

April 15, 2016

1 Mahoe Drive
Pines of Karachi
Mona Kingston

Mrs. Maria Jones
Secretary
West Kingston Commission of Enquiry
C/o Jamaica Conference Centre
12 Ocean Boulevard
Kingston

Response of Owen Ellington Former Commissioner of Police to notice of Proposed Adverse Comments

I set out hereunder, my responses to the notice of proposed adverse comments contained in your letter of April 13, 2016. I request that in the event the Commission proceeds with making adverse comments against me that my complete response to the notice be attached in the Commission's Report to His Excellency the Governor General in accordance with the relevant sections of the law.

11.58

Firstly, and importantly, the Police action was under a State of Emergency.

It is correct to say that instructions were given on May 25, 2010 by the Gold Command for investigations into the deaths of persons to commence without delay. Those investigations did in fact commence, to the extent that they were possible.

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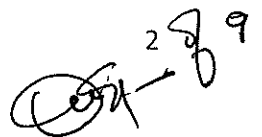
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That the processing of locations of resultant homicides did not commence until ten days later was very appropriate under the circumstances. Until the local commanders, and in particular, the Search Teams comprised of JDF Engineers and personnel from the Caribbean Search Centre released the Area of Operation to investigators, it would have been extremely reckless and dangerous for scenes of crime personnel to enter areas which were rigged with improvised explosives by criminal elements.

In the interest of Public Safety and Force Protection, the areas had to be disarmed and systematically searched for explosives and booby-traps by personnel who are trained experts in that field before persons not so trained are given control of these areas for to processing.

It was concern for public safety and the safety of the residents which lead the Security Forces to restrict them to their homes and to restrict their movements in the community as they could come in contact with explosives and booby-traps to their detriment. Obviously the restriction of freedom of movement was permitted under the State of Emergency. It is a matter of public record that citizens complained bitterly to the then Prime Minister, that the Security Forces were denying them freedom to move about.

In furtherance of this, as Commissioner, I issued a public advisory via the media appealing to citizens to avoid certain areas, to not touch strange objects, to report all unusual objects to the Security Forces and to not allow children outdoors unsupervised. The Security Forces should be credited for their ability to disarm the communities sufficiently for other officers be deployed in a matter of ten days. Internationally, civil investigators are not permitted in a war zone with such

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speed and this was a war zone and not an ordinary crime scene. The comment that the time lag of ten days between the instruction to commence investigations and the deployment of scenes of crime personnel to “crime scene” is evidence of weak leadership shows a lack of comprehension as to what was happening in Jamaica that warranted the Governor General declaring a State of Emergency. The evidence shows appropriate, prudent, responsible and effective control of dangerous spaces exercised by all the commanders concerned.

The comment that there was “little after-action, written reporting and assessment as a method of accountability and collective or institutional learning” is contrary to the evidence presented at the Enquiry which showed that prior to and during the entire conduct of the operation, systems of record keeping were in place and effectively used. The so-called “Golding Papers” represent a summary of records of events prior to, during and after the main operation, made at the time they occurred, circulated, preserved in their original state and willingly disclosed to and acknowledged by Police Witnesses at the Enquiry. This stands in stark contrast to multiple statements given by civilian witnesses over diverse dates, some as late as the final days of the Enquiry. Many contradictory, some denied by witnesses on the stand and many uncorroborated by scientific evidence, especially as given by Superintendent Gladys Brown. I wish to remind the Commission that even as Superintendent Brown and her team were processing death scenes, they were attacked by criminal gunmen and had to be rescued.

It should also be noted that there were daily reports, debriefing and after-action reports the JCF.

I therefore reject the proposed comment.

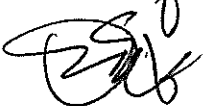
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The JCF has always prided itself as a learning organization, taking important lessons from the often conflictual and uncertain encounters it has with criminal elements. This aspect of the Force's culture should not be treated lightly by the Commission in its assessment of the organization.

11:81

I am not aware of any evidence of extra judicial killings attributed to a pattern of illegal conduct during the operations. The allegations against the Police of failure to maintain discipline is unsubstantiated. The Commission's proposed adverse comment here is premised on hypothetical situations. All allegations made against the Police were investigated. On my instructions, a Complaint Desk was established in Tivoli Gardens within the first week of the operations by the Complaint Unit of the Bureau of Special Investigations to investigate citizen complaints with urgency, notwithstanding the dangerous and challenging nature of the operations.

Additionally, the Police facilitated and gave resource support to the Office of the Public Defender to Commence investigation into Citizen Complaints during the same period. We also facilitated the fact finding tours of Civil Society groups and the media on the second day of the operation and gratefully received feedback from them which we acted on in the interest of the citizens impacted. I instructed the BSI to commence investigations on May 25, 2010 and when
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Independent Commission of Investigations took over the investigations I instructed the head of
the

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BSI to give the body full cooperation. All these actions demonstrate clearly the intention and commitment of the police to treat the investigative process with the level of importance and dispatch agreed to in our planning. How the Commission could therefore treat these steps as lacking in alacrity is incomprehensible. The comment that there was no alacrity in systematically investigating the complaints of killings or to review incidents as required by the JCF's own Rules and Procedures and International Best Practices, is unfounded.

I reject the comment of weak Superintendence of the Force on my part during May 2010 as gratuitous and unsupported by any evidence. On the contrary, I provided the JCF with firm,

confident and strategically sound leadership and command, as it confronted the most serious Public Security Challenge to face our country since

independence. At no time did I lose the respect and confidence of my subordinates. At no time did


I give orders that tactical level commanders refused to carry out. At no time was I ever informed that lower level commanders had lost control over the men and women they lead. At no time was I informed or did it appear that officers and or rank and file personnel had abandoned their task

or

disregarded the leadership afforded them.

On the contrary, the operation which was a joint effort, executed under conditions of a State of Emergency was successful in its key objectives of:

- a) restoring public security and order

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- b) repelling armed criminal insurgents who challenged the legitimacy of the State
- c) effected the arrest of Christopher Coke
- d) disarmed several communities previously under control of criminal elements for decades
- e) normalized a previously armed criminal enclave so that community policing could take place, and
- f) positively impacted the image of our country as one capable of enforcing the rule of law even as members of the Forces paid the ultimate price in the process.

My stewardship of the force earned the commendation of the leadership of the country, my fellow citizens and colleagues in law enforcement from around the world. Our operation has been referenced as a case in best practice in Police and Military Colleges abroad and I personally have been invited to the USA and UK and as far as Australia to share our experience in effectively confronting new urban insurgency and over-mighty crime bosses. The Commission's hypothesis of failure of leadership is not supported by facts or evidence presented over the last 12 months. The Commission is regrettably failing to take into consideration the fact that during the operations of May 2010 I as Commissioner of Police was responsible for a Police Force which was required to and indeed ensured continued delivery of security service and the maintenance of law and order throughout Jamaica. That the West Kingston Operation was not the only thing the Police Force was responding to in May 2010. The Force in its conduct preserved the confidence of the country, the State and the population and projected Jamaica within the international community of nations as a viable democracy. I urge the Commission to bear in mind the instructions to the Security Forces from the then Prime Minister in his address

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to Parliament following the declaration of a State of emergency. He stated among the Statutory Purposes of the State of Emergency, the restoration of law and order, capture of gunmen and protection of public from the strategic level threat presented by the criminals in Tivoli Gardens. The Police under my leadership operated with the honest belief that criminal elements had declared war against the State, with the Police being the primary targets. All the objectives of the State of Emergency were met. It is astonishing to be told at this time that the Commissioners have assessed my leadership of the Force in May 2010 as weak superintendence.

11:83

My evidence given at the Commission of Enquiry was truthful. My evidence was based on my role and conduct during the operations. My evidence followed documented account of my role and conduct and referenced records taken of events as they occurred. My evidence is consistent with that of a Gold Commander abiding by the Principles and Practices of Critical Incident Command as taught and practiced in law enforcement and the military worldwide. Among those principles are the separation of Gold from Silver and Bronze during the execution of Operation and the logic of unity of command for personnel on the frontline. I ought not to be cutting across tiers of command to give orders to personnel below. I leave tactical and operational commanders to execute their tasks at task levels based on their authority, knowledge and judgment, recognizing very well that commanders may from time to time adapt tactics or operational initiatives based on the changing situations in the operating environment.

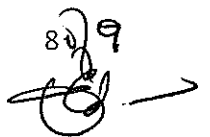
Responding to the speed of violence gives a commander little or no room to be constantly dialoging with superiors. Often time decisions are made within split seconds. Therefore, as

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Commissioner and Gold Commander, I can only give evidence as to the overall strategy and agreed tactical options adopted for the operation. I cannot give evidence on the order of march or the time and considerations which go into tactical and operational decisions and actions of subordinate commanders. The persons who must give such evidence are the involved commanders. I respectfully reject the comment that I distanced myself from the tactical decision making on the ground. I am deeply offended by it. It would have been ill-advised and not in keeping with internationally adopted principles of command for me to give evidence of facts which I am unsure of, only to be later contradicted by the persons who are custodian of such facts and can best relate them to the Enquiry.

The JCF's command is fundamentally different from that of the military and so any comparison between the two is like comparing apples with oranges.

May I respectfully remind the Commission that the operations of May 2010 were executed under conditions of a State of Public Emergency. In those circumstances, the Civilian Authorities responded to threat to Public Security and Order of such magnitude, requiring such response from the Security Forces, which could not ordinarily be effected while operating under normal conditions of Law. It is disheartening to note that a Commission of Inquiry is attempting to tarnish the good image and professional reputation of Career Police Officers who bravely and selflessly placed their lives in the gravest of danger to confront an armed criminal insurgency which threatened the internal security, stability and the rule of law in our country. At the same time, I find it curious in the least that the Commission has not seen fit to place responsibility on the criminal elements who orchestrated this national security emergency which the security

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forces responded to in May 2010. The events of May 2010 were not confined to the private quarters of the key actors involved but was played out in the full glare of public view both here and around the globe. The Jamaican Public saw it as it unfolded and I take solace that they know what happened. The thanks expressed to us by a grateful Jamaican Public will remain with me forever.



Owen Ellington/
Former Commissioner of Police