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 2016 pm

Mrs Maria Jones

Secretary

West Kingston Commission of Enquiry

c/o Jamaica Conference Centre

12 Ocean Boulevard

Kingston.

Response of Granville Gause former Assistant Commissioner of Police in charge of B.S.I to Notice of Proposed Adverse Comments.

I set out here under my response to the "Notice" detailing proposed adverse comment to be made against me in your letter of April 13th, 2016 and would ask that you include my complete response in your report to The Governor General as is stipulated in the relevant law.

In para 11.109, you seek to rely on the authority of Michael Gayle v. Jamaica to support your view that the BSI did not act expeditiously. The authority being relied on is not apt as it does not contemplate events occurring within a State of Emergency, or where homicides occur during an ongoing operation being lead by the Military. To rely on the facts of Michael Gayle is to make clear that the circumstance which existed in Western Kingston for the period leading up, during and immediately after the Operation and which have lead to this Enquiry into the events leading up and causing this Operation under conditions warranting a State of Emergency are being ignore when assessing the conduct of the Police.

Your rejection of the evidence of myself and Inspector Harris as to the conditions which existed is irrational in the face of all the uncontracted evidence presented as to the events that were occurring in Western Kingston in the days after the 24th may, 2010. The very evidence of what the Prime Minister said in his address to the nation from Parliament on the 25th of May contradicts your assertion that the area was pacified. The evidence of SSP Gladys Brown Ellis was that she was fired upon on the 25th and the 26th and whilst in the May Pen cemetery later that week. The hospital records reveal persons being injured during this period and the evidence of Dr. Whyllie and Mr. Madden was that their staff could not leave until the Thursday. The civilians who went in were under security escort and had to travel via safe corridors. The very news clipping you have from the media houses contradicts the premise of your stated opinion.

Your proposed finding at 14.137 demonstrates that you have ignored that this was an operation to retake control of the city from armed gunmen who had engaged the security forces. This was not an ordinary crime scene wherein the police were called in by citizens to respond to a report. The Police were the target of an attack. They went into the area with the honest belief that there were elements within the community who wished them harm. Surely, you would have some regard to the ongoing threat facing the members of the Constabulary Force.

I did lead a team of B.S.I personnel in the area of the community on the 26.5.2010.

Army officer Colonel Andrew Sewell was in charge of the large army personnel and cleaning up procedures was already in full swing whilst noticeable were heavy units, bulldozers tractors and other machinery in operation on spot. It is unfortunate that though my statement to the Enquiry were disclosed from before the commencement of the sittings in 2014, that Col. Sewell was not asked to comment on this aspect of my

statement. Neither was he asked to comment on many of the assumptions that are now being made to ground your adverse finding.

The Scene of Crime team operating with my party was directed to process and make a record of specific areas once pointed out to them. It could not be that the entire area of a Military Operation should be treated as a Scene of Crime.

The area was tense and citizens were very hostile in nature to the security forces. This was consistent with their historical attitudes and the fact that many there were witness to extraordinary criminal conduct on the part of persons operating from within their own community.

Scenes of Crime is not a part of the BSI; it is a separate unit called upon by all the entities doing investigations during this period.

The uncontradicted evidence was that a command post with two (2) desks were set up in the Community Centre for the purpose of citizens to visit and report incidents or complaints and to give information about the dead, injured or missing persons as soon as this was possible.

Furthermore, the area was unsafe because of the booby traps within the community. The Prime Minister had directed that the ongoing threat to the national security mandated that every effort be made to track down the illegal weapons and the gunmen who participated in this attack on the State. It was only after proper risk assessment that citizens were allowed to move around to avoid certain areas and to report all unusual objects to the security forces.

The uncontradicted evidence is of the coordinated efforts between B.S.I. and OPD to create an environment for citizens to make their reports. There was no prior protocol for this; this arose out of the shared desire to ensure the timely investigation of possible reports. Arising out of this, the Public Defender's Office and the B.S.I had meetings, shared information, had discussions and, like I mentioned before the Commission, I went to the Detention Centre at the National Arena, interviewed detainees and recorded statements primarily because I wanted to verify what was said with a view of coming to a conclusive conclusion regardless.

The police commenced investigations relating to bodies as soon as it was possible to do so. The evidence detailed the extraordinary efforts and the strain placed on the individual members of the B.S.I. To suggest dereliction on the part of any of these persons is to disregard the evidence and to substitute criteria derive from dissimilar circumstances.

As stated in the evidence, the Bureau of Special Investigations' mandate or remit is to investigate Fatal Shootings or Injuries by members of the J.C.F and J.D.F. The members of the B.S.I do not investigate all homicides. The investigation of homicides is a matter for the Criminal Investigation Branch (C.I.B). It would be erroneous and unfair to find dereliction in circumstances where it was not the duty of the BSI to investigate homicides. To find that these homicides were a matter for the BSI is to ignore all the evidence of as to the circumstances that obtained in the area that warranted such an Operation.

While the B.S.I undertook all of the investigations regarding the processing of the bodies, this was not our intended function based on the operational plan. The plan made specific reference to the C.I.B as being responsible for investigations.

The B.S.I rose to the occasion based on the directive of the Commissioner of Police who was being apprised of the the prevailing situations at all times; We responded accordingly.

In normal circumstances the C.I.B would commence investigations and then pass it on to the B.S.I. depending on the circumstances and their having assessed the situation.

It is my humble submission that the finding of dereliction can only be made if you were required to carry out a function and you have failed to act. In this instance, we were called upon to carry out duties in circumstances outside of any norm, and we performed. The members of the B.S.I. should be commended for their extraordinary effort in extreme circumstances instead of being exposed to aspersions of dereliction.

It would have been extremely dangerous for Scene of Crime personnel, or anyone else to enter the area which was rigged with improvised explosives by criminal elements.

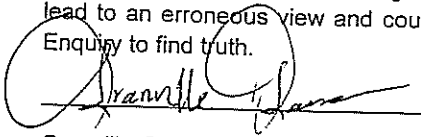
In the interest of public safety and force protection, the area had to be disarmed and systematically searched for explosives and traps before persons not trained in disarming of explosives were given control to process the scene.

There is overwhelming evidence of the actions carried out by all the various divisions within the JCF and the JDF as well as other organizations within the geographical space which contradicts any assertion of undue delay on the part of anyone.

The question of dereliction of duties arising because person should have acted expeditiously is unreasonable in the circumstances. In the period following the operation, the police had to travel in armoured vehicles to go into the area and security persons had to remain in the area for an extended period.

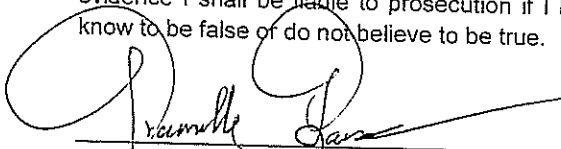
With regard to the concern raised as to the alacrity in the treatment of "the crime scene": in the absence of the Silver Commander in charge of CIB or his officers to speak of the actions of the the command post which was staffed with C.I.B personnel, there is no evidence to ground this view. I do recall ACP Les Green giving evidence and that the Commissioners specifically declined the opportunity to ask him questions. In light of this failure, it would be unfair to retreat to a finding of dereliction on the part of the BSI when information was not obtained from the relevant CIB authority.

My evidence given on oath during the Enquiry was truthful: my evidence was supported by the contemporaneous records made and all steps taken have a documented account of directives given and of events and occurrences which are consistent with the material aspects of evidence heard before the commission. I would urge the Commissioners to have regard to all material before them indicating the extra ordinary efforts made by the BSI and not limit themselves to material produced to a watching public so that they could appreciate the events being enquired into. To ignore all available material could lead to an erroneous view and could mislead the unsuspecting public who look to the Enquiry to find truth.



Granville Gause

This statement consisting of one and two (3) pages each signed by me is true to the best of my knowledge and belief and I make it knowing that if it is tendered into evidence I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.



Granville Gause