

CHAPTER 6

WHAT WERE THE CIRCUMSTANCES UNDER WHICH, AND BY WHOM, EMBATTLEMENTS AND BARRIERS WERE SET UP IN TIVOLI GARDENS, AND WHETHER EFFORTS WERE MADE, AND BY WHOM, TO RESTRICT INGRESS AND EGRESS OF LAW ENFORCEMENT OFFICERS OR TO PREVENT THE ARREST OF CHRISTOPHER "DUDUS" COKE

ToR (F)

INTRODUCTION

6.1. In this Chapter, we -

- (i) describe the circumstances under which, embattlements and barricades were set up in Tivoli Gardens;
- (ii) attempt to identify the actors who were involved in setting up barricades and embattlements; and
- (iii) discuss what efforts were made, and by whom, to restrict ingress and egress of law enforcement officers or to prevent Coke's arrest.

6.2. We have segmented this Chapter into two parts. Part I describes the *preparations* that were made by persons for a possible encounter with the security forces. We have tried to limit repetition of matters discussed in earlier Chapters but, having regard to the overlap of themes inherent in the Terms of Reference, some repetition is inevitable. For similar reasons, in Part II we have condensed our discussion of efforts made to restrict the movements of the security forces or to prevent Coke's arrest.

PART I
PREPARATIONS FOR FORTIFICATION

Characteristics of Barricades and Embattlements

6.3. Evidence was given that it is not unusual for communities affected by gang violence to erect barricades to prevent drive-by shootings or other forms of indiscriminate armed attack. These are barriers properly so called. Embattlements, on the other hand, are qualitatively and quantitatively different. They are structures which often have embedded in them explosive devices that pose a dire threat to life when activated.

Maj. Mahatma Williams' Description of the Barricading

6.4. According to Maj. Mahatma Williams, there were 37 barricades in Western Kingston "a few days before 24 May 2010". Aerial footage of Western Kingston, produced by Maj. Williams and video footage produced by ACP Clifford Blake, gave graphic insight into the scale of barricading taking place. For example, barriers were erected along the boundaries of Tivoli Gardens, including along Spanish Town Road from its intersection with Industrial Terrace eastward to its intersection with Darling Street. This section of Spanish Town Road was regarded as the northern boundary of Tivoli Gardens. Barricades were similarly erected along Darling Street in a southerly direction to the old train station at Victoria Place. This section of Darling Street was regarded as the eastern boundary of the community. Industrial Terrace, which was taken as the western boundary of Tivoli Gardens, was also barricaded at several points. The southern-most barricade on this street was located at the train line and the northern-most barricade was at the intersection of Industrial Terrace and Bustamante Highway and in the vicinity of the Denham Town Police Station. The southern boundary of the Tivoli-community was marked by a concrete wall extending from Darling Street in the east to an area in the west known as "Rasta City". Entry to the

community of Tivoli Gardens from this direction was impeded by IEDs placed in the bushes beyond the south-eastern section of the wall.

6.5 The result was that all roadway entrances to Tivoli Gardens were barricaded and the non-roadway border was rigged with IEDs. Moreover, at some entry points to the community were deep multi-layered barricades and embattlements. At the western end of the community, these entry points included McKenzie Drive, near to Rasta City and that part of Tivoli Gardens known as Java. It was believed by the security forces that Coke resided at two houses in Java where he also had his office. Deep embattlements were also erected at the eastern end of the community at the intersection between Bustamante Highway and Darling Street. Here, embattlements on the street were supported by sandbags at ground level as well as sandbags in elevated positions on some buildings that provided lookouts and gunmen thereon with clear views of this point of entry to the community of Tivoli. With respect to Denham Town, Supt. Arthur Brown's evidence was helpful.

Supt. Arthur Brown – 21 to 23 May

6.6. Supt. Brown was the JCF's commanding officer with responsibility for the Kingston Western Division in May 2010. He was based at Denham Town Police Station. While he was on his way to work about 7.30 a.m. on Friday, 21 May, he observed that a number of entrances leading into Tivoli Gardens along Industrial Terrace were barricaded. He also saw sandbags placed on top of a wall near Bustamante Highway.

6.7. In his witness statement, he said –

“On entering Albert Street, which is adjacent to the Denham Town Police Station and which is the road used to access the station compound, I noticed that an old motor vehicle was used to block the road about ten metres from the rear gate of the station compound. This blockade prevented police

units that were exiting the station from turning left onto Albert Street.”

6.8. Supt. Brown concluded that these barricades as well as those blocking most of the access roads into Tivoli Gardens must have been erected overnight since they were not in place on 20 May when the women in white T-shirts demonstrated in front of Denham Town Police Station. There was information that armed men were going into Tivoli Gardens at night and leaving early the next morning.

6.9. On Saturday, 22 May, Supt. Brown patrolled the outskirts of Tivoli Gardens and Denham Town. He saw blockages at Darling Street, Charles Street and Oxford Street, *inter alia*. By Sunday, 23 May, all access to Denham Town Police Station had been cut off. As a result, Supt. Brown was obliged to go to Admiral Town Station where he remained until shortly after 3.00 p.m. He went to Trench Town Police Station and, about 6.30 p.m., the Crowd Control Response Unit came to Trench Town station and assisted him and other officers who had been prevented from going to work at Denham Town. Supt. Brown stated –

“I observed that while the unit was transporting us it had to push through the debris that blocked Spanish Town Road.”

6.10. Nevertheless, he was able to spend the night at Denham Town Police Station. On 24 May, “Denham Town was still blockaded as well as parts of Tivoli Gardens”.

ACP Leon Rose

6.11. ACP Leon Rose pinpointed 18 May 2010 as the date on which criminal elements began mobilisation to fortify Tivoli Gardens. He said that he was privy to information and Intelligence that there was “tremendous mobilisation of criminal elements in Tivoli Gardens” between 18 and 23 May. Then he said:

“I was also aware that there were a number of blockages that started to spring up all over the Western Kingston belt that included the area of Tivoli Gardens and at all entrances. There were blockages also on Spanish Town Road, Marcus Garvey Drive, Industrial Terrace and blockages were later discovered in West Street, Pechon Street and other streets within the West King Street area – all of that corridor there were blockages.”

6.12. Some of the embattlements erected at entry points to Tivoli Gardens had new and distinctive features:

- They were deeply layered or organised in depth, making them useful as firing position or offering protection on retreat – see the evidence of Maj. Williams.
- They were higher than normal and obstructed visibility into the community.
- According to CoP Ellington and Lt. Col. Cummings, gun posts were established within the barricade itself, making it a true embattlement.
- The explosives placed within the structure of the barricade could have caused “mass casualties” to the security forces, as was explained to us by Lt. Col. Cummings at para.21 of his witness statement.

6.13. Perhaps this excerpt from the oral evidence of Maj. Williams on 30 June 2015 best exemplifies the magnitude of the danger posed by the embattlements – structures or objects with explosives devices embedded within them:

“the barriers interspersed with IEDs, with fall-back firing positions allowing gunmen to engage, detonate devices and withdraw to fall-back position, [made] it easy to conclude that it resembled urban warfare.”

Embattlements as Part of a Larger System of Fortification

6.14. The embattlements described above, were but a part of the entire system of fortification of Tivoli Gardens. The system of fortification designed and developed to impede the ingress and egress of the security forces consisted of three (3) elements:

- (a) the erection and strategic placement of barricades and/or embattlements described above;
- (b) the use of the landscape of Tivoli Gardens and its immediate environs comprising a number of high-rise buildings; and
- (c) an observation network of human and electronic components.

6.15. We turn now to a discussion of (b) and (c) at para.6.14.

High-Rise Buildings

6.16. There were high-rise commercial buildings, such as Foxy's Plaza, PassaPassa Plaza, Mrs. Bobb's Plaza and Justin's Plaza, which were located on Spanish Town Road as well as high-rise residential buildings within Tivoli Gardens itself.

6.17. ACP Clifford Blake produced photographs and video footage of the Plazas on Spanish Town Road and said in evidence:

"These were key strategic points for the gunmen who fired on us from those buildings. They shot at the police as we advanced on the roadway below. We were able to repel the attacks and took control of the buildings."

6.18. ACP Blake also explained that one of the Plazas was owned by one Justin Ogilvie and "to the knowledge of the police, Ogilvie and Christopher Coke were business partners". Mrs. Bobb's Plaza on Spanish Town Road was also

used by gunmen but the JDF repelled attacks from that location “and took control of the building”. As Col. Andrew Sewell emphasised:

“Domination of the community involved sitting on top of these buildings.”

6.19. Since the operation took place on a public holiday, the commercial buildings were closed to business but some were taken over by gunmen. Residential buildings were, for the most part, occupied.

6.20. Capt. Garth Anderson also testified that high-rise residential buildings in Lizard Town were similarly used by gunmen as strategic points for armed resistance. From these buildings, they fired on the security forces and “pinned them down” in the Coronation Market, east of Tivoli Gardens. Buildings 22 to 27 were allegedly also used by gunmen during the operation. These were close to Spanish Town Road.

6.21. High-rise residential buildings close to Java were used as sites from which gunfire was directed at the security forces to prevent them from entering Industrial Terrace. We have already referred to the evidence of L/Cpl. McLennon in which he related the circumstances under which he came under fire from high-rise buildings, *inter alia*, when he was attempting to clear a blockade on Industrial Terrace.

Early Warning System – The Human and Electronic Elements

6.22. Maj. Williams provided the Commission with a description of the network of sentries who were part of the human element of the system of fortification. He said in oral evidence –

“We were briefed about the sentry system, the guard system that they had established...They would be given a particular location that they were required to be at and we were shown photographs of some of them and the gunmen who were there. And they would be given “arcs of fire” or “arcs

of observation” and they would be given various areas that they would need obviously to watch for the approach of the security forces ...These were various buildings and various strategic points in Tivoli Gardens.”

6.23. With regard to the electronic component of the early warning system, Lt. Col. Cummings revealed what the JDF found at a residence in Tivoli Gardens:

“We located a house at 15 Dee Cee Avenue, in which an extremely elaborate and fully functional surveillance system was located. There were large flat screen TVs showing CCTV surveillance camera footage that had excellent all-round observation of Tivoli Gardens, its approaches and internal streets.”

A man found operating the system was detained.

6.24. It is convenient to set out below our findings in relation to the discussion thus far.

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6.25. Barricades were erected between 18 and 23 May 2010 in the context of the mobilisation of the community of Tivoli Gardens against the impending arrest of Coke. It is clear to us, having regard to the totality of the evidence, that the purpose of erecting barricades was to hinder the progress of the security forces in their operation to execute the warrant of arrest on Coke.

6.26. Some of these barricades, by reason of the incorporation of explosives within them, were and were designed to be, embattlements strengthening the overall fortification of Tivoli Gardens and at the same time offering a live threat of serious injury or death to the security forces.

6.27. On the basis of electronic and photographic evidence shown to us, we are satisfied that whereas some residents assisted in the erection of barriers, the placement of some of these barriers at strategic points and their transformation into embattlements necessarily involved other actors, including local and imported gunmen and persons with previous military experience and expertise.

6.28 The blockading and barricading of the Tivoli Gardens community as well as parts of Denham Town severely restricted the access of members of the JCF to those areas even before 24 May. Access to Denham Town Police Station was impeded between 21 and 23 May by unidentified persons loyal to Coke who were determined to immobilize that station and to prevent Coke's arrest by the security forces.

6.29. The embattlements and the gunfire encountered by the security forces as they attempted to go through or around them, significantly restricted the ingress of the security forces and considerably slowed their advance on 24 May 2010.

6.30. When the Authority to Proceed was signed on 18 May, it prompted the hasty erection of barriers and embattlements. After 20 May, fortification of Tivoli Gardens was accelerated.

6.31. Whereas we accept that the demonstration on 20 May by about 600 women dressed in white was, ostensibly, "a symbol of peace", according to the witness Annette Marshall, the actual messages implicit on the placards borne by the women were of a different character.

6.32. For example, the messages included –

- **strong opposition to Coke’s arrest and extradition, (“Leave Dudus Alone”)**
- **that they were loyal and devoted to him, (“Next to God, is Dudus”)**
- **they would lay down their lives for him, (“We will die for Dudus”).**

6.33. This last cited message must have suggested to the security forces that they could reasonably anticipate a violent confrontation. Mobilisation against the arrest and extradition of Coke was characterised by multiple methods of resistance including the creation of barricades not only in Tivoli Gardens but elsewhere in West Kingston, and attacks on the JCF on 23 May. Resisting arrest and extradition had morphed into an open and violent assault against the State of Jamaica and its law enforcement agencies.

6.34. Barricades and embattlements were part of a larger system of fortification which had at least 3 components, namely, the physical fortification of Tivoli Gardens and its environs; the use of high-rise buildings as staging posts for offensives against the security forces; and the use of human beings and electronic technology for the purposes of surveillance and early warnings. It is indeed very likely that the surveillance system found by the JDF at 15A Dee Cee Avenue, may well have assisted in Coke’s escape from Tivoli Gardens.

Who Erected the Fortifications?

6.35. The main sources of information on this aspect of the Terms of Reference were the members of the JDF and JCF who testified. As we have reported elsewhere, these witnesses provided us with a wealth of video and photographic material that have assisted us greatly. ACP Clifford Blake said: -

"We had a lot of Intelligence operatives within Tivoli Gardens."

6.36. The video and photographic evidence before us showed unidentified persons involved in erecting barriers and embattlements. No evidence was adduced of the arrests of any of these persons and we are therefore not in a position to name or identify them.

6.37. A large number of residents of Tivoli Gardens gave evidence and, although many of them spoke of seeing barricades in their community, most of them seemed unwilling to identify persons who blockaded their community. We were largely confronted with silence and denial on this issue. At best, we were told by some residents that they saw the barricading on television.

6.38. John Green was typical of the witnesses from Tivoli Gardens. His evidence on this issue was –

"I see barriers there. I go to my bed, sleep, wake up, I see barriers. I don't know who put it there."

He spoke of "daredevils" running around in the community but he did not see any of them with guns.

6.39. Three residents who stepped beyond the shelters of ambiguity and/or silence were Troy Palmer, Willis McFarlane and Lovette Bryan. McFarlane explicitly acknowledged the presence of gunmen within the community and he admitted that the entrances to the community were barricaded. He told us that he heard that there were gunmen in the community but he did not know any details. Palmer admitted under cross-examination that he was aware that residents were erecting "roadblocks" using old cars and debris and sandbags. Ms. Lovette Bryan was in no doubt that residents of Tivoli Gardens had fortified the area to protect Christopher Coke and she said so.

6.40 Denton Dacres assumed that the citizens in Tivoli had created the barricades but, because of the ethos of the community, he did not seek to ascertain whether his assumptions were true. He said –

“Must be citizens from the community that put up the barricades. I saw them on the weekend. Tivoli is a place where you cannot question people ‘bout them business. You just live.”

The Gunmen – Evidence of Senior Officers of the JCF and JDF

6.41. We have recounted elsewhere that high level officers in the JDF and JCF testified that Intelligence reports suggested that, approximately, 300-400 gunmen were imported into Tivoli Gardens and related areas in an effort to mount resistance against the security forces.

6.42. CoP Ellington testified about the efforts of persons to restrict the ingress and egress of the security forces and prevent Coke’s arrest. In answer to questions put to him by Ms. Deborah Martin, counsel for the JCF, the Commissioner spoke of the Intelligence he received:

“There were gunmen in Tivoli Gardens – armed people manning sniper positions. We saw guns. The Intelligence operatives photographed them and brought back videos of criminals with high-powered weapons at sentry points and sniper positions. They had binoculars.....And we saw people putting sandbags on balconies in dwelling houses with families in them. I recall one scene where two young men were stacking sandbags on the balcony of a dwelling house which is an apartment creating a gun-port within the sandbag and there was a woman with a little baby who was in that house. She came out on the balcony and went back inside. There were other locations, other positions which our operatives collected evidence of this kind of activity taking place around the community of Tivoli Gardens.”

Other Evidence of Efforts to Impede the Security Forces

6.43. JDF and JCF witnesses consistently testified that, in the process of trying to enter Tivoli Gardens and its environs, they encountered different levels of intensity of gunfire at different places and at different times. They characterised the intensity of gunfire as “heavy”, “moderate”, “sporadic”. The relevant evidence is discussed in detail at Chapter 4 (supra).

6.44. Suffice it to say here that intense fire and strong resistance came from gunmen in communities to the north of Tivoli including Hannah Town and Denham Town on the immediate northern boundary of Tivoli at the Darling Street and Bustamante Highway entry point near Foxy’s Plaza. The security forces also reported being targets of sustained heavy fire while they were advancing through Coronation Market.

6.45. Lt. Col. Sewell said that it took approximately 30 minutes for a contingent of soldiers to make its way north along Industrial Terrace to its intersection with McKenzie Drive. Normally, such a journey would take 5 minutes. Similarly, it required some time for the security forces to gain control of the Tivoli Gardens community. And Maj. Kevron Henry gave detailed and sequential evidence of the intense gunfire that Bravo Company encountered from near Coronation Market at noon until they reached and took possession of Foxy’s Plaza and PassaPassa Plaza shortly after 4.30 p.m.

6.46. Lt. Col. Sewell told us that at 1.30 p.m. on 24 May, he was able to walk “tactically” around Tivoli Gardens although the area had not been completely pacified at the time. Sector 1 was dominated by 3.00 p.m.; sector 2 soon thereafter and sector 3 “about 5.00 p.m.” according to Capt. Anderson. Lt. Col. Sewell estimated that the security forces had achieved “dominance” of the Tivoli Gardens community between 4.00 p.m. and 5.00 p.m. Nevertheless, civilian witnesses and sector commanders spoke of sporadic gunfire throughout

the night of 24 May. By the morning of 25 May, pacification of Tivoli Gardens was achieved.

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6.47. The placement of barricades and embattlements involved residents, gang members, gunmen and, in the expert opinion of the Heads of the security forces, persons trained and experienced in military matters.

6.48. The reluctance of residents to identify any persons involved in the erection of barricades was an expression of a wall of silence, no doubt engendered by a fear of reprisals by Coke and/or his criminal organisation. Most of the residents were prepared to speak readily of Coke the benefactor but not Coke the President of crime in West Kingston. We accept that the garrison phenomenon creates an environment in which it is difficult to vent dissent. And we are not unmindful of the fact that, although Coke is incarcerated in the U.S.A., he has left behind associates who may still be carrying on his criminal enterprise. But in the light of the evidence of civilian witnesses, what we saw on video clips of embattlements being set up, and, applying our own common sense, we find that residents participated in the erection of barriers and embattlements.

6.49. We think it is undoubted that a large number of gunmen from the Tivoli Gardens area and outside that area, converged on Tivoli Gardens and its immediate environs. They intended to offer massive criminal resistance to the security forces in an attempt to obstruct the execution of the warrant of arrest. They too, erected barricades and embattlements.

6.50. The barricades and embattlements, the early warning system and the presence of a large number of gunmen together provided a formidable defence mechanism that presented serious risks to residents and the security forces alike.

6.51. The heavy gunfire aimed at the security forces had some negative effects on the operation. It slowed the movement of the security forces and delayed their entry into Tivoli Gardens. We accept that it took approximately 30 minutes for the soldiers under the command of Lt. Col. Sewell to make their way north along Industrial Terrace to its intersection with McKenzie Drive. Such a journey would normally take 5 minutes. As a result of the intensity of the gunfire, the unit led by Lt. Col. Sewell entered sector 1 inside Tivoli Gardens about noon, having left the UDC car park at 11.30 a.m.

6.52. We accept as credible the evidence of CoP Ellington and other senior police officers that the barricades and embattlements were of a quality and quantity that precluded their safe removal by the JCF. Indeed, on 23 May, owing to the blockading of roads and shooting by gunmen, a police rescue operation led by ACP Rose had to be aborted. As a result, they were at first, unable to rescue colleagues at the Darling Street Police Station.

6.53. We also find that the sustained and coordinated violent efforts of the gunmen so restricted the progress of the security forces that the process of pacification of the designated sectors within Tivoli Gardens was significantly delayed. It was not until about 3.00 p.m. that sectors 1 and 2 were dominated while sector 3 was not controlled until approximately 5.00 p.m. although the JCF did not enter this sector until daybreak on 25 May. In our opinion, the time taken to dominate

each sector may be seen as a measure of the degree of armed resistance to entry by the security forces.

6.54. The substantial armed resistance to the security forces affected all time-sensitive activities related to Coke's arrest. It prevented the establishment of a cordon around Tivoli Gardens to prevent Coke's escape. It delayed house to house searches within the community. And it provided time within which Coke could make good his escape from Tivoli Gardens.

6.55. Resistance to the arrest of Coke with a view to his extradition was transformed into an occasion of open, violent opposition and resistance to the State and its law enforcement officers by a large number of gunmen.