

CHAPTER 5

THE ALLEGATION THAT PERSONS WERE ESPECIALLY ARMED TO REPEL ANY LAW ENFORCEMENT EFFORT TO CAPTURE THE FUGITIVE CHRISTOPHER "DUDUS" COKE AND, IF SO, BY WHOM

ToR (E)

AND

THE CIRCUMSTANCES CONCERNING THE RECOVERY OF ILLEGAL FIREARMS AND OTHER MUNITIONS IN WESTERN KINGSTON OR ANY RELATED OR AFFECTED AREAS

ToR (M)

INTRODUCTION

5.1. In this Chapter, we have combined two of the Terms of Reference, viz. (E) and (M), because of their inter-relationship and in order to reduce the potentiality for repetition. We have approached these Terms of Reference under two broad heads, namely the pre-operation phase and the post-operation phase.

5.2. In the former, we review the evidence of members of the security forces who were kept conversant with regular Intelligence reports of what was happening in Tivoli Gardens and other areas of West Kingston. We also pay due regard to the video and photographic evidence adduced to the Enquiry. The post-operation phase includes a review of the evidence concerning the search for and recovery of weapons and ammunition. We were very well assisted not only by oral evidence but also by photographic and documentary evidence.

5.3. The video footage of events in Tivoli Gardens prior to the launch of the operation and the photographic evidence as well as affidavit evidence of several soldiers who participated in the search for illegal weapons and

ammunition were compelling. The total evidence was of such a nature and quality as to enable us to draw reasonable inferences therefrom.

PART I
THE PRE-OPERATIONAL PHASE

5.4. For some months prior to 24 May 2010, the Intelligence gathering units of both the JDF and JCF were able to provide reports on a daily basis of the preparations of the criminals in West Kingston and related areas. By the time of the Prime Minister's announcement on 17 May that the Attorney-General would sign the ATP, the security forces had a reasonably clear appreciation of the nature and extent of the threat likely to be posed by criminals loyal to Coke.

5.5. After the tragic confrontation between the security forces and criminals in 2001, the JCF stepped up their Intelligence-gathering efforts on the Presidential Click/Shower Posse and, as CoP Ellington told us, the JCF was "always kept abreast of developments in the criminal landscape."

5.6. He further explained –

"Since 2001 the gang (Presidential Click/Shower Posse) had invested in improving its weapons system, for example, buying .50 calibre weapons, shoulder-mounted weapons and putting explosives in barricades. We knew for a long time that the gang was a major hub in the supply chain of illegal guns and ammunition going to the criminal underworld. So the Presidential Click had more and better weapons than other gangs."

5.7. DCP Hinds revealed that the JCF gathered Intelligence "by telephone and other intelligence sources in the area and from persons with access to the community." He said that these sources "were impeccable and had a well-developed understanding of the Tivoli gang".

Changing Nature of Resistance

5.8. Both of the security forces were accustomed to elements of the population demonstrating their opposition to or resentment of activities of which they disapproved by burning tyres or blocking roads with debris.

5.9. However, in May 2010 and prior to the launch of the operation on 24 May, the security forces became aware that the criminal elements in Tivoli Gardens and West Kingston had planned a new and different method of physically fortifying Tivoli Gardens to prevent Coke's arrest and were planning a massive arming of gunmen. Indeed, CoP Ellington said that when he met with Bishop Herro Blair on 22 May to discuss having Coke surrender peacefully, the Bishop told him that he had never before in his life seen so many rifles as those he saw on his way to Coke's place in Tivoli Gardens. Bishop Blair confirmed this observation when he appeared at the Enquiry.

CDS Saunders

5.10. CDS Saunders stated at para.9 of his witness statement -

"I received intelligence reports that indicated that fortified barricades defended by gunmen with high-powered weapons, numerous obstacles, booby traps using improvised incendiary explosive devices and in some cases electrified, machine gun emplacements and regularly posted patrols and sentries with rifles and pistols were put in place in Tivoli Gardens. In addition to this, the Intelligence Reports indicated the presence of dynamite, Molotov Cocktails, at least two .50 calibre sniper rifles and additional submachine guns, plus an abundance of assorted rounds of ammunition. It was confirmed that there were a number of ex-military personnel in that location, at least one of whom had served in the US Armed Forces and had done a tour of duty in Iraq. These persons were instrumental in providing knowledge and expertise in the manning of the fortifications. This was evidenced by the well-constructed sandbag positions with portholes to facilitate shooting."

5.11. With respect to the massing of gunmen in Tivoli Gardens, CDS Saunders stated at para.12 of his witness statement –

“More alarming, there was also confirmation of reports of gunmen being imported from St. James, Portland, St. Thomas, St. Catherine, St. Andrew (Grants Pen, Red Hills Road and the communities surrounding Tivoli Gardens and Denham Town) to fight for Mr. Christopher Coke, the then leader of the Tivoli Gardens Shower Posse and One Order Gangs.

13. It was further confirmed by intelligence sources that those imported gunmen arriving without arms would be allocated arms and paid daily. Those who arrived with arms were to be paid extra. Estimates suggested that there were up to 300 gunmen in Tivoli Gardens prior to the launch of the operation....”

Commissioner Ellington

5.12. Similarly, CoP Ellington’s witness statement assists in understanding the preparations made by criminals to repel the efforts of the security forces to execute the warrant of arrest.

5.13. We have earlier cited at para.5.09 a part of CoP Ellington’s witness statement detailing the accelerated barricading of Tivoli Gardens. However, we think it important to allow the witness statement to speak to what the JCF Intelligence Bureau was observing on film of the preparations in Tivoli Gardens.

“The Security Forces observed armed persons manning check points, observation posts and sniper positions at various locations in and around Tivoli Gardens. There existed at the time, credible intelligence that criminal elements from several parishes in Jamaica had converged in Tivoli Gardens to assist Coke and local gang members in resisting attempts by the Security Forces to enter the community to arrest Coke. Conservative estimates put the number of recruited gunmen at three hundred (300).”

Capt. Garth Anderson

5.14. Intelligence reports were made available to senior officers of the JDF and JCF who were engaged in joint planning of the operation. For example, Capt. Garth Anderson, who was Commanding Officer, Bravo Company of 2JR, said at para.4 of his witness statement –

“4. Intelligence further revealed that gunmen loyal to Mr. Coke had used sandbags to establish several fighting positions throughout Tivoli Gardens and surrounding communities further enhancing their fighting capabilities and ability to resist the security forces and indicating their resolve to engage members of the security forces in a vicious battle and prevent the capture of Mr. Coke.”

5.15. He continued at paras.5 and 6:

“5. Intelligence reports further indicated that Mr. Coke had solicited heavily armed gunmen, approximately 350-400, from several communities across the Island to bolster the numbers of those gunmen already residing within the community to make the community a fortress and resist any attempts by the security forces to execute the warrant and apprehend Mr. Coke. It should be noted that this number of gunmen would almost be the equivalent of a full strength infantry military battalion.

6. The morale of these gunmen was assumed to be extremely high owing to the fact that they were reportedly being paid up to J\$100,000 for their ‘loyalty’. It was also reported that these gunmen were armed with an array of high-powered rifles and handguns, including but not limited to AK47s and a Grizzly .50 calibre sniper rifle, rocket propelled grenades (RPGs), and various forms of explosives which were used to reinforce some of the barricades and set booby traps especially along the southern approach. The gunmen were also reported to be dressed in uniforms similar to those worn by both the JDF and the JCF.”

Maj. Williams and DCP Hinds

5.16. According to Maj. Mahatma Williams, the joint plan being developed by the joint planning team required regular revision "as Intelligence came in". Paras.12 and 13 of his witness statement are to this effect:-

"12. As we received Intelligence pictures showing the sandbag defences, the barrier plans, and the sentry system established in Tivoli Gardens, we concluded that this was typical urban warfare which we call 'Fighting in Built Up areas' (FIBUA). It was clear that the defences were built to inflict mass casualty and destruction against the Security Forces while allowing the Tivoli gunmen the opportunity to withdraw to pre-planned fighting and firing positions.

13. Intelligence suggested that IEDs were placed in the barriers, some of which had 100lb [gas] cylinders concealed therein."

5.17. DCP Hinds described the fortification of Tivoli Gardens on 20 May 2010 in his witness statement:

"After the protesters returned to the community of Tivoli Gardens, they started barricading the community with debris including old vehicles, gas cylinders and concrete boulders. This fortification continued over the next three days. Intelligence was that men from several areas of Jamaica were recruited into Tivoli Gardens, where they joined forces with men from Tivoli Gardens and were patrolling the community with high-powered weapons. The barricaded areas were reinforced with explosives and live electrical wires which increased the risk to the security forces going into the community."

5.18. The JDF was obliged to develop counter measures to respond to the threats offered by the gas cylinders and the Grizzly .50 calibre sniper rifle. Thus, they reinforced patrol vehicles with sandbags strapped to the bonnets and dashboards to provide some cover for the operators and the vehicles.

5.19. During the proceedings of the Enquiry, we saw film and photographic evidence of the fortification of Tivoli Gardens while it was actually

taking place. This evidence amply corroborated the oral and written evidence of the witnesses who testified on behalf of the security forces.

FINDINGS

5.20. Over a period of years preceding 2010, Coke's strategy was to amass an assortment of high-powered weapons for the purpose of entrenching his position in Tivoli Gardens, using them against the security forces if necessary and also against rival gangs. The Intelligence community was diligent in gathering evidence of the preparatory acts of gunmen that enabled the security forces to strategise measures to counter the gunmen. The video evidence that we saw left no doubt in our minds that the special arming of criminal elements in Tivoli Gardens was no mere allegation. It was a fact of frightening proportions.

5.21. The armoury which Coke established or to which he had access, was comprised of M16 and AK47 rifles, handguns, grenades, at least one .50 calibre Grizzly sniper rifle and a large quantity of ammunition. These rifles were no ordinary firearms. We accept the evidence of Bishop Blair that never before in his life, had he seen so many rifles as those he saw when he went to Tivoli Gardens to encourage Coke to surrender peacefully.

5.22. During the week immediately preceding the operation of 24 May 2010, and with the assistance of former soldiers and/or persons knowledgeable in the methodology of urban warfare, a new and singular dimension was operationalised. It consisted of the use of sandbags to establish firing positions and as a buffer against the ammunition of the security forces. The geographical area of Tivoli

Gardens was specially protected by unprecedented and extensive methods.

5.23. With a view to repelling the efforts of the security forces and with a view to matching the human resources of the security forces, Coke enlisted the support of gunmen from other gangs. We accept the preponderance of the evidence of witnesses who were privy to Intelligence reports that, a large number of gunmen from across Jamaica, were recruited to assist the gangs within Tivoli Gardens and Denham Town.

5.24. On the basis of the evidence seen by us in electronic and photographic form, we find that the barricading/fortification of Tivoli Gardens was largely done by men. But we saw enough evidence to lead us to conclude that some females also assisted, particularly in positioning sandbags and in keeping look out. We are unable to accept the evidence of DCP Hinds that "the protesters started barricading the community". The protesters on 20 May were a group of about 600 women dressed in white. We saw none of these in the electronic footage and photographs adduced in evidence.

The Need for the JDF

5.25. Not only was Tivoli Gardens fortified by piles of old vehicles, appliances and sundry other junk, but embedded within the fortifications were Improvised Explosive Devices (IED) wired to dwellings. The JCF was incapable of mounting an appropriate and effective challenge to the fortifications in order to gain access into Tivoli Gardens. It was therefore essential that the operation of 24 May be led by the JDF.

Role of the Engineer Regiment

5.26. There was a major role to be played by the Engineer Regiment (the Engineers) in meeting the challenges presented by the gunmen. Lt. Col. David Cummings was Commander of the Engineers. Since March 2010, he had been preparing the Engineers for the operation. They were trained to deal with all types of explosives and disarm them. In the light of Intelligence he was receiving about the fortification of Tivoli Gardens, Lt. Col. Cummings determined that it was obligatory to use a FEL to break down some of the barricades and create avenues of access for the JDF and JCF operatives on the ground. He needed specialist equipment to deal with the special manner of fortification of the Tivoli Gardens community.

L/Cpl. McLennon

5.27. On 24 May, L/Cpl. Marvin McLennon drove a 9289 FEL, weighing approximately 27 tons, to the area of operation. As previously indicated, the FEL had been specially reinforced and protected in anticipation of the operation. When L/Cpl. McLennon got to a part of Industrial Terrace near the train line, he encountered a blockade with gas cylinders, old appliances and other debris. He attempted to clear the blockade but was met with intense gunfire. He said –

“It came from an open lot to my right on the right hand side of Tivoli Gardens. In the lot was a group of about 20 men with high-powered weapons. They had knapsacks on their backs and were wearing jeans and T-shirts and three-quarter length pants. I saw them with M16s and AK47s. When they started to fire, they hit the bucket of the FEL and the vertical muffler by the driver’s cabin. Bullets were hitting the FEL on its right hand side. I continued and cleared the blockage.”

5.28. L/Cpl. McLennon proceeded to an area “near the school” and came upon another road block. He said that –

"This barricade consisted of sandbags, old cars, gas cylinders, old fridges and stoves. I heard an explosion and the FEL was hit twice. It tilted to the left when it was hit on its right side. I theorized that it was a bullet from a .50 calibre Grizzly that caused the tilting. The FEL was hit where there is a portion of glass that was in line with my head. I managed to get the FEL back on its four wheels and started to clear the barricades. The FEL was hit again on the glass in line with my head. The front section of the FEL lifted off the ground but I was able to control it and got it back on its wheels."

5.29. L/Cpl. McLennon cleared the second blockade while gunfire continued and he made his way into Tivoli Gardens. He estimated that on 24 May, he cleared "10 to 12 barricades". On 1 July 2015, we saw the FEL and L/Cpl. McLennon pointed out the areas where it was hit by gunfire.

Access into Tivoli Gardens

5.30. As a result of L/Cpl. McLennon's extraordinary bravery and competence, breaches were created in the barricades and these facilitated the entry of JDF and JCF units.

FINDINGS

5.31. Having regard to the diverse types of weapon used in the operation and the subsequent finding and seizure of those listed in Appendix 5, we are satisfied that, over time and prior to 24 May 2010, Christopher Coke masterminded a strategy to build an armoury in Tivoli Gardens.

5.32. The purposes of this armoury were, *inter alia* to repel attacks by the security forces, to engage in arms and drugs trafficking within Jamaica and to ensure that the Presidential Click/Shower Posse was capable of engaging in and winning gunfights with other gangs.

5.33. The Intelligence of the security forces was of such a quality as to leave us convinced of the truth of the assertion that gunmen were specially recruited from across Jamaica to augment the numbers of criminals opposed to the security forces. The evidence of L/Cpl. McLennon that a weapon, such as a Grizzly Boar, must have been used to attack the FEL, supports a finding that those offering armed violence to the security forces possessed high-powered weapons and special armaments.

5.34. We have no reliable evidence to identify persons who facilitated Coke's access to guns.

5.35. For the sake of completeness, we feel bound to reiterate that Tivoli Gardens itself was specially fortified to prevent the security forces from gaining access to that community for the purpose of executing the warrant of arrest on Coke. This fortification of the community was indeed special if only because nothing of its kind had been seen in Jamaica before May 2010. Embedding IEDs among barricades was a new phenomenon.

PART 2

THE POST- OPERATION PHASE AND RECOVERY OF WEAPONS

(A) Evidence of the JCF

CoP Ellington and DCP Hinds

5.36. CoP Ellington explained in evidence that –

“Within the first two days of the operation, we found only a small number of guns because our primary concerns were stability, security and enabling the investigators and the search teams to come in. It took several weeks to search the entire area of operation.”

5.37. However, he testified that 10 firearms and 653 rounds of ammunition were recovered at 33-38 Chestnut Lane across the Spanish Town Road from Tivoli Gardens. The Commissioner asserted that Chestnut Lane "was regularly used as a major staging point for attacks on the security forces".

5.38. He also informed us that, about 12.30 a.m. on the said 24 May, 3 firearms were recovered during a shoot-out with the police and, 12 hours later, a Submachine gun and 2 Browning pistols were also recovered.

5.39. DCP Hinds testified that, between 26 May and 30 June, 86 firearms were recovered in the areas of Tivoli Gardens and Denham Town. Another 29 were recovered "outside the area of operation" within the same time period, to give a grand total of 115. DCP Hinds pointed out that, up to 28 May, the number of firearms recovered totalled 28.

Retired S/Supt. Delroy Hewitt

5.40. Retired SSP Hewitt was the commanding officer for the St. Andrew South Division. He first gave evidence of murders on 24 May NOT involving the security forces. Sometime after 2.00 p.m. he received information of hearing shootings on Whitfield Avenue, Whitfield Town and a house at #4 Whitfield Avenue being set on fire.

5.41 SSP Hewitt personally went to the scene and was surrounded by many persons, some of whom were crying. They told SSP Hewitt that armed men from Maxfield Avenue invaded the area firing shots and they believed that persons had been killed at #4 Whitfield Avenue. This officer's witness statement gave some details of those persons murdered -

1. Wesley Nose ("Brother"), aged 37;
2. Marvin Trail, aged 42;
3. Romey Hamilton ("Sheldon");
4. Cecil Nevin, aged 40.

SSP Hewitt was given the names of 9 persons who were among a group of about 30 gunmen.

5.42. Investigations and Intelligence suggested that the murderers were members of two gangs from West Kingston, viz. the Rose Town gang and the Stinger gang from Ramsey Road. The Rose Town gang was affiliated to the Tivoli Gardens gang in West Kingston whereas the Stinger gang was aligned to the Bibow gang in South St. Andrew.

5.43. SSP Hewitt stated that he personally interviewed a member of the Rose Town gang some months later and asked him why the gangs had amalgamated on 24 May. He said –

“He told me that the reason was money. He said that they received a sum of money from men in Tivoli Gardens to defend “the President” (Coke).”

Specific Recoveries after 24 May

(a) 28 May

5.44. Intelligence was received that men from Tivoli Gardens took a cache of arms and ammunition and hid them at two premises in Chestnut Lane. SSP Hewitt and Supt. Harper went to Chestnut Lane. SSP Hewitt’s witness statement continued:

“I arrived about 1.30 p.m. I informed the Divisional Commander of Kingston West. The focus of the search was concentrated at #33 and #38 Chestnut Lane.”

5.45. Ten illegal firearms, a quantity of assorted ammunition, 20 magazines, 13 explosives and a quantity of accessories, including police and army vests and 2 civilian identification cards were found and seized. These finds were reported to the Commissioner of Police and the items were handed over to the Joint Operation Centre. No persons were detained or arrested.

(b) 10 June

5.46. A report was received that men from Denham Town took a number of weapons to Craig Town. SSP Hewitt said he informed the Commander for Western Kingston and sought the assistance of the Caribbean Search Centre. He and Supt. Harper led an operation to Chamberlain Street in Craig Town about 2.30 p.m. A search was carried out. Three (3) firearms, 365 rounds of ammunition and 5 magazines were found and seized. No detention or arrests were made.

(c) 11 July

5.47. As a result of a report that men were seen hiding weapons at premises on Wellington Street in Denham Town, SSP Hewitt led a team to Wellington Street. They found and seized 2 firearms, 80 rounds of ammunition. Again, no one was arrested.

5.48. SSP Hewitt said that, during the period 28 May to 31 July 2010, he led several operations in Kingston West and in some areas of St. Andrew South pursuing Intelligence about transfers of firearms from various locations. It seems that these operations did not yield any significant results. In SSP Hewitt's view, the 4 murders and the case of arson referred to above, "were directly related to the Western Kingston situation".

Supt. Arthur Brown

5.49. Supt. Brown gave evidence of operations yielding success in the recovery of weapons on four dates after the internal security operation. As the then Commander of the West Kingston area, he testified of the following operations:

(i) 4 June

An operation at #4 Moore Street, Rose Town led to finding 3 AK47 rifles "in a hole 4/5 feet underground".

(ii) 8 June

When the floor of an empty house at #48 Wellington Street was ripped up, an AK47 rifle and a shotgun were found.

(iii) 23 July

At #14 Wellington Street, 3 rifles, a shotgun and 2 automatic pistols were found.

(iv) 27 July

At #7 Bentley Lane, 1 revolver was found.

Summary

5.50. By way of summary, the evidence on behalf of the JCF, (per CoP Ellington and DCP Hinds), shows that the following were found:

- (i) 115 firearms;
- (ii) 15,500 rounds of ammunition;
- (iii) 14 hand grenades;
- (iv) 3 suits of police uniform and 19 bullet proof vests, among other items.

5.51. In the area of operation (Tivoli Gardens and Denham Town), 86 of the 115 firearms were found. Twenty-four firearms were found outside the area of operation but within areas covered by the State of Emergency. Five shotguns and 3 handguns were seized in secondary operations outside the areas covered by the State of Emergency.

(B) Evidence of the JDF

5.52. The JDF was actively engaged in the search for and recovery of illegal weapons and ammunition in May 2010. Lt. Col. David Cummings testified about the role of the Engineers who supported 1JR and 2JR. On 24 May, 371 soldiers of the Engineers were deployed for the internal security operation. Lt. Col. Cummings said that his strategy was to deploy Engineers in Police Area 5 in large numbers early, and before the main operation, to show force and to deter criminal acts before they commenced.

5.53. It is worth reporting that as early as 9.20 a.m. on 24 May Area 5 was contained. Lt. Col. Cummings received information from a vehicle check point that "there were several JUTC buses with lots of men wearing jeans and white Tee shirts". He said –

"We removed these men and handed them over to the JCF. They were searched before the handover but no guns were recovered."

(i) 25 May

5.54. In oral evidence, Lt. Col. Cummings testified that the Engineers' work of searching for weapons began on 25 May. About midday, he received information about a large cache of arms in May Pen Cemetery. He said –

"We searched but came across an over-powering stench from a pile of dead bodies. We photographed them...Shortly after discovering the bodies, we came under fire and had to take cover. The gunfire came from Spanish Town Road but we could not identify a target."

5.55. Maj. Luis Cheverria's witness statement records the recovery of guns by Charlie Co. as follows:

"Over the next several days we recovered several guns: on Wednesday, *26 May*: (i) a .45 calibre pistol was discovered on Chang Avenue; (ii) a M16 A1 rifle was found on Sangster Crescent; (iii) on *27 May*, a .357 Smith & Wesson revolver

was found; (iv) 2 Glock pistols; (v) a .22 pistol; (vi) On Saturday, 29 May 2010, a Springfield rifle was also recovered."

(ii) 26 May

5.56. On 26 May the Engineers searched for weapons and contraband. According to Lt. Col. Cummings, their role had changed from breaching walls and barricades to finding guns and explosives to make the community safe for civilians.

5.57. Lt. Col. Cummings said that the Engineers found 6 firearms and 390 rounds of ammunition. In West Kingston they found 21 firearms and 1,800 rounds of ammunition. A search of Coke's offices at the Presidential Click turned up 348 rounds of ammunition in Tivoli Gardens.

5.58. One of the Engineers' search teams found an elaborate and fully functional surveillance system at #15A Dee Cee Avenue.

5.59. The Engineers found ammunition in garbage and garbage bags and a significant number of IEDs and wiring "that was clearly meant to serve as detonation devices as they always led from an IED to a nearby window of a residence". The Engineers spent 2 to 3 days in Tivoli Gardens.

Denham Town

5.60. On 29 May, the Engineers searched Denham Town where they found "more and more weapons and bloodstains", particularly on roofs where many of the weapons were hidden. At para.36 of his witness statement, Lt. Col. Cummings said -

"The majority of the weapons were actually found in Denham Town, behind false walls, in secret passageways etc. and, in many instances, they appeared to have been hastily hidden due to their crude hiding place."

5.61. The Commission was shown electronic and photographic images purporting to be evidence of what was found and handed over to the JCF. In addition to weapons and ammunition, we saw photographs of -

- packages filled with pieces of steel 3 – 4 inches long;
- uncovered manhole set as a trap to cause injury;
- a box packed with explosive materials and detonating wire fixed and placed in a car tyre;
- Molotov cocktails

Methodology of Engineers' Searches

5.62. Lt. Col. Cummings gave evidence of the manner in which the Engineers conducted searches. He began by saying that they used their knowledge of construction to analyse houses and other places where firearms and ammunition might have been stored. He said –

“We looked inside houses for signs of recent activity inconsistent with the property. We went house to house in Tivoli Gardens in its entirety. I brought the two Squadrons into Tivoli and divided the area. One Squadron covered Rasta City; the other covered the rest of Tivoli Gardens. We searched grounds, buildings and surroundings and we exchanged personnel on the second round of searches. We brought a number of metal detectors. The Squadrons were broken down into search teams led by a NCO. They would approach a building and make an assessment and then they were dispatched on various tasks. Where we disturbed property, we sent teams back to do repairs. We entered hundreds of buildings. I saw no wanton destruction of property but there were cases where residents complained of damage to property in the course of searching.”

5.63. When cross-examined by Mrs. Mayhew, Lt. Col. Cummings testified as to damage done to properties. He said –

“Where a house was locked, we enquired about the owner. In some instances we had to gain entry under the 2007 Emergency Regulations. Grills may have been sawn off.

I saw houses that seemed to have been searched before and were in a state of disarray. No residents complained that the security forces had been and searched the place before. If my men had reasonable suspicion that a weapon or ammunition was concealed, they would search. A record was made of where each weapon or ammunition was found. A document exists. It was handed over to the JCF...I did see some damage. The actions of my men should not lead to the destruction of appliances...Repairs would have taken place in the week after 1 June. The main part of my Regiment left on 29 May."

Recoveries near Coke's Office

5.64. On 24 May members of Maj. Kennedy's team saw a Toyota motor car near to Coke's office, and found in the trunk a large assortment of ammunition. This ammunition was subsequently handed over to the JCF. On 27 May 2010, DSP Michael Phipps went to Tivoli Gardens and spoke to DSP Turner. The latter showed DSP Phipps the Toyota motor car, 0596DX. DSP Phipps said-

"I summoned the assistance of the Scenes of Crime Unit which processed the car."

Fourteen one-gallon plastic bottles were found to contain a total of 5,274 assorted rounds of ammunition; nine Ziplock plastic bags contained 1,053 assorted rounds and there were 5 other containers with small quantities of ammunition.

5.65 DSP Phipps gave a total tally of 141 weapons recovered and pointed out that "about 30 were not found within the area of operation. Intelligence led to searches and recoveries in secondary operations but the 30 were thought to be linked to the operation on 24 May." According to DSP Phipps, 111 weapons were found in the area of operation, i.e. Tivoli Gardens and Denham Town. He admitted that there was a discrepancy in the numbers as between himself and CoP Ellington. DSP Phipps produced a ballistics

certificate of some 61 pages and agreed that, in the certificate, there was no evidence that any spent shells were submitted to the Forensics Laboratory.

Firearms handed over by JDF to JCF

5.66. DSP Phipps said that he went to Up Park Camp on various dates after the internal security operation and the JDF handed over items “which they reported were recovered in the Tivoli Gardens area of the operation between 25 May and 7 June 2010.” These items were 26 firearms and assorted ammunition. Lt. Col. Jaimie Ogilvie, the Commanding Officer of 1JR, gave the statistics of weapons and ammunition recovered in his witness statement. At para.55, he stated:

“Between 24 May and 6 June 2010, a total of 54 weapons and 3,625 rounds of ammunition were recovered during operations in Western Kingston. It is interesting to note that most of the weapons finds occurred in open lots or unoccupied buildings.”

At para.60, he stated that –

“over the period Wednesday, 26 May and 22 July 2010, a total of 75 weapons (rifles, shotguns, sub-machine guns and handguns) 96 magazines and 19 IEDs, along with 4 175 assorted rounds of ammunition were found in the Battalion’s area of operation.”

The Operational Updates – JCF

5.67. The Commissioner of Police sent daily “Operational Updates” on “Tivoli Gardens and Surrounding Communities” to Prime Minister Golding and the Minister of National Security, Mr. Nelson. These updates are instructive but we include only a few to indicate the record keeping of the JCF in respect of guns and ammunition found during the State of Emergency. Table 1 below shows the information in the possession of the JCF on selected dates commencing on 28 May and ending on 23 June, the day after Coke’s capture. Table 2

reproduces the statistics on 30 June and 21 July after the extension of the State of Emergency to Kingston, St. Andrew and its expansion to St. Catherine.

TABLE 1 – TIVOLI GARDENS AND OTHER AREAS OF WEST KINGSTON

DATE	FIREARMS RECOVERED Accumulated	AMMUNITION RECOVERED Accumulated
28 MAY	28	8, 360
29 MAY	33	9, 000
30 MAY	38	9, 028
1 JUNE	51	9, 149
3 JUNE	55	11, 554
6 JUNE	67	12, 000+
7 JUNE	71	12, 000+
8 JUNE	73	13, 000+
9 JUNE	77	13, 000+
10 JUNE	80	13, 400+
11 JUNE	85	13, 400+
12 JUNE	86	13, 500+
21 JUNE	88	13, 600+
23 JUNE	88	14, 026

5.68. On the day before the extended and expanded State of Emergency ended i.e. 21 July 2010, the total firearms shown to be recovered in Kingston, St. Andrew and St. Catherine were as follows:

TABLE 2 – KINGSTON, ST. ANDREW AND ST. CATHERINE

DATE	KINGSTON AND ST. ANDREW	ST. CATHERINE	TOTAL
	FIREARMS RECOVERED Accumulated		
30 JUNE	88	3	91
21 JULY	97	9	106
	AMMUNITION RECOVERED Accumulated		
21 JULY	14, 894	90	14, 984

5.69. Appendix “F” to the Operational Report submitted to Mr. Golding lists the Weapons and Other Items Seized. The list is appended to this Report as Appendix 5. In a letter to the Minister of National Security, Mr. Peter Bunting, on 17 July 2013, CoP Ellington stated that, during the State of Emergency, the JCF recovered 115 firearms and more than 15,500 rounds of ammunition. Eighty-six weapons were seized in the area of operation and 24 were seized in secondary operations outside the area of operation.

Results of Searches by JDF – 25 May to 21 July

5.70. On 10 September 2015, the JDF produced 31 affidavits deposed to by various ranks in which are detailed the searches carried out by its members and the results of those searches during the period 25 May to 21 July 2010 in the Tivoli Gardens and Denham Town areas. At Appendix 6 is a Table showing the dates, weapons, ammunition and other items recovered by the JDF. However, we provide a summary of the contents of the Table to give a flavour of the menu of the assorted weaponry found.

- 2 AK 47 rifles;
- 2 9mm Sig Sauer and Browning guns;
- 2 Shotguns;
- 1 Glock revolver;
- 2 Submachine guns;
- 2 pistols
- 15 Molotov cocktails,
- 14 Grenades,

Who Supplied Illegal Weapons?

5.71. Not much evidence was put before the Commission about suppliers of weapons and munitions to the criminals who participated in the events of 24 May. However, on 27 May 2015, DCP Hinds said that he was aware of one Steve Reid, alias "Slicer", who had recently died somewhere in Red Hills. According to DCP Hinds -

"The JCF had a significant interest in him. He was the main facilitator of illegal weapons making their way into Tivoli Gardens. He worked at one of the ports at a freight-handling establishment. In 2010 his assets were the subject of financial investigation."

SSP Hewitt told the Enquiry that one of the source markets for illegal guns was Haiti. He said "there is a long history of guns coming from Haiti".

FINDINGS

5.72. On the basis of the totality of evidence adduced to the Commission, we infer that the diverse nature of the weapons found is, in itself, reliable evidence that persons in Tivoli Gardens and Denham Town were specially armed to repel efforts by the security forces to arrest Coke. And we are also satisfied that large sums of money were

paid to gunmen within and outside of Tivoli to participate in armed confrontation with the security forces.

5.73. The evidence of L/Cpl. McLennon's experiences, as operator of the FEL, that a weapon such as a Grizzly Boar must have been used to attack the FEL, supports the finding which we make that those gunmen offering violence to the security forces possessed high-powered and special armaments.

5.74. We have no statistical evidence to support the assertion of SSP Hewitt that, for a long time, Haiti has been a centre of the illegal trade in firearms destined for Jamaica.

5.75. Treating the fortification of Tivoli Gardens as an important incident in arming that community, we find that this fortification was indeed special because the emplacement of IEDs among barricades capable of detonating and causing injury or death, was a new phenomenon in Jamaica. Nothing of its kind had been seen in Jamaica prior to May 2010.

5.76. On 25 May there were no arms in May Pen Cemetery but we accept the evidence of Lt. Col. Cummings that, on 26 May, the Engineers found 6 firearms in Tivoli Gardens and we so find. In the absence of evidence to the contrary, we accept the evidence of Lt. Col. Cummings that, as from 29 May, the Engineers found "more and more weapons in Denham Town" as described in para.5.60. His evidence was supported by that of SSP Delroy Hewitt and Supt. Arthur Brown. Indeed, on 28 May, 10 firearms were found at #33 and #38 Chestnut Lane. The recoveries of illegal firearms at Chestnut Lane and areas to the north of Tivoli Gardens imply that these areas were significant locations for the storage of weapons.

5.77. We find DCP Hinds' evidence as to the total number of firearms recovered to be rather confusing if not inaccurate. The JCF's daily updates to Prime Minister Golding and Minister Nelson for the period 26 May to 30 June show the total number of firearms recovered in that period as 88. DCP Hinds' evidence refers to 86 firearms in respect of Tivoli Gardens and Denham Town. When the updates are analysed up to the day before the end of the State of Emergency (extended and expanded) on 21 July, the total number of firearms recovered is 106 and not 115 as stated by both DCP Hinds and CoP Ellington or, 111 as stated by Supt. Phipps. Even the figures for total ammunition recovered are defective. Both CoP Ellington and DCP Hinds give a figure of 15,500 rounds recovered. The JCF's Update for 21 July gives a figure of 14,984 – a difference of 516 rounds. These are internal inconsistencies or discrepancies within the JCF's own evidence, which make the arithmetic unreliable.

5.78. Another troubling feature of the evidence of the security forces is the small number of firearms which were recovered in Tivoli Gardens, the main theatre of conflict. We are asked to accept, on the evidence, that there were approximately 300 gunmen in Tivoli Gardens and Denham Town, yet by 28 May only 28 firearms were recovered, including 10 at #33 and #38 Chestnut Lane, implying that 18 were found in the Tivoli Gardens area. Even if we believe Lt. Col. Cummings that the Engineers found 6 firearms in Tivoli Gardens on 26 May, where were the other 12 between 24 and 25 May?

5.79. With respect to Tivoli Gardens, the main target of the security forces, the number count of firearms recovered reveals a disconcerting deficit. By 26 May, the JDF recovered only 6 firearms; no firearms were found on any of the 19 persons whose deaths we report in Chapter 9. In this context, the evidence of the JCF is singularly

unhelpful. Apart from the evidence of SSP Hewitt and Supt. Brown, there is a dearth of information from the JCF indicating when and where the majority of the 86 (or 115) firearms were found.

5.80 There are two further troubling features of the evidence of the paucity of firearms recovered in the immediate aftermath of 24 May. First, none of the young men detained by the Engineers in Area 5 at 9.20 a.m. on 24 May and dressed in the attire attributed to gunmen, was found with guns. Secondly, we were assured that the searches carried out by the Engineers were thorough and conducted by persons expert in construction matters. Moreover, the searches were conducted jointly with the Caribbean Search Centre, an organisation expert in conducting searches. And yet the two rounds of searches yielded very few firearms.

5.81 There was no satisfactory evidence of where the young men were coming from or where they were going. In respect of the few firearms recovered by the Engineers (6 in Tivoli Gardens and 21 in other parts of West Kingston), the inferences are equivocal. The gunmen may have been exceptionally skillful and adept at concealing weapons. On the other hand, the searches may have been inefficient in revealing a larger number of firearms. On the state of the evidence, we cannot make a definitive finding as to the reasons for the small number of firearms recovered in the first few days after the operation.

5.82. We also have concerns about the total numbers of weapons and ammunition recovered in the light of Lt. Col. Ogilvie's evidence that between 26 May and the end of the State of Emergency extended and expanded to 22 July 2010, a total of 75 weapons and 4,175 rounds of ammunition were recovered in his Battalion's (1JR) area of operation. And of course these would have been handed over to the

JCF and should have been included in the Updates of that Force. The numbers simply do not add up. We are unable to extrapolate from the varied evidence on the single issue of the total number of weapons recovered, any accurate figure of that total recovered during the first period of the State of Emergency or the expanded and extended period. The evidence is unsatisfactory.

5.83. We think that Lt. Col. Cummings' evidence that he saw "some damage" was euphemistic to say the least. Damage was far more widespread and, in some cases, horrific, as reported elsewhere in this Report. Mr. Witter and Bishop Blair visited only a few dwellings on 25 May and their accounts of their observations are not congruent with Lt. Col. Cummings', bearing in mind that he visited hundreds of dwellings. We find that the security forces damaged property belonging to residents during the house clearing exercises (to which we will refer later) and while searching for weapons and gunmen in Tivoli Gardens.

5.84. We find that the electronic surveillance system discovered at 15A Dee Cee Avenue was an early warning mechanism available to Coke to enable him to monitor the movement of persons, including the security forces, into and out of Tivoli Gardens.

5.85. Having seen evidence of items found at the Presidential Click's offices and in the Toyota car parked outside, we are satisfied that the ammunition found in the trunk of the car was to be made available to gunmen if and when necessary. The fact that it was left behind suggests that Coke may have been obliged to beat a hasty retreat from the area of the Presidential Click. Indeed, the sum of US\$245,000.00, also found on 25 May at the Presidential Click, supports an inference of a hasty escape from Tivoli Gardens.

5.86. In Chapter 14, the matter of spent shells viz-a-viz rounds allegedly fired is addressed.