 6.22A and not 6.22D. He replied that he did not know but said that those were the orders used.

2. Mission

To man Observation Post 6.22A to:

- (a) Observe and report all AE activity*
- (b) Monitor movement in and out of designated area*
- (c) Report and prevent incursion into the AO by AE.*

It can be seen that the mission is somewhat different to that of 6.22 insofar as it refers to the observing, reporting and preventing of incursion by the armed elements (AE) into the area of operation (AO) as well as monitoring all movements not just of so called armed elements. Moreover, the reporting requirement at para (g)(e), (page 16) below is ancillary to the Mission Statement.

3. Execution

- (a) Concept of operations - Observation Post 6.22A will be manned by Guard Commander of post 6.22 using members of his guard*
- (b) Timings - As laid down by Company Commander*
- (c) Strength: 1 NCO and 2 Ptes*

There was conflicting evidence in relation to the strength of manning, some thought that there may have been an NCO present. Those who had served at 6.22D from 10 April to 27 April 1981 believed that it was a two-man post. If an NCO was present he was accompanied by a single Private. Whatever doubts exist it is clear that there was no NCO on 27 April 1981.

Capt Herbert, Platoon Commander, in his statement to Col Savino, said that he requested Comdt Downes, Company Commander to reduce the requirement as there were insufficient NCOs, some of whom had returned to Ireland. No date was given.

Capt Herbert was asked by Col Savino why there were only two Ptes on duty. He replied that there were not sufficient NCOs in the platoon to man the Observation Post, as per orders, along with the other Observation Posts. Asked why there were not sufficient NCOs he stated:

“No. 5 platoon took over at Dyar Ntar on 12 April 1981. We had less NCOs than the Weapons Platoon which handed over to us. I consulted my Company Commander on this matter and he agreed that two Ptes could suffice, but the orders were not amended”

Capt Herbert’s recollection was that 6.22D was only ever occupied by 2 Privates and that between 12 and 27 April there was never any adverse comment regarding the manning of 6.22D with 2 Privates.

It is unclear whether there had been compliance with the Order for 1 NCO with 2 Ptes from 10 April 1981 to the 12 April 1981 when No. 5 Platoon took over from Weapons Platoon. I have been unable to verify whether Post 6.22D commenced on 10 April or 12 April.

The statement of the Company Commander, Comdt Downes is more extensive:

“I had given permission to Platoon Commander of post 6.22 to man post 6.22D with two Ptes because of a shortage of NCO’s in number 5 platoon and also for the following reasons;

From checks I had carried out with

- (a) Platoon Commander who established the post
- (b) Radio log books
- (c) Company journal
- (d) Persons manning post 6.22D
- (e) Visits to post 6.22D

Reports of any activity were NIL.”

Comdt Downes confirmed to me that he gave permission to man post 6.22D with two Ptes having carried out these checks and noting that reporting of any activities was NIL. He could not recall when such change was made. He said that it was intended that the strength should revert to 1 NCO and 2 Ptes after the rotation was complete but that this was not so expressed to the Platoon Commander. I have been unable, in the absence of records, to verify whether the post had full strength at any time between 10 April 1981 – 27 April 1981. From the evidence of the men who had served I am satisfied that on all occasions prior to 27 April 1981 there were only two Ptes present at 6.22D.

If there had been a change it was unlikely to have been when the Weapons Platoon was serving at 6.22D or at a date close to 10 April. If this were so there was a limited time within which reports could have been made.

Lt Col Murphy, Battalion Commander, was of the view that he should have been informed of a decrease in the strength of manning at 6.22D. Any verbal order to reduce the strength of 6.22D should subsequently have been recorded in writing as part of the written orders.

Col Savino found that while some members of the Platoon of "C" Company 48th Infantry Battalion had been repatriated, they had been replaced by the incoming platoon so that the platoon was up to strength. This suggests that repatriated NCOs had been replaced by incoming NCOs.

In response to the question put by Col Savino, Pte Reilly said that he had performed observation duties at 6.22D on three or four occasions. He was asked by Col Savino about the nature of his duties observing and reporting on incidents and movements to the West of Dayr Ntar. He had made reports of aircraft movements. There was no sign of people or vehicles in the area which was generally quiet. He told me that he was never accompanied by an NCO when on duty at 6.22D.

It has not been possible to ascertain from the records in the Military Archives who else had served in the 6.22 Dyr Ntar platoon at 6.22D OP as there are no records extant of personnel in each platoon in the boxes of either the 48th or the 49th Battalions.

There is no documentation relating to the strength of NCO's at post 6.22 generally or at the time of the first chalk of the 48th Infantry Battalion on 22 February 1981. The proportion of NCO's to men would be unlikely to have changed significantly after approximately one third of the 48th Infantry Battalion rotated with the 49th infantry Battalion. Indeed, none of the officers or men interviewed were aware of a shortage of NCO's. Also, the second finding of the Savino Report is that (at the time) *"... some members of No. 5 Platoon "C" Company had been repatriated but had been replaced by the incoming 49th Infantry Battalion so that the Platoon was up to strength. All men present were on duty at all times as is the norm on active service"*.

From an analysis of the Contingent Nominal Roll of the 48th Infantry Battalion the overall numbers of the Battalion were approximately 600. There were about 350 men, 195 NCOs, 2 Chaplains and 47 Officers. The proportion of NCOs to men was, accordingly, 1:2 approximately. In the "C" Company there were 36 NCOs to 65 men, also 1:2.

As a result of a short ten-point questionnaire (See Appendix 6) I was able to identify personnel from the 48th and 49th Infantry Battalion who had been based in 6.22. The questionnaire was sent to 6 NCOs and 21 Privates. There were 10 'returns to sender'. From the 9 written replies and telephone calls I received I identified 6 who had served at 6.22D. These were Sgt Michael Halloran, Cpl Martin Fahy, Coy Sgt David Mulvaney, Pte William Lafferty, Pte Jeff Scariff and Pte Barry Reilly. Other than Cpl Fahy (who was accompanied by a single Private), they were all Privates at the time they served at 6.22D. Between them they had served 14 days of the 16 days from 10 April to 26 April 1981, the day before Pte Joyce and Pte Doherty went to 6.22D. Each of these told me that only two men were detailed to that post. Other than on the first occasion there was no posting. None remembered having received written orders. While no written orders were found by Lt Callaghan, Coy Sgt Coyne and Coy Sgt McNamara of the Military Police in the search on 28 April 1981, Col Savino at p.79 of his report refers to *"a book and the orders were*

subsequently found to the WEST of the OP.” However, I have not been able to verify this.

Capt Herbert said that written orders from 6.22D were issued prior to the Weapons Platoon taking over responsibility for the OP on 10 April and, accordingly were in place on 12 April when No. 5 Platoon took over. Col Savino’s report confirms that there were orders for 6.22D and that they were complied with (b.(2), page 77 of his report) but does not refer to the change in manning.

While the evidence of Platoon Sgt Scanlon was that the rosters were prepared on the evening before, there were occasions where there were ad hoc changes.

I was unable to ascertain whether rosters were amended to show informal changes of personnel.

Cpl Martin Fahy of the 48th Infantry Battalion had returned to Ireland a week before the incident on 27 April 1981. He had served on a couple of occasions at 6.22D with a single Private whose names he could not remember. He thought that there was never more than one Private with a Corporal. He said that they got supplies before they set out in the morning including two litres of water. He had sent the Private to the village of Dyar Ntar to get more as it was so hot. They had to move the radio to get coverage as there was a black spot at 6.22D. The Private would phone every hour and if he didn’t then 6.22 would call 6.22D. He was surprised that there were occasions when there were only two Privates on duty.

I am satisfied that I have had a representative sample of those who served in 6.22D. It seems unlikely that from the earliest stage, there was ever more than two personnel serving at 6.22D.

The Special Orders continue as follows:

(f) Observation

- (i) Range cards will be employed*
- (ii) Continuous observation will be maintained at all times*

(g) Reporting

All reports will be timely, accurate and concise, only facts will be submitted to post 6.22 to include

- (a) Shooting incidents and explosions*
- (b) All flares and searchlight activity*
- (c) All armed element activity*
- (d) All suspicious vehicle or troop movement*
- (e) All incidents in area*

Pte Reilly, in response to a question put to him by Col Savino as to whether he had remembered making any report from 6.22D said: *“Only of aircraft movements. There was no sign of people or vehicles in the area which was generally rocky and deserted”.*

Indeed, Comdt Downes’ statement of reasons why he gave permission to man Post 6.22D with two Privates was because *“Reports of any activity were NIL”*. This, of course, begs the question of instructions given and supervision of reporting procedures in relation to observation of all incidents in the area.

There is no record in the archives of the 48th Infantry Battalion of reports of any shootings, explosions, activity, vehicle or troop movements or incidents reported by 6.22D, either in radio logs nor Battalion logs. All of those interviewed are unanimous that the post was quiet (one said it was boring) for the short duration of its existence from 10 – 27 April 1981.

Hunters with shotguns had been in the vicinity of 6.22D on occasions including on the 26 April and 27 April 1981, the day of the incident. The Battalion and the Company Commander had visited the OP on the afternoon of 27 April 1981 and stated, in their reports to Col Savino, that there were two hunters in the vicinity of the post.

Cpl John Russell told me that it was not standard operating procedure (SOP) to allow any gunman close to a position without being challenged and reported.

Moreover, Pte Michael Halloran told me he had observed with binoculars what he believed to be Palestine Liberation Organisation (PLO) men in the area watching them from a distance of about 2 miles. They did not appear to be armed. As they were far off and did not bother the post, he did not make any report.

Furthermore, when the visiting party of officers visited the post on the afternoon of the 27 April 1981 and observed hunters with guns no instruction was given to Ptes Joyce or Doherty to report that incident notwithstanding that the reporting order (set out above) included reporting on “*All incidents in area*”.

- (f) *Briefing - post commanders will brief all personnel prior to leaving post 6.22. Debriefing occurs on return.*

There was a degree of confusion in relation to recollection of whether personnel were briefed prior to leaving the post. There was no evidence of debriefing on return. It would seem that there was a briefing by the Platoon Sergeant only when a new pair of Privates commenced duty at 6.22D. This was the case when Pte W. Lafferty (49th Infantry Battalion) and Pte J. McGirr (49th Infantry Battalion) were posted for the first time at 6.22D on Sunday 26 April 1981 the day before the incident. Sgt Scanlon told me that he had not gone to 6.22D until 27 April 1981 when he led the patrol with Pte Reilly and Pte Beattie after 1830 on the evening of the incident.

It seemed to have been a significant oversight for a Platoon Sergeant not to have known the characteristics of an outpost to which he was posting his men.

The supervision of the men in 6.22D, which was out of the line of sight from 6.22, was, according to the men, infrequent. There was no system of visits at midday. On the occasions where food was brought to the men it was the driver, Pte Russell, who did so. Capt Herbert said that he visited 6.22D on a daily basis either on foot or in a vehicle as it was only less than 15 minutes walk from Post 6.22.

(g) Equipment

- (a) Personal arms and ammunition*
- (b) 1 x NI Binoculars*
- (c) 3 x hand flares*

None of these items were found after the incident of 27 April 1981.

4. Command and signals

- (i) NCO in charge of the Observation Post and responsible for posting sentries and submitting all reports*
 - (ii) 1 x 77 set, Call sign 6.22A*
 - (iii) Signal of one hand flare to indicate assistance required in the case of radio failure*
 - (iv) Service support*
-
- (a) NCO in charge will draw sufficient rations from post 6.22 for the duration of his duty*
 - (b) Transport: Observation Post 6.22A (sic) will be set up on foot from post 6.22*
 - (c) Medical: available in company headquarters if required.*

Signed: Comdt SP Downes

The NCO was charged with submitting all reports which, as already noted, includes all incidents in the area. It is an open question as to whether the absence of an NCO resulted in no reports being made or was there simply nothing to report as many personnel suggested.

If the NCO in charge – and it is implicit that an NCO be present and in charge – was to draw sufficient rations from 6.22 for the duration of the duty then there was no necessity to have rations brought during the day.

I note also that the order provided (4 (iv) (b)) that the observation post be set up on foot from Post 6.22.)

9. General Comments Regarding Compliance with Orders for 6.22D

As outlined at Section 8 above, it is most unfortunate that an official copy of these orders could not be located in the Military Archives and the copy exhibited in the Savino Report is all we have to rely on. The undated Special Orders for 6.22D appear to be an unrevised draft which poses difficulties.

The “NCO in charge of the observation post” was tasked with the posting of sentries. The NCO in charge was also to draw sufficient rations for the duration of his duty. It is unclear, if these were the orders used, who took over the duty of posting, reporting or drawing rations in the absence of an NCO. Lt Carthy (49th Infantry Battalion) said in his statement, corroborated by Capt Herbert, that he posted Pte Joyce (48th Infantry Battalion) and Pte Doherty (49th Infantry Battalion) on Monday, 27 April 1981. The undocumented permission to change the strength of manning did not address who would undertake these other tasks.

There should have been no necessity for transport if the orders were followed as they provide that the Platoon be set up on foot.

The references to 6.22A, as already observed, may have been a typographical error throughout the document and it should have read '6.22D'. It points to the document being a template for a Special Order or, perhaps an earlier Special Order for a foot patrol at post 6.22A which had been discontinued. Post 6.22A is marked on the UNIFIL Deployment map as of June 1989.

The fact that the Order is undated is also of some significance. The assumption was that the orders were intended to apply from the manning of the post from 10 April 1981 onwards. I am satisfied that the orders were not given to any of the six men interviewed who were manning the post. The statement at page 79 of the Savino report that "*the orders were subsequently found to the WEST of the OP*" is not borne out by the statements of the Military Police.

The requirement that the strength of the OP was to be one NCO and two Ptes is consistent with the minimum standard for patrols generally and, while I have not been able to verify the special orders for other patrols, it would appear to be accepted by all the witnesses to be the then current requirement for such an OP.

The issue of the change of the special orders was the subject of criticism by Pte Reilly when he got Sight of the Savino report.

The report of Comdt. Senan Downes contained in the Savino report is as follows:

I have no knowledge of any difficulty re communications between post 6.22 and 6.22D. Radio checks were given every hour on the hour. Company headquarters then called all stations on the company net (see LA 36 Annex D att), post 6.22 then called post 6.22D.

The LA 36 radio log is not included as such in the Savino Report. What is included is a short excerpt in relation to 11 radio calls between 0700 and 1534 on 27 April 1981. However, there were problems on Sunday, 26 April 1981 as is evidenced by the extract radio log at Exhibit "L" on the bottom of page 63 of the Savino Report which reads "*having interference with this freq (4825) have no contact with Zero, am working with 20 which is fading from str 5 to str 3. 20 is also receiving interference*".

10. Visits to 6.22D

According to his statement, at page 11 of the Savino Report, on 10 April 1981 Comdt Downes, "C" Company Commander, had instructed Capt Herbert, the Platoon Commander, that the persons on duty at post 6.22D were to be visited each day at least once, preferably at lunch time when food was being distributed.

There was no requirement in the Battalion special orders for visits to 6.22D. The Platoon Commander visited the post on 27 April 1981 with the 'VIP' party hours before the fatal incident. Lt Carthy had posted the men on Sunday 26th (Lafferty and McGirr both of 49th Infantry Battalion) and on Monday 27th Joyce (48th Infantry Battalion) and Doherty (49th Infantry Battalion).

Capt Herbert, the Platoon Commander, stated to Col Savino (page 13 of the Savino Report) that he visited Post 6.22D with food for the OP at 1230 hrs on 27 April 1981 and remained there for 30 minutes. Col Savino's finding at (h) and (i) on Page 78 was that each morning the Platoon Commander went to 6.22D with the duty men and briefed them in situ before returning to 6.22. *"the post was visited during mid-morning by the Pl Comdr, and again at lunchtime when food was brought down."* He concluded that *"this was an adequate system of checks and visitation"*. The six who had served at 6.22D told me that they brought their own food. If, exceptionally, food was on other occasions brought down to 6.22D, it was brought by the platoon driver.

In reply to Col Savino's question regarding the supply system for 6.22D, Capt Herbert stated that at lunchtime he visited the OP and brought more drinks and sandwiches for the party.

Capt Herbert was asked what further visits did he normally make to the OP and said that in the morning between 1000 hrs and 1100 hrs *"it was usual for me to visit the OP and the party was posted by myself or Lt McCarty. Sometimes the OP was visited in the afternoon"*.

One of the two Platoon drivers, Pte Russell, does not remember regularly driving the Platoon Commander. While he does recollect bringing him to Dyar Ntar after 1900 on 27 April 1981 he did not remember bringing him at lunchtime on that day.

Pte Russell told me that the other platoon driver, Pte Andrew Burke, may have brought Capt Herbert with him or he may have walked. Pte Burke was not contactable. Pte Russell did not bring any of the Visiting Party to Dyar Ntar as they had their own transport.

Comdt Downes had instructed that the persons on duty were to be posted each morning. The evidence of those six, who had served at 6.22D was that other than on their first posting, they went themselves and that visits were exceptional.

The requirement of the special orders for 6.22 D was that the NCO would be responsible for posting sentries. The NCO in charge would draw sufficient rations from 6.22 for the duration of his duty. Sgt Scanlon told me that he normally selected the men for 6.22D even though he never went there himself until 27 April.

It seems to me that the evidential basis for Col Savino's conclusion that there was an adequate system of checks and visitation may have been extrapolated from the evidence of one day - 27 April 1981, the day of the visit of the Commanding Officers to 6.22 & 6.22D and the tragic incident itself – and he relied on this to find that there was a daily system of contact with the isolated OP at 6.22D. This is inconsistent with the recollection of the men who had served there on other days.

11. The Visiting Party

The visiting party were Col Laffan, Director of Medical Services, Lt Col Stephen Murphy Battalion Commander (48th Infantry Battalion), Lt Col MacNiocaill (49th Infantry Battalion), Comdt Downes (Company Commander) and Capt Herbert, the Platoon Commander.

Lt Col Murphy, reported that he was at post 6.22D with the Visiting Party at approximately 1430 hrs on 27 April 1981 to brief the incoming 49th Battalion commanders. Lt Col MacNiocaill said the visiting party arrived at post 6.22D in mid-afternoon and spent 20 minutes there. Comdt Downes stated that the party

arrived at post 6.22D at 1430 approximately and when the visiting party was leaving at 1500 approximately, the two civilians (see below) were still at post 6.22D. Capt Herbert, the Platoon Commander, states that at 1400 the visiting party arrived at 6.22 and then moved to 6.22D. At approx. 1445, according to Col Murphy, the party left 6.22D.

Capt Herbert had left 6.22 at 1420 and left 6.22D at approx 1520. The medical evidence was that the time of death of Pte Doherty could possibly have been as early as 1500 hours according to the revised statement of Capt Don McNamara, M.O. and his answers to Col Savino's questions.

Lt Col Stephen Murphy O/C 48th, Lt Col Mac Niocaill, Comdt Downes and the Platoon Commander all stated that two young hunters carrying shotguns were standing on the rocks at the East side of the Post. Col Downes asked Pte Joyce if they were known to him and he replied that they were. Col Downes then asked: "*an bhfuil aon rud ag titim amach*" and Pte Joyce replied "*dada a dhuine usail*". When the Visiting Party left they were still at the vicinity of Post 6.22D.

No indication was given that the matter should be reported. No questions were asked regarding radio contacts with 6.22.

Two local Lebanese boys from Dyar Ntar, the local village, were attracted to the observation post and were allowed to use the officer's binoculars.

Col Savino included a photograph on page 82 of his report showing Pte Doherty and Pte Joyce with Lt Col Stephen Murphy, Lt MacNiocaill and Comdt Downes together with one of the local Lebanese boys.

I have been unable to locate the original or a negative of the photograph in the archives. Col Savino thinks the photograph might have been taken by Col J. Laffan, Director of Medical Services.

The Lebanese boys indicated to the party that they had seen armed men in the vicinity. They could not be seen with binoculars.

Pte Reilly, in many of his submissions to the Minister and to the Department has complained that the visiting party did not insist that this incident of hunters being present should be reported on radio to 6.22 or to 6.23.

At page 79 of his report Col Savino referred to the photograph of the visiting party which he says shows the "77" radio set on the ground at the rear of the Observation Post and, on that basis, reconstructs the incident. The photocopy of the photograph lacks sufficient definition to identify the radio. A second photo is referred to but is not included in the copy of the Savino Report.

That photograph at page 82 of the report, is poorly copied and bears the legend: "*6.22D at 1445 on 27 April 1981. Left to right: Pte Joyce, Pte Doherty, Comdt Murphy, Lt Col MacNiocaill, Lt Col Murphy. The aerial of the "77" set can be clearly seen*".

An annotation by Ex Pte Barry Reilly states: "*This is not the aerial of a 77 set. It is Lt Col S Murphy's walking stick. The 77 set cannot be seen*"

A different legend in a separate copy of this photograph in the Military Archives is confusingly referenced as Annex "H". The legend makes no reference to the aerial of the 77 set. It reads as follows:

ANNEX 'H'

Photo of POST 6.22D on 27 APR 1981 the day of the incident. OC 48 INFANTRY BATTALION, Lt Col S. Murphy (with stick) pointing out area to OC 49 INFANTRY BATTALION, Lt Col S. Mac NIOCAILL. Pte JOYCE (left background) and Pte DOHERTY (right background).

It may be that this was a copy of the original photograph. A further copy of the photograph without a page number bears no legend.

It seems that there are several editions of the photograph. It does not necessarily imply that there are several editions of the incomplete Savino report in circulation.

Gen Murphy confirmed to me that it was not an aerial in the photograph but was his walking stick which he normally carried and used on that day to show the layout of the area to the incoming commander.

12. Communications

The operations order for "C" Company 48th IRISHBATT at As Sultaniyah provided under command and signals that:

1. *Company commander available at all times at post 6.23 or mobile.*
2. *Post 6.22 and 6.23A (sic) under the command of Platoon Commander post 6.22*
3. *Post 5.6A under the command of OC recce company*
4. *Signals (1) as per company signals net. Radio and landline to each post.*
5. *(2) communications to all patrols and Observation Posts.*

This order is dated 3 March 1981 and though prior to the setting up of 6.22D would apply generally. Pte Reilly stated that he asked for a radio when on patrol to locate Ptes Joyce and Doherty but was refused. Capt Herbert stated that Pte Reilly did not ask him for a radio.

The special orders for post 6.22 Dyar Ntar, which is also dated 3 March provides, under command and signals, that command would be the Platoon Commanders and that signals would be as follows:

1. *Radio to company headquarter*
2. *Landline to company headquarters*
3. *Radio/signals as arranged with patrols, OPs and CPs (Observation Posts and checkpoints).*
4. *Passwords issued daily by post commanders*

In relation to the special orders for 6.22D, which in the text is referred to as 6.22A, the orders in relation to command and signals as referred to above gave no indication, instruction or order of what procedure was to be followed in the event of radio failure other than a signal of one hand flare to indicate assistance

required. As 6.22D was out of sight of 6.22 it is not clear whether a flare would alert the sentry on the roof of 6.22. There was, it seems, no consideration of a landline which was indicated in the Operations Order for 6.23: *"Radio and landline to each post"*.

The extract from the Battalion log in exhibit "H" to the Savino report for the 27/28 April 1981 refers at No. 39 to an entry at 1836 which states: *"From "C" Company: no contact with 6-22D since 1430 LT. They were to report back at 1800 and did not report."* (page 58 of Savino Report)

This would appear to accord with the evidence given by Pte Reilly who said that Pte McLoughlin, (49th Bn and newly arrived in the Lebanon) who was on the roof of post 6.22 had told him that he had no contact with 6.22D from lunchtime. Pte McLoughlin had started his shift at 1400 hours. It is unclear whether he himself had made contact with 6.22D. He did not know who he was replacing. Pte McLoughlin had been on other subsequent tours of duty. In his reply to my questions he said that he did not particularly remember the afternoon of 27 April 1981. He told me that his recollection of that day was not clear.

In any event the position of communications was, as is clear from the statement that Pte McLoughlin made to Col Savino, less than satisfactory. It is significant that when asked by Col Savino whether he should have contacted 6.22D his reply was that he should have but he could not say why he had not done so.

The position with regard to signals was a matter that was commented on by Col Savino in his findings in that there were difficulties the previous day as is evidenced by exhibit L (page 63 of the Savino Report) which refers to the "C" Company radio log book extract. There is just one extracted entry for the day preceding the day of the incident which is not given a number nor indeed a time and which states:

Date: 26-4-81 Having interference on this frequency (4825) have no contact with Zero, am working with 20 who is fading from strength 5 to strength 3. 20 is also receiving interference.

There is no further reference in the Savino report to Sunday, 26 April 1981.

Comdt Michael Roche and Sgt Pat Spillane, who both had served on later tours of duty in the Lebanon, explained to me that the blocking of radio signals could be done by way of spot jam for 47 megahertz or a barge jam of 30-40 megahertz or a sweep jam which would be intermittent. They said that they only experienced spot jams on their frequency of 47 megahertz.

The evidence for the following day (27 April) is somewhat unclear in relation to whether there was spot jamming. There is no such mention by the sentry on duty at 6.22 other than a finding made by Col Savino that there were problems in relation to the radio signals where he stated at finding d(1) on page 77 of his report:

Bn SOPs required a system of radio checks every hour, on the hour. This is a routine well known to all radio operators and users, and this procedure is practised at home. The sentry on duty on the roof of post 6.22D [should be 6.22] understood that he was to contact his outpost, 6/22D every 15 mins and states that he made his last contact with 6/22D at 1340 hrs. In any event there was a Bn and Coy check at 1600 hrs, but from then on the radio man on the roof of 6/22 failed to contact 6/22D.

It is not clear on what basis Col Savino asserted that there was a check at 1600 hrs. "C" Coy Radio log (extract) for 27-4-81 does not record a battalion or company check at 1600 hrs. The last entry on the extract is 1534 (Exhibit M in Savino Report p64).

The evidence of Pte McLoughlin who was the sentry on the roof of 6.22 in his statement to Col Savino (page 17 of the Savino Report) was that the last contact was made at 1540 rather than 1340.

The extract from the C Coy Radio log for 27-4-81 (Exhibit 'M') (page 64 of the Savino Report) refers to *1400 RC ok ew* (Radio Check ok each way). In any event the evidence of Pte Reilly who went to the roof of 6.22 at around 1800 was that he was told by Pte McLoughlin that there had been no contact since lunchtime.

Both exhibits in Col Savino's Report ('H' and 'M') are extracts. I have also been informed by Comdt Roche that the relevant log to deal with calls from 6.22 Dyar Ntar to its Observation Post at 6.22D would be the unit log. However, it has not been possible to locate any unit logs or communications records whatsoever for the 48th Infantry Battalion in the archives in Cathal Brugha Barracks. Those documents may have remained in situ or been mislaid. A large volume of papers was not repatriated with the last chalk of the 48th Infantry Battalion because of a last-minute change to a smaller aircraft leaving from Tel Aviv rather than from Beirut. It is significant that there are such records in the boxes of the 49th Infantry Battalion but not for the 48th.

I made enquiries regarding the functioning of the 77 radio set. Comdt Roche and Coy Sgt Spillane explained that it was a VHF radio, dependent on line of sight, and was less reliable than the high frequency that has been used subsequently. The maximum distance of 5-7 kilometres was reduced to 1-2 kilometres where there were obstructions. It was clear that there had been a decision made, as is indeed mentioned in Col Savino's report, that the transmission route for 6.22 D was through 6.22 and that 6.22 then relayed the radio messages or checks to 6.23 at As Sultaniyah. This indeed explains some of the limitations of the 77 radio set and indeed, as is seen in the case of 6.22, required the provision of a landline under its standing orders. No such requirement was made in relation to 6.22D. While according to Comdt Roche it was technically possible to connect a landline between 6.22 and 6.22D there was a risk that the wires would be removed at night when 6.22D was not manned.

Comdt Roche was of the view that prior to establishing an Observation Post, signals personnel should have tested and logged signals strength from As Sultaniyah to Dyar Ntar. I have been unable to obtain any such written reference in the military archives.

As already stated the orders for 6.22 referred to radio and landline whereas the command and signals for 6.22D mentioned only one x 77 radio set. There was provision for a signal of one hand flare to indicate assistance required in the case of radio failure.

I have heard evidence from some of the men who served on 6.22D to say that there was a problem with batteries and, indeed, Pte Reilly had asked the platoon commander at 6.22 to supply him with batteries on the occasion of a visiting party a week before the 27 April 1981. He said that no battery was supplied.

There was significantly no request for batteries on the day of the incident (Monday, 27 April 1981). Indeed, it is clear that the 77 radio set did have a charged battery as calls had been made at lunchtime. The reference to a loss of strength had applied to the previous day rather than to Monday 27 April.

Nonetheless, it appears at the time, given the more restricted nature of communications, and, indeed, the openness of communications through VHF radio that these issues should have been a matter of some concern particularly where the strength of the Observation Post was reduced from 1 NCO and 2 men to 2 men.

Pte Kevin Joyce (48 Infantry Battalion) was the senior Private. He was due to return to Ireland on the following chalk within a week. The junior man on duty, Pte Doherty (49th Infantry Battalion), had arrived on the previous chalk and was only five days in the Lebanon and it was his first time to be on post 6.22D.

Given this, and the possibility that the armed elements had been alerted to the setting up of post 6.22D on 10 April, some 17 days before the date of the incident, and that they may have been alarmed about being overlooked in the Iron Triangle, it should have been a matter of concern and for risk assessment at the time (see also Chapter 14 below).

Both Comdt Michael Roche and Coy Sgt Pat Spillane commented on the orders for 6.22, and 6.22D and stated that the normal check every hour on the hour applied to all stations radio channel where each station reported back to the headquarters. The company was responsible for calling its own platoon and the platoon responsible for calling the Observation Posts. There was only one frequency which was heard by all. In the event of a failure to communicate the obligation was to report to the officer or Sergeant in charge as the acting post commander.

The communications log book was kept by headquarters and the battalion log book kept by the battalion headquarters. The communications logbook was on a 24-hour basis and referred to cars leaving or patrols leaving and indeed whether these were Land Rovers, or Panhards. If there was shelling by the Israelis or by the 'De Facto' Defence Forces (DFF) a 'shoot rep' or 'incident rep' would be sent. The standard proforma communications log book gives timing, the initiator of the call, and the recipient of the call and the text of the message or event. The details recorded in the excerpts of the log books in Exhibits L and M of the Savino report are in accordance with standard communications logs. The latter entries to that report were not radio checks but simply statements in relation to the message that an incident report was not sent. It is clear from exhibit M (C Coy Radio Log Book (extract) for 27-4-81) that the last contact between As Sultaniyah and 6.22 was at 1400 hours: *R/C ok ew* (Radio Check, OK, each way)

Pte McLoughlin told me that he was told by the radio operator at 6.23 (Signalman Tuohy) to stay off the radio because it was wasting the battery. This was not mentioned in Pte McLoughlin's statement to Col Savino. Signalman Tuohy's statement to Col Savino, however, did refer to his telling "*the man on the roof at 6.22 (Pte McLoughlin) to call every 10 minutes and NOT repeatedly as there was NO point as he would run down his own batteries.*"

Pte McLoughlin told me that he was not sure whether Pte Cronnolly relieved him, notwithstanding what was in his statement. He said that when he went back to Finner Camp no one came to him nor asked him to Dublin for an interview. He said he never met Col Savino nor anyone and doesn't remember the statement that was made, nor the questions that were put to him. He said he was shocked by the news of Pte Doherty's death.

He said he could have missed an hourly check: it depended on the network. He could have posted Sit Reps to 23 (6.23). He couldn't say how many. He didn't know who posted him. He believed that it was his duty to call 6.22D.

13. Ballistics

The medical evidence indicated that Pte Doherty was shot three times. Three Kalashnikov shells were found at the scene.

Pte Reilly stated that he fired approximately 15 shots from his FN rifle as a warning when he found Pte Doherty's body. Coy Sgt John McNamara, in his statement of 18 June 1981, says that three Kalashnikov shells and thirteen (7.62) shells were found. He was hopeful that Pte Joyce might have been hiding nearby and would have heard and answered his shouts or the shots.

Lt Col J.K. McGrath S.O. D./Ord replied by letter dated 18 March 1983 to Col Savino's phone call of 5 March 1983 and distinguished 7.62 mm x 51 NATO cartridge from the 7.62 mm x 39 cartridge which could not have been fired from a rifle (such as an FN rifle) chambered for the NATO cartridge.

Lt Col McGrath was satisfied that the bullets that killed Pte Doherty could not have been fired from an FN rifle. The Doherty family had believed an unfounded rumour that Pte Joyce had shot Pte Doherty. If that rumour circulated at the time of Col Savino's investigation he had eliminated it with this finding. Unfortunately, this was not communicated to the family at the time and lingered on until the meeting of 1 July 2014 with Department of Defence officials (See Section 27 below)

The search carried out by the Military Police (posted at Gallows Green) in the early morning after the fatal incident was recorded by Coy Sgt John McNamara, instructed by Lt Callaghan and assisted by Coy Sgt Coyne who took notes. Coy Sgt McNamara prepared a sketch (included at page 37 of the Savino Report, also included at page 36 of Coy Sgt McNamara's report dated 18 June 1981). Lt Callaghan photographed the scene of the shooting. During the search, the three Kalashnikov shells and 13 7.62mm shells and a binocular case were found. All were given to the Special Investigation Section of the UNIFIL HQ Military Police. I have been unable to get confirmation whether the exhibits are still in UNIFIL archives.

Indeed, Col Savino had commented at page 80 of his report (Part V: Other Matters) that the bullet cases were sent to Naqoura for forensic examination. He added "*They are NOT to be found NOR is there any report on them extant.*"

The present whereabouts of the 3 Kalashnikov and the 13 7.62 mm x 51 NATO rounds taken by the UNIFIL Military Police are unknown. There is no record of where they were or might have been kept. It is not possible to ascertain whether or not Pte Doherty fired a shot before he was killed as some have speculated. His and Private Joyce's rifles were not recovered. It is extraordinary that significant forensic exhibits should be missing and that there is no documentary evidence in relation thereto.

The Permanent Mission of Ireland to the United Nations made inquiries by way of *Note Verbale* dated 21 July 2016 requesting documents and information from the UN for the purposes of this review. To the best of its knowledge the UN had no further information in its archives other than the confidential Board of Inquiry Report.

Col Savino had been asked by the terms of reference for his investigation to say what the significance, if any, of the three Kalashnikov and 13 (7.62 shells) were in relation to the disappearance of Pte Joyce. Col Savino concluded as follows:

The shots fired by PTE O'REILLY (sic) had NO bearing on the disappearance of PTE JOYCE. SO D/Ord has stated that KALACHNIKOV rounds could NOT be fired from an FN rifle.

Publication of that conclusion would have countered the unfounded rumour that Pte Joyce may have killed Pte Doherty (See Section 27 below).

14. Risk Assessment

The issue of risk is a significant factor in relation to the setting up and the strength of any post, particularly one out of sight of another post and unprotected. The establishment of the OP had been as a result of pressure from UNIFIL (page 79 of the Savino Report). Indeed, Col Savino had been Deputy Chief of Staff in UNIFIL from September 1980 to April 1981 and Senior Irish Officer with the Force Commander, Lt. Gen. Callaghan, during the period in question. Necessarily, the observation of the surrounding areas of the Iron Triangle was of importance to DUTCHBATT as well as to UNIFIL and, accordingly would have entailed extra risk in relation to a potential reaction from those who were being observed.

While the subsequent hostilities may not have been contemplated, Lt Col Murphy stated that a full risk assessment had been carried out in relation to the establishment of O.P. 6.22D. I have been unable to find any documentation in relation thereto in the Archives.

The Observation Post 6.22D was not visible from 6.22 and, accordingly, required communications by means of a 77 radio set. It is unclear from the evidence I have heard from the sentry on 6.22 as to who had responsibility for initiating calls to 6.22D. The matter was further complicated by difficulties in direct access from headquarters at 6.23 to 6.22D. Communications between post 6.22 and post 6.23 were by radio. Comdt Downes reported to Col Savino that when 6.22D opened initially communications were directly to post 6.23. Because of complaints and difficulties in maintaining contact he gave permission to post 6.22D to relay all communications through 6.22. He had no knowledge of any difficulties regarding communications between 6.22 and 6.22D.

There appeared to have been some confusion or lack of clear instructions regarding the standard operating practice of communications. One of the six men who had served on 6.22D and who spoke to me believed that he should call 6.22 every 20 or 30 minutes. If they did not do so on the hour then 6.22 would call them. This did not happen on 27 April despite there being no radio check from 1400 onwards.

The signals officer Capt Rowan told me that there could have been a landline installed. Col Savino stated in his report that communications were adequate although it would have been desirable to have a second system, i.e. a landline, but he found that this was not feasible as it was a daylight post (page 77 of his report). Sgt David Mulvaney, who had served at 6.22D as a Private, told me that when the signal was weak at 6.22D he would go uphill towards Dyar Ntar village to get better reception which entailed leaving the post.

I have not been able to ascertain from the records whether any tests had been made regarding the strength of signals at 6.22D prior or subsequent to its establishment.

It is significant that Col Savino concluded that the incident at 6.22D was not an isolated one but was part of a pattern of murder committed against UNIFIL troops in the Iron Triangle area (page 81 of his report). However, the references to the second incident of the two incidents referred to by Col Savino (that of 19 June 1981) occurred several weeks after the establishment of 6.22D on 10 April 1981. The first incident of 18/19 January was three months before the fatal incident of 27 April 1981.

In the morning of 27 April there was intense activity in the North East and in the afternoon intensive activity and shelling to the West between Tyre and Sidon. Many of the men I met spoke of the intensity of the jet booms of the 6-8 Israeli jets on that day and the noise and vibrations as the planes came in over As Sultaniyah and indeed other parts of the IRISHBATT area.

There was no direct risk to the Dyar Ntar area as a result of this activity. There was no indication that there was any direct exposure communicated to the Battalion, Company or the Platoon Commander.

The post at 6.22D was tasked to observe to the West, North West and North with particular reference to personnel and vehicle movements in the Iron Triangle. The orders setting up 6.22D stated that its mission was to observe and report all armed elements activity, monitor movement in and out of the designated area and report and prevent incursions into the area of operation by the armed elements. The special orders for 6.22D tasked the NCO to post sentries and submit all reports. As already observed there was no NCO present from 12th to 27 April 1981 to monitor activities which should be reported.

It has been a limiting feature of this review that I have not been able to ascertain from the Military Archives, what, if any, reports emanated from 6.22D. Neither the extracts from Battalion logs or radio logs exhibited by Col Savino relate to any reports being sent from 6.22D.

Indeed, Comdt Downes statement to Col Savino referred to above were that: *“Reports of any activity were NIL.”* According to Col Savino (page 78) *“there was NO report, other than routine radio checks made from post 6/22D during the entire three weeks that it was in existence, NOR are there any reports logged in 6/22 on the matter.”*

However, while official reports of any activity may have been nil, there is evidence that there was ‘activity’ in the area. As already noted I was told by Pte Reilly that he made reports from 6.22D to 6.22 on aircraft overflights. Sgt Michael Halloran, who saw movement through binoculars, of what he believed to be PLO men in the distance did not report this incident as he believed that it was not a threat. There were sightings of hunters with shotguns particularly on Sunday 26 April. On 27 April, the Visiting Party saw hunters with shotguns in the vicinity. As already stated no instruction was given to report the incident as the hunters were known to Pte Joyce. Brig Gen Steven Murphy, who was the Battalion Commander, told me that, in his presence, Pte Joyce confirmed to Capt Herbert that he recognised the hunters. Pte Reilly was of the view that Pte Joyce had never served at 6.22D beforehand but gave no basis for that view. Pte Michael Halloran believed that Pte Joyce had served with him on occasions at 6.22D. It is clear that he was familiar with the hunters.

The evidence of Pte McLouhlin, the sentry manning 6.22 was that he had sent some reports of the bombing to 6.23. No reports were received from 6.22D. One of the witnesses understood that the sentries had been told not to send such reports which were clogging up the radio network. Without having access to the full radio logs, it is not possible to verify this. It may have been an exculpatory remark.

Lt Col Murphy was of the view that assessment of risk was an integrated ongoing part of any operational planning process in estimating a situation. He was satisfied that such assessment had been carried out. However, I could find no written documentation in the military archives of any such assessment nor any written record of the reduction in manning strength at 6.22D.

The issue in relation to the setting up of a separate OP should, in my view, have been given greater consideration in relation to risk and, indeed, to the implementation of the special orders, in particular in relation to strength of manning and supervision. There was no explicit statement of risk or safety requirement. Col Savino's subsequent recommendation in January 1984 in this regard is of critical importance:

“Operational briefings prior to departure from home should labour the importance of establishing OPs only where there is visual contact with other OPs, and OPs should be opened only where Commanders are satisfied that they can be garrisoned in sufficient strength to maintain their safety. The relevant UN HQ must NOT be allowed to over-ride the Bn Comds view on this matter”.
(page 81 of his report)

I conclude that, given the exposed nature of 6.22D, the absence of an NCO, the inadequacy of manning, the failure to provide a landline, and the absence of reports of incidents that there was a persistently inadequate assessment of risk in the prevailing circumstances.

UNIFIL HEADQUARTERS BOARD OF INQUIRY

15. UNIFIL Headquarters Board of Inquiry Report 11 September 1981

(Redacted due to confidentiality of UNIFIL Headquarters Board of Inquiry)

16. Confidentiality of the UN Board of Inquiry

The original report of the UNIFIL Board of Inquiry is in the Military Archives. The report was duly sent through diplomatic channels to the Department of Foreign Affairs and then to the Department of Defence and Defence Forces on 28 February 1982.

The report dated 11 September 1981 had been sent to the UNIFIL Force Commander, Lt Gen William Callaghan, on 9 November 1981.

The Military Police report dated 23 July 1981 was stamped UN CONFIDENTIAL. Col Savino incorporated the report and witness statement in Exhibit C of his report. (pages 28-48)

The statements indexed at page 23 of the Savino Report appear to be part of the UN Inquiry but do not have the same page numbers as the copy of the original signed Board of Inquiry Report.

The UNIFIL Military Police Report in the Savino Report is a retyped covering letter from Major A. Omholt (at page 27 of the Savino Report) on which the UN CONFIDENTIAL stamp and the round UNIFIL Military Police seal is missing.

The Military Police report of Warrant Officer Ake Lundin dated 22 July 1981, at page 28 of the Savino Report is also retyped in capital letters. Other than the absence of the confidential stamp, there is no significant difference in the original and the retyped copies.

The MP report was stamped UN Confidential. Col Savino incorporated the UNIFIL Board of Inquiry Report and written statements in Exhibit E of his report without reference to the General Convention on the Privilege and Immunity of the United Nations adopted by the General Assembly of the United Nations on 13th February 1946.

The Third Schedule of the Diplomatic Relations and Immunities Act, 1967 (No. 8 of 1967) incorporates that general convention. S.9 of that Act incorporates these privileges and immunities into domestic law as and from 10 May 1967. Article II, Section 4, provides that *“the archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located”*. The UNIFIL Board of Inquiry Report is therefore an internal, confidential document.

I requested that clarification be sought, by way of *Note Verbal* dated 21 July 2016, requesting documentation and information from the United Nations for the purpose of this review.

On 12 October 2016, the Office of Legal Affairs of the United Nations provided me with the Board of Inquiry Report and the information contained therein for the sole purpose of my review on a strictly confidential basis and without prejudice to the privilege and immunities of the United Nations. It was to be afforded confidential treatment and was not to be disclosed or made public either in whole or in part.

In *Mary O'Brien v. Ireland, Attorney General and Minister for Defence* (Record No. 1989/14813P) O' Hanlon J upheld the immunity of UN Boards of Inquiry deliberations (decision of 26 August 1994).

Oswald, Durham and Bates: Documents of the Law of the United Nations Peace Operations, Oxford 2010, at 398-399 provides as follows:

15. *Acts of serious misconduct or acts that have the potential to damage the image, credibility or integrity of the United Nations shall require the convening of a mission headquarters Board of Inquiry.*
16. *The purpose of the Board of Inquiry shall be to establish the facts of the case. The Board shall determine cause and responsibility in the incident under review.....
A Board of Inquiry shall not be a judicial body; it is a management tool to assist the Head of Mission in discharging his/her responsibilities...
A Board of Inquiry shall not consider questions of compensation or legal liability...*
22. *Board of Inquiry Reports shall be internal documents of the United Nations and, as a rule, shall not be made available to outside entities. The release of a Board of Inquiry report to a Government to be used for its official purposes shall be approved by the United Nations Headquarters in New York.*

While these are directives for disciplinary matters involving civilian police officers and military observers published in July 2003 and may not have been applicable in 1981, they do provide a standard for comparative purposes.

The format for Mission Headquarters Board of Inquiry Reports is structured as follows:

- a. Constitution: citing the convening order, the time, date and place of the incident, and the period during which the Board conducted its proceedings;
- b. Description of the incident: Present the objective facts of the incident obtained from the available evidence, with full references to the sources used, including details of duties being performed at the time;
- c. Deliberations: Present the main issues to be addressed when assessing the incident and reaching substantiated conclusions.
- d. Findings and Conclusions: Address the issues raised by presenting the Board's findings and conclusions based on the available evidence and relevant mission headquarters/unit orders directives, regulations or SOPs.
- e. Recommendations: Recommend any remedial or preventative measures to avoid a similar incident.
- f. Signatures: Affix the signatures of the chairman and members of the Board;
- g. Annexes: Attach as annexes the following:

- (i) Convening order;
- (ii) MP/UN Civilian security or other police or investigating authority's reports with original photographs
- (iii) Lists of persons present at or involved in the incident, giving name, rank, unit and ID number for United Nations personnel and distinguishing them from other persons whose full name, occupation and addresses must be listed;
- (iv) Statements and reports of witnesses;
- (v) Any additional relevant documents or statements, inspection reports (eg weapon inspection reports, vehicle inspection reports)
- (vi) Any maps or sketches of the scene of the incident;
- (vii) Any claims, local police reports, pending proceedings or actual decisions of local courts;
- (viii) Detailed description of property destroyed or damaged, attaching any available damage/discrepancy reports;
- (ix) Relevant copies of mission headquarters/unit orders, directives, regulations, SOPs, etc.

The investigation shall be conducted with the greatest regard to confidentiality...unauthorised disclosure constitutes misconduct for which disciplinary measures may be imposed. Authorisation for disclosure may be given by the Head of Mission (*page 407 Oswald, Durham and Bates*).

I have a concern regarding the extent to which confidentiality applies. Once the UN Board of Inquiry report has been transmitted through diplomatic channels to the Department of Foreign Affairs it is sent to the Department of Defence. As such there should be no difficulty in the Deputy Judge Advocate General commenting on its findings, and by extension, Col Savino and this reviewer insofar as his report and my review are internal to the Department of Defence and Defence Forces. Privilege and confidentiality otherwise applies.

17. Reaction of Defence Forces to the UN Board of Inquiry Report

For the purpose of publication, however, it is necessary to redact reference to the UNIFIL Board of Inquiry Report. In my view, such considerations would also have applied to the Savino Report.

Consideration was given to the Board of Inquiry report by the Deputy Judge Advocate General, Col Timothy O'Shea (Appendix 3). Having examined the proceedings of the Board he made ten pertinent observations and questions which he sent to the officer in charge of "A" Administration on 19 May 1982. This letter stamped "*A Administration CONFIDENTIAL*" is in the files of that office rather than in the military archives.

The Deputy Judge Advocate General was of the view that the orders for post 6.22D and 6.22 were relevant. The contact delay between 6.22D and 6.22 of nearly two hours was referred to. Col O'Shea asked whether the shots should have been heard by the sentry on 6.22. The evidence of the Officer Commanding the 48th and 49th Infantry Battalion, the Company Commander, the Platoon Commander, Pte Russell (the driver), Pte Barry Reilly (who found Pte Doherty's body) and Lt Hugh Carthy was not taken and was only reflected by hearsay evidence. Col O'Shea also asked the pertinent question regarding the system of visiting and relief and asked who had visited the observation post that day.

On 27 August 1982 the Adjutant General, Major Gen Prendergast wrote to Col Savino, then Director of Operations, who had served as senior officer with UNIFIL HQ, to inform him that he had been nominated to undertake an investigation further to that of the UN Board of Inquiry (Appendix 4).

Col Savino's investigation was to be directed to reporting on and obtaining all data required by extensive terms of reference which followed (see 2a to 2e in Appendix 4).

SAVINO REPORT

18. The Whereabouts of the Savino Report

As outlined at Section 1 of this Review the only copy of the Savino report now available is that handed into the Military Police by Ex Pte Reilly on the occasion of his statement to the Military Police in July 2012. While the copy is somewhat incomplete and has been annotated by Ex Pte Reilly, Maj Gen Savino has acknowledged that the document is a copy of his report.

It is of some significance that neither the terms of reference for the investigation by Col Savino nor the report itself is in the Military Archives. The office of the Adjutant General did not have the original nor a copy of the terms of reference or the report. I would have expected that his office would have the original report with a cover letter dated and signed by Col Savino.

On Tuesday, 2 June 2015 the Office of the Director of Legal Services contacted Capt O'Hara (my liaison officer with the Defence Forces) to ask me to meet Colonel Spierin later that day in Newbridge. He had received files from "A" Administration storage facility in the Curragh Camp (DFTC) which were relevant to, but did not contain the Savino report. I later visited that storage facility and met B/Sgt Frank O'Connor and Cpl Denise Rooney of "A" Administration who showed me 15 four-drawer fireproof Chubb safes which had previously been stored at Coláiste Caoimhín in Glasnevin until 18 November 2013.

The cabinets numbered 1-7 contained Courts of Inquiry files. Cabinet 3 contained two relevant files 225 (Doherty) and 226 (Joyce) though neither was the subject of Irish Courts of Inquiry. These files did not contain copies of the Savino report. Of interest, however, was correspondence from Adjutant General Prendergast to Col Savino, in January 1984 inquiring about the progress of his report. I was, accordingly able to fix the probable date of the submission of the report to the Adjutant General at or about the end of January 1984.

Cabinet 8-10 and 15 contained what I was told were miscellaneous files but, on examination contained some files from Courts of Inquiry in respect of minor matters. Cabinets 11 to 14 were empty.

Files 225 and 226 revealed that on 6 May 1984 Col Mortell wrote to the Adjutant General saying that the questions asked in the terms of reference for Col Savino were all answered in the report and that by letter of 30 January 1987 Capt Dwan who conducted an investigation into the searches for Kevin Joyce wrote to the Provost Marshall saying: "*There are NO files now extant at IRISHBATT, UNIFIL HQ or OGL concerning the case*". Capt Dwan's report does not refer to the earlier Savino report

Brig Gen Gerald Aherne (Retd) had consulted the Savino report in 2001 when he was completing his log of meetings and intelligence regarding the whereabouts of the body of Pte Joyce prior to the departure of the 88th Infantry Battalion from Lebanon.

Gen Savino told me that he did have a copy of his report which he loaned to a researcher in the School of Psychology of Dublin University, Trinity College in the late 1980s in connection with their research on PTSD in warfare. Professor Barbara Hannigan and Michele Le Good, School Administrator made some unsuccessful inquiries on my behalf. Dr. Matthew McCawley, who has a research interest in the topic, was unaware of the report.

On Friday 12 June 2015 the liaison officer for the Department of Defence, Margaret O'Leary gave me a copy of a handwritten note from Capt E. J. Moran to A/OIC "A" Administration dated 7 May 1984 attaching a copy of the report to "*be forwarded to Brig Gen Savino who carried out the investigation for retention by him*". The note further stated that there are three (3) copies of the report held in the safe in DAGs office. An addendum by Comdt Pakenham made on the same day says that the three copies include the original. This note was copied from a file received from "A" Administration during the week of 08 June 2015. However, the copies of the report are not attached to the file or in the safe.

The whereabouts of the original report remains a mystery. I am satisfied that the original is not in any of the military archives. As outlined above, the Military Police were given an almost complete but undated, loose leaf poorly copied and annotated report by Pte Barry Reilly when he made a further statement to the Military Police in July 2012. Pte Barry Reilly said that he had received it in his application for discovery in a legal action he was pursuing against the State.

In his claim (*Reilly v The Minister for Defence and the State (High Court Record No. 2003/12555P)*), Pte Reilly had sought discovery of the statement he made to C/S John McNamara on 6th May 1981 and the statement he said that he made to General Savino in October 1982 - the latter is included in the Savino report but undated. Col Savino commenced his investigations after August 1982.

Pte Reilly claimed that his lawyers also sought discovery of the Savino Report but not the UNIFIL Report of which he was unaware. What was sought was a copy of the original statement given by Pte Reilly to General Savino at Army Headquarters in 1982 and earlier documents, including all witness statements to any inquiry or Board of Inquiry. His original statement made in As Sultaniyah in April 1981 was also requested. Privilege was claimed by the Department in relation to this category.

By letter of 3 March 2005 the Chief State Solicitor wrote to Ex Pte Barry Reilly's solicitors, Silke & Co., in relation to a request for voluntary discovery. Six categories of discovery were sought which included "*all witness statements to any inquiry or Board of Inquiry ...*" but did not explicitly refer to the Savino nor to the UNIFIL Board of Inquiry.

The State commented as follows:

Category 1

In relation to the first category of documents sought namely; All documentation, memorandum and reports which are or have been in the possession, power or procurement of the Defendants – including all witness statements to any inquiry or Board of Inquiry, and all records and reports regard subsequent de-briefing and counselling of the Plaintiff relating to the incident which occurred on or about the 27th April 1981 in the vicinity of Dayr Ntar village in South Lebanon, in which the Plaintiff's fellow soldier, namely, Private H. Doherty, was fatally shot.

We re-iterate once again that your request has to be viewed in the context of the Supreme Court Judgement in O'Brien v. The Minister for Defence. The Court held that statutory privilege extends to the findings and recommendations of Court of Inquiry reports. Witnesses statements made to the Court/Board of Inquiry are discoverable. Accordingly, we hereby confirm that the Defendants are willing to make a voluntary discovery of any witness statements made in relation to the Inquiry into the death of Private Doherty.

Category 2

In relation to the second category of documents being sought namely; Copy of the original statement given by the Plaintiff to two Army Personnel attached to the Irish camp in Sultaniyah, on or about the 29th / 30th April 1981.

The Defendants agree to make voluntary discovery of the said statement.

Category 3

In relation to the third category of documentation being sought namely; Copy of the original statement given by the Plaintiff to General Savino at Army Headquarters, Parkgate, Dublin on a date in 28th January 1982.

The Defendants agree to make voluntary discovery of this statement.

Category 4

In relation to the fourth category of documentation being sought namely; All documentation, memorandum and reports, which are or have been in the possession, power or procurement of the Defendants, regarding de-briefing and counselling of the Plaintiff, following the death of his fellow soldier, Cpl Dermot (sic) McLoughlin, on or about the 10th January 1983 at Brachit (sic), Lebanon.

The Defendants agree to make voluntary discovery of this documentation.

Category 5

In relation to the fifth category of documentation being sought namely; All medical, including psychiatric, records pertaining to the Plaintiff which cover his three tours of duty in the Lebanon, between 1980 and 1987 inclusive, and all such records pertaining to the Plaintiff subsequent service in Ireland from 1987 to date.

We have already indicated that the Defendants do not have any difficulty with regard to this category – which was Category 2 of your first request for voluntary discovery dated 12th October 2004. So, there is absolutely no misunderstanding in relation to this matter, the Defendants agree to make voluntary discovery of this category of documentation.

Category 6

Turning now to the sixth category of documentation being sought namely; The Defence Force's Operations Manual on the handling of Stress and PTSD among personnel.

This is the same as Category 3 in your request for voluntary discovery dated 12th October 2004. The category is reasonable provided that it is limited to what was in existence at the time of the incidents mentioned in the Statement of Claim in 1981 and 1987.

The request for discovery, while it asked generally for all documentation, specifically sought witness statements to any inquiry or Board of Inquiry and subsequent debriefing and counselling. There was no specific request for the UNIFIL Board of Inquiry report nor the Savino report. The Chief State Solicitor referred to statutory privilege which extends to findings and recommendations of Court of Inquiry reports in respect of which *O'Brien v. Minister for Defence* applies. However, witness statements are discoverable and the defendant was willing to make voluntary disclosures in relation to the original statements given by the Plaintiff on 6 May 1981 before he returned to Ireland and his statement to Col Savino (categories 2 and 3). In addition, it was agreed to discover documents relating to debriefing, counselling, medical and psychiatric records and the Operations Manual on the handling of stress and PTSD among personnel (categories 4-6).

The Affidavit of Discovery sworn on 20 October 2005 by Marina Marlborough, an officer in the Department, deposed that diligent searches had been made to find these statements but these had been unsuccessful and the whereabouts of the statements were unknown. Ex Pte Barry Reilly's claim was settled in January 2007 (see "*Soldier Wins Trauma Case Over Body Find in Lebanon*", Independent.ie, 20 January 2007).

Pte Reilly told me that, as part of the discovery process, he subsequently received a copy of the Savino Report itself together with other documents stamped "*A Administration Confidential*" and "*Military Archives, Cathal Brugha Barracks*". Some of these documents without stamps are duplicates of reports and statements in the Savino Report.

I have carefully examined the litigation file in the Department of Defence and spoken to Ann Price, Principal Officer and Mary Hickey, Higher Executive Officer, both of the Litigation Branch. While some discovery was made to Ex Pte Barry Reilly's solicitors the Savino Report was not included. The Savino report which includes Ex Pte Barry Reilly's statements was not sought as part of the wide discovery. I am satisfied that the copy of the report obtained by Ex Pte Reilly did not arise in the application for discovery made by his solicitors.

The origin of the rough photocopied documents, including an incomplete copy of what purported to be the Savino Report, given to the Military Police in July 2012, is unknown.

The 123-page document handed in by Private Reilly to Military Police was not authenticated by the Defence Forces. This document was separated by the Department of Defence into the following tabs:

1. Savino Report (not authenticated by the Defence Forces) – Pages 6 to 20, 23-24, 28-36 and pages 38-77.
2. Page titled "Observations" – The origin of this 2-page document is not obvious. The next 2 pages are titled "Incident at Post 6-22D in which One Irish Soldier was Shot and Killed and One other Irish Soldier is Missing." This is stamped A Administration Confidential.
3. Document stamped Military Archives, Cathal Brugha Barracks, with G3 Monthly Report handwritten on side.
4. 3 pages of what seem to be statements given to Military Police, Irish Battalion, all stamped A Administration Confidential. Report (4 pages) into incident by Lieutenant Colonel S Murphy, Officer Commanding 48 Infantry Battalion. Document stamped Military Archives Cathal Brugha Barracks. 1-page document signed by Commandant S.P. Downes into the incident. Stamped Military Archives, Cathal Brugha Barracks. 1-page document relating to incident "signed by Adib Jawad", stamped A Administration Confidential. 2 pages of statements given to Military Police Irish Battalion.

5. 2-page document from Medical Officer 48 Infantry Battalion regarding the death of Private Doherty, please note that the date of 26th April 1981 should read 27th April. 1-page Interim Report from Lieutenant P.G. Callaghan, Military Police Officer. Sketch of Hill 6-22 Delta.
6. Correspondence between Lieutenant Colonel T. Higgins, Officer in Charge, A Administration Section, Chief Military Personnel Officer UNIFIL and UN relating to errors in the UN Board of Inquiry. Also in this tab are a page from the Savino Report.
7. Full copy of original Ministerial Representation from Mr. Michael Walker including a 12-page document submitted with this representation.

In his letter to the then Minister for Defence, Mr. Alan Shatter T.D., dated 6 October 2011, Ex Pte Reilly added by way of postscript that he was in possession of most of the evidence in the matter. This indicates that he may have then had a copy of the report.

The date on which the Military Police received the copied report annotated by Ex Pte Reilly was in July 2012, five and a half years from the date of the settlement of his case, and over six months after that letter to the Minister of 6 October 2011.

It remains a mystery and a matter of great concern where the original is or was, who copied it and who gave it to Ex Pte Barry Reilly. It is a further concern that documents stamped “*A Administration Confidential*” and “*Military Archives*” and not part of the Savino Report, were included in addition to the Report.

The absence of such an important and significant report from the archives raises serious issues under the provisions of the National Archives Act and issues of security of military documents.

19. National Archives Act, 1986

The Act established the National Archives and makes provision for the retention and preservation, inter alia, of records of Departments of State:

S.7(1) provides that: subject to the provision of Sections 19(3) and 19(4), Departmental records shall, unless they are transferred to the National Archives in accordance with section 8 or are disposed of under subsection (5) be retained and preserved in the Department of State in which they were made or are held, and shall not in any case be disposed of except in accordance with subsection (5) provided that, where more than one copy of such a record exists, the retention and preservation of the original or, if the original is no longer available, of an accurate and complete copy thereof shall suffice.

Subsections 2, 3 and 4 provide for a process of certification to authorise disposal of records. The records “*must not be required in connection with the administration of the department*” and “*not warrant preservation by the National Archives*”. I understand that there has been no request for any relevant authorisation under these Subsections.

The Savino Report is a significant document which is not bound by the diplomatic confidentiality of the UNIFIL Board of Inquiry Report. It is of relevance to the families of Pte Hugh Doherty and of Pte Kevin

Joyce, to the Defence Forces, and, ultimately to the public. The provisions of the National Archives Act would appear to apply to the report as well as to any written comments thereon. The report should have been preserved in accordance with the Act.

20. Savino Report

In Section 17 above I have set out the steps leading up to the direction from the Adjutant General to Col Savino to carry out an investigation. The direction by letter of 27 August 1982 (Appendix 4) followed the earlier consideration by the Judge Advocate General (Appendix 3) on 19 May 1982. Col Savino was asked to undertake a further investigation to terms of reference set out in the Adj General's letter. The UN Board of Inquiry was considered inadequate and it had been decided that a further investigation was desirable to fill in the obvious gaps. The findings of Col Savino completed in early 1984 (Appendix 5) addresses the terms of reference specified by the Adjutant General. Appendix 5 also includes further commentary by Col Savino, 'Part V OTHER MATTERS' and 'RECOMMENDATIONS'.

1. Col Savino was asked to establish what personnel were on duty at 6.22 on 27 April 1981 and what was the nature and duration of this duty in each case. Col Savino identified Capt Herbert of the 48th Infantry Battalion as the Platoon Commander in charge of 6.22 and 6.22D and that his replacement Lt Carthy of the 49th Infantry Battalion, was present but had not assumed operational control. He found that some members of the No. 5 Platoon "C" Company 48th Infantry Battalion had been repatriated but they had been replaced by the incoming platoon of the 49th Infantry Battalion so the platoon was up to strength.
2. The Adjutant General had asked at 2a(2) "*what personnel were on duty*" and "*what was the nature and duration of this duty in each case*". Col Savino's finding in this regard was that "*some members of No. 5 Pl "C" Coy, 48 Bn had been replaced by the incoming Pl of 49 Bn so that the Pl was up to strength. All men were on duty at all times as is the norm on active service*". The reply did not address the requirement in the opening para of Section 2 of the Adj Generals letter to "*report on and obtain all data required by ... the terms of reference.*" There was no listing of the nature and duration of duties of personnel in each case.

The strength of the post had in fact been reduced. The basis of the request by the Platoon Commander to reduce the strength of 6.22D from 1 NCO and 2 men was that there was a shortage of NCOs. This is inconsistent with the Platoon being up to strength.

3. The third question put by the terms of reference related to the adequacy of all orders governing the operation of post 6.22 and 6.22D at the relevant date. Col Savino replied that copies of the orders for posts 6.22 and 6.22D were attached as exhibits and were adequate. Col Savino did not comment on the confusion between 6.22A and 6.22D or the incomplete nature of the special order for 6.22D. More significantly he did not address the compliance with orders by those concerned and particularly by personnel on duty at 6.22.

Col Savino was then asked whether these orders were complied with by all those concerned but particularly by all those on duty at 6.22. Notwithstanding he said that the orders were complied with. It is clear, however, that the orders were not complied with in respect of the manning of the post at 6.22D which was an outpost at 6.22.

There is no comment in the report as to the relaxation of the orders regarding the strength of 6.22D requested by the Platoon Commander and granted by the Company Commander as stated by each of them in their statements included in Col Savino's report.

When considering 2a and b of the terms of reference it is clear that compliance with orders at 6.22 (including those serving at outposts) was central to the investigation. This requirement was not limited to the requirement at 2.g of the Adjutant General's terms of reference to obtain relevant statements from named personnel and *"any other personnel"*.

4. The Adjutant General had asked what systems of communication were available at post 6.22 and 6.22D on the relevant date. Col Savino found that both were in communication by PRC 77 radio set and that post 6.22 was in contact with "C" Company headquarters by radio and by landline.

Col Savino was asked whether the communications systems were effective and adequate and, if not, to what extent were they ineffective and/or inadequate and who was responsible for same. As already observed in relation to the Special Orders for post 6.22D, he replied that *"communications were adequate although it would have been desirable to have a second system i.e. a landline. This was however not considered feasible because of the fact that 6.22D was occupied by daylight only. Although the radio network was generally reliable there was evidence to show that, on the day preceding the events at 6.22D, there was interference on the net so "C" Company used a relay station to contact Battalion headquarters in Tibnin and that such interference was not uncommon in difficult terrain and in adverse weather conditions"*.

The evidence provided to me by the men who had served at 6.22D was that the signal was poor and that it was necessary, on occasions, to move away from the outpost to get a signal. Moreover, there had been problems reported with the batteries.

Col Savino referred to the interference on Sunday, 26 April 1981 the day preceding the events at 6.22D. The absence of a radio log makes it impossible to determine whether this was for one day only or was the norm. Had there been such an interference one might have expected some instructions to be given to the operators at 6.22 and 6.22D. There was no evidence to suggest that was so. The extract from the radio log in Exhibit M of the Savino report is in respect of radio contact between 6.22 and 6.23 HQ at As Sultaniyah from 0700 to 1400 for 27 April 1981. There is no reference to calls from or to 6.22D.

It also seems to me that the systems were only effective to the extent that sentries were monitored and supervised. Sgt Scanlon, the Platoon Sergeant, in his statement to Col Savino, said that he had visited and checked the sentry, Pte McLoughlin, several times during the afternoon and was satisfied that he was performing his duties as detailed and did not report any failure to contact Post 6.22D. Pte McLoughlin does not refer to this in his statement. Pte McLoughlin was a member of the recently arrived 49th Bn. It was his first time to do sentry duty at 6.22. He came on duty at 1400 hours approx. The reality of the situation was that there was a failure of communications between 6.22 and 6.22D between 1400 hours and 1830 hours. The assumption that the last contact between 6.22 and 6.22D was at 1540 hours was based on the statement of Pte McLoughlin. His statement to Col Savino is not consistent with the excerpt from the radio log.

Pte Barry Reilly says that he was told by the sentry that he had no contact since lunchtime. He had come on duty at 1400 hours.

In his statement to Col Savino Pte McLoughlin added that *"it was my first duty on the roof at 6.22 and I did not take any action on not being able to contact 6.22D"*. He understood that he was to contact 6.22D by radio every 15 minutes, notwithstanding the norm of one hourly contact.

5. At d (1) Col Savino was required to determine whether there was a failure in communications between post 6.22D and 6.22 from 1540 onwards at the relevant date. He found that the sentry made his last contact with 6.22D at 1340 hours and referred to a Battalion and Company check at 1600 hours but from then on a failure to contact 6.22D and stated that *"Bn SOPs required a system of radio checks every hour on the hour. This is a routine well known to all operators and users and this procedure is practised at home... the sentry on duty on the roof of 6.22D (sic) understood that he was to contact his outpost at 6.22D every 15 mins and states that he made his last contact with 6.22D at 13:40 hrs. In any event there was a Bn and Coy check at 1600 hrs, but from then on the radio man on the roof of 6.22 failed to contact 6.22D"*.

The timing reflects Pte McLoughlin's statement that between 1400 hours and 1540 hours he called 6.22D three or four times and they reported nothing. Col Savino refers to 1340 hours as being the last contact time, some 20 minutes before Pte McLoughlin says that he came on duty.

I can only conclude that the sentry (Pte McLoughlin) who had arrived in Lebanon on 22 April 1981, five days beforehand and admitted that he was not familiar with his duties, was not adequately trained, instructed or supervised notwithstanding the presence of the Platoon Sgt and Commander on that afternoon.

It is unclear what the evidential basis was for Col Savino's finding that there was a battalion and company radio check at 1600. The excerpt from radio log for "C" Company has no entry for 1600; I have been unable to locate a Battalion Radio Log. However, if the Battalion knew that there had been no call from 6.22D they should also have taken action.

The documents handed in by Ex Pte Reilly to the Military Police in 2012, contain a two-page observation at Tab 2, page 2, which is undated and unsigned which states that the last radio check *"was 1600 hrs (prior to this 6.22 checked with 6.22D at 1530-1540 approx), the next radio check was 1800 hrs"*. There is a reference to the problem with 6.22D, that the area it was in, even with a 10ft aerial ... was unworkable to 30 (HQ) and had to be relayed through 6.22. *"6.22 checked with 6.22D between 15:30 -15:40 approx."* I am unclear as to what was the basis for this undated and unsigned observation.

6. The Adjutant General had asked Col Savino, at d(1) why there was a failure in communications between Posts 6.22 and 6.22D from 15:40 onwards and at d(2) to investigate why no action was taken in the matter until 1830. He found:

"It was NOT until 1745 hrs that the sentry on the roof at 6/22 informed anyone that he was unable to make contact with 6/22D. The sentry, PTE McLOUGHLIN then informed his relief, PTE CRONNOLLY, of the situation. In the normal situation, the OP party would have left their loc at 1730 hrs to return to 6/22. The Land Rover, driven by PTE RUSSELL, left 6/22 for DYAR NTAR to

pick up the two men at 1800 hrs. When they did NOT arrive PTE RUSSELL returned and informed the PI Sgt, SGT SCANLON”.

Pte Reilly told me that Pte McLoughlin, the sentry on the roof, had told him that he had no contact since lunchtime. The radio log extracts show that the last radio check ok each way (R/C OK EW) was at 1400 hours from 6.22 to 30 (HQ).

7. Col Savino was required at d(3) to investigate why no action had been taken until 1830 hours, what action should have been taken prior to 1830 hours, who should have taken it, when should it have been taken and who was responsible for the failure to take action.

Col Savino found that Pte McLoughlin should have reported his failure to contact 6.22D to his Platoon Sergeant immediately after he failed to make contact at 1600 hours. The “C” Company headquarter radio operator, Signalman Pte Tuohy, in his statement to Col Savino said that he had heard the man on the roof constantly attempting to contact 6.22D. He called 6.22 by landline and asked the duty man if he had any contact with 6.22D. He replied that he had no contact for some time. He asked him if he had informed anybody and he said that he had. In reply to Col Savino he said that his action was correct as he understood that the man on duty at 6.22 had informed the Officer or PI Sgt. Pte McLoughlin said that Signalman Tuohy warned him that he would waste his batteries and should call less often. Col Savino found that both men showed a lack of awareness by their inactivity. The Platoon Sergeant should have made sure that all was really “ok” when he visited the sentry. Col Savino added that from 1700 hours onwards the Israeli bombing of Tyre may have distracted all the radio operators as they sent and received reports on the attacks.

There is no reference to reports of bombing at 1503 and 1534 hours in the extract of radio logs exhibited in Exhibit “M” to the Savino Report.

Sgt Scanlon stated to Col Savino that he had asked if everything was ok and was told it was when he visited and checked the sentry on the roof on several occasions during the afternoon. No such evidence was given by Pte McLoughlin in his statement.

The issue of the Israeli bombing of Tyre distracting all radio operators may have been a temporary difficulty from the point of view of hearing radio calls as the bombing was intermittent in its intensity and it would not appear to have been a complete answer to the failure to communicate.

Col Savino’s reference to the Israeli bombing at 1700, as already observed, did not refer to and may have ignored the radio log entry which refers to jets attacking Tyre at 1503 local time.

Moreover, as already observed, there was bombing in the Northeast of the IRISHBATT area early in the morning which continued until early the following morning.

There was no evidence of radio jamming either in the Battalion or radio logs or in the interviews with any of the officers or men.

The more specific questions asked by the Judge Advocate General as to what action should have been taken; who should have taken such action; when should it have been taken and who were responsible for a failure to take action, were not specifically addressed by Col Savino.

8. Col Savino was asked about distance and found that the distance between post 6.22 and 6.22D was 1.5 kilometres. The difficult terrain in proceeding down the track from the village of Dyar Ntar to post 6.22D meant that it could be reckoned at fifteen minutes walking.

There was no visual contact between the two posts as the village of Dyar Ntar intervenes and 6.22D is on a reverse slope from 6.22.

9. Major Gen Prendergast had asked Col Savino at f(1) to (4) to obtain copies of all incident and other reports made by personnel at post 6.22 and post 6.22D from 27 April from 0800 hours to 0800 on 28 April 1981 and to attach such documents to his report. If other relevant incidents occurred which were not logged who was responsible to log and report them. Col Savino found that there was *"NO report, other than routine radio checks made from post 6.22D during the entire three weeks that it was in existence, NOR were there any reports logged at 6.22 on the matter"*. The entire post-incident events were handled by the Officer Commanding "C" Company and Officer Commanding 48th Infantry Battalion. "C" Coy Radio log (exhibit M), Bn logs (Exhibits "H", "J" and "K") were attached.

However, Pte McLoughlin, the sentry on 6.22 and Pte Barry Reilly when at 6.22D had said that they made reports of aircraft. I am unable to verify these differing statements but observe that some reports may not have been regarded as relevant.

The excerpts from the radio checks for 27 April is exhibited in the report limited from 0800 to 1534 (Exhibit "M"). It is clear that there were radio checks up to 1400. An incident report at 1503 was not sent. The only report logged was at 1534 from 6.22 to Company HQ (Call Sign 30) which referred to *"two more jets bombing Tyre"*. As the excerpts in Exhibit "M" are limited to 1534 hrs there is no record of a call being made by Pte Barry Reilly at approximately 1930 from 6.22 to HQ after finding Pte Hugh Doherty's body.

10. Col Savino was asked to obtain copies of unit journal entries at post 6.22D and 6.22 company and unit headquarters for the same period and to attach those to his report. Col Savino included extracts of the "C" Company Battalion logs on exhibit H, I, J and K rather than full journal entries.

The Battalion log (extracts) for 27/28 April 1981 (Exhibit "H") does log a call at 1730 GMT which is 1930 local time (LT) which is consistent with Pte Barry Reilly's evidence to me. The log is terse:

1730 (GMT) C Coy HQ has just got a message from 6.22D (sic) that one man is absent (1930 LT) and one man died at loc. No further information. Officer going to loc to get further info.

It seems to me that the reference to 6.22D must be incorrect as the 77 set there had been taken, together with the two FN rifles and rounds. Sgt Scanlon, Pte Reilly and Pte Beattie had not been given a radio as, indeed, would be required by the operations Order of 3 March 1981, exhibits "E" and "F" to Savino Report under signals *"Communications to all patrols and LP"*. Pte Reilly's evidence was that he had asked the Platoon Commander, Capt Herbert, for a radio when he went with the patrol to investigate why the two men had not returned. Capt Herbert stated that a radio was not requested. Pte Reilly says that he found Pte Doherty's body at 1910 hours and on return to 6.22 radioed 6.23 (HQ) to report the death of Pte Doherty. Further messages were recorded.

1827 (GMT) Reporting death of one soldier at area 1847-2914. Other soldier missing (2027 LT) request assistance of SENBATT/NIBATT/DUTCHBATT in general area.

1836 (GMT) From Company C. No contact with 6.22D since 1430 LT. They were to report (2036 LT) back at 1800 LT and did not report.

It is clear from this log that there was no contact with the Observation Post from 1430 which was 30 minutes after Pte McLoughlin commenced duty as sentry on the roof of 6.22. This accords more closely with what Pte Reilly said he was told by Pte McLoughlin, that there was no contact since lunchtime.

*2058 (GMT) From Comdt McNamara (M.O.) Report on body of 8406538 Pte Doherty (2258 LT)(1) He is dead for at least 3 hours
(2) He has three gunshot wounds in his back and they exited body through neck.*

Comdt McNamara later revised the time of death, as detailed in his statement to Col Savino from "not later than 1700 hours and most likely earlier than that" to "death in all probability occurred up to two hours earlier than the original approximate time". This would indicate that death could have been as early as 1500 hours shortly after the visiting party left.

2048 (GMT) From C Coy. The body of Pte Doherty was found at 1855 LT. (2248 LT)

This (1855 LT) is close to the time that Pte Barry Reilly noted discovering the body at 1909 LT.

The remaining excerpts from the battalion logs deal with the search for Pte Joyce.

The battalion log extracts are more extensive than the radio logs. Twenty five out of over sixty are extracted for 27/28 April 1981.

As already stated, I have attempted to locate the original battalion and radio logs in the boxes of documents lodged with the archives in Cathal Brugha Barracks for the 48th Battalion but have been unable to locate any such logs.

Ex Pte Reilly believed that these may have been included in documents taken in a raid by MPs in the 1990s. The details are vague and the broad timing unhelpful. The Military Police have been unable to ascertain any details. I have not found any evidence to support Ex Pte Reilly's assertion.

Moreover, the excerpt from the radio logs do not seem to me to indicate communications with 6.22D. The only references are to call sign 30 which is the As Sultaniyah call sign. The excerpts appear to indicate calls received by 6.23. To that extent the entire post-incident events were handled, as Col Savino states in his findings, by OC of the "C" Company and OC of the 48th Infantry Battalion.

11. At f(3) the Adjutant General directed Col Savino to report on the evaluation of Platoon, Company and Unit Headquarters reports with reference to any incident which could have been connected with the matter being investigated. Col Savino found that *“the action taken by all commanders concerned, in the wake of the events at 6.22D, were commendable and correct”*. There was no listing of reports, unit journals or logs. Moreover, there was no evaluation of the Bn or radio logs.

If no incidents were logged then there might not have been a necessity to evaluate. However, as 6.22D was a strategic and isolated Observation Post, exposed and under strength which required closer supervision and ongoing evaluation during the 17 days of its operation, the practice of “NUTR” (Nothing Unusual to Report) and R/C OK EW (Radio Check, Ok, Each Way) had a purpose.

12. Further questions put by Maj Gen Prendergast logically follow on from his previous question. He asked at f(4), whether any other incident occurred in the area of posts 6.22 and 6.22D on 27 April 1981 which were relevant to the matters under investigation but which were not logged and reported. He asked whether these matters should have been logged and reported and questioned who was responsible for failure to so log and report them?

Col Savino refers to the evidence of Pte Reilly who stated that he heard a local from the village of Dyar Ntar who had informed the Platoon Commander that there were PLO in the village. Col Savino found that the Platoon Commander had set up a check point on the road at post 6.22 and noted that he took no action because any vehicle coming from Dyar Ntar would have had to pass through the checkpoint and be searched. There is no other way for a vehicle to enter Dyar Ntar as it is on a spur and is unapproachable, except on foot, from any other direction. Col Savino concluded it may have been a ruse by the villagers to apportion blame to the correct source without incriminating themselves. Pte Reilly did not remember seeing a checkpoint.

I have not been able to ascertain the timing of the information that PLO were in the village or to ascertain why or when it was decided to set up a check point near 6.22. The road checkpoint seems to assume that any attackers were not on foot. The remoteness and vehicular inaccessibility of 6.22D makes this unlikely.

The information was indeed significant. There is no reference in the extract Battalion log to such an event nor to the setting up of a checkpoint.

13. The Adjutant General had directed Col Savino at 2g to obtain relevant statements from:

- (1) OC 48 Bn
- (2) OC 49 Bn
- (3) Comdt Downes
- (4) Pl Comd 6.22
- (5) Pte Russell
- (6) Pte Reilly
- (7) Lt Carthy
- (8) Duty officers at Company and Unit Headquarters
- (9) Any other personnel who were present at Post 6.22 during the relevant period whether on duty or otherwise.

Reports or statements of the Commanding Officers and men are included.

14. I could find no documentary evidence of Col Savino having requested the Provost Marshall for assistance (See para 2 l of the Adj General's terms of reference - Appendix 4 below). Notwithstanding there are copies of statements made to the Military Police in May 1981 for the UNIFIL inquiry together with statements made for Col Savino's inquiry which are included in the Savino Report.
15. The Adjutant General asked Col Savino to report on systems of supply and of supervision, inspection and relief of Post 6.22D (2 h and l of terms of reference). Col Savino found as follows *"Each morning on going on duty, the men involved carried food and drinks with them to 6/22D. At lunch- time further food was brought down and they were visited by the Post Comd of 6/22. All other stores were carried down in the morning and the main meal was eaten in the evening on return to 6/22."* Col Savino also found that there were visits *"during, mid-morning by the Pl Comd and again at lunch when food was brought down"*. He concluded that *"there was an adequate system of checks and visitation"*.

This does not accord with the recollection of the men who told me that they brought food and drink supplies with them in the morning. It may be that the statement of Capt Herbert in relation to Monday 27 April 1981 was extrapolated as a normal practise.

16. The Adjutant General at paragraph j of his direction to Col Savino also queried the significance of ballistics. (I have dealt with this matter in detail at Section 13 above.)
17. Following the two paragraphs of findings on page 77 and 78 of his Report, Col Savino gives a discursive and reflective consideration which contains further findings and attributes blame – see Appendix 5. He attributes the failure of Pte McLoughlin to inexperience and lack of common sense, states that Sgt Scanlon should have taken more care in checking Pte McLoughlin, that the Platoon Commander was remiss and Pte Tuohy should have taken more intelligent action. Col Savino did not refer to training, supervision or assessment of risk in the location of 6.22D. He also paints a scenario of the events and concludes that the incident was not an isolated one but was part of a pattern of murder committed against UNIFIL troops in the "IRON TRIANGLE" area.

21. Statements to be taken From Any Other Personnel at 6.22

The critical and, it emerged most controversial, question raised by Ex-Ptes Reilly and Walker in relation to the Savino investigation concerned the taking of statements (See Sections 22,23). The Adjutant General's terms of reference directed Col Savino to obtain relevant statements from a number of persons listed, being the OC of the 48th and 49th Infantry Battalions, Comdt Downes, the Platoon Commander, Pte Russell, Pte Reilly, Lt Carthy together with the duty officers of company and unit headquarters, and at 2 g (9) *"... any other personnel who were present at post 6.22 during the relevant period whether on duty or otherwise."*

Col Savino stated that *"statements taken from all those listed and from others as suggested"*, (see Appendix 5, para g).

This was not a requirement suggested by the observations of Col. Timothy O'Shea on 19 May 1982 but was, significantly, included by the Adjutant General, Maj Gen Prendergast, on 27 August 1982. The phrase used was not "all other personnel present at 6.22" but "any other personnel" who were present at post 6.22 during the relevant period whether on duty or otherwise. The adjective and pronoun is discretionary rather than inclusive. "Any" is not "all" and signifies generally no matter which or of what kind, or how many. Quantitatively, it means a number however great or small. Qualitatively, it means of any kind or sort whatever. *Any one* is any *single*. *Anybody* is not *everybody* and *any other* is not *all other*. (Shorter Oxford English Dictionary).

Col Savino agreed that he had not taken statements from all personnel present at post 6.22 and said he used his discretion in that regard. The 48th and 49th Infantry Battalions had returned to Ireland at the time of his investigation.

Indeed, it is noted that he did, in fact, take statements from Sgt Scanlon, Pte McLoughlin, and Pte Cronnolly. Col Savino also interviewed Pte Beattie who was present but not based at 6.22.

Pte Reilly who was, significantly, included by the Adjutant General's direction was of the view that "*any other personnel*" meant those who had not yet made statements. He implied that this did not require a judgement or exercise of discretion as to who should have been questioned.

I am satisfied that Col Savino did exercise his discretion and fully complied with the instructions of Maj Gen Prendergast with regard to those whom he had questioned. I am nonetheless concerned that the requirement at the opening paragraph of Section 2 to "*report on and obtain all data required by the following terms of reference*", together with the further requirements at 2 a and b, did require a more exhaustive analysis of all personnel who were on duty and their compliance or otherwise with orders. This is independent of the requirement to have statements from the personnel specifically listed as well as "*any other personnel*" who were present at 6.22.

The findings of Col Savino at page 77 of his report did not identify personnel and their duties nor refer to or analyse the degree of compliance with orders.

In addressing the wider issue of the establishment, manning, communications and supervision of post 6.22D he might have considered taking statements from others, besides Pte Barry Reilly, who had served at 6.22D. This may have alerted him to the nuances of the terms of reference and, indeed to wider issues other than those explicitly contained in Maj Gen Prendergast's instructions.

This is, of course, being wise after the event. It does not have the questioning perspective of those, who much later, have voiced their dissatisfaction with the investigations in 1981 and 1982-1984. However, it would have been relevant to ascertain the experiences of all those who had served in 6.22D. It would also be relevant to ascertain the degree of instruction and training and the reliability of communications and the strength of manning required for such an observation post.

It should have been possible at the time of the Savino investigation to ascertain definitively what men were stationed at 6.22. Col Savino did take statements from the Platoon Sergeant. He also took statements from the sentry and his substitute on 6.22 and from the members of the patrol who found Pte Doherty's body who were not already included in paragraph (g) of the terms of reference. These, indeed, were critical witnesses. To that extent proper discretion was exercised. The colleagues who were not

asked to make statements were further denied the opportunity of giving evidence however tangential that evidence might have been. Moreover, their inclusion may well have revealed important facts of the operation on the ground that may not have been apparent to the general command. That opportunity for inclusion of the men on the ground in the subsequent investigation of the death of their colleague(s) was missed.

Col Savino's investigation from 1982 to 1984 should have allowed a further analysis of the duties and degree of compliance of personnel with specific orders.

As already referred to above I tried to ascertain from the Contingent Nominal Rolls of the 48th and 49th Infantry Battalion who might have been in post 6.22 and who had served on 6.22D. I have been able, on the basis of excerpts of the Contingent Nominal Rolls, to list those in "C" Company, both men and NCOs, and ask each of those I interviewed to identify who were in 6.22.

It was a more difficult task to ascertain who served in observation post 6.22D for the 17 days from its inception to the date of the incident.

I sent a short questionnaire of ten questions (Appendix 6) to each of those who served in "C" Company in an attempt to find who had served at 6.22D. Given the lapse of time I was not surprised to have some questionnaires 'returned to sender' and some 'no replies'. I was surprised to find that those who did reply, often by phone, had spent several days at 6.22D and were able to refer me to colleagues who had served with them (See also Section 8, page 15, last para).

I am satisfied that I was able to talk to a representative sample of soldiers who had spent in excess of 10 of the 17 days of the operation at 6.22D. Their remarks varied but, as already observed, there were a number of critical issues on which they agreed.

COMPLAINTS AND REPRESENTATIONS BY EX SERVICEMEN

22. Complaints by Ex Pte Barry Reilly

Ex Pte Reilly served with "C" Company of the 48th Infantry Battalion from November 1980 to May 1981. He had found the body of Pte Doherty on 27 April 1981.

I have already referred to a legal action for damages for PTSD taken by Ex Pte Reilly against the State (2003 No. 12555P). This was settled in 2007. By letter dated 6 October 2011, over 30 years after the events of April 1981, Ex Pte Reilly wrote to the Minister for Defence saying that he was pleased with the unrelated inquiry into matters relevant to the deaths of his colleagues, Corporal Fintan Heneghan, Private Mannix Armstrong and Private Thomas Walsh in Lebanon on 21 March 1989.

He then stated to the Minister that there was a bigger scandal in the army surrounding the death of two soldiers Privates Kevin Joyce and Hugh Doherty who were killed in the Lebanon on or about 27 April 1981. He said that the army had consistently lied and fabricated evidence, suppressed evidence, destroyed evidence, and had held an inquiry, misled the Government, and the families of those involved and suppressed the evidence of key witnesses of which he was one.

He referred to what he termed "*criminal activity*" and that the "*criminals are still to my knowledge at large and are being supported at least financially by the state*".

By way of postscript he said he was in possession of most of the evidence in the matter and most of the witnesses had told him that they were very willing to get justice finally in the matter.

By subsequent letter dated 2 June 2012 he referred to the reply of the Minister's office of 11 May 2012. He says that it wasn't just the incident of 27 April but the subsequent murder of Pte Joyce that he was concerned with. He said the "*so called investigation*" by the army was worthless as he was the prime witness and was not allowed any input into the investigation. He said this was the army's decision. He stated that the subsequent army investigation was basically a cover-up in that the brief for the investigation was too narrow, did not ask relevant questions, was working on information that had already been corrupted, changed, destroyed, manipulated, contained lies and misinformation. He said that Col Savino had not carried out his brief as ordered. The fact that he was asked to carry out the investigation was "*ridiculous*" given the fact that he was involved in the incidents when they happened in that he was the most senior officer on the ground in Lebanon.

He said that Col Savino would not accept his written statement of October 1982 as he had given it and that Col Savino had altered and changed his statement and pressurised him into signing it. He said that Col Savino had done this because there was a can of worms and he did not want it opened. He then stated that nothing worthwhile came from the investigation because Col Savino and other officers and ranks wanted to cover up their mistakes and criminal behaviour. He said that both Privates Joyce and Doherty died as a direct result of the ground army officer's actions in Lebanon in 1981.

He said that the Minister for Defence must have access to all army documents. He suggested that he dig them out and talk to him and others to get a resolution to what he called "*this travesty of justice*". Those who had died, those who had been injured and mentally scarred needed redress.

Col Savino denied having altered or changed the statement. He had suggested shortening the statement to make it relevant.

Pte Reilly's statement made to Col Savino is in the Savino report and he agreed with me when we met that there was nothing inaccurate in the report but that it wasn't the whole story. He repeated some of the allegations he had made to the Minister and added that a lot of evidence had not been collected and statements from a lot of people at the time involved in the incident were never taken and they were not interviewed properly, or at all. Subsequent investigations were, to his knowledge, not properly documented.

Pte Reilly said that he had made a statement to the UNIFIL Military Police in Lebanon. He did not say when. He did not keep a copy. I have been unable to locate any such statement in the Military Archives. However, it is clear from the report of C/S John MacNamara, dated 18 June 1981 already referred to, that he had obtained a statement from Pte Reilly at or about end of April or beginning of May 1981.

In his legal action against the State he requested discovery of the original statements he made in Lebanon in 1981 and to Col Savino in 1982 (probably 1983 in fact). The affidavit of discovery of the Department of Defence in his personal action, while agreeing to give him all statements does not identify such a statement (made in 1981). While the letter from the Chief State Solicitor of 3 March 2005 agreed to make discovery of both statements (Category 2 and Category 3) the Affidavit of Discovery of Marina Marlborough on 20 October 2005 swore that the whereabouts of the statements were unknown.

It was not until the copy of the Savino report was handed to the Military Police by Ex Pte Barry Reilly in July 2012 that the latter statement, made to Col Savino, came to light.

There is, significantly, no statement made by Pte Reilly in the UNIFIL Military Police File in Exhibit B in Part 3 (page 20-48) of the Savino report. There is no reference to his evidence in the UNIFIL Board of Inquiry Report of 11 September 1981. The formal communication of this Report made through the Department of Foreign Affairs on 8 February 1982 makes no mention of a statement from Pte Reilly.

The response of the Defence Forces to Ex Pte Reilly's allegations can be summarised by the Director of Administration's memo of 9 December 2011 where, under the heading of Allegations – Ex Pte Barry Reilly, he states:

D COS Sp

9 December 2011

ALLEGATIONS – EX PTE B. REILLY

Sir

- 1. No. 840817 Pte Barry Reilly, born 20th June 1959, served in the 1st Bn from 1978 to 2006. He served overseas in UNIFIL with 48 Inf Bn, in 1981.*
- 2. On 27 Apr 1981, he was a member of a patrol which discovered the body of Pte Hugh Doherty, who had been shot, and also took part in the search for Pte Kevin Joyce (Seoighe) who was missing, and still remains missing.*
- 3. A UN Board of Inquiry, dated 9 Nov 1981, reported on the death of Pte Doherty and the disappearance of Pte Joyce. The Board of Inquiry contained a copy of the UN MP*

- investigation, dated 23 Jul 81. The Board of Inquiry was provided to the Irish authorities in early 1982.*
- 4. The Military authorities noted several discrepancies in the UN Board of Inquiry, including the fact that it had not had an opportunity to interview members of the 48th Bn, as they had been repatriated by the time it had convened.*
 - 5. The UN MP investigation Team did however interview members of the 48th Bn, but inexplicably they did not interview Pte Reilly. Other statements made to the UN MP team confirm that Pte Reilly was the person who first found the body of Pte Doherty.*
 - 6. In Aug 1982, the Adjutant General directed Col V. Savino, Director of Operations, to conduct a further investigation into the matter. Col Savino interviewed relevant personnel, including Pte Barry Reilly.*
 - 7. The disappearance of Pte Joyce was the subject of ongoing investigation by successive Irish units in UNIFIL, including an MP investigation and an intensive investigation by 88th Bn, assisted by diplomatic efforts at the highest level.*
 - 8. In 2007 Pte Reilly settled a claim against the Minister for Defence, arising from claims of PTSD Post Traumatic Stress Disorder as a result of this and other experiences overseas.*
 - 9. Mr. Reilly has not made allegations of this nature previously, and it may be prudent to obtain and consider any evidence which he can provide to support his allegations. Should the Minister so direct, the Military Police can arrange to take a statement from Mr. Reilly, or alternatively Mr. Reilly may wish to make a statement to the Gardai Síochána.*

*J. Dowling
Col
D ADMIN.*

The memo records that the UN MP investigation interviewed members of the 48th Infantry Battalion, but inexplicably they did not interview Pte Reilly who had first found the body of Pte Doherty.

I am satisfied from the evidence of Coy Sgt John McNamara that he did take a statement from Pte Reilly in late April or May 1981 as is recorded in his report dated 18 June 1981 (page 36 of the Savino Report). However, there is no record of this in the Military Archives and as Col Dowling's Memo records, he was not interviewed by the UN Investigation team.

When Pte Reilly made a further statement to Col Savino he said that Col Savino told him that he did not have his earlier statement. In his request for discovery of the two statements in his 2003 High Court action for damages for PTSD he dates the second as of January 1982. However, Col Savino's investigation did not commence until he received Major General Prendergast's nomination on 28 August 1982, so it is likely that his undated statement was made after that date.

As recommended in Col Dowling's Memo, Ex Pte Reilly made a more extensive statement to Coy Sgt Patricia Kelly McCrossan MP on 25 July 2012 at his home. On that occasion, he produced a poorly photocopied report without a date, title, introduction or the first four pages. It did, however, contain his statement together with several other statements and reports from commanding and other officers. Altogether there were 16 reports and statements together with 22 exhibits. One of those included the short UNIFIL Board of Inquiry together with 4 UNIFIL witness statements, probably taken in early May 1981, a Military Police report and a report from C/S McNamara MP. Each of these also had later made

statements to Col Savino. Significantly, as already observed, there was no statement from Pte Reilly himself.

As already noted I am satisfied on the balance of probability that the report did not emanate from the discovery made by the Department to Pte Reilly's solicitors.

On 3rd December 2012 Ex Pte Reilly wrote to the Department saying that he never saw or signed a typewritten statement. He said that there was a document from army headquarters tasking Col Savino to investigate the killing of Privates Joyce/Doherty. He said that approximately 70 pages of evidence collected by Col Savino, containing very important documents were either missing, had been altered or were just lies. He said that Col Savino would have been aware of this at the time. He believed that the report that Col Savino compiled and presented to Army Headquarters was a cover up designed to protect himself and his colleagues by conspiracy to further their careers. He said that he advised the Department to check what the army were saying to the Department of Foreign Affairs and the Government when the deaths occurred in 1981. He concluded by saying that it seemed that asking the army to investigate the army was not and is not a good idea.

On 15 February 2014 Pte Reilly wrote to the Minister saying that he had been making representations for an inquiry into the deaths of Privates Doherty and Joyce since 2011 and provided much information on the matter which was obtained from state records. He repeated his allegations regarding officers and the allegations of the cover up.

In the letter to the Minister Pte Reilly refers to his discovery of the body of Pte Hugh Doherty after he had learned that there had been no contact between 6.22 and 6.22D that afternoon and to his complaints in relation to the subsequent searches for Pte Kevin Joyce.

I have already commented on the remarks made by Ex Pte Reilly in relation to the Savino report a copy of which he had given to the Military Police at the time he made his statement in July 2012 and which is now in the Military Archives in Cathal Brugha barracks. The comments he makes and my assessment of them are contained in my analysis of the findings of the Savino report itself (See Section 20).

Ex Pte Reilly made extensive and useful observations and further submissions in relation to a draft of the review which I have considered and in, many cases have corrected oversights and, where relevant, have incorporated his observations in the review.

His complaints, made thirty years after the tragic incident, are, in part procedural but also relate to issues of substance and impartiality. There was, however, no specific evidence or particulars of cover-up by either the UN or the Savino investigations.

23. Complaints by Ex Pte Michael Walker

Ex Pte Michael Walker had served 25 years with the Defence Forces including UNIFIL service with "C" Company in 49th Infantry Battalion from 22 April 1981 and, indeed, on other tours of duty. He arrived in the same chalk as Cpl Frank Sumner and Pte Hugh Doherty who was killed in the incident five days later.

Ex Pte Walker had trained with Pte Doherty in Rockhill Army Barracks in Donegal from November 1978 to March 1979.

He became aware, from press coverage, of Ex Pte Reilly's action for damages for PTSD against the Defence Forces in 2003. He also took an action for damages which arose out of his involvement with the landmine tragedy on 21 March 1989 in Lebanon, resulting in the deaths of Pte Armstrong, Pte Walsh and Cpl Heneghan. Through no fault on his part that action was statute barred.

On 8 July 2010 Ex Pte Michael Walker wrote to the Gardai concerning that incident.

Subsequently the Armstrong, Walsh and Heneghan incident was independently reviewed by Mr. Frank Callanan SC on 11 September 2011.

Ex Pte Walker told me that his campaign was not about compensation but about the truth of soldiers' exposure to danger and the army's lack of belief in soldiers' concerns. He also stated that contact with families was of the greatest importance. There was a need to have updates on inquiries, psychological support for colleagues and for family.

Ex Pte Walker later wrote to the then Minister for Defence, Mr. Alan Shatter T.D., on 29 November 2011 disputing Mr. Callanan's review and raised a further issue regarding the death of Pte Hugh Doherty and the disappearance of Pte Kevin Joyce on 27 April 1981. He said that he had been stationed at 6.22. He and other colleagues were never asked to give statements to any inquiry. He said that on 27 April 1981 when he was at 6.22 he too tried to radio 6.22D but there was no reply. He said that he had notified Sgt Brennan 49th Infantry Battalion and Sgt Scanlon 48th Infantry Battalion that Pte Cronnolly, who had relieved Pte McLoughlin in 6.22, had no contact with Pte Joyce or Doherty at post 6.22D. He said that Sgt Scanlon had told him that they would probably be drinking chy (tea) in a local house.

I note the coincidence between his and Ex Pte Reilly's actions in trying to call 6.22D and the response of Sgt Scanlon. Indeed, Ex Pte Walker's letters to the Minister up to that of 29 November 2011 were enclosed with the Savino Report that Ex Pte Reilly gave to the Military Police on 25 July 2012.

Ex Pte Walker asked the Minister to order an independent inquiry into what he suggested was a "*failed threat assessment*" of the post as the two men had been sent out to the middle of a field without an NCO and without a vehicle. He referred to a summary of UNIFIL's Operational History which highlighted the heavy and frequent exchanges of fire between IDF/DFF in the enclave especially in February and March 1981 and on 29 March which was a day of typically intense hostilities in the North-Eastern sector and the Tyre pocket. This was less than two weeks before the manning of 6.22D commenced on 10 April 1981.

Ex Pte Walker wrote again to the Minister's office on 13 February 2012.

On 7 June 2012 Ex Pte Walker wrote to the Taoiseach enclosing a 17-page fax which he claimed showed "*a serious cover up on the incident of 27 April 1981 in Lebanon*" and asked the Taoiseach to intervene.

A further letter (undated) to the Taoiseach was sent after 11 May 2012 enclosing a 12- page fax. He claimed that the Savino inquiry had not been carried out satisfactorily. He said that he was told by Ciaran Murphy, Assistant Secretary General (ASG), of the Department of Defence, that there were three options - to complain to the Department, to the Garda Síochána or to the Military Police. He made a statement to the Military Police on 31 July 2012.

On 23 January 2013, he asked the Minister for a full copy of the Savino Report. On the same date, he sent a letter to Margaret O'Leary of the Department with 16 pages of correspondence. He said that Ciaran Murphy ASG had stated to him that it was not possible to establish definitively whether he or his other colleagues had been interviewed by Col Savino. Ex Pte Walker said that his colleague Ex Pte Reilly had given him a copy of the Savino Report at the time he (Reilly) had given a statement and a copy of the Report to the Military Police in July 2012. He said that it was ironic that Comdt Conor Bates had written on 18 October 2012 to withhold statements until further consultation with the Director of Military Police a week after the Provost Marshall and Director of Military Police, Colonel Pat Herbert, had on 11 October 2012 recommended that, based on the allegations of Ex Pte Walker, there was no scope or requirement for further investigative action.

Further correspondence regarding appeals (reference Freedom of Information Request 2012/0040) followed on 24 and 28 January 2013.

On 8 February 2013 Ex Pte Walker replied to the Department's phone call regarding the verification of the 70-page Savino report stating that he regarded it as a whitewash and a blocking and stalling of his request.

He wrote to the Taoiseach a year later, on 10 February 2014 accusing the Minister of abusing Dáil privilege in his reply to a question put by Pádraig Mac Lochlainn, Sinn Féin T.D., who, he said, was acting on his behalf.

On 13th and 14th February 2014 he stated to the Department that the terms of reference of the Savino inquiry had not been carried out properly and was misleading.

On 18th February 2014, he sent the Minister a copy of a Donegal news article by Cronan Scanlon which quoted Ex Pte Walker as saying that the Defence Forces Inquiry was flawed because it did not interview all soldiers who were based at the nearest Irish army post.

By letter dated 5 January 2015 to the Minister for Defence, Mr. Simon Coveney T.D., Ex Pte Walker referred to the *"two flawed and cover up investigations carried out in 1981 and 1982"* (the UN Board of Inquiry and the Savino investigations). He referred the Minister to his letter of 29 November 2011 to the previous Minister stating the Callanan review (the Independent Review of 15 September 2011 in the Heneghan, Armstrong and Walsh deaths) was still flawed as non-UN official maps were used.

He referred to a further incident in June 1981 and to the Smallhorne and Barrett incident in 1980.

He said that he had been bullied by officers while he was attending an army psychiatrist in St. Bricins. His mental state was not good. He asked the Minister to rectify the points he had made.

Ex Pte Walker told me that he was concerned with the failure to involve each of the soldiers both of the 48th and 49th Infantry Battalions who had served in post 6.22 Dyar Ntar in the investigation. They were

colleagues of Pte Hugh Doherty (49th Infantry Battalion) and of Pte Kevin Joyce (48th Infantry Battalion). The terms of reference of General Prendergast's letter of 28 August 1982 to Col Savino required that relevant statements be obtained from, inter alia, *"any other personnel who were present at post 6.22 during the relevant period whether on duty or otherwise"*. Notwithstanding, only a few were asked to give statements. Ex Pte Walker, concerned about the manning of the post at 6.22D, believed that the terms of reference constituted a lawful order and not a discretionary one.

In relation to the findings of the Savino Report he took issue with the statement that:

1. Copy orders for post 6.22 and 6.22D were adequate;
2. That the Orders were complied with;
3. That communications were adequate; and
4. That statements were taken from others as suggested.

In talking to me he said that if there were a shortage of NCOs at 6.22D an application should have been made to HQ at Camp Shamrock where there was a surplus of NCOs. The practice of "up ranking" Privates was not followed. If there were shortages then extras could have been deployed in the problem area.

He referred to Vanessa Nee's (sister of Pte Hugh Doherty) belief until recently that Pte Joyce had killed her brother and that this was as a result of lack of communication (of the ballistic finding of Col Savino that the bullets that killed Pte Doherty could not have been fired from an FN rifle).

He believed that some soldiers never got over the experience of the killing of their colleagues. His fax of 9 January 2015 to the Minister referred to his own mental state. He had a close family bereavement at the time of his campaign in December 2011 which upset him.

His reference to 12 soldiers from 6.22 not having been interviewed by Colonel Savino as ordered by the Adjutant General on 27 August 1982 was an approximation. He did not remember all those who were serving at 6.22 at the time. While he never served at 6.22D he helpfully identified some who had served with him in 6.22 whom I was able to interview.

In the absence of platoon roll in the Military Archives this identification was useful in providing me with names of those who might usefully have been asked to make statements at the time of the incident.

He was annoyed at the Savino Report blaming the newly arrived and inexperienced signaller on the roof of 6.22 as being incompetent. He had unsuccessfully requested copies of the special orders for 6.23, 6.22 and 6.22D.

He distinguished 6.22 from 6.22D. While 6.22 was a walled, fortified house with a machine gun emplacement and communications with 6.23, the outpost at 6.22D was in the open without shelter and out of line of sight from 6.22. There were reports of problems with radio batteries becoming discharged in 6.22D during the short period of its operation. It was understaffed. The special order was for one NCO and two men. This was not complied with and was a breach of that order, not a matter for Privates but for staff and command to implement.

He referred to instances of risk to UNIFIL Forces earlier that year. A Fijian soldier, two Nigerian, three Senegalese soldiers had been killed before 27 April 1981 and this should have alerted officers to potential danger. He referred to paragraph 41 of the United Nations Security Council Secretary General's Report

for the period 12 December 1980 to 12 June 1981 included in Appendix A to Ex-Cpl Frank Sumner's Book (see Section 24)

He repeated that he had gone up to the roof of 6.22 and tried to contact 6.22D from 6.22 two or three times without success. He ran down and met the Platoon Commander and Sergeant. The latter said "*not to worry that Doherty and Joyce might be drinking chy(tea)*". Pte Cronnolly had taken over from Pte McLoughlin while the latter went for dinner.

While he was never on duty at 6.22D he was aware that Dyar Ntar was a PLO location and not friendly to UNIFIL. In other locations such as As Sultaniyah the troops might go to shops, but that was not the practice in Dyar Ntar.

His statement refers to him learning of Pte Doherty's death from the general talk in 6.22 though he could not give a specific source. He got on with his business. When questioned as what business, he replied that he had not been assigned to any specific duty that day. Pte Doherty's bed was beside his. He was, he said, traumatised as were others at the news of Pte Hugh Doherty's death.

He was asked to gather Pte Doherty's personal belongings into a suitcase with leather corners which he left on Pte Doherty's bed.

The following day he went on a search party from Dyar Ntar to Maruna to As Sultaniyah which was fired on and retreated. He felt weak, was given water by a Lebanese woman. He was in hospital for two days.

Ex Pte Walker told me he had returned to the Lebanon on four further tours of duty. He spent 25 years in the Defence Forces.

His self-termed "campaign" began when, asked to be a witness in Pte Reilly's claim against the Minister for Defence, he became concerned with deaths of other soldiers and from 2010 onwards wrote to the Gardai and subsequently to the Minister.

Ex Pte Walker approached Pte Hugh Doherty's sister, Vanessa Nee, and disclosed to her documents, including part of the Savino Report which he appears to have received from Pte Reilly. He also gave her copies of his correspondence with the Minister. Mrs Nee wrote to the Minister requesting a meeting which was subsequently held on 1 July 2014 with the Secretary General, Maurice Quinn and the Assistant Secretary General, Ciaran Murphy - Ex Pte Walker and Ex Cpl Sumner also attended (See Section 27 below).

Ex Pte Michael Walker was proud of his years with the army despite difficulties in relation to sick leave caused by his experiences in his four six-month stints in the Lebanon.

Later, on 30 April 2015 Ex Pte Walker sent me some photographs of Pte Hugh Doherty and of the construction of the Irish United Nations Veterans Association memorial in 1998. He also sent me cuttings of the Donegal Democrat of the 19 April 2001 on the 20th anniversary of the incident which had a photograph of the memorial in the town of Letterkenny to United Nations Irishmen who had fallen in the Congo, Lebanon and the former Yugoslavia.

The side article entitled "The Grim Discovery" reports that "*the first indication that something was amiss was when the UN veteran, Paul Smith, was getting no reply from the pair during constant attempts to contact them via radio*". Ex Pte Walker did not believe that Paul Smith could have made such a statement

as he was based in Camp Shamrock, the IRISHBATT HQ and not at 6.22. Sgt Smith, who is a founder member of the Irish United Nations Veterans Association, told me that he served with signals in Camp Shamrock and did not attempt to contact Pte Joyce or Pte Doherty on the afternoon of 27 April 1981 and was misquoted.

Ex Pte Walker's concerns, complaints, and what he called his campaign arose long after the incident of 21 March 1989 and much longer after the Joyce/Doherty incident, the subject of this review. His letter of November 2011 was thirty years after the incident. His personal injuries action against the Minister, through no fault on his part, had been statute barred. His representations on behalf of one of the families was not requested by them.

During his campaign, he was asked to disclose facts of a cover-up but failed to do so other than saying that Col Savino had not taken relevant statements from any other personnel who were present at Post 6.22D during the relevant period whether on duty or otherwise.

Ex Pte Walker also failed to provide concrete evidence of cover up in investigations carried out in 1981 and 1982 (The UN Board of Inquiry and the Savino investigation).

Overall Ex Pte Walker told a story consistent with his correspondence with the Minister and with the Department of Defence and with his statement to the Military Police. He said that he had made his statement after complaining to the Gardai.

Ex Pte Walker made 5 further submissions with appendices in relation to a draft report of this review which I have considered, assessed, and, where appropriate, have incorporated in this review.

24. Ex Cpl Frank Sumner

Ex Cpl Sumner had served in the Lebanon, with the 49th Battalion. He had also been on five other tours of duty with Infantry Battalions from 1981 onwards.

On the first occasion, he had arrived in Lebanon on 22 April 1981 shortly before the incident of the shooting of Pte Hugh Doherty and the disappearance of Pte Kevin Joyce.

He met Ex Pte Michael Walker in 2012. He then initiated a series of correspondence with the Department of Defence in relation to the incident following the publication of a book detailing his experience with the Defence Forces in the Lebanon: *"From One End of the Rainbow: A Story about the Life Inside the Irish Defence Forces and Beyond"* (Strategic Book Publishing and Rights Company, Houston, Texas 2013).

On 10 December 2013, he wrote directly to the Minister enclosing documents and a copy of his book. His letter says that he was striving for the truth regarding the murder of Pte Hugh Doherty and the abduction of Pte Kevin Joyce. He asked the Minister to read his book.

He dedicated his book to Ex Pte Michael Walker and to the memory of Pte Hugh Doherty who were both from Donegal and *"to Pte Seoige (Joyce), who hailed from the Aran Islands,"*.

He refers to a different emphasis between two letters reproduced on pages 242 and 243 of his book. Vincent Lowe, Private Secretary to the Minister for Defence wrote to him on 11 May 2012 referring to the

UNIFIL and Savino reports of the incident on 27 April 1981 and states that *“there is nothing in the report of either inquiry or in the documents attached to your letter to suggest a recognisable increased threat to Irish or UN personnel at the time of this tragic incident”*.

The second letter of 26 June 2012, in reply to Ex Pte Walker’s letter of 28 May 2012 states: *“as you will appreciate in the absence of the main body of the Savino Report, it is not possible to determine who was interviewed or the considerations used to determine who was to be interviewed. However, if you have substantive evidence which would suggest that the findings in the Savino Report are flawed or which provides a reasonable basis for establishing a further enquiry into this incident the Minister would ask that you consider now making a formal statement setting out that evidence and providing your version of the events surrounding this tragic incident. The Department can organise for you to make a statement to the Military Police. Alternatively, if you prefer, you could make a statement to An Garda Síochána or you could submit a written statement to the Department or directly to the Minister”*.

The letters of 11 May 2012 and 26 June 2012, he claimed, are contradictory in that the first does not allow any further evidence to be given while the second invites Ex Pte Walker to provide a reasonable basis for establishing a further inquiry and that he should consider making a formal statement.

The invitation seems to the Reviewer to be a development in attitude rather than a contradiction in terms. I am of the view that they are not contradictory.

Further letters to the Minister followed on 7 February, 26 March, 27 March and 7 May 2014.

There are many assertions in his book which are at variance with the statements and evidence of Comdt McCorley, the Military Information Officer of the 48th Infantry Battalion in Lebanon. These inconsistencies are outside the terms of references of this review as they relate to the follow-on search for Pte Joyce.

Ex Cpl Sumner told me that the Savino report was a complete lie in that Col Savino said he took statements from everybody in 6.22. In fact, Col Savino did not say that *he took statements from everybody*. He said that *“statements were taken from all those listed and from others as suggested”*. While he did take statements from others, he acknowledged to me that he did not take statements from all those stationed or present at post 6.22 at the relevant period. He said he used his discretion. It was not unreasonable and, in my view not a lie (See Sections 20, 21 above). Nonetheless, it was the exercise of tracing and interviewing those who had served at 6.22D that provided useful evidence for the findings and conclusions I have made.

Ex Cpl Sumner says that Col Savino’s report referred to copies of the orders which were retrieved at 6.22D but he asserts that they never existed. However, he had not served at 6.22D nor was he a member of the search party of MPs led by Lt Callaghan, with Coy Sgt McNamara and Coy Sgt Coyne. Neither the Sergeants nor their commander remember finding any special or other orders. Coy Sgt McNamara in his report of 18 June 1981 does not list any orders being found. However, a four-page report from Lt Col Murphy from HQ Tibnin dated 10 May 1981 and stamped *Military Archives Cathal Brugha Barracks* is relevant. Under “searches” it states: *“the post orders were found 300 meters WEST of the OP. It had been concluded that these orders had been physically removed from the OP.”* This would appear to be the basis of Col Savino’s assertion on page 79 of his report that *“a book and the orders were subsequently found to the WEST of the OP.”* However, as already observed, the men who had served on 6.22D did not remember having such written orders.

The findings at p 77 of the Savino Report are that:

- b (1) Copies of the orders for post 6/22 and 6/22D are attached as exhibits "F" and "G" and were adequate.*
- (2) The orders were complied with.*
- (3) copies of relevant orders are attached as exhibits.*

While the book and orders are referred to in the findings of the Savino Report, there is no evidence of a book or the orders being extant or any references thereto in the Military Archives. The absence of a reference thereto in the UNIFIL inquiry may also be of some significance. The list of items handed by the Military Police to UNIFIL does not include either item. Col Savino refers to orders and to a book without particularising either.

Moreover, the report of W.O. Lundin dated 22 July 1981 at point 12 states: *"items discovered during the search were an empty binocular case belonging to the soldiers, three empty bullet cases, calibre 7.62, were found about 10 meters away from the spot Pte Doherty was found."* There was no indication of orders or a book being found. As already stated I am of the view that the evidence suggests that, at best, the orders were in draft form. None of the men I interviewed and who had served at 6.22D recall having seen written orders.

Ex Cpl Sumner asserted that paragraph 19 (of the findings) of the Savino Report was a total fabrication. Paragraph 19 here, refers to Ex Cpl Sumner's numbering at page 156 of his book, headed at page 154 as *"Re-created verbatim from Col Savino's findings"*. It corresponds to (I) at page 78 of the Savino Report. The finding is:

(I). Each morning the Pl Comd went to 6/22D with the duty men and briefed them in situ before returning to 6/22. The post was visited during mid-morning by the Pl Comd, and again at lunch time when the food was brought down. There were also visits from time to time by officers from the Coy HQ. There was an adequate system of check and visitation. The duty was of over nine hours duration which was long but NOT unusual for IRISHBATT posts.

As already stated this finding of the Savino Report in relation to visits did not accord with the evidence of what seemed to me to have been a representative number of personnel who had served over the short period of operation of 6.22 D.

Ex Cpl Sumner stated that the directive to carry out an investigation given to Col Savino, the then (April 1981) senior Irish officer in the Lebanon, could not be seen as impartial as the post was established as a result of pressure from UNIFIL headquarters.

Lt Gen Callaghan was UNIFIL Commander and the most senior Irish officer. Col Savino was appointed and instructed to investigate because he was Director of Operations at the time the investigation was ordered and he had served in the Lebanon. Col Savino acknowledged the reservations about establishing the post and was aware of the isolation of the post. This is clear from his comments at the end of his report: *"The post was established by OC 48 Battalion as a result of pressure from UNIFIL HQ Staff Officers who wanted observation over a wide area of the so-called "IRON TRIANGLE". In spite of his reservations about establishing the post in such an isolated location, OC 48th Battalion did so in order that OC 49th Battalion could take over a "going- concern" rather than have to set up the post with personnel who did NOT know*

the area and would NOT be well versed in OP procedures. The original concept of an NCO and two men for the post was shelved because of the shortage of NCOs."

As already stated in discussion of the Report there is, it seems to me, an inconsistency between the findings of the Savino report that orders were complied with, on the one hand, and the finding that a shortage of NCOs had led to the original concept of an NCO and 2 men for the post being shelved, on the other hand.

Ex Cpl Sumner rightly criticised the loss of the 3 Kalashnikov bullet cases used to kill Pte Doherty and the 15 bullet cases approximately stated to have been fired by Pte Reilly to raise the alarm which should have been in UNIFIL Military Police custody. Indeed, Col. Savino, at page 80 of his report, refers to the rounds of the Kalashnikov being sent to Naquora and "*are NOT to be found NOR is there any report on them extant.*"

Ex Cpl Sumner believed that the threat that he felt existed after his three days in the Lebanon with the incoming 49th Infantry Battalion should have been picked up by a worthwhile investigation. The evidence of officers and men I interviewed was that threats were ever present and the sound of gunfire was common. However, the circumstances of change over three-week chinks did increase risk of attack by armed elements.

Ex-Cpl Walker believed that Col Savino referred to the aerial bombardment '*to accommodate his report.*' Under the heading of Other Matters, Col Savino remarked that "*Despite reports to the contrary there is NO evidence of bombing in the TYRE area on that day until 1703 hours, on the evening in question*". Ex Pte Reilly has stated that he watched the attack on Tyre from approximately 1500 onwards.

Ex Cpl Sumner refers to the report of the Secretary General of the United Nations Interim Forces in Lebanon dated 15 June 1981 where at paragraph 52 (xii) there was reference to the very intense hostilities on 27 April 1981 in the north-eastern sector initiated by the DFF and the IDF which was in the morning and lasted until the early hours of the next day. However, the reference to the Western sector, on the same day, where armed elements fired 41 rockets, most of them falling into Western Galilee, did not indicate the timing of the bombing of Tyre.

At page 24 of his book he says that at about 2 pm "*all hell broke loose. The village of Maruna [Mahrouna] was being bombed by Israeli war jets, and other villages in the Tyre pocket were getting it also. There was no immediate threat unless they started heading our way; however it felt like you could just reach out and feel them, and for us first timer's it was as if John Ford, the film director, was on set. Then you thought of the poor bastards who were being bombed. I am sure it must have lasted a couple of hours with one wave after another*". In contrast, Ex Pte Reilly's evidence was that Mahrouna was not bombed on that day.

The timing of commencement of hostilities was a critical element in relation to the radio checks and as to whether the sentries could hear the radio or not.

The Platoon Commander has said that the visiting party had been in 6.22D from 1430 to 1445. However, according to the updated report of Lt Col Murphy, OC 48th Bn (which referred to his report of 10 May 1981) at para 3.c the visiting party left 6.22D at approx 1500 hrs. The UNIFIL Board of Inquiry found that the visiting party was at 6.22D at 1520 hrs.

If the hostilities started at 2 pm as Ex Cpl Sumner states, he presumably would have seen the OC's of the 48th and 49th Infantry Battalions with five others returning from visiting post 6.22D but he makes no

reference to that. Comdt McCorley (Retd) stated that it would have been unlikely that anyone in 6.22 or, indeed, on the roof, would have failed to comment on the presence of so many commanders. He commented that he heard what he thought was the commencement of hostilities, to the North around the Nabathia Chateau Beaufort area when he was at Brashit. He remembered hearing shelling and bombing to the west towards Tyre and the Iron Triangle at about 1530 approx. Lt Col McCorley said that he was certain that the VIP visit to 6.22D OP from 6.22 arrived there at 1430 and departed at 1445 local time.

Ex Cpl Frank Sumner refers to a *“spectacular sight we beheld to the north of our position”*. It was clear that Tyre was to the West and, indeed that Mahrouna and the Iron Triangle were also to the West of 6.22. However, the UN reference to bombing from early morning to late that night was indeed to the North East probably around Castle Beaufort, the Crusader castle. Sumner’s recollection would seem to be inaccurate as to place and time.

Ex Cpl Sumner asked the Minister to take into account that the Savino report got so much wrong and was dressed up for potential financial gain, which he explained to me as the funding from the United Nations. This was an unfair remark and a disservice to Irish peacekeeping troops.

Ex Cpl Frank Sumner concludes his letter of 10 December 2013 to the Minister by asking for an immediate inquiry into the circumstances of 27 April 1981.

Further letters followed. On 7th February 2014, he wrote an angry letter to the Minister in respect of the intervention, on his behalf, of Mr. Pádraig Mac Lochlainn T.D., in the Dáil on 6 February 2014. Deputy Mac Lochlainn had raised a question about the death of Pte Hugh Doherty and the abduction of Pte Kevin Joyce. Ex Cpl Sumner says that the answers and attitude of the Minister disgusted him. He referred again to his book outlining his concerns. He asked the Minister to meet him to offer a credible explanation of the points he had raised.

In a fax to the Minister of 11 February 2014 he referred to the UN Inquiry being described by Maj Gen Prendergast as being inadequate. He said that the instruction by Maj Gen Prendergast to Col Savino was not adhered to and that the Minister *“had no report of any credit before him.”*

As set out in detail in earlier sections of this Review, I am of the view that the Savino report, despite some inconsistencies, did comply with the instructions given, and did formulate findings and apportion blame.

By letter to the Taoiseach also written on 7 February 2014 Ex-Cpl Sumner again referred to his book and to the questions raised by Mr. Pádraig Mac Lochlainn TD in the Dáil on his behalf. He says that the Minister’s reply was hurtful in that it accused him and others of referring to an army cover-up whereas in fact he was very proud of the army. He added: *“In the army, when you are wrong, you are wrong and admitted it”*.

He wrote again to the Minister on 26 March 2014. He said that as an NCO in charge of the checkpoint at Dyar Ntar, he had a reported sighting of Pte Joyce in the village made to himself and Lt Carthy on the morning of 28 April 1981. He said this was not referred to in the Savino Report. This appears to be a different incident to that raised by Pte Reilly which is referred to in finding (f) at page 78 of the Savino Report.

The two incidents were undoubtedly significant. Ex Cpl Sumner was not asked to make a statement nor was he interviewed by Col Savino. The Reilly incident referred to by Col Savino was based on Pte Reilly's statement that some of the villagers from Dyar Ntar arrived at 6.22 in a Mercedes and told the Captain that the PLO in a green Mercedes were in the village.

On 27 March 2014 Ex Cpl Sumner again wrote to the Minister in relation to Mr. Pádraig Mac Lochlainn T.D. bringing up the issue in the Dáil on Thursday, 20 February 2014. He said that the Military Police report and the Provost Marshal's report of 2000 (sic) had concluded that no new information had arisen. Ex Cpl Sumner insisted that he had furnished proof that the Savino report was fabricated.

Despite inconsistencies and shortcomings, I am not satisfied that Col Savino's report was fabricated.

In relation to matters arising after the incident of 27 April 1981 Ex Cpl Sumner referred to some incidents on 28 April.

He said that on the morning following the incident he had taken over the checkpoint at Dyar Ntar at 6.22 from Cpl Jackie Quinn. At 0630 in the morning he said that a young lad from the village of Dyar Ntar approached the check point talking Arabic and asking for an officer. He said he asked Lt Carthy, the incoming Platoon Commander who spoke French to speak to the young lad. He said that Lt Carthy spoke with him and then all of a sudden dismissed him. He said he asked Lt Carthy why he had done so and he replied saying that he was a typical Arab claiming he knows where Pte Joyce was and would show us if we gave him dollars. With that he said that Lt Carthy went back to 6.22. There is no record of this incident in the archives nor in the Savino Report. Ex Cpl Sumner was not interviewed by Col Savino.

Lt Carthy remembered the incident as one of young villagers playing football. He was asked to speak to one of them in French about his claim regarding the whereabouts of Pte Joyce but thought he was "*on the make*" and did not take him seriously. Lt Carthy said that it seemed that all of the villagers knew what had happened.

Ex Cpl Sumner described the confrontation with a PLO liaison officer at a checkpoint in Dyar Ntar on the morning of 28 April 1981 (which he referred to at page 27 of his book). The date referred to on page 22 is on the third day of searching (i.e. 30 April). He states that every armed group in Lebanon had a liaison officer and carried a UN identification card signed by the force commander. "*A car approached the checkpoint and stopped. I asked the occupant to get out, spread-eagled him, and, while being covered by one of my sentries, proceeded to search him. I recovered a 9-mm star pistol on his mid-back.*" He said that he took the magazine out of his weapon and returned it to him. The occupant of the car reassured Cpl Sumner "*that no PLO personnel were involved at the murder scene..... He went through various scenarios and seemed genuinely remorseful.*" Ex Cpl Sumner told me that, given the situation he was entitled to be cautious. Lt Carthy was unaware of this incident. It was not correct procedure to spread-eagle a suspect nor to return a confiscated gun.

I have not found any report or record of a complaint regarding any such incident. I understand that the practice was to confiscate weapons rather than confiscate magazines. However, I accept that Ex Cpl Sumner believed he was entitled to act given the heightened security situation as NCO in charge.

It would appear that 'Team Tyre' were involved with the PLO Liaison Officer Capt Baracat and travelled with them from Tyre to Dyar Ntar on the morning of 28 April arriving at 0900 hours. 'Team Tyre' stated

that Amal Liaison Officer Mousa Baddah was already in Dyar Ntar. It may be that Ex Cpl Sumner was referring to the Amal Liaison Officer who had travelled to Dyar Ntar on his own.

Comdt McCorley (Retd) said that he had accompanied the AMAL Liaison Officer and the PLO officer during the search and visited the village of Mahrouna and returned on foot to Dyar Ntar. Neither of the liaison officers mentioned that they were involved in an incident at the checkpoint or that a magazine had been confiscated. Comdt McCorley (Retd), who was military information officer with 48th Infantry Battalion, told me that PLO liaison officers were allowed to carry side arms in the UNIFIL area of operation. He also said that car occupants were not spread-eagled at checkpoints as IRISHBATT were winning the minds and hearts of local populations. If weapons were found at checkpoints the Standard Operating Procedure (SOP) was that they were confiscated and handed into battalion headquarters. Taking a magazine out of a weapon and allowing the person carrying the weapon to proceed with the weapon was not SOP. It made no sense at all as all that would be required was for someone else to bring in a loaded magazine.

There would appear to be no record of the confiscation of the magazine at the checkpoint or the handing over of the magazine to the platoon headquarters. I can only conclude that the incident was not reported by Cpl Sumner.

At the end of page 27 of his book Ex Cpl Sumner refers to an incident during a subsequent search when he said that he was asked by Comdt Gavin about the welfare of the men and he replied that they were concerned about being exposed to the two-man OP with no NCO in charge. He told me that he believed that the strength of the post should have been one NCO and two men. He said that the number of NCOs and Ptes at 6.22 was 16 or 17 but that some soldiers could have been on different duties elsewhere but that NCOs could be increased by pulling some of them from the Officers mess.

I have already addressed above the issue of the provision of an NCO for post 6.22D as provided for in the draft orders.

He further stated that when he went to a shop in the village of Dyar Ntar he was confronted by a shopkeeper with a 9mm berretta pistol. He believed that was a threat however he did not report the incident. Ex Cpl Sumner does not say why he did not report this incident.

On 7 May 2014 Ex Cpl Sumner emailed the Taoiseach's office. On 01 July 2014, within two months of that e-mail Ex Cpl Sumner attended with the family of Hugh Doherty at the meeting with the Secretary General and the Assistant Secretary General of the Department of Defence – see Section 27. This was as I indicate, an important step forward in admitting that some mistakes had been made.

On the 17 December 2014, the Minister commissioned this independent review.

Ex Cpl Sumner was given a copy of the Draft Report and responded with 9 detailed observations which I have considered and assessed and incorporated where appropriate.

25. Military Police Review of Ex Pte Barry Reilly and Ex Pte Michael Walker's Complaints

There was a subsequent review by Col White, the Provost Marshal, of the statements to the Military Police dated 25 July 2012 and the 31 July 2012 of Ex Pte Barry Reilly and of Ex Pte Michael Walker respectively.

Col White stated:

"As directed I have carried out a review of the statements made by Ex Ptes Reilly and Walker to the Military Police in Jul 2012. To provide context, I have also read the DF reports listed at Refs B, C, D and E above. These provide a comprehensive summary of the event on 27 April 1981, in which Pte Hugh Doherty was killed and Pte Kevin Joyce was abducted, and in particular the very considerable and subsequent efforts made by the 88 and 89 Inf Bns in 2000 and 2001 to bring the matter to a final conclusion (recovering the body of Pte Joyce), which were unfortunately unsuccessful. They also crystallize the final DF assessments of what took place in April 1981. I have also taken into account that this review is taking place at a remove of 33 years, and after a number of separate investigations. Ex Pte Walker was discharged from the DF on 21 Nov 2003 and Ex-Pte Reilly was discharged on 07 Jun 2006. The central focus of this review is whether the statements by Mr. Reilly or Mr. Walker in 2012 provide any new material, or any reason to warrant a further or new enquiry at this point in time into the disappearance of Pte Joyce and death of Pte Doherty.

Ex-Pte Reilly's Statement: *In his statement to MPs on 25 July 2012, Ex Pte Reilly, focused on the events of the night as he witnessed them (he was part of the patrol which first discovered Pte Doherty's body), augmented with some personal views of the personnel involved, and comments on subsequent events. In my opinion, none of the information in his statement can be construed as changing the current understanding as to what happened in the actual shooting and abduction incident. For example he states later in his 2012 statement that "that night (29th April) the locals in Sultaniyah (village) told me that after we left Mahrunah (village), Pte K. Joyce was taken out from the village, shot, burned and thrown into a hole in the ground". This information does not appear in his original statement to the Col Savino inquiry in 1982. But the possibility that this version of events may have happened is fully accepted and factored into the subsequent UNIFIL Unit Reports at Refs B and D. Other allegations in his 2012 statement (such as that the DF refused assistance regarding the location of the body from the Lebanese Government in 2001) are clearly not borne out by the later reports. Other matters he raised were in fact clearly taken into account by the subsequent investigations.*

Pte Barry Reilly's main focus seems to be a demand that a new inquiry into the death of Pte Doherty and the disappearance and presumed death of Pte Joyce be launched. He alleges that not all of the personnel in Post 6.22 (PI Post Dayr Ntar) on 27 April 1981 were interviewed by Col Savino in 1982. He also wants the SOPs in use at the time to be included in a new investigation. In my opinion, nothing in his 2012 statement throws any new light on the actual killing of Pte Doherty and abduction of Pte Joyce.

Ex-Pte Walker's statement: *In his statement made to MPs on 31 Jul 2012, Ex Pte Walker outlines his role on the date of the event (which was restricted to the pl post at Dayr Ntar on the evening of the incident and searches of the area on the following days). He also is looking for a new investigation into the incident, and states that he was not interviewed in 1982 by the Col Savino investigation. In my opinion, again, there is no information in his statement that sheds any*

new light on the core issue of the attack on the Listening Post at 6-22D, and the deaths of Pte Joyce and Doherty.

Conclusion: The core aspect of any new inquiry into the incident at LP 6-22D in 1981 must be the closing of the tragic event by finding the remains of Pte Joyce. Given the challenges of time elapsed, the subsequent conflicts and ejection of the various PLO groups from Lebanon (and deaths or disappearance of individuals suspected of the killings), finding the perpetrators, or the Military Groups responsible would in my view be inconclusive. Any new inquiry focusing on the contents of, or approach of the original DF enquiry in 1982, or use of Unit SOPs in 1981 will not have any relevance in 2014, and not contribute to resolving the core issue of finding Pte Joyce's remains. In the absence of any new believable intelligence or coherent information on the location of the remains, and given the current tense security situation in Lebanon, opening a new inquiry cannot be recommended based on the 2012 statements of Ex Pte Reilly and Ex Pte Walker. After 33 years the central issue for the DF remains the recovery of the remains of Pte Joyce and (if possible), information as to why they were attacked and by which group or individuals. The case of the deaths remains an open MP case."

I cannot disagree with the Provost Marshal's conclusion that neither statement throws any new light on the actual killing of Pte Doherty and the abduction of Pte Joyce. This, of course, is the central concern of the investigations. Notwithstanding, there are concerns regarding the scope and the thoroughness of the investigations that merit scrutiny. The absence of the original Savino Report and of other documentation must also be of concern.

26. Discrepancies between Ex Pte Reilly's and Ex Pte Walker's Statements to Military Police

It seems that the statements of July 2012 made by Ex Ptes Michael Walker and Barry Reilly are broadly consistent. However, there are some discrepancies which may be accounted for by their personal recollection of their involvement on the date of the incident. While Ex Pte Reilly was with the 48th Infantry Battalion, Ex Pte Michael Walker was with the 49th Infantry Battalion. Ex Pte Barry Reilly's statement made to Col Savino was the second statement he said that he made. He said that he made a statement to the Military Police on 30th April 1981. I have been unable to locate such a statement. As already referred to, I am satisfied from the report of Coy Sgt McNamara dated 18 June 1981 and confirmed to me, that he did take a statement from Pte Reilly shortly after the incident but that his statement is not in the Military Archives.

Ex Pte Michael Walker only made one statement on 30 July 2012. Ex Pte Barry Reilly's subsequent statement made on 25 July 2012 is a much more lengthy and detailed document than his statement to Col Savino in 1982. In the statement made to Col Savino he said he went to the roof of post 6.22 and tried to make contact with post 6.22D on his radio but failed to raise them. In his statement to the Military Police in July 2012 he said that *"I asked him (Pte McLoughlin) to call the lads on the radio but corrected myself because I knew they would have left the post at that stage. I asked him to give them a call but he told me that he didn't have contact with them"*.

Ex Pte Barry Reilly stated that when he went to the roof at 1800 Pte McLoughlin was there. Ex Pte Michael Walker stated that when he went up to the roof at 1710 hours he spoke with Pte Cronnelly who had relieved Pte McLoughlin. Pte McLoughlin stated in the Savino report that Pte Cronnelly relieved him for dinner at 1745 hours. I am satisfied that, on the evidence contained in their statements, that the latter relieved the former at 1745. It is unlikely that Pte McLoughlin was on the roof a quarter of an hour later

at 1800 hours. However, it seems to me that this is not a significant difference in recollection as it is unlikely that the times would have been accurately remembered.

The second difference is that Ex Pte Barry Reilly stated in his statement to the Savino Report *"at about the same time some of the villagers from Dyar Ntar arrived at post 6.22 in a green Mercedes car. They called for the Capt. and told us that there were PLO, in a green Mercedes in the village"*. In his Military Police statement, he said that it was a civilian, male, 30's that came to the gate. This may be a more critical matter. However, in the absence of reports on this incident I have been unable to verify at what time anyone came and/or was interviewed.

The third difference is that Pte Barry Reilly stated that at 1910 that evening he *"checked the body of Pte Doherty and he was cold and dead"*. Ex Pte Michael Walker stated that at 1830 he became aware that Pte Doherty was dead. Insofar as the times are significant, it seems to me that the evidence given to me by Ex Pte Barry Reilly was more probable in that he looked at his watch, which was a new watch, and noted the time at 1910 local time. The timings on the extracts of the battalion log for 27/28 April 1981 in (exhibit H to the Savino Report) Zulu or GMT time. Local time is GMT + 2 hours. The log states that at 1730 (1930 local time) "C" Company HQ got a message from Post 6.22D (sic) that one man was absent and one dead at location.

Sgt Scanlon told Pte Reilly and Pte Beattie to return to Dayr Ntar. The 77 radio set was one of the items missing from 6.22D and the patrol led by Sgt Scanlon, Pte Reilly and Pte Beattie did not have a radio. There could not have been a message from 6.22D. Pte Reilly went back to Post 6.22 and contacted "C" Coy HQ by land line. Pte Beattie's statement confirmed that Pte Reilly *"passed the message to Coy HQ by landline"*. In his statement of 25 July 2012, Ex Pte Reilly stated that on 29 April the patrol of which he was a member was approaching the village of Mahrunah when they came under fire from the village. Following negotiations, they advanced into the village. Ex Pte Michael Walker's statement of 31 July 2012 would appear to contradict this in saying that the patrol into Mahrunah village happened on 28 April and that when they came under fire the search party did not enter the village.

I am satisfied that the statement of Comdt McCorley, Military Information Officer for the 48th Infantry Battalion, is that on the 28 April, a delegation was allowed to proceed into Mahrunah village. Moreover, Comdt Seamus Duffy, Operations Officer of 48th Battalion in a report prepared on 9th May 1981 for his Commanding Officer, Lt Col Steven Murphy, in the immediate aftermath of the tragic incident, stated that *"follow up searches were conducted every day from 28 April to 13 May inclusive"*.

The excerpt from the Battalion log for 28-29 April 1981 stated that on 28 April at 0655 (0855 local time) there was a request for the two DUTCHBATT to assist in the search of Mahrunah and of Hill 420 (Exhibit J to Savino Report). Earlier that night at 0415 (0615 local time) it was agreed that DUTCHBATT would search Mahrunah and Hill 420.

The statements by both Comdt Duffy and Comdt McCorley and the subsequent statement of Michael Walker, would appear to me to be an accurate recollection and are consistent with the Battalion logs.

The submissions of Ex Pte Reilly, Ex Pte Walker and Ex Cpl Sumner highlighted their concerns for what each regard as inadequacies in the setting up and manning of Post 6.22D and the subsequent investigations. These concerns have been shared, by and large, by all of those whom I have interviewed.

DOHERTY FAMILY - MEETING WITH DEPARTMENT OF DEFENCE

27. Meeting of Doherty Family with Department of Defence, 1 July 2014

Those who had lost most were, of course, the families of Privates Hugh Doherty and Kevin Joyce. Both families have been supported by the Department of Defence and by the Defence Forces and the meeting held on 1 July 2014 was particularly important in that respect.

The background to the meeting is outlined above, at Section 23, page 60. Vanessa Nee, the sister of Pte Hugh Doherty requested a meeting with the Department of Defence. By letter to the Department dated 28 March 2013, Mrs. Nee identified herself as the sister of Pte Doherty. She said she was two years old when her brother was murdered. She said that her brother and Pte Kevin Joyce were two Private soldiers who had been sent to an open field with no protection on that date when her brother was murdered. She was writing the letter on behalf of her mother aged 70. She said her family were approached by Ex Pte Michael Walker on 20 March 2013. He had served with her brother in Post 6.22. After reading the documentation that Ex Pte Walker had given her about what happened on the day she and her mother and extended family were devastated, outraged, shocked and very angry with the contents of the Savino report and the UN Board of Inquiry.

She said that their family was aware that the Department was waiting for answers to further queries from the Defence Forces for the previous four months.

She said she was now requesting the Minister, Alan Shatter TD to facilitate the Doherty family with an urgent meeting.

On 1 July 2014 Vanessa and her husband Stephen Nee, Ex Pte Michael Walker and Ex Cpl Frank Sumner met with Maurice Quinn, Secretary General and Ciaran Murphy, Assistant Secretary General of the Department of Defence.

Ciaran Murphy took notes of some of the issues raised at the meeting which acknowledged some significant matters regarding the incident of 27 April 1981. The meeting followed the agenda submitted by Mrs. Nee.

Mr. Murphy said that during the course of the meeting Mrs Nee pointed to the wide range of variations between statements in the Savino report and stated that this indicated that people were lying and that there had been a cover up. She also referenced the members of the Defence Forces in Lebanon at the time who had never been asked to make a statement. She felt that this was because their statements would not concur with the Savino report, indicating that the Savino report was wrong. Others voiced similar opinions. While acknowledging the variations in the information available, the Secretary General referenced the traumatic nature of the events and the fact that in most similar enquiries people's memories of detail differed. On a number of occasions, the Secretary General asked what did they see as the nature of the cover-up.

It was acknowledged by all that the Observation Post should not have been placed at such a location. There was too great an adherence to meeting the UN requirements in setting up the post. The post could have been established in a place which was more suitable and secure. It was understaffed. Written orders had not been complied with. Appropriate and timely contact with the post

was not maintained. Appropriate oversight of the radio operator was not maintained by NCO and Officers and by the radio operator in 6.22. There had been a lack of attention to the fact that radio contact had been lost and a lack of an appropriate response. Privates Doherty and Joyce should not have been sent out to the post in the circumstances in which they were deployed. This was implicit in the recommendation of the UNIFIL report that it should be "*manned by more soldiers and at least five*". It was also agreed that the Savino report enumerated and criticised the actions and lack of action of various individuals and decisions made.

The Secretary General pointed out that all these points being made by the family had been enumerated explicitly and implicitly in the Savino report and that the responsible individuals (Privates, Sergeants, Lt and Comdt) had been named and criticised in the report. In these circumstances, he sought clarity on what was the key issue which was concerning the family which they felt could be further elaborated through a further enquiry. What was missing from the Savino Report?

In summary, the family indicated that the report was overly critical of Pte McLoughlin and only gave a 'slap on the wrist' to the Officers. They felt it should have been more critical of the officers and should be made public. They considered that those in authority showed no care for Privates Doherty and Joyce who they believe were sent out on a "suicide mission". They had no chance if anything went wrong. They suggested that because of the variations in the statements someone had to be lying and that individuals were therefore covering for each other. This led them to not have faith in the Savino Report. At the same time, the family believe that Col Savino should not have been tasked to prepare the report as he was serving in the Lebanon at the time of the incident.

Given all of this, they felt that only an independent review and inquiry could provide greater certainty on what actually happened on the day in question.

The family referred to Private Joyce on a number of occasions in the context of the behaviour of the officers at the time of the incident and the immediate aftermath. Their view being that the officers should have been able to locate Private Joyce. Secretary General Quinn emphasised that the Joyce family have their own approach to dealing with the loss of their family member and that it was not appropriate to discuss his case in any detail.

Some of the specific points raised by the families and discussed at the meeting included:

1. Radio calls not made every 15 minutes
2. If there was aerial bombardment why were the Visiting Party of Colonels travelling around? Surely they should have been under cover?
3. The photograph in the Savino report says they were at the post at 1445. But Officer Lundin says it was 1520.
4. Were they driven or did they walk to the post?
5. What was the time of death? Was it 3:30 or 5:30? The family are suggesting that on one interpretation of the timings, the officers may have heard the fatal shots but had decided not to return to the post and to carry on back to 6.22. Had they returned, the whereabouts of Private Joyce may have been established.
6. If Capt Herbert was in the post twice in the afternoon and in the village, why does Savino say he was in 6.22 all afternoon?
7. How did the visiting party get to 6.22D as there is no record that they travelled by Land Rover?
8. How did the bullet casings go missing in the UN HQ in Naquora?

9. If Col Savino was in the HQ, did he have any role in the establishment of the post. Also given that he was there during the period should he not have excluded himself from conducting the investigation?
10. Mrs Nee expressed disquiet about shoddy investigation with incorrect dates etc on some statements.
11. If there was significant bombardment ongoing and Israeli jets overhead, why were they not recalled from the post as no one else would be moving in the area for fear of being attacked by the Israelis?
12. Can the Department check with the UN as to whether Savino had any part in the issue of the direction to set up 6.22D.
13. There are plenty of people who were not interviewed. Their statements are inconsistent.
14. If the Platoon Commander, Capt Herbert went to the post at lunchtime, who brought him?

Mrs Nee stated that she had believed right up to the meeting of July 2014 that Pte Joyce had killed her brother and no one had ever explained this. No one had ever told the families about the United Nations or the Savino reports or the findings thereof. She felt that the families of the victims had been ignored and that the careers of the officers were placed ahead of the needs of the families. Assistant Secretary General Murphy assured her that there had never been any suggestion at any stage in either official reports or in any discussions relating to the incident that Pte Joyce had any role in the death of her brother. That was never the case and it is extremely regrettable that she had been left with this perception.

The Secretary General indicated that the purpose of the meeting was to hear the concerns and issues raised by the families which the Department would need to take away and reflect on. He would need to talk to the Minister and he would come back to the family as soon as possible, hopefully in a few weeks, and they would meet again.

On 17 December 2014 Mrs Nee was notified that the Minister was commissioning an independent review.

Mrs Nee is reported as saying that it was a major step forward for the Minister to acknowledge that some mistakes had been made.

FINDINGS AND RECOMMENDATIONS

28. Findings Regarding Fourteen Issues Raised by Doherty Family¹

1. There was no requirement that radio calls be made between 6.22D and 6.22 every 15 minutes. Calls were required to be made every hour. If not 6.22 would call 6.22D. No calls were made from 6.22D after 1400 hrs on 27 April 1981. The sentry at 6.22 could not say why he did not inform someone in authority for his failure to contact 6.22D. The sentry, recently arrived in the Lebanon, was familiar with the location but the duties were new to him. In my view he was inadequately posted, instructed and supervised.
2. The aerial bombardment was north west of the IRISHBATT area of operations and did not pose any direct threat.
3. Lt Col Stephen Murphy, OC 48 Battalion and Coy Comdt Downes said the visiting party went to 6.22D at 14:30, left Op 6.22D at 1500 hrs (approx). Capt Herbert said that at approx 14:45hs the party left Post 6.22D. WO Lundin's military report dated 22 July 1981 states:

"5. Between (sic) 15:20 hrs Lt Col McNichols OC 49 and Lt Col Murphy OC 48 visited the listening post."

He did not give any further details and, of course, was not there himself. Lt Col McNichoill stated that he visited 6.22D in mid-afternoon and spent about 20 minutes in the post.

I conclude that the visiting party was at 6.22D for about 30 minutes from 1430 to 1500.
4. The visiting party had their own transport to 6.22 at 1300 hrs and, according to Comdt Downes, proceeded by foot to a location ½ mile south of post 6.22D to point out the location of the Coy boundary. They could see Pte Joyce and Pte Doherty looking very alert.
5. Capt McNamara, MO of 48 Battalion, arrived at 6.22D at 2030 hrs. After eliminating the possibility of a booby trap, he carried out a full examination of the remains of Pte Hugh Doherty. He came to the conclusion that the time of death was *"NOT later than 1700 hrs and was more likely earlier than that"*. When questioned by Col Savino he said that he had discussed the matter with Professor Harbison (the then State Pathologist) and *"it would seem that death in all probability was up to two hours earlier than the original approximate time"*. Capt McNamara confirmed to me that the time of death could have been close to 1500 hrs. It is significant that none of the visiting party had heard any shots.
6. The basis of Col Savino's findings (page 80 of his report) that Capt Herbert had been at 6.22 most of the afternoon is not stated. Col Savino did not find that Capt Herbert had been there all

¹ See pages 72, 73

afternoon. Capt Herbert's statement to Col Savino refers to his being at 6.22D with the visiting party from 1430 to 1445, that he left 6.22 at 1500 for 6.23 and returned to post 6.22 at 1650, less than two hours later.

7. The visiting party had their own transport and did not use the Land Rover based at 6.22, (see 4. Above).
8. There is no record of the whereabouts of the bullet casings in the Military Archives. The Military Police had sent the casings of the 3 Kalashnikov and 13-15 FN bullets to the UNIFIL HQ at Naqoura in May 1981. On 16 July 2016, on my instigation, the Permanent Mission of Ireland to the UN made a request to UNIFIL HQ in New York as to the whereabouts of exhibits. On 12 October 2016, the Office of Legal Affairs of the United Nations referred to the request for documentation and information and replied that to the best of its knowledge the (UN) Organisation "*has no further information regarding this matter in its archives*" (other than the Board of Inquiry Reports).
9. Col Savino was nominated by Major General Prendergast on 27 August 1982 to undertake a further investigation into the death of Pte Doherty and the disappearance of Pte Joyce. He had been Deputy Chief of Staff and the senior Irish Officer with UNIFIL from September 1980 to April 1981. While there is no evidence of partiality he could have been seen to have had a conflict of interest in relation to the investigation.
10. The incorrect dates on some statements demonstrates carelessness but does not, in my view, undermine the findings.
11. The bombardment and actions by Israeli jets was Northwest of the IRISHBATT area of operation and did not appear to impose any direct threat to the IRISHBATT area. It did not prevent the attackers from killing Pte Doherty and taking Pte Joyce.
12. Col Savino was Deputy Chief of Staff in UNIFIL from September 1980 to April 1981. He was aware of the request but had no role in the establishment of that observation post.
13. The evidence of some of those who had served at 6.22D during the weeks from the establishment of the post to the day of the incident and who had not been interviewed by Col Savino, was not consistent with some of the findings of the Savino Report.
14. The distance between 6.22 and 6.22D was 1.5 km by road to Dayr Ntar village and then by foot to 6.22D, a walk of some 15 minutes. It was not necessary to have transport. Indeed, Lt Hugh Carthy said that he walked with Ptes Joyce and Doherty to 6.22D through the village of Dayr Ntar and arrived at the post 25 minutes later. The driver, Pte Russell, said that he had driven Ptes Joyce and Doherty to Dayr Ntar but does not mention Lt Carthy. Pte Russell did not remember bringing Capt Herbert to Dayr Ntar at lunchtime on 27 April 1981 but he may have walked. However, there did not appear to be any regular system of visits to 6.22D.

29. Further Findings Regarding Family and Colleagues

1. The family of Pte Hugh Doherty accepted the circumstances of their son's and brother's death and for many years was satisfied with the explanations given by the Defence Forces. However, the Doherty family later heard a rumour that Pte Kevin Joyce had shot their brother which was not assuaged until they met with the Secretary General of the Department of Defence on 1 July 2014. This rumour would not have had credence if they had been told the results of the findings of the investigation undertaken by Col Savino from 1982 to 1984.
2. I am satisfied that the concerns of the Doherty family arose from the non-communication by the Defence Forces as to the findings of the Report as was the practice at the time.
3. The Joyce family had accepted the fact of the abduction and probable death of Pte Kevin Joyce and were satisfied with the information and explanations given to them by the Defence Forces. They were upset and unhappy with the criticisms and complaints made 30 years after the incident to the Minister and the Department by Ex Ptes Barry Reilly and Michael Walker in 2013.
4. Both families bore their respective loss with dignity and acceptance.
5. The interests of the families of soldiers killed or missing in action is paramount and should not be inhibited by concerns regarding liability. The absence of, or delay in communication of the result of inquiries fosters resentment and misunderstanding.
6. Colleagues of those killed, injured or missing in action have a legitimate interest in the outcome of investigations particularly where they have made statements to the Military Police.

30. Findings regarding setting up of post 6.22D and its operation up to & including 27 April 1981

1. There appeared to be no written assessment of risk in relation to the setting up of observation post 6.22D in March 1981
2. I conclude that given the exposed nature of 6.22D, the absence of an NCO, the inadequacy of manning, the failure to provide a landline and the absence of reports of incidents, that there was a persistent inadequate assessment of risk in the prevailing circumstances.
3. The special orders for 6.22D (referred to as 6.22A in the body of the orders) stated that the mission of the outpost was to man 6.22A (sic) and to "*report on and prevent incursions into the area of operations by armed elements*" (2c). Specifically, the execution of the mission required timely, accurate and concise reports of all incidents in the area (3(g)(e)).

4. The undated draft of special orders for Post 6.22D, were not finalised and are internally inconsistent and, in relation to strength of the post, were not complied with. The absence of an NCO affected the provision in the Orders regarding Command, Signals and Service Support. Moreover, those who served at 6.22 who contacted me did not remember being given any written orders.
5. The permission to temporarily reduce the strength of post 6.22D should have been communicated to the Battalion Commander.
6. The request to reduce the strength of the post was made without reference to the special orders which suggests unawareness or non-existence of such orders. No reference was made to an assessment of risk regarding the reduction in strength of the manning of the post. The absence of an NCO was a critical factor in the compliance with the requirements of the orders, particularly in relation to reporting and communications.
7. There seems to have been what is best described as a casual approach to the posting and supervision of the post. Even if rosters had been recorded and kept they might not have reflected such casual changes. No records were found of postings.
8. Given the statements of Lt Carthy and Capt Herbert contained in the Savino Report, I conclude that Lt Carthy did post Ptes Joyce and Doherty. The orders with regard to having an NCO with two Privates should have been complied with.
9. It seems, on the balance of probability, that there were no special orders finalised and that there was never an NCO with the two Privates at post 6.22D. There were no systematic visits made to the post by the Platoon Commander; indeed, there was not an adequate, or any system of checks of, and of visitation to, the post.
10. It seemed to have been a significant oversight for a Platoon Sergeant not to have known the characteristics of an outpost to which he was posting his men.
11. The men should have been briefed by the Platoon Commander or Platoon Sergeant each morning to report all incidents according to their orders. There would appear to have been oversight in relation to the orders in respect of the organisation, instructions and supervision of reports.
12. None of the six men interviewed who had served there remembered any guidance being given of the scope of reporting "all incidents in area".
13. Moreover, it was unclear what instructions had actively been communicated to the men serving at 6.22D in relation to making reports given that the orders required that an NCO in charge of the Observation Post was responsible for submitting reports (4(1) of the Special Orders for 6.22D). There appeared to be confusion or lack of clear instruction regarding the standard operating practice of communication.

14. One of the reasons given by Comdt Downes for the reduction of strength of the post was that there were no reports of incidents. Col Savino did not establish whether, or if so when, a written order to reduce the strength was made. Given the evidence of those who had served at 6.22D, I am of the view that if there had been a change in strength it was likely to have been close to 10 April 1981 when the post was established. In that case there was a limited opportunity to make any reports.
15. The visiting party of commanders observed hunters with guns on 27 April 1981. They were known to Pte Joyce. Two Lebanese boys indicated to the visiting party that they had seen armed men in the vicinity. No instruction was given that these observations were to be reported.
16. Ex-Pte Michael Halloran told me that he had observed with binoculars what he believed to be armed PLO men in the area from a distance of about 2 miles and as they were far away he did not make any report.
17. Ex-Pte Reilly's statement to Col Savino when asked whether he remembered making any report from 6.22D replied *"only of aircraft movements. There was no sign of people or vehicles in the area which was generally rocky and deserted."* Pte McLoughlin, the sentry at 6.22, had also said that he made reports of aircraft. However, Col Savino found that *"...no report, other than routine radio checks were made from post 6.22D during the entire 3 weeks that it was in existence..."*. I was unable to verify these differing statements but observe that some reports may not have been regarded as relevant.
18. The presence of the visiting party of officers of the 48th and 49th Battalion during the early afternoon and the later bombing of Tyre and Sidon may have been a factor in 6.22D non-communication but did not absolve 6.22 in not adverting to loss of contact.
19. The visiting party were at 6.22D at 14:30 on 27 April 1981. They left 20 to 30 minutes later. This was the last contact with Pte Joyce and Pte Doherty.
20. Col Savino's finding, based on the evidence of the sentry in 6.22, Pte McLoughlin, was that the last contact between 6.22 and 6.22D was at 1340 hours. This may be a typographical error as the evidence of Pte McLoughlin was 1540 hours. The "C" Company Radio Log Book as extracted by Col Savino which shows the last attempted radio check from 6.22 (Dyar Ntar) to 30 (As Sultaniyah) which logs *"Incident Report not sent as unknown number of jets are attacking a place between Tyre and Sidon"*. The closest radio logs in time is at 1534 from 6.22 to 30 logs: *"two more jets bombing Tyre..."*. Significant discrepancies between the report and logs make it difficult to come to a firm conclusion.
21. The finding that *"from then on the radio man on the roof at 6.22 failed to contact 6.22D"* is not corroborated by the radio log extracts. It is significant that the Medical Officer, Capt McNamara, 48 Bn in his statement to Col Savino revised his conclusion on the time of death from *"not later than 1700 hrs"* to possibly being *"up to two hours earlier"* than the original approximate time. He confirmed to me that the time of death could have been close to 1500 hours which was the approximate time of the departure of the visiting party. I accept their evidence that they were not aware of any shots at the time of their departure from 6.22D as found by Col Savino.

22. I am satisfied that the last radio communication was at 1400 hours “*r/c ok ew*”. This corresponds to the radio log and with the evidence of Pte Barry Reilly who says he was told by the sentry, Pte McLoughlin that, he had not heard from 6.22D since lunchtime. There is no log at 1600 hours for a Battalion or Company check as found by Col Savino.
23. On occasion, there was difficulty in getting a signal at 6.22D. There is no record of any testing of signal strength at the inception of manning the position. There was evidence of men having to leave the post in search for a signal uphill from 6.22D towards the village of Dyar Ntar. In an isolated post, out of line of sight this was a weakness.
24. There was no evidence of radio jamming either in the Battalion or radio logs or in the interviews with any of the officers or men.
25. In relation to reports of incidents, one of the witnesses understood that the sentries had been told not to send such reports which were clogging up the radio network. Without having access to the full radio logs, I have been unable to verify this. It may have been an exculpatory remark.
26. The issue of the Israeli bombing of Tyre distracting all radio operators may have been a temporary difficulty from the point of view of hearing radio calls as the bombing was intermittent in its intensity and it would not appear to be a complete answer to the failure to communicate.
27. I am satisfied that, in the wake of the events at 6.22D on 27 April 1981, the actions by all commanders were commendable and correct. The focus was on the location and rescue of Pte Joyce. All available personnel with the aid of Battalions other than IRISHBATT were employed.
28. It is unclear, however, at what time the Platoon Commander had set up a checkpoint on the road or why he took no further action on being told that there were PLO in the area. The assumption was that an attack would have been by means of a vehicle and not by foot.

31. Findings regarding UNIFIL Investigation

(Redacted due to confidentiality of the UNIFIL Headquarters Board of Inquiry)

32. Findings regarding Savino Investigation

1. The authenticated copy of the UNIFIL Headquarters Board of Inquiry dated 11 September 1981 together with the reports and statements in relation to the inquiry (with the exception of the UNIFIL statement of Pte Barry Reilly) are in the Military Archives. However, neither the original nor copies of the Savino Report were in the archives. An undated, unbound and poorly photocopied incomplete copy with Ex Pte Reilly's annotations was handed to the Military Police on 25 July 2012 by Ex Pte Reilly with his statement of that date. Ex Pte Reilly may have had possession of a complete copy of the Savino Report when he wrote to the Minister on 6 October 2011.
2. The Savino report was not expressly requested in discovery for Ex Pte Reilly's 2003 legal action. I am satisfied that it was not obtained in the discovery process in October 2005. I have not been able to ascertain how the copy came into the possession of Ex Pte Reilly.
3. The original Savino report is not in the files of the Department of Defence or Defence Forces, nor in the Military Archives, or in the files of the Adjutant General, the Provost Marshal, the Director of Legal Services or in "A" Administration.
4. I have been unable to locate any reference to the report in "A" Administration which I had been told had changed its location from Colaiste Caoimhin to Parkgate Street and then to storage in the Curragh Camp. More recently I was given access to documents which emanated from "A" Administration and were transferred directly to storage in the Curragh Camp. The Savino Report is not in the Chubb cabinets which I was able to examine. Files relating to Pte Doherty and Pte Joyce made no direct reference to the Savino Report. A request by the Adjutant General as to the progress of his investigation, sent in January 1984 was contained in that storage facility.
5. Comdt Gerald Aherne had a copy of the Savino Report as well as other relevant documentation when he submitted his report of the searches for Pte Kevin Joyce in 2001. He returned the report to "A" Administration which is part of the former Adjutant General's Office. I have been unable to ascertain where the report may be or who had access to it since 2001.
6. Major Gen Savino (Retd) told me that he had loaned his copy of the report to two unnamed researchers in the School of Psychology in Trinity College Dublin in late 1980s who were interested in studying Post Traumatic Stress Disorder (PTSD) in the armed forces. The administrator of the School made inquiries on my behalf but was unable to locate the report. She referred me to Dr. Matthew McCauley who was not aware of the report.
7. The absence of the Report from the Military Archives and the inability to identify the source of the photocopied report raises serious security issues for the Defence Forces. Departmental records are required to be retained and preserved in the Department of State in which they are made or are held, and should not in any case be disposed of except in accordance with sub-section (5) of Section 7 of the National Archives Act, 1986. Disposal requires authorisation by a designated officer. I am satisfied from a perusal of the Military Archives that no such authorisation was made in relation to the Savino report.

8. Major Gen Savino (Retd), as he now is, was satisfied that the incomplete copy which I showed him was his report and told me that he had put considerable thought into its findings, other matters and recommendations. He did not know the whereabouts of the original.
9. The absence of the original report and, indeed, of copies of the report has not been explained and constitutes a serious breach of custody of the findings of a critical investigation. The absence is exasperated by the unexplained circumstances of the roughly photocopied incomplete report which came into the hands of Ex Pte Reilly. I have been unable to make any finding other than the document did not result from the discovery requests pursued by Ex-Pte Reilly's lawyers.
10. The absence of Ex-Pte Reilly's statement to the UNIFIL Military Police in May 1981 is also of concern. I am satisfied that the Department of Defence did not have that statement or his subsequent statement made to Col Savino (and contained in his report) at the time of making the affidavit of discovery in Ex-Pte Reilly's action for damages against the Department.
11. The original Commanding Officer's reports as well as copies of the Military Police Witness Statements taken by UNIFIL Military Police are in the Defence Forces Military Archives. However, I did not find any of the original or copy statements made to Col Savino in the Archives. The statements are contained in the copy supplied to the Military Police by Ex Pte Barry Reilly in 2012.
12. None of the authors of reports or statements referred to by Col Savino were aware of the publication on or about January 1984 of the Savino Report until recent years when complaints arose. The report was commissioned in August 1982.
13. The investigation undertaken by Col Savino, on the formal directions of the Adjutant General dated 27 August 1982, was referred to as a further investigation to that of the UN Board of Inquiry dated 11 September 1981. It was not a Court of Inquiry.
14. The Military Police appeared to have had no role in the Savino investigation. The statements included in Col Savino's report were not witnessed by any Military Police member. In the terms of reference given to Col Savino, Maj Prendergast had directed that the Provost Marshall would arrange to provide Col Savino with any assistance he might require. No such assistance was sought.
15. Such further investigation might have included, inter alia, a listing of personnel on duty at Platoon Headquarters (6.22) stating the nature and duration of their duty in each case as required by paragraph 2(a)2 of the terms of reference of 27 August 1982.
16. Col Savino was further directed to obtain and comment on the adequacy of all orders governing the operation of Posts 6.22 and 6.22D. He was asked whether these orders were complied with by all those concerned and, if not, to indicate to what extent they were not complied with and the responsibility for non-compliance in each case. There was no analysis of the orders, compliance with the orders, or of responsibility for non-compliance in the Report of the investigation.

17. Comdt Duffy's report to Lt Col Steven Murphy was made on 9th May 1981. He did not submit a report to Col Savino on 29th November 1982.
18. Comdt McCorley was informally approached by Col Savino at the Curragh and made a report to him on 5th October 1982 and not 22nd December 1982. He was not aware that Col Savino was carrying out an investigation.
19. The Platoon Sergeant, Sgt Scanlon, made a statement to Col Savino but was not questioned by him.
20. Pte Barry Reilly was the only soldier who had served at 6.22D to be asked to make a statement. His statement in the Savino report was accurate but incomplete in that it did not allude to differences he said he had with the Platoon Commander. Col Savino did not have Private Barry Reilly's MP statement made in May 1981. I have been unable to locate such a statement but accept that it was likely that he did make a statement to the Military Police on or around 5th May 1981.
21. Pte McLoughlin, the sentry on 6.22, was questioned on his duties and why he had not informed someone in authority of his failure to contact 6.22D. His statement differs from that given to the UNIFIL Military Police in the Lebanon in April 1981. He stated to Col Savino that he did not know why he did not do so. He made a critical statement on the timing of the last contact with 6.22D which he said was approx 1540 hrs, whereas the radio log indicated 1400 hrs but he was not questioned on the discrepancy.
22. I conclude that Pte McLoughlin who had arrived in Lebanon on 22 April 1981, five days before the date of the incident on 27 April 1981, and admitted that he was not familiar with his duties, was not adequately trained, instructed, or supervised notwithstanding the presence of the Platoon Sgt and Commander on that afternoon.
23. Signalmán Tuohy, the radio operator at As Sultaniyah, believed that Pte McLoughlin had informed either the officer or Platoon Sgt of his failure to contact 6.22D. Signalmán Tuohy said that he had called 6.22 by landline on the afternoon of 27 April 1981 regarding the failure to contact 6.22D. I have been unable to so verify.
24. The Savino investigation was tasked to obtain and comment on the adequacy and compliance and responsibility for non-compliance of all orders governing the operation of posts 6.22 and 6.22D on the relevant date. It was clear that the orders for 6.22D were not finalised and, on their terms, were not complied with. The changes to the strength of the post was not communicated to the Battalion Commander. Neither the orders themselves nor the changes thereto are in the Military Archives.
25. Neither the observations of Col Timothy O'Shea, the Deputy Judge Advocate General made on 19 May 1982 nor the directions of Major Gen Prendergast the Adjutant General given on 27 August 1982 refer to the underlying issues of the choice of location or of the safety thereof. Col Savino was not asked to investigate such issues.

26. Of the nine officers whose reports or statements are included in the Savino report, five are undated and may have been made prior to the appointment of Col Savino. In particular, the report of Col Stephen Murphy (the last page of which is in the copy of the Savino Report at page 5) appears to have been made shortly after his report of 10 May 1981. Both reports are in the archives. There were two dated reports included: Comdt Duffy (29 November 1982) and Comdt McCorley (22 December 1982) which dealt with subsequent searches.
27. Only two officers were questioned. The Platoon Commander Capt Herbert was asked about the orders for Post 6.22D, the strength of the post, system of supply, visits and communication – the questions were appropriate though inadequate, in that his questions did not extend to timing and pattern. Col Savino's findings refer to the orders for 6.22 and 6.22D being complied with but no finding nor reference was made regarding the undated and unwritten permission to man post 6.22D with only two men. The Medical Officer Capt McNamara was the second officer questioned – he was asked about the time of death of Pte Doherty and told Col Savino that the death, in all probability, occurred up to two hours earlier than his initial report that time of death was “... *NOT later than 1700 and was most likely earlier*”.
28. I am satisfied that Col Savino did comply with the instructions of the Adjutant General in relation to the taking of statements and was entitled to exercise his discretion regarding the taking of statements from other personnel. Nonetheless, it is remarkable that, other than Pte Reilly, none of those selected had served at 6.22D. Pte Reilly was not questioned on the manning, visitation, or supervision of the post. None of the witnesses were asked if they had a copy of the special orders. In hindsight, it would also have been desirable to have had statements from others who had served at 6.22D as to the strength and supervision of the Post and compliance with orders.
29. Col Savino questioned five of the nineteen who had made reports or statements: Capt T.D McNamara MO, Capt Herbert, Pte B. Reilly, Pte P. McLoughlin and Signalman Patrick Tuohy. He did not probe the underlying weakness of the manning and supervision of the post nor of the system of monitoring communications. He did refer to a pattern of murder against UNIFIL but only cited one incident prior to April 1981. He did not refer to any analysis of risk in setting up the post. I have been unable to find any written reference thereto in the military archives.
30. The Defence Forces investigation entrusted by Maj Gen Prendergast to Col Savino, Director of Operations, did not fully address all the questions posed and, in critical areas, made findings without corroborative evidence in relation to manning, communications and supervision of the observation post. He did not investigate whether there had been compliance with orders or a sufficiently thorough assessment of risk of establishing an observation post out of line of sight of 6.22 and in an exposed and unprotected site.
31. Some findings appeared to be an extrapolation of evidence from one day to the norm for the period of existence of the observation post.
32. The lack of involvement of colleagues in the subsequent investigation of the tragic incident deprived the investigator of information and participation from those on the ground. This is particularly so where the circumstances of the death could have applied to each of those who had served at 6.22D.

33. I am of the view that, in hindsight, the investigation was, to that extent, inadequate. Notwithstanding, Col Savino made three important recommendations at the conclusion of his report: observation posts should be located where there was visual contact with other posts; posts should be opened only where commanders are satisfied that they can be garrisoned in sufficient strength to maintain their safety; the relevant UN HQ must not be allowed to override the Battalion Commanders view on this matter.
34. Col Savino had been Deputy Chief of Staff and the Senior Irish Officer with UNIFIL from September 1980 to April 1981. While there is no evidence of partiality, he could have been seen to have had a conflict of interest in relation to the investigation.

33. Findings regarding complaints & representations by Ex-Servicemen

1. Ex Pte Reilly was a key witness to the tragic event. Both he and Ex Pte Walker had sued the Department of Defence in relation to their involvement, inter alia, with the incident. They became tenacious critics of what they regarded as a cover-up, in particular in relation to Col Savino's investigations into the incident. I have found however, that there is no specific evidence or particulars of a cover-up by either the UN or Savino investigations.
2. Ex Cpl Sumner's book chronicled their criticisms. Despite shortcomings they have provided a catalyst to this review. They became polarised on the scope of taking statements from 'all' rather than 'any' personnel at 6.22.
3. Ex Pte Reilly, Ex Pte Walker and Cpl Sumner raised some serious issues regarding the compliance with the manning, safety and supervision of post 6.22D.
4. Ex Pte Walker was instrumental in arranging a meeting of the family of Hugh Doherty with the Secretary General of the Department on 1 July 2014 which was helpful to the family. Ex Cpl Michael Sumner accompanied him.
5. In meetings with me, both Ex Pte Reilly and Ex Pte Walker were each consistent with their correspondence with the Minister and with statements to the Military Police.
6. Despite some shortcomings, Ex Cpl Sumner's book raises and reaffirms the criticisms made by Ex Ptes Reilly and Walker. Those criticisms have been a persistent thorn in the side of the Department of Defence which had been hampered by a lack of documentation in relation to the Savino Report and by the reluctance of the Defence Forces to authenticate the version given to the Military Police on 25 July 2012 by Ex Pte Reilly.
7. The non-disclosure of the results of the Savino Report had increased concern and the agitation of Ex Privates Reilly and Walker and Ex Cpl Sumner.

8. I agree with the conclusion of Col White, Provost Marshal, that the statements of Ex Pte Reilly and Ex Pte Walker, made to the Military Police in July 2012, do not throw any new light on the killing of Pte Doherty and the abduction of Pte Joyce.

34. Recommendations

1. Military records, including physical evidence, needs to be clearly identified as to which records are to be archived, and for what period each category should be retained. The location of such records should be specified and securely retained in centralised military archives.
2. From an operational level, in setting up outposts, a full written risk assessment should be made and periodically reviewed particularly in relation to potential dangers and communication with personnel posted.
3. The drafting of special orders needs to be based on such written risk assessment and reviewed periodically.
4. All Defence Force personnel posted should be given copies of such orders and instructed as to their duties including in relation to the scope of their reports of all incidents observed.
5. The role of the NCOs in Command is crucial in relation to reporting of incidents or lack thereof, and in relation to communications. Regard should be had to this crucial role in all decisions on manning of posts.
6. Where it is deemed necessary to have a further investigation in relation to an overseas incident the investigation should be independent and be seen to be impartial. It should also serve as a management tool to identify and address potential gaps in procedures and policies.
7. The interests of the families of soldiers killed or missing in action is paramount and should not be inhibited by concerns regarding liability. The absence of, or delay in communication of the result of inquiries fosters resentment and misunderstanding and should be avoided.
8. The findings of the report of investigation into fatal incidents should be promptly disclosed to the families of the deceased.
9. Colleagues of those killed, injured or missing in action have a legitimate interest in the outcome of investigations particularly where they have made statements to the Military Police. This should be taken into account in all such cases in future.

APPENDIX 1 - Terms of Reference

Independent Review of the investigation of the death of Pte Hugh Doherty and the disappearance of Pte Kevin Joyce on 27 April 1981 while serving with IRISHBATT in the United Nations Interim Force in the Lebanon (UNIFIL).

The review shall encompass both a review of all relevant documents held by the Department and the Defence Forces, any additional material as may be supplied by witnesses or received by the Reviewer and interviews of such persons, including those serving in the UNIFIL contingent at the time of the incident, as considered appropriate by the Reviewer.

The Reviewer will:

- Consider the investigation by the UN and the Defence Forces into the event of 27 April 1981 [to exclude the follow-on search for Pte Joyce] in which one member of the Defence Forces was murdered (Pte Doherty) and one disappeared (Pte Joyce), the reports and any written material available since the reports were prepared.
- Advise on the adequacy of these investigations
- Consider and report on the findings and conclusions of the reports, having regard to the existing evidence and statements and anything further arising from such additional interviews as the reviewer considers necessary.
- Make such other findings and recommendations as are considered necessary.

The reviewer shall be provided with access to all available documentation relevant to the events or to the service in UNIFIL of the IRISHBATT in 1981 and any other documentation requested by the reviewer.

The reviewer shall be provided with the names of all relevant persons, including serving or retired members of the Defence Forces, members of the families of the deceased or missing personnel, or other persons the reviewer considers appropriate. The reviewer shall endeavour to interview or take statements from all relevant persons.

The Dept of Defence and the Defence Forces shall each appoint a liaison officer to provide the necessary information required in order to conduct the review, and to identify the relevant witnesses. The families will also appoint a contact person for interaction with the reviewer.

The review shall be submitted to the Minister for Defence before 30 April 2015.

An extension of time to the end of May 2015 and following the discovery of further archives further time was granted by the Minister.

APPENDIX 2 - Findings of the UNIFIL Report of 11 September 1981

Findings

(Redacted due to confidentiality of UNIFIL Report)

APPENDIX 3 - Observations of the Deputy Judge Advocate General 19 May 1982

The Office of The Deputy Judge-Advocate General
Army Headquarters, Parkgate
Dublin 8

19 May, 1982.

OIC A ADM

Board of Inquiry Ptes Doherty and Joyce

Having examined the Proceedings of the Board which inquired into the circumstances of the death of Pte H. Doherty and the disappearance of Pte K. Joyce. I have the following observations.

1. Surely the orders both at Listening Post 6.22D and at Platoon Headquarters 6.22 were relevant to this inquiry.
2. Were these orders complied with by all those concerned and were they adequate for their purpose?
3. The evidence indicates that contact could NOT be effected with the Listening Post 6.22D from 15.40 hours. Nothing was done about this until 18.30 hours. A period of two hours and 50 minutes
 - (a) Was this acceptable
 - (b) Was this reported to anyone in command
 - (c) Who was in Command at platoon Headquarters
 - (d) What S.O.P. if any was laid down for such a situation
 - (e) Was the S.O.P. complied with
 - (f) What about line communication. Was there any. Should there have been.
4.
 - (a) What is the distance between 6.22 and 6.22D
 - (b) Is there visual contact between these Posts. A map would be helpful.
 - (c) Pte Doherty was shot three times 3 KLASHNIKOV shells found?
 - (d) 13 7.62 shells were found. Were these in respect of rounds discharged by Pte O Riley
 - (e) The evidence of CS McNamara is in conflict with M.P. Report and Board Findings in regard to empty shells found. How does he identify KLASHNIKOV shells.
 - (f) Should the shots which killed Pte Doherty and the others which were fired in the area (if any) have been heard at 6.22. Would it NOT be a normal requirement that shots of this nature, their possible location, number etc should be a matter for report by sentry on duty at 6.22. Is this NOT a matter which would go to show the effectiveness or otherwise of orders, or at least the effectiveness of the implementation of the orders.
5. The evidence of the following personnel was NOT taken by anyone and is only reflected by hearsay evidence.

- (a) O.C. 48 Infantry Battalion)
- (b) O.C. 49 Infantry Battalion) These were the last people to meet Joyce and Doherty
- (c) Comdt Downes
- (d) Pl Comd 6.22
- (e) Pte Russell
- (f) Pte Reilly
- (g) Lt Cunningham

6. The autopsy report does NOT give a time of death. The condition of the body seems to indicate that death occurred very soon after visit of Bn O.C. s
7. There is NO evidence of equipment or other items missing.
8. What was the system of supply for 6.22D.
9. Was there any system for visiting and relief of 6.22D. If NOT should there have been.
10. Who else visited the Post that day? Have such people any information of value.

In my mind the whole inquiry is unsatisfactory and incomplete. Surely we should be concerned to find out more about this matter and the whole operation if for no reason than to ensure that this can never reoccur.

COL TIMOTHY O'SHEA
DEPUTY JUDGE ADVOCATE GENERAL

APPENDIX 4 - Terms of Reference of Savino Investigation 27 August 1982

Office of Adjutant General,
Army Headquarters
Parkgate,
Dublin, 8.

27 August, 1982

Col V. Savino
D/OPS

U.N. BOARD OF INQUIRY INTO DEATH OF PTE DOHERTY AND THE DISAPPEARANCE OF PTE JOYCE 49 BN UNIFIL

1. The above Board of Inquiry is considered inadequate and it has been decided that a further investigation is desirable to fill in the obvious gaps. You have been nominated to undertake this investigation.
2. Your investigation should be directed to reporting on and obtaining all data required by the following terms of reference in all cases relevant to the date of the above occurrences.
 - a.
 - (1) Who was the PI Comdr i.c. Pl. at Post 6.22 and Post 6.22D?
 - (2) What personnel were on duty at Post 6.22 on 27 April, 1981? and what was the nature and duration of this duty in each case?
 - b.
 - (1) Obtain and comment on adequacy of all orders governing the operation of Posts 6.22 and 6.22D on the relevant date.
 - (2) Were these orders complied with by all those concerned but particularly by those referred to at (2) a above? If NOT indicate
 - (a) to what extent they were NOT complied with? and
 - (b) the responsibility for non-compliance in each case?
 - (3) Attach copies of all relevant orders as exhibits to your report.
 - c.
 - (1) What systems of communication were available at Posts 6.22 and 6.22D on the relevant date?
 - (2) Were these systems effective and adequate? If NOT to what extent were they ineffective and/or inadequate and who was responsible for same?
 - d.
 - (1) Why was there a failure in communication between Posts 6.22 and 6.22D from 15.40 onwards on the relevant date?
 - (2) Why was no action taken in relation to this matter until 18.30 hours?
 - (3) Should action have been taken in relation to this matter prior to 18.30 hours? If so
 - (a) What action should have been taken?
 - (b) Who should have taken this action?
 - (c) When should it have been taken?
 - (d) Who were responsible for a failure to take action?
 - e.
 - (1) What is the distance between Posts 6.22 and 6.22D?

- (2) Is there visual contact between these posts?
- f. (1) Obtain copies of all incident and other reports made by the personnel of Posts 6.22 and 6.22D for the period 270800 April 1981 to 280800 April 1981. (Attach these documents to your report).
- (2) Obtain copies of unit Journal entries at Posts 6.22D, 6.22, Company and Unit Headquarters for same period. (Attach these documents to your report).
- (3) Report on the evaluation of these reports at Platoon, Company and Unit Headquarters, with reference to any incident which could have been connected with the matter being investigated.
- (4) Did any other incidents occur in the area of Posts 6.22 and 6.22D on 27 April, 1981 which were relevant to the matter under investigation but which were NOT logged and reported. Should these matters have been logged and reported and if so who was responsible for a failure to so log and report them?
- g. Obtain relevant statements from the following personnel
 - (1) O.C. 48 Bn
 - (2) O.C. 49 Bn
 - (3) Comdt Downes
 - (4) Pl. Comd 6.22
 - (5) Pte Russell
 - (6) Pte Reilly
 - (7) Lt Carthy
 - (8) Duty officers at Company and Unit Headquarters
 - (9) Any other personnel who were present at Post 6.22 during the relevant period whether on duty or otherwise.
- h. Report on the system of supply to Post 6.22D as it operated during the relevant period.
- i. Report on the system of supervision, inspection and relief of Post 6.22D as it operate during the relevant period. Did this conform to orders in that behalf?
- j. The evidence before the Board of Inquiry indicated that Pte Doherty was shot 3 times. Three Kalashnikov shells were found. 13(7.62 shells) were found. Were these in respect of rounds fired by Pte Reilly? What significance if any has this to the disappearance of Pte Joyce?
- k. Any other matter arising during the course of your investigation which you should report and any recommendations you may wish to make with particular regard to the operational procedures applicable to the relevant posts.
- l. The Provost Marshal will arrange to provide you with any assistance you may require for the purpose of obtaining any statements or other documents required but this should not prevent you from interviewing witnesses yourself where this is necessary.

W. Prendergast Major General
Adjutant General

APPENDIX 5 - Findings of the Savino Report January 1984

PART IV

FINDINGS

- a. (1) CAPT KIERAN HERBERT was the PI Comd i/c post 6/22 and 6/22D. Although he was a member of 48 Bn, and his replacement LT CARTHY was present, he still retained comd because 49 Bn had NOT resumed op control.
- (2) Some members of No. 5 PI "C" Coy 48 Bn had been repatriated but had been replaced by the incoming PI of 49 Bn so that the PI was up to strength. All men present were on duty at all times as is the norm on active service.
- b. (1) Copies of the orders for posts 6/22 and 6/22D are attached as exhibits "F" and "G", and were adequate.
- (2) The orders were complied with.
- (3) Copies of relevant orders are attached as exhibits.
- c. (1) Posts 6/22 and 6/22D were in communication by PRC "77" radio set. Post 6/22 was in contact with "C" Coy HQ by radio and by land-line.
- (2) Communications were adequate although it would have been desirable to have a second system i.e. a land-line. This was however NOT considered feasible because of the fact that 6/22D was occupied by day light only. Although the radio network was generally reliable there is evidence to show that, on the day preceding the events at 6.22D, there was interference on the net so that "C" Coy used a relay station to contact Bn HQ in TIBNIN. Such interference is NOT uncommon in difficult terrain and in adverse weather conditions.
- d. (1) Bn SOPs required a system of radio checks every hour, on the hour. This is a routine well known to all radio operators and users, and this procedure is practiced at home. The sentry on duty on the roof of post 6/22D understood that he was to contact his outpost, 6/22D every 15 mins and states that he made his last contact with 6/22D at 1340 hrs. In any event there was a Bn and Coy check at 1600 hrs, but from then on the radio man on the roof at 6/22 failed to contact 6/22D.
- (2) It was NOT until 1745 hrs that the sentry on the roof at 6/22 informed anyone that he was unable to make contact with 6/22D. The sentry, PTE McLOUGHLIN then informed his relief, PTE CRONNOLLY, of the situation. In a normal situation the OP party would have left their loc at 1730 hrs to return to 6/22. The landrover, driven by PTE RUSSELL, left 6/22 for DAYR NTAR to pick up the two men at 1800 hrs. When they did not arrive PTE RUSSELL returned and informed the PI Sgt, SGT SCANLON.
- (3) PTE McLOUGHLIN should have reported his failure to contact 6/22D to his PI Sgt immediately after he failed to make contact at 1600 hrs. The "C" Coy HQ radio-operator PTE TWOHIG was listening to McLOUGHLIN trying to contact 6/22D but took NO action other than to warn Pte McLOUGHLIN that he would waste his batteries, and should call less often. Both men showed a lack of awareness by their inactivity. The PI SGT SCANLON should have made sure that all was really "OK" when he visited the sentry. From 1700 hrs onwards the ISRAELI bombing of TYRE distracted all the radio operators as they sent and received reports on the attacks.

- e. (1) The distance between posts 6/22 and 6/22D is 1.5 kms. However such is the difficulty in proceeding from the village of DAYR NATR to post 6/22D that a time for the walk could be reckoned at 15 mins.
- (2) There is NO visual contact between the two posts as the village of DYAR NTAR intervenes and 6/22D is on a reserve slope from 6/22.
- f. (1) There was NO report, other than routine radio checks made from post 6/22D during the entire three weeks that it was in existence, NOR are there any reports logged in 6/22 on the matter. The entire post incident events were handed by OC "C" Coy and OC 48 Bn.
- (2) "C" Coy Radio Log for 27 April 81 is attached as exhibit "M" and Bn Logs for the 27/28 April 81 – (Exhibit "H"), 28/29 April '81 (Exhibit "J") and 29/30 April '81 (Exhibit "K") are attached.
- (3) The actions taken by all the Commanders concerned, in the wake of the events at 6/22D, were commendable and correct.
- (4) In his evidence PTE BARRY O'REILLY states that he heard a local from the village of DAYR NTAR complain to the Post Comd CAPT HERBERT that there were PLO in the village. At that time CAPT HERBERT had set up a checkpoint on the road at post 6/22. CAPT HERBERT says that he took NO action because any vehicle coming from DAYR NTAR would have to pass through the checkpoint and be searched. There is NO other way a vehicle could enter DAYR NTAR as it is on a spur and is unapproachable, except on foot, from any other direction. This fact only came to light when the investigation commenced. However it may have been a ruse by the villagers to apportion blame to the correct source without incriminating themselves.
- g. Statements were taken from all those listed and from others as suggested.
- h. Each morning on going on duty, the men involved carried food and drinks with them to 6/22D. At lunch time further food was brought down and they were visited by the Post Comd of 6/22. All other stores were carried down in the morning and the main meal was eaten in the evening on return to 6/22.
- i. Each morning the Pl Comd went to 6/22D with the duty men and briefed them in situ before returning to 622. The post was visited during mid-morning by the Pl. Comd, and again at lunch time when the food was brought down. There were also visits from time to time by officers from the Coy HQ. This was an adequate system of check and visitation.
The duty was of over nine hours duration which was long but NOT unusual for IRISHBATT POSTS.
- j. PTE O'REILLY states that he fired fifteen (15) shots as a warning when he found PTE DOHERTY'S body. He was hopeful that PTE JOYCE might be hiding near by and would hear and answer his shouts and/or the shots.
The shots fired by PTE O'REILLY had NO bearing on the disappearance of PTE JOYCE. SO D/Ord has stated that KALACHNIKOV rounds could NOT be fired from an FN rifle.

PART V

OTHER MATTERS

"I revisited post 6.22D, now abandoned, on SAT 23rd April 1983. I was accompanied by the PI Comd Post 6.22 and by C/S COYNE MP PI 53 Bn who had been a member of the investigating team from the UNIFIL MP Coy in NAQOURA in April 1980. The scene was almost as when the incident occurred, and the time of day, and of the year, and weather conditions were almost identical. The scene was tranquil and almost idyllic. The raised voices of people working in nearby fields, and of shepherds, and of people in the nearby villages were clearly to be heard. Despite reports to the contrary there is NO evidence of bombing in the TYRE area on that day until 1703 hrs on the evening in question. I am convinced that a number of local people, including the two hunters and the boys who were present during the VIP visit, were witnesses to the subsequent events at the OP. The two hunters may have even been used as a decoy by the killers.

A view over the terrain to the front (i.e. to the WEST) from post 6/22D leads one to believe that it would have been almost impossible for an armed group to cross the terrain without being seen by two trained soldiers who would surely have reported such activity by radio. PTE JOYCE had performed the duty at 6/22D several times before and in the three weeks that the post had been occupied there had been NO report, from the observers, on any suspicious activity.

The post was established by OC 48 Bn as a result of pressure from UNIFIL HQs Staff Offrs who wanted observation over a wide area of the so-called "IRON TRIANGLE". In spite of his reservations about establishing the post in such an isolated location OC 48 Bn did so in order that OC 49 Bn could take over a "going concern" rather than have to set up the post with personnel who did NOT know the area and who would NOT be well versed in OP procedures. The original concept of an NCO and two men for the post was shelved because of the shortage of NCOs.

Although there was NO report of armed element activity by the OP during the three weeks of its existence there is always the possibility that the AE's manning their positions in the "IRON TRIANGLE" area felt threatened by the observation afforded by Post 6.22D. There is NO doubt in my mind but that the perpetrators of the murder of PTE DOHERTY and of the abduction of PTE JOYCE were in an ambush position from an early hour of the 27 April 1981. Whatever their motivation, we have evidence from a shepherd and from a local boy that there were armed men to the SOUTH of the post on the afternoon of the events. It is possible that the two soldiers on duty had relaxed their vigilance after the departure of the VIP party and that they were caught unawares by the AE's coming from their left rear i.e. from SOUTH EAST of the OP. A study of the photograph, taken while the VIP party were being briefed shows that the "77" radio set was on the ground at the rear of the OP. A reconstruction of the incident leads me to believe that PTE DOHERTY was shot as he was bending over to try to send a warning call to 6/22. It would NOT be possible for him to have wounds, where he had them, unless he was in a bent position as his killer was standing above and behind him. It was NOT possible to judge where PTE JOYCE was when the shooting took place, but as a book and the orders were subsequently found to the WEST of the OP it is likely that he was forward of the post when the incident occurred.

The time at which the fatal shooting and abduction occurred is indefinite. The VIP party which visited the OP departed for TIBNIN circa 1500 hrs, and the M.O. Capt T.D. McNAMARA is of the opinion that PTE DOHERTY died before 1700 hrs.

As the two men should have made a radio contact with post 6/22 at 1600 hrs, and as PTE McLOUGHLIN who was on sentry duty on the roof of 6/22 says that he thought he should contact them every 15 mins, it is likely that the murder took place nearer to 1600 hrs.

The delay in realising that something sinister had happened at post 6/22D after 1540 hrs can be explained by PTE McLOUGHLIN'S inexperience and lack of common sense. He was undoubtedly preoccupied with the air attack from 1700 hrs onwards. PTE McLOUGHLIN appears to be a soldier of limited ability and intelligence and is largely inarticulate.

He was newly arrived and was on his first duty on the roof of post 6/22. It is ironic that he and PTE DOHERTY tossed a coin to see who would have choice of duties i.e. the roof or 6/22D. If PTE McLOUGHLIN had chosen 6/22D the incident might have had a different outcome.

When PTE McLOUGHLIN failed to make contact with 6/22D he should have called his PI Sgt, SGT SCANLON and told him of the situation. SGT SCANLON was present all afternoon and says that he visited PTE McLOUGHLIN several times and was told that all was "OK".

SGT SCANLON should have taken more care to ensure that when he visited his sentry on the roof from time to time to check that all was really in order.

CAPT HERBERT as Post Comdr at 6/22 was also remiss in NOT visiting and speaking with the sentry, especially as he was so inexperienced. Both Post Comdr and PI Sgt were in 6/22 during most of that afternoon.

The signaller at Coy HQ in AS SULTANIYAH, PTE TUOHY, should also have taken more intelligent action when he heard PTE McLOUGHLIN repeatedly call 6/22D and get NO reply.

The concept of establishing an OP on overseas service should be founded on a number of factors NOT least which is that Ops in general should be mutually supporting. Post 6/22D was isolated and undermanned and probably would have been equally effective located in a building on the WEST side of the village of DAYR NTAR.

I can recall that there have been, over the year, numerous occasions when UN Ops have been over-run simply taken over by members of the protagonists. UN SOP's require Ops to be highly visible during daylight hours i.e. painted white where possible, flying the UN Flag, and with the letters "UN" boldly painted for all to see. At night, a light is mandatory. If Ops are in contact with each other by radio or landline, and are in sight of each other it should be possible to obtain support when there is a threat.

It is significant therefore that, at two Ops which were NOT "mutually supporting" i.e. 6/22D and latter at TIBNIN BRIDGE, there were incidents of major moment.

The scenario which could be painted of events at 6/22D on the date in question is as follows:-

The OP when set up by OC 48 Bn at the insistence of UNIFIL HQ was to be "a window" into the "IRON TRIANGLE". It gave a good view into the PLO stronghold especially over "HILL 420" which was a heavily fortified position. The PLO factions probably decided to eliminate the OP by surprising the two occupants, disarming them and taking them and their equipment to their HQs nearby, before commencing negotiations for the dismantling of the OP.

The group sent on the assignment, moved early in the morning of the 27 April and lay up, undetected by UNIFIL pers, in a position to the rear of Post 6/22D and on the SOUTH EAST side of the OP. The constant going to and coming from the OP during the day precluded any move before afternoon, when they finally approached the OP. The two men on the post were possibly in a relaxed mood after the VIP visit and were caught unawares. When challenged PTE DOHERTY tried to make a radio call from the radio which was on the ground and was shot three times in the back by the man on the high ground behind him as he bent down. This is the only sound explanation for the path the bullets took through his body. The attackers then took PTE JOYCE and all the equipment with them back to their position. PTE JOYCE's subsequent movements are a mystery. Despite reports of his being taken to BEIRUT and being killed there, there is no evidence to support this claim.

Reports from local DFF sources that he was killed and his body burned in a cave within the "IRON TRIANGLE" would seem to make more sense. Subsequent reports on his movements may well have been "red herrings". However until his remains are found and identified there is NO proof that he is NOT alive.

I have made arrangements for the MIO and MP Offr of 53 BN to carry on the investigation, and I had a meeting with Leb Army IOs to enlist their help in this matter.

There does NOT appear to be any motive for the murder of PTE DOHERTY by PTE JOYCE. PTE JOYCE was, by nature and by background, a quiet and withdrawn individual. He was known to be frugal and careful with his money. When PTE O'REILLY and party went to post 6/22D their intention was to borrow money from PTE JOYCE whom they knew was sure to have some on hand.

PTE DOHERTY was only one week in LEBANON and was comparatively unknown to PTE JOYCE. As this was his first duty at post 6/22D there was hardly a chance of PTE JOYCE and PTE DOHERTY getting on each other's nerves.

PTE DOHERTY appears to have been shot by three aimed shots from a KALACHNIKOV. The cases from these rounds were located by the Mil Police and sent for forensic examination to the UNIFIL MP Coy at NAQOURA. They are NOT to be found NOR is there any report on them extant.

SO D/Ord has certified that he is satisfied that the bullets that killed PTE DOHERTY could NOT have been fired from an FN Rifle.

This seems to eliminate PTE JOYCE as PTE DOHERTY's killer.

Two tragic incidents which took place at about the same period and in the same general area must also be adverted to as they indicate that other UNIFIL contingents were subjected to the same cynical and brutal treatment.

On the night of the 18/19 Jan 1981 three SENEGALESE soldiers were shot to death, at close range, by unknown killers at an OP to the NW of the "IRON TRIANGLE". The three men were killed by 9 mm rounds, fired at short range, probably from pistols. No motive could be established for these killings. The OP was approx. 10 kms from post 6/22D. On the 19th June 1981 two FIJIAN soldiers, taken prisoner after an ambush in the FIJIBATT area, were shot to death by their captors probably in the vicinity of the village of MAZRAAT AL MUSHRIF which is 4 km from post 6/22D.

From these accounts it can be seen that the incident at 6/22D was NOT an isolated one but was part of a pattern of murder committed against UNIFIL troops in the "IRON TRIANGLE" area.

[REVIEWER COMMENT: The incident of 19th June 1981 was over 2 months after the incident of 27th April 1981 and 10 weeks after the establishment of 6.22D on 10th April 1981.] [See P 25 of above].

RECOMMENDATIONS

1. The matter of the investigation into the disappearance of PTE JOYCE must NOT be allowed to die. Until such time as his remains are located and identified, there will always be a doubt about his fate. Enquiries from all possible sources including Leb Army, Israeli Army and local people and their leaders, should be pursued by successive IRISH IO's and MP's in the hope that some light may be thrown on the whole affair. D/Ops should be tasked with keeping up the pressure on IRISHBATT to continue the search, and the contacts made must be kept, and even harassed for information.
2. Operational briefings prior to departure from home should labour the importance of establishing Ops only where there is visual contact with other Ops, and Ops should be opened only when Commanders are satisfied that they can be garrisoned in sufficient strength to maintain their safety. The relevant UN HQ must NOT be allowed to over-ride the Bn Comds view on this matter.
3. There must be continuing efforts made to ensure that personnel selected for overseas duty are of good quality in every way. They must be physically and psychologically ready for duty, and be of a calibre that guarantees survival in difficult and demanding situations.

APPENDIX 6 - Reviewer's Questionnaire for Personnel at Posts 6.22 and 6.22D

1. Where were you posted during April 1981?
2. What instructions were you given?
3. Who posted you?
4. Who were you posted with?
5. What was the strength of your post?
6. What transport was provided?
7. What was the usual frequency of visits by the Platoon Commander?
8. How was support service supplied?
9. What system of communications did you have?
10. What was the frequency of radio or land line calls?

APPENDIX 7 - List of Witnesses

Vanessa Nee (Sister of Hugh Doherty)
Stephen Nee (Brother-in-Law of Hugh Doherty)
Maire Seoige (Sister of Kevin Joyce)
John Seoige (Brother of Kevin Joyce)

Barry Reilly (Private (Retired), C Coy 48th Inf. Bn)
Michael Walker (Private (Retired), C Coy 49th Inf. Bn)
Frank Sumner (Corporal (Retired), C Coy 49th Inf. Bn)

Vincent Savino (Major General (Retired) President of Irish United Nations Veterans Association (IUNVA)
Stephen Murphy (Brigadier General (Retired)) Bn Comdr 48th Bn)
Sean MacNiocaill (Brigadier General (Retired)) Bn Comdr 49th Bn)
Senan. P. Downes (Col (Retired)) Coy Comdr 48th Bn)
Seamus Duffy (Col (Retired)) Ops Officer 48th Bn)
Pearse McCorley (Col (Retired) Military Information Officer 48th Bn)
Kieran Butler (Col (Retired) 48th Bn)
Desmond Travers (Capt (Retired) UNTSO)
Timothy Galvin (Comdt (Retired) 49th Bn)
Michael Rowan (Comdt (Retired) 48th Bn)
Thomas McNamara (Comdt (Retired) Medical Officer 48th Bn)
Victor Laing (Comdt (Retired) Platoon Comdr, B Coy)
Patrick Callaghan (Capt (Retired) MP Officer 48th Bn)
Hugh Carthy (Capt (Retired) 49th Bn)
Kieran Herbert (Comdt (Retired) 49th Bn)
Gerard Beattie (Private (Retired) C Coy 48th Bn)
John Russell (Private (Retired) C Coy 48th Bn)
Maurice Scanlon (Sgt (Retired) Platoon Sgt 48th Bn)
Pte Patrick McLoughlin (Pte 49th Bn)
Brian Ward (Cpl (Ex) 49th Bn)
Joe Martin (Pte (Ex) 49th Bn)
Billy McKinley (Pte (Ex) 48th Bn)
Joseph O'Brien (Tpr (Ex) 48th Bn)
Tom Frize (Cpl (Ex) 49th Bn)
Fergus Ryan (Sgt Major (Ex) 48th Bn)
Patricia Kelly McCrossen (Sgt (Ex) M.P.)
Michael Halloran (Pte (Ex) 48th Bn)
David Mulvaney (Coy Sgt 48th Bn)
Martin Fahy (Cpl C Coy 48th Bn)
Jeoffrey Scariff (Pte (Ex) C Coy 48th Bn)
Martin Kineavy (Pte (Ex) C Coy 48th Bn)
Michael McGirr (Cpl (Ex) C Coy 49th Bn)
Phillip Brennan (Col, D. Ops HQ)
William Barry Lafferty (Pte, C Coy 49th Bn)
Michael Roche (Comdt, CIS Corps)
Pat Spillane (Coy Sgt, CIS Corps)

Padraic Kennedy (Comdt, Military Archives)
Fergal Mac Donald (Comdt, Office of Deputy Chief of Staff (Support))
John Spierin (Col., Director Legal Services)
Peter Richardson (Col., Office of Emergency Planning)
Shane Keogh (Comdt., Litigation Branch)
Richard Brennan (Lt. Col, Legal Officer)
Gerald Aherne (Brig Gen, Retired)
Brian White (Col, Provost Marshall and Director Military Police)
Tom Aherne (Col Director Administration)
Conor Fitzsimons (Col, Irish Representative United Nations)
Conor Bates (Comdt, Strategic Planning)
John McNamara (Coy Sgt (Retired) 48th Bn)
Chris Coyne (Sgt Major (Retired) 48th Bn)
Paul Smith (Sgt (Retired) 49th Bn)
B/S Frank O'Connor (Archives Curragh Camp)
Ann Price, Principal Officer, Department of Defence
Mary Hickey, Higher Executive Officer, Department of Defence