

## CHAPTER 2

### BACKGROUND TO THE COMMISSION OF ENQUIRY

2.1. On 24 May 2010, approximately 800 soldiers of the Jamaica Defence Force (JDF) and 370 police officers of the Jamaica Constabulary Force (JCF) carried out an operation, referred to by the security forces as “an internal security operation”, in West Kingston. Although it was a joint operation, each of the Forces had developed its own plan. The JDF’s plan was code-named “Operation Garden Parish” whereas that of the JCF was code-named “Operation Keywest”.

2.2. The internal security operation was focused particularly on Tivoli Gardens and its purposes, according to the JCF, were –

- (a) to execute a warrant of arrest on Christopher “Dudus” Coke (Coke) pursuant to a request for his extradition by the Government of the U.S.A. (USG);
- (b) to capture and arrest other wanted men and “persons of interest”;
- (c) to recover illegal arms, ammunition and illegal drugs;
- (d) to restore normality to the community and shape an environment for community policing.

2.3. Many civilian witnesses who testified at the Commission of Enquiry described the operation as “an incursion”. However that may be, the operation resulted in substantial loss of life, physical injuries to residents of West Kingston, members of the two forces (the security forces), and widespread loss and damage to moveable and immovable property.

2.4. The scale of the operation and its costs in blood and economic value were great and unprecedented in the history of confrontations between the citizenry and the security forces of Jamaica. Two days after the launch of the operation, 69 civilians and 3 members of the security forces lay dead. The United Nations Economic Commission for Latin America and the Caribbean (ECLAC) estimated “the total effect of the unrest” on the economy of Jamaica at J\$22,515.8 billion (US\$258.8 million). Losses suffered by JCF alone, were calculated by that Force at J\$126,150,000. An amount of J\$71,890,000 was paid *ex gratia* to residents by the Ministry of Labour and Social Security (MoLSS) as a compassionate grant to assist them in their recovery and rehabilitation.

2.5. Senior officers of the security forces readily described the operation as an event, the like of which they had never before experienced in their many years of service. Equally, residents of West Kingston who testified at the Enquiry spoke of a frightening experience and being in a continuing state of fear and anxiety immediately before, during and after the operation.

### ***HISTORICAL CONTEXT***

2.6. In order to understand how the events of 24 May 2010 eventuated, it is necessary to pay regard to the historical context. No event of the magnitude of the operation of May 2010 is easily explained in the absence of a sense of history and an appreciation of the factors, forces or persons that influenced the event. Christopher Coke, the criminal gang known as “The Presidential Click” or “Shower Posse”, the community of Tivoli Gardens and previous confrontations between the residents of West Kingston and the security forces, are matters central to the events of May 2010.

### ***CHRISTOPHER COKE***

2.7. The Deputy Commissioner of Police in charge of the Crime Portfolio, Mr. Glenmore Hinds, gave evidence before the Commission about Coke

and the Presidential Click. In May 2010, Mr. Hinds was the Assistant Commissioner of Police in charge of the National Intelligence Bureau (NIB), and his evidence was that Coke and the Presidential Click were under investigation and surveillance.

2.8. Coke was the leader of the Presidential Click and had a base in Tivoli Gardens. Police Intelligence held that Coke had 2 residences within Tivoli Gardens in addition to a more lavish and expansive residence in Red Hills, St. Andrew. His family had played leadership roles within the Shower Posse. His father, Lester Coke, (a.k.a. "Jim Brown"), led a gang in Tivoli Gardens before his death in prison in Jamaica while awaiting extradition to the U.S.A. One of Coke's brothers, "Jah T", was killed during a gang feud on Maxfield Avenue. The Presidential Click, therefore, was "a family business with a hereditary leadership". Coke took the sobriquet "President" and his girlfriend was popularly known as "The First Lady".

2.9. According to DCP Glenmore Hinds, Coke was regarded as the pre-eminent 'Don' or 'Area Leader' in Jamaica. He was the leader of gangs affiliated to the Shower Posse, including gangs in Fletcher's Land, Southside and affiliates in Tampa, Miami, Ohio and the United Kingdom. Coke surrounded himself with other citizens and criminals loyal to himself. His base was in Tivoli Gardens and he was a significant benefactor to the community. His criminal enterprise was financed through activities such as drugs trafficking, arms trafficking, robbery, extortion and kidnapping. The reach of the Shower Posse extended to St. Catherine, Clarendon and other parishes.

2.10. Retired Senior Superintendent of Police, Delroy Hewitt, was the senior police officer responsible for West Kingston (2004-2009). He had first-hand knowledge of the gang subculture in West Kingston where gangs operated in Arnett Gardens, Rose Town, Matthews Lane, Hannah Town and Craig Town. SSP Hewitt said –

"The gang in Tivoli was supreme but it had satellites elsewhere. The Presidential Click was well organised and well-armed. Coke ruled Tivoli Gardens with an iron fist. The penalties for breach of the principles he laid down included death. There were also beatings and shootings.....Under "Jim Brown", the role of the gang was political, defending the *status quo* of the political party (JLP). Under "Dudus", it changed to a criminal enterprise, with a heavy concentration on amassing weapons."

2.11. Commissioner of Police Ellington (CoP) and Chief of Defence Staff Major General Saunders (CDS), in a joint letter to Prime Minister Golding on 17 June 2010, also adverted to the subculture of gangs and the threats, which they were posing to national security. *Inter alia*, these Heads of the security forces wrote:

"There are currently 257 active gangs operating in Jamaica. These active gangs traditionally operate along political lines but in recent times they have collaborated and in some case fight with gangs of the same political persuasion. The most active, organised and motivated gang operating in Jamaica is the Tivoli Gardens Gang.....There are several other gangs in Jamaica but they do not possess the same level of organisation, command and control, weaponry or funding as the Tivoli Gardens Gang. The gangs are funded by extortion, proceeds from the sales of drugs, guns and ammunition that they use to perpetuate their criminal acts. The areas of greatest gang concentration are Kingston and St. Andrew, St. Catherine, Clarendon and St. James. Gang activities account for the greatest amount of murders in Jamaica in the last six years".

Their letter further stated:

"Over the years the gangs, having greater access to money, have significantly bolstered their weapons arsenals and are in some cases better resourced than the security forces..."

2.12. In the book "*Gangs in the Caribbean – Responses of State and Society*" (published in 2015 by the University of the West Indies Press), one of

the contributors and editors, Professor Anthony Harriott, a member of this Commission, writes at p.214:

“The Presidential Click is not a typical criminal group, but rather a high intensity and *high impact* case. It is one of the most powerful, oldest and most resilient criminal groups in Jamaica, and even has links to national power circuits via its alliance to one of the nation’s major political parties. The Click is further connected with global criminal networks that enable the exploitation of illegal activities beyond Jamaica’s borders. While the group has both licit and illicit sources of income, at its core, their wide range of illegal activities demonstrates their tendency towards violent entrepreneurialism. The Presidential Click has an exceptional relationship with the host community that it is deeply embedded in. The nature of this relationship consists of high levels of cohesion, stable leadership and, for the most part, uncontested leadership transitions. Most of all, the Presidential Click is known for its use of violence as a disciplinary tool in the maintenance and replication of the Garrison phenomenon, its violent conflicts with other groups and with law enforcement, and the exploitation of its reputation for violence to extract protection fees and various forms of tribute and rent from its victims including other criminals. Many regard this Jamaican organised crime group as one that most closely approximates what Anton Blok (1974) describes as mafia.”

2.13. DCP Hinds said that Coke’s leadership was unchallenged and he described Coke’s position in the Tivoli Gardens community in this way:

“He operated a surrogate government. He operated his own court and persons who breached his code were brought to him, tried and sentenced.”

2.14. Former Commissioner of Police, Owen Ellington, described Tivoli Gardens under Coke’s suzerainty as “a state within the State”. Evidence before the Commission revealed that utility companies such as those providing electricity, water and telephones were unable to go into Tivoli Gardens to collect outstanding monies due to them. In fact, for very many years, residents of Tivoli

Gardens received the services of utility companies but paid no money for them. According to DCP Hinds, Coke himself collected payment for these services.

### ***Perspective of a Gunman***

2.15 Supt. Beau Rigabie on 31 October 2015 produced in evidence a diary of a gunman, Cedric Murray, alias "Doggie". Extracts from that diary speak graphically of Coke and the loyalty that he attracted. Murray was deeply engaged in the confrontation between the security forces and criminal elements loyal to Coke, on 24 May 2010. The entry in Murray's diary for 24 May 2010 states as follows:

" Invasion of Tivoli Gardens by babylon, the enemy, gunshots rang out from every corner of West Kingston and other places of K.G.N. to protect the man Don of all Dons, Christopher Coke, AKA-Dudus. The security forces murdered and rape the innocent peoples and torment the peoples for days & nights, this is a wrong that cant be corrected so many lives for what, just to prove to USA and still come up empty. The Man they come after is still free and safe, my Don and friend alway. It was a raging gun battle a day I wont forget and such tragedy for Jamaica more than 75 people died by babylon, man, baby and woman, they came in and slaughtered all those people to catch one man and still did'nt. Because their motive was all wrong I escape one of the last from where I was under crazy gun fire, but God, grace, mercy brought me out untouched. Don is free I will always say Jim Brown, I am loyal to the Coke family and my gun will always be ready. I may never see my Don again or maybe years to come. But I will always be there for him. Dudus is a good man and a gentle man..."

Further, the entry for 22 June 2010 is also illustrative of Murray's loyalty towards Coke. He wrote:

"Today Christopher Coke-AKA-Dudus AKA-President, was arrested. Some say he was on his way to turn himself in but was sidelined. I am deeply affected but he is still and always will be my Don, I now wonder with both brothers in Jail and TG in a state of confusion whats next with babylon, also can me a wanted man ever returned, who can I trust but still TG, will build back..."

## ***TIVOLI GARDENS – A GARRISON COMMUNITY***

2.16. Tivoli Gardens was the most significant garrison community in Jamaica. Various eminent Jamaicans have described the phenomenon known in Jamaica as “a garrison community”. These have included former Chief Justice Lensley Wolfe, Professor Barry Chevannes, former Justice of Appeal, James Kerr, and Mr. Frank Phipps OJ Q.C.

2.17. Justice Kerr explained the creation of garrison communities thus in the Report of the National Committee on Political Tribalism (1997):

“Garrison communities are created by:

- (i) the development of large-scale housing schemes by the State and the allocation of houses therein to supporters of the party in power;
- (ii) homogenization by the dominant party activists pushing out the minority from within and guarding against invasion from outside; and
- (iii) the expelled setting up a squatter community.”

2.18. Dr. Barry Chevannes is quoted in the said Report as describing a garrison community as under the control of a Don. He says:

“Entry and exit to and from these communities are controlled by the so-called ‘top ranking’ and gang leaders who have close relationships with the Member of Parliament for the constituency, get preferential access to contracts and jobs and function as key elements of the local level community political leadership in both [political] parties in these inner city poor areas. These constituencies are made up preponderantly of these “garrison communities” where organised political gangs with high-powered M-16 and AK 47 rifles and sub-machine guns control clearly defined political boundaries and territories where political protection insulates them from the reach of the security forces.”

2.19. The distinguished Queen's Counsel, Mr. Frank Phipps OJ, submitted a memorandum of recommendations in response to the Commission's invitation to the public to further participate in the Enquiry. Mr. Phipps' observations on a garrison are as follows:

"A political garrison is organised on the basis of its own concept of law for security and internal government. The leader or head of the garrison is the *Don* who exercises total control and absolute power in the organisation...Garrisons are funded from various sources using actions of dubious legality – a crooked attempt at the *Robin Hood Philosophy*. Loyalty and obedience to the Don are enforced by his personal system of justice as judge and executioner, with rumour of punishment as extreme as mutilation and death. Political party dissent is not allowed in a constituency with a garrison, thereby denying voters their democratic choice and popular consent for elections for representation to Parliament, and, by extension, for Prime Ministers."

2.20. Police Intelligence revealed that the residents of Tivoli Gardens learnt over time "to see no evil done by the gang and to speak no evil of the gang", in the words of DCP Hinds. No one could report any crime to the law enforcement agencies of the State. A code of silence ensured that the JCF was unable to obtain witness statements to assist in the investigation of crimes. SSP Hewitt described Tivoli Gardens as "a closed community where there was a culture of silence". But, he added, "we still got Intelligence. The culture of silence still persists but to a lesser extent out of a fear of reprisals". He said that, every time something serious happened in Tivoli Gardens, he knew. "Whenever a murder was committed, we knew, but we could not get the evidence to prosecute."

2.21. Both CoP Ellington and DCP Hinds testified that, for 30 years before 2010, the JCF was unable to do "regular policing in Tivoli Gardens". This was not an abdication of the JCF's responsibilities to serve and protect the nation in the opinion of Mr. Ellington. It was rather a recognition of danger. It was explained to the Commission by CoP Ellington and SSP Hewitt that, if the JCF

attempted to enter the community to pursue investigations, they would almost certainly be killed by the gunmen who inhabited the area. There was evidence of police officers shot and killed while patrolling the area.

2.22. However, notwithstanding the presence and influence of gangs in Tivoli Gardens, it must be made clear that the vast majority of the residents are, as SSP Hewitt emphasised, "decent, law-abiding persons but are trapped by the status quo. They don't have guns".

2.23. We have little doubt that Tivoli's characterization as a garrison community and many of the problems and violence it encounters with the security forces are directly related to its peculiar character. We are indebted to our colleague, Professor Harriott, for his enumeration below of the most relevant features of a garrison community.

- (a) Political homogeneity and non-competitive politics based on a monopoly holding Party. Political competition is not tolerated. This is not entirely a matter of persons of one political affiliation freely choosing to live together and the uncompetitive politics being the outcome of free political competition, the power of political persuasion and the enduring high performance by one political Party. Rather, the process involves a measure of coercion and a process of making life uncomfortable for affiliates of the opposing Party so that they are either silenced or are forced to leave. The garrison is a highly politicised local environment. The activities of the security forces and, indeed, most activities that are not welcomed tend to be viewed through a political lens.
- (b) The politicization of crime control is a method of resistance to law enforcement that has had the effect of making the community a safe haven for gang leaders who are depicted as "community leaders". These are dedicated to the social advancement of the community.

Activities of law enforcement are perceived as destabilising a healthy relationship between the community and its leaders.

- (c) Collectively acquired benefits as a group that distinguish it from other groups in the society. Thus, these are not benefits that are equally accessible or proportionately accessible to other groups. Such benefits include privileged access to State resources as well as collective benefits derived from the power of the resident criminal group which regulates access to the communities. Free access to utilities, such as water and electricity, are benefits that are the outcome of criminal power. Consequently, entry to the community is denied to officials of utility companies who wish to read meters or terminate services.
- (d) High community cohesion based on shared experiences, common political affiliation, a sense of belonging, and existing in a hostile environment with many perceived enemies either in the security forces or in other communities. Protection of self and the community are therefore accorded high priority.
- (e) This cohesiveness, born of political and social sameness, allied to a siege mentality, is exploited by powerful criminal groups. They nurture community support through various welfare-type community programmes. The Commission heard supporting evidence of this reality. The garrison thus becomes a safe haven for powerful criminals and gang leaders become influential community leaders.
- (f) Surveillance and control of entry to the community are other features. The Commission of Enquiry (2001) highlighted the problem of ingress and egress by the security forces and the Report of the National Committee on Political Tribalism (1997) identified this problem as a feature of all garrisons.

- (g) Rule-making and rule enforcement by the gang apply to all whether gang members or the members of the community.

2.24. All of the features adumbrated by Prof. Harriott, present severe risks and challenges for law enforcement. Thus, the 2001 Commission of Enquiry wrote:

“There was abundant credible evidence from which it may be inferred that the twin issues of garrison communities and political tribalism cannot be eliminated as a feature of political and cultural life in Jamaica unless Tivoli Gardens is brought under the complete control of the JCF.”

### ***HISTORY OF VIOLENCE IN TIVOLI GARDENS***

2.25. The JCF wished to enforce the law in Tivoli but were cognizant of past experiences. In 1997, Coke’s gang barricaded Tivoli Gardens. The police tried to clear the barricades and were shot at. This was the time of a bitter feud between persons from Tivoli and another group from Wilton Gardens (Rema). One of Coke’s lieutenants was killed.

2.26. In 2001, there was a bloody confrontation between the security forces and residents of Tivoli. Twenty-seven persons were killed and a Commission of Enquiry was established. How these persons met their deaths has never been established. No one was held legally or administratively accountable for their deaths. The Commission of Enquiry concluded that – persons wrongfully met their deaths but individual legal culpability could not be determined from the available evidence.

2.27. When one of Coke’s brothers was killed in 2005, there was yet another violent engagement between residents and gunmen of Tivoli and the JCF. Police stations were attacked and damaged during a significant gunfight. Indeed, there have been several lower-intensity, small group, violent confrontations between gunmen and the security forces and politicised gang

wars in Western Kingston which, in the decade 2000-2010, have left many dead, injured or rendered homeless. Warring gang members caused interventions by the security forces.

2.28. Over time, there has been a discernible pattern of lengthy, high intensity, violent confrontations, some of which have had major national, political and economic impact. There have been significant numbers of casualties beyond what may be expected of normal law enforcement operations. And there have been complaints of serious and wide-ranging abuses of power and violations of citizens' rights by the security forces. The pattern of confrontations is a serious problem for the people of West Kingston and the whole of Jamaica. It is a problem that is impatient of a solution that will dissipate the pattern.

2.29. For many years prior to May 2010, there was no police station within the Tivoli Gardens community itself. However, after 24 May 2010, the JCF established a police post within Tivoli Gardens at the premises which formerly housed the Presidential Click.

2.30. Paras.3.1 to 3.5 of the ***Interim Report of the Office of the Public Defender***, dated 29 April 2013, adequately describe the origins and development of Tivoli Gardens for the purposes of this Report and we respectfully reproduce those paragraphs below:

“3.1. The historic Jamaican inner-city community of Tivoli Gardens rose from the rubble of the slum called “Back o’ Wall” which was demolished in the mid-1960s. Back o’ Wall was a dehumanising, dirt poor, labyrinthine squatter settlement of dirt-poor, zinc and board or walthe-and-daub shanties and hovels, criss-crossed by a maze of narrow earthen footpaths; densely populated; bereft of plumbing and electricity; with distinctly poor sanitation.

3.2. The locality (now characterised by modest but tidily kept concrete tower block dwellings) derives from a social construct: a modular concept of comprehensive urban transformation developed by the Most Hon. Edward Seaga,

former long-serving MP for West Kingston and himself a former Prime Minister. He was Minister of Development and Works when Back o' Wall was flattened. At the time it had been regarded as a People's National Party (PNP) stronghold.

3.3. Tivoli Gardens features a Community Centre which offers training in art, craft, music and dance; a maternity centre and infant school; a church, small grocery shops and other business outfits; a few small parks (green areas) and a relatively large playing field – all in the same complex. Thus, it is an almost self-sufficient enclave.

3.4. Over the years, residents of Tivoli Gardens have excelled in many forms of artistic expression and sport, across all age groups, winning many competitions, awards and trophies; sometimes international recognition or acclaim. The community has for umpteen years been regarded as a prime example of the Jamaican phenomenon called "the garrison". In fact, Rear Admiral Hardley Lewin, a retired Chief of Defence Staff (later Commissioner of Police), once famously described it as "the mother of all garrisons". Over time also, it came to be thought of as a citadel of sorts; the seat of an infamous cross-border crime syndicate named the "Shower Posse", the reputed head of which was Christopher Coke, "Dudus", "the President". He grew up there." – See also Prof. Harriott p.238.

### ***The Presidential Click and the Shower Posse***

2.31. CoP Ellington spoke in evidence about the Presidential Click. He said that it was classified by the JCF as "a third generation gang".

"It was a very, very large criminal gang involved in enterprise activities and it made significant social investment in the community and even the loyalty of a large number of persons in various communities. It was a gang that resisted any attempt by the security forces to enforce laws in the space they occupied....

The Presidential Click presented themselves as a kind of surrogate government within the community providing goods and services. They even prevented the utility companies from coming in and collecting revenue for water

and electricity. That kind of criminal enterprise was not seen elsewhere in Jamaica. That is why we anticipated a high level of resistance from the criminal elements who came to join them and unleash criminal violence against the JCF.....It was an extraordinary challenge for the State and its governance by criminals who decided that the first targets to strike at would be the security forces. If they were able to break our will, they believed that we would not be able to enforce the law against Coke.”

2.32. The Presidential Click significantly undermined good governance in the areas they dominated and they extended their influence to other parts of the country. Professor Harriott’s Chapter 7 in the book referred to at para.9, is an in-depth exposition and analysis of the Presidential Click and the Shower Posse which bears re-visiting.

2.33. At p.235 the author describes the Presidential Click as -

“perhaps the most powerful organised crime group in Jamaica. It is a highly structured community-based group that is very cohesive; its core is composed of members who reside or who resided in Tivoli Gardens at some point during their criminal careers. The Presidential Click also includes affiliate members and units that are drawn from the neighbouring communities. These are satellite units of the group that are treated as subordinates. ... Beyond these two layers of the Presidential Click is a much less cohesive transnational network. This larger network is called the Shower Posse. The Presidential Click may thus be viewed as a distinct part of the Shower Posse, which is a loose transnational organised crime network.”

2.34. The Click operates at three levels, viz. (a) the first level comprised ordinary street criminals who rob and turn over their loot to Coke; (b) the second level, uses its territorial monopoly and national/transnational networks to exploit criminal and corrupt opportunities beyond the street level. At this level, it operates as a criminal enterprise engaged in the illicit supply of goods and services; (c) at the third level of functioning, the Click crosses over into political

activity, using its political relationships to exploit corrupt opportunities in the public sector, especially in the construction industry. - See Harriott p.237.

### ***Tivoli Gardens in 2010***

2.35. Tivoli Gardens is located in the South-western quadrant of the capital city of Kingston. In 2010 it was estimated to have a population of approximately 10,000 persons. Like many other urban inner-city communities, Tivoli Gardens suffers from the problems of unemployment and under-employment. SSP Hewitt, in a memorable phrase, stated that his experience impelled him to the view that in Western Kingston –

“There is a cadre of uneducated, unemployed and unemployable young people.”

2.36. The combination of these structural features constitutes a challenging set of risk factors which may reasonably predispose to youth violence and street gang involvement. And these are compounded by access to illegal firearms and evidence of material success via criminality. Coke, to be sure, was a symbol of criminal success.

2.37. Building upon the observations of the Public Defender cited above at para.2.25, we heard evidence of the accomplishments of the community in sports, the arts, local health care provisioning and educational upliftment of the youth. This observation was strongly endorsed by Mr. Phipps in his memorandum to us. The community takes pride in the achievements of its young people. These achievements would hardly have been possible if there had not been, among many persons, adherence to the core values of the society and cultivation of virtues which conduce to success by conventional means.

2.38. It was manifest, from the evidence presented to the Commission of Enquiry, that the community of Tivoli Gardens is cohesive and its members have

a strong sense of belonging to it. Nevertheless, there are also differences in attitudes to community structures, leadership and gang activity.

2.39. We heard evidence from residents who expressed positive opinions about Coke and his administration of the affairs of the community, his emphasis on discipline among children and his generosity towards the needy. It was noteworthy, however, that these same witnesses appeared wedded to a code of silence when questioned about Coke himself, gang activities or criminality within the community. Other residents spoke of avoiding participation in community activities that brought them into contact with anti-social elements and they promoted a similar avoidance among their children. It is as though they try not to know by practising non-participation.

### ***Tivoli Gardens and the Security Forces***

2.40. The relationship between Tivoli Gardens (and so many other urban communities) and the JCF is marked by a history of distrust. In the case of Tivoli, this distrust is an intense expression of a national trend. One witness stated bluntly:

“No garrison community likes the police because they brutalise us. Nobody in a garrison area likes police.”

2.41. So, distrust of law enforcement serves as a kind of glue binding the community and the gang e.g. the Shower Posse. Moreover, distrust of the police is exploited to reinforce the code of silence which protects the criminal group. Distrust and the code of silence lead to avoidance of law enforcement even to the point of creating alternative systems of discipline and punishment. These alternative systems are brutal impositions on the community and probably amount to a trade-off of individual rights and the very rule of law in return for security administered by a powerful criminal group.

2.42. In our opinion, the history of prior conflicts and confrontations, the tradition of distrust of the security forces, especially the JCF, the generally poor relations between residents of Tivoli and the JCF, and the massing of armaments by Coke and his loyalists, all served to inform the approaches by all sides in 2010.

### ***Coke's Relationship with Prime Minister Bruce Golding***

2.43. Coke was a strong supporter of and advocate for the Jamaica Labour Party (JLP). Mr. Golding said that he knew Coke and had conversed with him "a number of times, the last being in December 2007". Mr. Golding said that, about that time, the security forces informed him that they wanted certain men in connection with serious crimes. The men were associated with the Stone Crusher Gang and the information relayed to Mr. Golding was that the men were hiding in Tivoli but the JCF was apprehensive about arresting them in Tivoli. Mr. Golding testified that he sent an emissary to Coke with the information and Coke replied that there were no such persons in Tivoli Gardens and, if they were there, he would have known. We got the impression that after that incident relations between the two men became less cordial, and it seems to us that Mr. Golding thought that he had been deceived by Coke.

2.44. Mr. Golding agreed that Coke was a "Don" who exerted considerable influence in the community and the constituency. He explained the concept of "Don" this way:

"A Don is a creature of communities in many parts of Jamaica. He exerts considerable influence and commands considerable support. Some Dons are heavily involved in drug trafficking. In some communities they are called "Area Leaders" and some of these are involved in criminality. Coke had a reputation beyond West Kingston in several parts of Jamaica."

### ***Matters Precipitating the Events of 24 May 2010***

2.45. Coke's illegal activities and his deep involvement in organised transnational crime brought him to the attention of the Government of the U.S.A. (USG). On 24 August 2009, the heads of the security forces of Jamaica received information that the USG was actively seeking Coke's extradition from Jamaica. CDS Stewart Saunders and Rear Admiral Hardley Lewin, then Commissioner of Police, immediately apprised Mr. Golding and the then Minister of National Security, Hon. Dwight Nelson, of their information. Coke was then living in Belvedere, Red Hills, St. Andrew. Almost immediately after the Security Heads met with Messrs. Golding and Nelson, they received Intelligence that Coke had fled from Belvedere to his base in Tivoli Gardens, West Kingston.

2.46. The Government of Jamaica (GoJ) took nearly nine months before deciding to issue a warrant of arrest for Coke. During this hiatus, the security forces began to plan for a joint operation to arrest Coke. On his part, Coke continued to amass a substantial armoury and recruit a large number of mercenaries to protect him from arrest.

2.47. On 17 May 2010, the Prime Minister announced to the nation that the GoJ would commence the extradition process to have Coke arrested. Persons loyal to Coke intensified preparations to resist any attempt to arrest him. The general population became very anxious and apprehensive. They feared a repeat of previous violent confrontations between gunmen in West Kingston and the security forces.

2.48. Matters came to a head on Sunday, 23 May. Criminal elements launched a series of attacks against police stations in West Kingston and related areas. These attacks were of such intensity that the Heads of the security forces sought and obtained an urgent meeting of the Cabinet of Jamaica. The

deteriorating security situation was explained to the Cabinet which authorised the declaration of a State of Emergency.

2.49. The next day, 24 May 2010, the security forces moved into West Kingston. The sequelae to the operation mounted by the security forces were noted at para.2.4 (supra). We discuss the matters referred to in paras.2.41 to 2.45 in detail in Chapter 3. Suffice it to say, for the moment, that the events of May 2010 greatly disturbed the population of Jamaica.

### ***The Demand for a Commission of Enquiry***

2.50. We were aware that the public sought an understanding of the events of May 2010 and the inherent risks posed to citizens' safety and national security. There was an even more robust demand for an accounting of the massive loss of life. Plainly, the demand for accountability was conditioned by the reality that lives matter. No self-respecting democracy could simply give victims money and then just forget about the events which affected those lives. Such behaviour would represent a devaluation of life, a disregard for the rule of law and an indifference to Jamaica's future.

2.51. Many eminent Jamaicans called for a Commission of Enquiry. On 29 April 2013, Mr. Earl Witter Q.C., the then Public Defender, submitted to Parliament an Interim Report concerning his investigations into the conduct of the security forces during the State of Emergency declared in May 2010. One of Mr. Witter's principal recommendations was in these terms:

"That a thorough-going Commission of Enquiry be appointed to conduct a judicial enquiry into the activities of the State Security Forces and illegal gunmen during the State of Emergency 2010."

CoP Ellington told us that the JCF "publicly supported the Commission of Enquiry".

2.52. There was and is a co-existing cynicism about Commissions of Enquiry and indeed this Commission. This cynicism is rooted in the notion that Commissions of Enquiry are: (a) mechanisms of delay in and diversions from dealing with important matters of public concern with respect to the conduct of political administrations and State institutions; (b) are likely unwilling tools of political partisanship; (c) have little corrective impact on the issues they investigate; and (d) their financial costs outweigh any potential benefits flowing from investigations.

2.53. We did not and do not accept those views. Commissions of Enquiry can and often do have a cathartic effect and may indeed be transformative. In the Commonwealth Caribbean, the Report of the *Moyne Commission* (1937) laid the foundations for widespread social, economic and political change in the region. In Great Britain, the Report of Lord Saville's Commission of Enquiry into events in Northern Ireland in 1972 – the "*Bloody Sunday Massacre*" – revealed that the conduct of the Armed Forces was both unjustified and unjustifiable. In most cases, the sequel to a Commission of Enquiry depends upon the political will to act upon the findings and recommendations of the Commission.

2.54. We sincerely believe that, by the conclusion of the public hearings of the Commission, it had gained widespread public support and respect. This opinion is reinforced by the turnout of residents of West Kingston who indicated a desire to testify and the relatively large number who voluntarily testified. When the Commission visited Tivoli Gardens on the 24 April 2015, the masses of residents who interact with the Commissioners was in every respect a humbling vote of confidence in the Commission.

### ***Political Support for the Commission***

2.55. The Commission has enjoyed a measure of bi-partisan support. It was established during the administration of the People's National Party (PNP) but former Prime Minister, Hon. Bruce Golding, came to the Enquiry as a witness and told us that his administration (the JLP) had fully intended to establish a Commission of Enquiry into the events.

### ***Conclusion***

2.56. First, we believe that the Commission served to facilitate the voices of those who suffered and felt aggrieved. They were able to recount and even re-enact their experiences – with the nation as an audience. Secondly, the Enquiry served to highlight certain constraints on power in Jamaica's democracy. Symbols of accountability were seen through the testimony of the former Prime Minister and former Ministers. The Enquiry also provided a platform for demonstrating the accountability of the security forces. A third outcome of the Enquiry is surely that it was a mechanism for trying to resolve grievances against the State and contributing to the delivery of justice in Jamaica.