

## CHAPTER 13

### **THE CIRCUMSTANCES UNDER WHICH THE FUGITIVE CHRISTOPHER "DUDUS" COKE MANAGED TO ELUDE ARREST DURING AND AFTER THE OPERATION BY THE SECURITY FORCES OF JAMAICA IN TIVOLI GARDENS AND RELATED AREAS IN MAY 2010, AND THE CIRCUMSTANCES OF HIS CAPTURE**

#### **ToR (P)**

#### ***INTRODUCTION***

13.1. The sources of information and evidential foundations of this Chapter are largely based on the testimony of members of the security forces. We received no direct evidence from the Heads of Intelligence units or any self-acknowledged Intelligence units or analysts except for DCP Hinds. However, we were provided with opinions or assessments, formed by officers in the light of Intelligence reports supplied to them.

13.2. Evidence from residents concerning the escape of Coke would have been of great assistance to the Commission but no such evidence was forthcoming.

13.3. In Part I of this Chapter, the evidence given about Coke's escape from arrest within Tivoli Gardens is reviewed. Part 2 discusses the circumstances of Coke's capture or surrender.

#### **PART 1 – ELUDING ARREST**

##### *24 August 2009 – Coke's Move to Tivoli Gardens*

13.4. As previously indicated, in August 2009, when the Heads of the security forces were alerted to the desire of the USG to seek Coke's extradition,

he left his residence in Belvedere in upper St. Andrew, and went to Tivoli Gardens.

13.5. CDS Saunders gave this answer to a question put to him by Mr. Linton Gordon:

“Having briefed the Prime Minister on 24 August at Vale Royal, both the Commissioner of Police and I left at the same time and I would say that, roughly within probably 5 to 10 minutes of me leaving Vale Royal, I received information that Mr. Coke had fled his residence in Belvedere, upper St. Andrew in a rather hurried manner and drove straight into Tivoli Gardens. The reason the information was so correct is based upon the fact that, as I stated before at this Commission, Mr. Coke had been under surveillance for perhaps two weeks prior to that date.”

*19 and 22 May 2010 – Bishop Blair meets Coke in Tivoli Gardens*

13.6. In Chapters 7 and 12, we reported the initiatives taken by Bishop Herro Blair to try and persuade Christopher Coke to avoid a violent confrontation with the security forces. For the purposes of this Chapter, it suffices to say that on 19 and 21 May, Coke was ensconced in Tivoli Gardens.

*Rev. Al Miller*

13.7. Rev. Miller did not give oral evidence to the Enquiry for the reasons given at Chapter 12.20. As in the case of Bishop Blair, we have already discussed Rev. Miller’s contact with Coke prior to 24 May in Chapter 7. And according to the evidence of CoP Ellington, Coke and Miller met in Tivoli Gardens on 19 May “or soon after”.

*24 May 2010*

13.8. When the internal security operation was launched on 24 May, the security forces believed that Coke was still in Tivoli Gardens, on the basis of Intelligence in their possession at the time.

*COP Ellington*

13.9. The former Commissioner's evidence was:

"About midday on 24<sup>th</sup>, Intelligence was saying that Coke was still in Tivoli Gardens and for the rest of Monday. So according to the Intelligence, Coke was in there for the whole of Monday afternoon. When I was briefed by members of the Intelligence community on Tuesday afternoon (25<sup>th</sup>), they were saying that they strongly suspected that he had escaped the dragnet. Officers on the ground at the time of the operation may have formed their own view of whether he was in there or not."

13.10. CoP Ellington reiterated the Intelligence later in his evidence -

"There was Intelligence that he was there on 25 May until we were finally able to debrief the operation and get to almost a precise timeline of his escape. But up to the evening of 25<sup>th</sup>, we were operating on the basis that he was still there. My Intelligence up to the afternoon of 25<sup>th</sup>, he was there. But the theory is that he, in fact, left in the heat of the gunfire on 24<sup>th</sup>."

*DCP Hinds*

13.11. DCP Hinds was the ACP in charge of the NIB in May 2010. Coke and his organisation were the subjects of NIB's investigation. DCP Hinds told the Enquiry that, on 23 May, Coke "was in a building in Java". He said also, that on 24 May, Intelligence suggested that Coke was in Tivoli Gardens and escaped "during the internal security operation". He said: "I was aware that Coke left the area in the afternoon of 24 May".

13.12. Specifically in answer to Mrs. DaCosta, DCP Hinds stated:

"I got information on 24<sup>th</sup> that Coke was in the community. He left in the afternoon of 24<sup>th</sup> and I got that information. I heard it a few hours after..."

The Intelligence was that he left via the waterways. A gap in the cordon after a soldier was shot may have facilitated his escape.

*ACP Leon Rose and Supt. Warren Turner*

13.13. The head of Mobile Reserve, ACP Rose, believed that Coke was in Tivoli Gardens at 8.00 a.m. on 24 May but he said he was "advised that Coke was not found within Tivoli Gardens sometime in the afternoon of 24 May". DSP Turner said that he "heard that Coke had escaped about 6.00 a.m. to 7.00 a.m. on 24 May".

*Maj. Mahatma Williams*

13.14. The CSB had the specific task of "finding Coke and escorting him to a pre-designated point". So said Maj. Mahatma Williams, commander of the CSB. The CSB's area of concentration was Java and areas East of the Tivoli Gardens Comprehensive High School embracing Levy Path and Derek Path.

13.15. Maj. Williams' evidence is that, between 3.00 p.m. and 4.00 p.m., thirty (30) soldiers went to Derek and Levy Paths with orders to find Coke. They did not find him. Based on Intelligence, the CSB searched two houses which were recently renovated with air-conditioning units. Coke was not in either of the houses. Maj. Williams told us, however:

"My men did not search the Presidential Click."

13.16. Since the searches did not turn up Coke, Maj. Williams "concluded that Coke was not in Tivoli Gardens" and he left that community for Hannah Town. He said that-

"At dark I left Tivoli Gardens for Hannah Town with all of my units. We went to a location in Hannah Town and searched two houses. We found persons, handcuffed them and handed them over."

13.17. In fact, Maj. Williams also gave evidence that the CSB had completed the search of Java and withdrawn to the School by 3.00 p.m.

### *Surveillance Equipment Found*

13.18. Even though Coke was not found within Tivoli Gardens or, indeed, the entire area of operation on 24 May, the searches were not fruitless. As we noted in Chapter 5, an electronic surveillance system that monitored the entry points to Tivoli Gardens was found at one of the houses in Java (15A Dee Cee Avenue) which was believed to be owned by Coke. A man monitoring the system was detained and handed over to the JCF.

### *Possible Escape Routes*

13.19. Planning for the operation envisaged controlling the boundaries of the area of operation and entry and exit points to the Tivoli community. The Southern, Western and Northern boundaries were to be blocked by units of 1JR. On 23 May JDF units were positioned to the South of Tivoli Gardens. According to Lt. Col. Jaimie Ogilvie, soldiers from these units were further deployed on the morning of 24 May to prevent "the exfiltration of gunmen". A similar unit was stationed in the May Pen Cemetery to block possible escape to the West. And there were advance placements to the North.

13.20. As early as Friday, 21 May, a platoon of soldiers was pre-deployed to MSOC and an observation post was established. Similarly, another platoon was assigned to establish vehicle check points along Maxfield Avenue to the North West of Tivoli Gardens. It was hoped to narrow the space available for an escape to the North of Tivoli. The final contingent of 1JR was to enter from the East and create a buffer zone between Tivoli Gardens and the communities to its North. The objective was to prevent gunmen from crossing the Northern boundary of Tivoli Gardens to get into or out of Tivoli Gardens. This final contingent set off at 11.00 a.m. on 24 May.

13.21. Much of this planning had little practical effect once the internal security operation was full blown on 24 May.

## *THEORIES ABOUT COKE'S ESCAPE*

### *CDS. Saunders*

13.22. CDS Saunders advanced a theory of the escape route believed to have been used by Coke, once again on the basis of "Intelligence reports". He said that these reports "allowed a path to be plotted". The following is CDS Saunders' theory of the escape route:

"He left Tivoli via the Chestnut Lane area leading up to Hannah Town and from there we had a number of reports of him being in Hannah Town for a short while but also in the lower St. Andrew area, upper St. Andrew, over into St. Mary and St. Ann. And, during the period we were having those reports, we launched a number of operations to try and capture him. On the night of 24 May he had made good his escape. He had left Tivoli."

### *Maj. Williams*

13.23. Maj. Williams and his unit acted on the Intelligence reports and followed the route that was plotted and reports that were received on and after 25 May. During his evidence, Maj. Williams was asked if time and hindsight had provided any answers to Coke's escape. Supporting CDS Saunders' theory, he said:

"Gen. Saunders gave his evidence and it is consistent with what we accept as the method of escape and the route."

### *CoP Ellington*

13.24. In his evidence, CoP Ellington gave his theory about the prevailing conditions when Coke may have escaped and the possible route he took. He said –

"In the chaos, confusion and intense gunfire it would have been easy for anyone to escape. The theory we have is that he escaped in a Northerly direction out of Tivoli Gardens perhaps using tunnels, heading up through Hannah Town and then into the wider society. There are tunnels leading

out of the community. They were originally constructed as storm water drains.”

13.25. CoP Ellington later testified to this effect:

“What I was told was that whilst the security forces were under intense and sustained gunfire from all quarters, Coke and others seized the opportunity to break through the dragnet and the security forces were not going to shoot fleeing individuals...It seems to me logical that in the heat of gunfire, the war, whatever was the situation created by those gunmen, he could have escaped. I am told that it would have been late in the evening going into the night of the 24<sup>th</sup>.”

*The Circumstances Which May Have Facilitated Escape*

13.26. We turn now to the conditions which may have facilitated Coke’s escape. Some of these have been discussed in other Chapters and are not repeated here in any detail. They include the violent resistance offered by gunmen, disruption or derailing of the plans of the security forces and consequential delays in the advance of the security forces. We have also included in this Part, some mention of the physical environment and the multiplicity of possible escape routes.

*(A) Resistance by Gunmen*

13.27. Maj. Williams’ evidence on 30 June 2015 was as follows:

“I came to the conclusion shortly after things had sort of settled in Tivoli that the areas in which we met the most serious resistance was in the Western approach going into Java and the Eastern approach coming into Coronation Market. Those two areas had serious resistance and, I extrapolated, concerned themselves with the protection of the movement of Coke. In Java we knew that is where he was resident – that was his residence. So when we approached that area, we did meet some serious resistance and we suffered some serious injuries in that particular area of Tivoli Gardens. On the approach from the East to Coronation Market area, the resistance we met there I think

was designed specifically to facilitate his escape which led through, again based on Intelligence, Tivoli Gardens up into Hannah Town, into lower St. Andrew, into upper St. Andrew over into St. Mary and then into St. Ann.”

13.28. We have already reported that the movement of 2JR along Industrial Terrace into Java where Coke was thought to be, was considerably slowed by the effective fire of gunmen. As a consequence, the plan to establish a cordon around Tivoli Gardens was derailed by the conditions of combat and the associated risks to the security forces. According to SSP. Donovan Graham:

“Persons who were placed in the cordon were given specific instructions to pay attention to the waterways – not to be deployed in the waterways – they were to pay attention to the waterways.”

13.29. Similarly, creating a buffer zone and blocking entrances and exits of Tivoli Gardens to and from the North was delayed because of heavy resistance from gunmen. It was in this area that Pte. Green was shot fatally. Lt. Col. Ogilvie explained to Lord Gifford that his Battalion staff was to seal off the Northern boundary on Spanish Town Road and 40 police officers and 100 soldiers were assigned the task using three different directions. But he said –

“Because we could not get in place at a fast enough pace, an opportunity may have been provided to facilitate Coke’s escape.”

13.30. However, although CoP Ellington thought that Pte. Green’s death delayed the creation of a buffer zone, his opinion was not shared by Maj. Henry. He was not convinced that the death of Pte. Green necessarily caused a critical delay in the progress of Bravo Company. As Maj. Henry expressly said -

“The original plan for Platoon #4 to move South was hindered not by the casualties but by the fact that they had to withdraw to MSOC to secure the facility and they were under sustained fire from all directions. The death of Pte. Green and injuries to two other Privates was not the cause of the operation being held up.”

13.31. Maj. Henry was of opinion that it was the intensity and duration of gunfights that caused the delay. He said –

“I expected some resistance and that by mid to late afternoon, I would have secured that buffer... It took me three (3) hours to move 500 metres.”

*(B) The Physical Environment*

13.32. The physical environment may also be regarded as an aspect of the conditions that may have facilitated Coke’s escape. There were several ways out of Tivoli Gardens including pathways, waterways and at least one tunnel. Although it was planned to have police officers observe the waterways, the plan could not be implemented because of the armed resistance offered by gunmen.

13.33. In similar vein to SSP Graham as quoted earlier at para.13.29, ACP Blake said –

“Persons who were placed in the cordon were given specific instructions to pay attention to the waterways – not that they were to be specifically deployed in the waterways...When I displayed the photograph yesterday, I did indicate that it would expose the cordon along Spanish Town Road to abnormally high risks.”

13.34. The Commission was told that, in addition to the waterways, there was a tunnel connected to those waterways that provided a way out of Tivoli Gardens. This tunnel could have been used to evade the security forces since it led from Java to North Street.

13.35. Lt. Col. Cummings made a deliberate attempt to locate this tunnel. He said:

“I found only one that could fit the description or would allow persons to traverse it ...An entrance to the tunnel was in the Java area. It started in a gully and it exited at a manhole on North Street which was covered.”

Lt. Col. Cummings said that he entered the tunnel himself but saw no evidence to suggest that it had recently been used.

## **FINDINGS**

**13.36. We accept the evidence presented by the JDF and JCF that, on 24 August 2009, Coke hastily left his home in Belvedere and immediately sought refuge in Tivoli Gardens. There, he had access to the Presidential Clerk's offices and two houses in Java. Between 24 August 2009 and 24 May 2010, Coke renovated the two houses and made them comfortable. From the standpoint of security, Coke had available to him an electronic surveillance monitoring system by which he would have been able to observe the movements of persons in and out of Tivoli Gardens. This system therefore afforded him a facility to observe the movements of the security forces even before they actually entered Tivoli Gardens.**

**13.37. On the basis of the evidence of Bishop Blair, we are satisfied that Coke was present and in charge of Tivoli Gardens on 19 and 22 May. We also accept CoP Ellington's evidence that Rev. Miller met with Coke before 23 May 2010 in Tivoli Gardens.**

**13.38. We accept the evidence that, on the morning of 24 May, before the internal security operation was launched, Intelligence available to the security forces was to the effect that Coke was still in Tivoli Gardens. The operation was therefore launched in the belief that Coke was in Tivoli Gardens at 11.00 a.m.**

**13.39. From evidence given during the Enquiry, we find that Coke had his own system of Intelligence about the security forces. Accordingly, we do not believe it to be fanciful that Coke, in all probability, was aware of the intentions and movements of the security**

**forces – even from as early as the pre-deployment of JDF personnel on 21 May. Coke would therefore have been both forewarned and forearmed!**

**13.40. Cogent evidence of Coke’s presence in Tivoli Gardens is thin and inconclusive. We have only the evidence of members of the security forces as to the contents of Intelligence Reports. Those reports place Coke in Tivoli Gardens on the day of the operation but there is a certain imprecision in the time lines. According to CoP Ellington, those reports placed Coke in Tivoli Gardens at midday and for the rest of the Monday. Moreover, according to CoP Ellington, the Intelligence also suggested that Coke was in Tivoli Gardens on 25 May. DCP Hinds’ evidence, on the other hand, was that Intelligence suggested that Coke escaped during the operation and he himself was aware that Coke left the area in the afternoon of 24 May. Maj. Williams’ unit searched the area in Java where Coke was believed to have two houses “between 3.00 p.m. and 4.00 p.m.” and they did not find him. This timeline is problematic in the light of other evidence given by Maj. Williams that the unit, specifically tasked to find Coke, had withdrawn to the School by 3.00 p.m. after searching for Coke without success. But whether it was 3.00 p.m. or 4.00 p.m., the information given to CoP Ellington that Coke escaped “late in the evening going into the night” was patently incorrect.**

**13.41. We are bound to conclude that the Intelligence reports of Coke’s presence in Tivoli Gardens on 24 May were wrong or, at best, unreliable. Certainly, it is clear that Intelligence available to CoP Ellington was wide off the mark. How could it be that Coke was in Tivoli Gardens “for the rest of Monday” and not be located by the security forces which had dominated two of the three sectors by Monday evening? And it simply does not accord with commonsense**

that Coke was still in Tivoli on 25 May when all sectors were secured. The Intelligence on which CoP Ellington was "operating" was wholly erroneous.

13.42 We think the truth is that no one really knew for sure where Coke was on 24 May after the operation started, and it follows that no one knew, when he escaped. But clearly, if Coke was not in Tivoli Gardens or not believed to be there on 24 May, the main reason or justification for the operation would have been nugatory. In that context, the actions of the security forces were consistent with their belief that Coke was in Tivoli Gardens on 24 May.

13.43. The absence of supporting or corroborative evidence of Coke's presence in Java should not be taken as confirmatory evidence of his presence elsewhere in the area of operation. But the fact that he was not found within Tivoli Gardens is, in our opinion, evidence that Coke may not even have been in Tivoli Gardens at the time when the security forces first entered Tivoli Gardens.

13.44. We are unable to make any finding as to how Coke escaped. We listened to the theories advanced by CDS Saunders and Maj. Williams and CoP Ellington but such evidence is speculative. In the result, the probative value of such theoretical evidence is of little or no assistance. Likewise, it is pure speculation that Coke may have used the waterways and the tunnel referred to by Lt. Col. Cummings. In the light of his evidence that, when he searched the tunnel, it was not apparent that it had been recently used, it is our finding that Coke, in all probability, did not use the tunnel to effect his escape.

13.45. Finally, arguably, even if the evidence that Coke was in Tivoli Gardens on 24 May is accepted, there were conditions which

**would have hampered the security forces in their efforts to effect his timely arrest. It is undoubted that the progress of the security forces, particularly the JDF (1JR and 2JR) was retarded by stiff resistance from gunmen loyal to Coke. And we do not doubt the assertions of the police witnesses that the JCF officers were unable to observe the waterways owing to the intensity of gunfire. We also find that the progress of Bravo Company was delayed not by reason of the shooting of Pte. Green but by reason of the intensity and duration of gunfights, especially in the area of Coronation Market and MSOC.**

## **PART 2 – THE CAPTURE OF COKE**

### *The Circumstances*

13.46. Twenty-nine days after the internal security operation, Coke was eventually captured/surrendered while travelling in a vehicle on the Mandela Highway towards Kingston. At the time of his capture/surrender, he was in the company of Rev. Al Miller.

### *CDS Saunders*

13.47. CDS Saunders' evidence was that Coke was caught as a result of follow-up operations. He said that –

“Based on Intelligence that Coke was not in Tivoli Gardens, we followed the Intelligence trail. We conveyed the information to the police and he was intercepted. The public had reported in excess of 100 sightings of him. They were mostly false. We had launched a number of operations in lower St. Andrew, upper St. Andrew, over into St. Mary, into St. Ann and we followed that particular Intelligence trail. And so we knew when he was on his way back to Kingston without being in the custody of any law enforcement persons. As a result of that, we were able to effect his capture. He was intercepted.”

13.48. CDS Saunders expanded his evidence –

“The JDF, through its Intelligence resources in combination with that of the police, were the ones responsible for trying to track him down and locate his positions as he was traversing across the countryside. In addition to that, a number of reports had come in, which had to be analysed, assessed and validated which resulted also in operations being launched to capture him. Most of these reports took the format of sightings coming from the civilian population in particular. And as I said in my evidence earlier, it was confirmed on the 22<sup>nd</sup>, the day that he was captured. It was confirmed that he had left St. Ann, the Intelligence resources that picked him up somewhere in the region of Ewarton, Bog Walk. There was a report at the time, if I remember correctly, that he was *en route* to the US Embassy in Kingston to give himself up and he was apprehended along the Spanish Town Highway, if I am correct”

13.49. CDS Saunders cast some doubt on the last sentence of his evidence just quoted. He was reluctant “to accept it as a fact that he was about to surrender. But it is highly probable that he was about to do that.”

*ACP Clifford Blake*

13.50. ACP Blake was on duty at the JDF on 22 June and he received information that Coke was taken into custody and was being held at Spanish Town Police Station. He said to us:

“I flew by helicopter to the station and brought Coke back to JDF headquarters. On 24 June we flew to Norman Manley International Airport and handed over Coke to a U.S. Marshal.”

*Treatment of Coke in Custody*

13.51. Lt. Col. Cummings was tasked to ensure the security of a holding cell for Coke. The Commission was shown a video of Coke in his cell and apparently comfortable. We were informed that his rights were respected and

he was given requisite protection. His attorney-at-law, Mr. Tavares-Finson, wrote a letter to the Chief of Staff, JDF, thanking him and the officers of the JDF.

13.52. The text of Mr. Tavares-Finson's letter reads:

"I wish on behalf of the defence team of Michael Coke to convey our gratitude to the Jamaica Defence Force for the professional and efficient manner in which the process of the extradition was handled while he was in custody. The courtesies which your men extended to us are greatly appreciated by all concerned.

Kindly convey to all our appreciation.

Sincerely,

Tom Tavares Finson"

13.53. While in custody at Up Park Camp, Coke made no statements concerning his escape or his capture. He answered only 12 questions of 182 put him in interview conducted by Supt. Michael Phipps.

## **FINDINGS**

**13.54. We believe that he was able to avoid capture for 29 days because of the power of his vast criminal organisation which must have provided support systems for him.**

**13.55. In the absence of evidence from Rev. Al Miller, we cannot make a definitive finding as to whether he was intercepted on his way to surrender to the U.S. Embassy or whether he was captured as indicated in Chapter 12. It matters not because, irrespective of the nomenclature, it seems to us that he was apprehended as a result of Intelligence and duly handed over to authorities of the USG after waiving his rights to an extradition hearing in Jamaica.**

**13.56** The Commission was made aware that the OPD had contacted Attorneys-at-Law in the USA acting on behalf of Coke, to ascertain whether he was willing to testify at the Enquiry. We were advised that he declined to do so.