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Reference Code:	2018/68/60
Creation Dates:	4 October 1988
Extent and medium:	7 pages
Creator(s):	Department of the Taoiseach
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NO 22

SEEN BY
TAOISEACH

Mr. Dieran
Mr. McLarthy
11.10.88
BRITISH EMBASSY,
DUBLIN.

6 October 1988

Mr Noel Dorr
Secretary
Department of Foreign Affairs
Dublin 4

Taoiseach
To see please.
10/10

Dear Noel,

GIBRALTAR INQUEST

You were good enough to receive me on 4 October so that I could give you in confidence the two Spanish documents which make clear that the three terrorists were not under surveillance in Spain on 6 March, and that the British authorities did not therefore have the option to arrest them at the frontier.

From our conversation and from other contacts with Irish officials I have the impression that further comment from me on four questions might be helpful.

THE LIMITATIONS OF A CORONER'S COURT

This was no ordinary inquest. Subject only to the constraints of national security, a comprehensive disclosure of the facts of the case was made to the Court. Some 68 witnesses gave evidence, including members of the Security Forces and of the Security Service. The inquest was given an account of the intelligence background, including a frank admission of the points on which the intelligence assessment proved incorrect. The British authorities went to great lengths to ensure the maximum possible disclosure. The same security constraints would apply in the case of a public enquiry and there is no reason to believe that such an enquiry would have any additional information available to it.

THE DELAY IN CLEARING THE SQUARE

Action to clear the vicinity of the suspected bomb was put into operation 20-25 minutes after the car was assessed as suspect. During this time a complex judgement had to be made. As was explained to the inquest by Inspector Colombo, it was feared that the major disruption caused by early evacuation would alert the terrorists, and thus provoke the very detonation which we sought to avoid.

THE DISCOURAGEMENT OF AN OPEN VERDICT

A clearcut verdict is always more satisfactory than an open verdict which leaves doubts. Coroner Pizzarello was acting

entirely/



with precedent
entirely in accordance/when he steered the jury away from an open verdict, having been convinced by the legal arguments produced by Crown Counsel that an open verdict would be inappropriate, given the comprehensive nature of the evidence presented at the inquest. However, when the jury reported that they were deadlocked the Coroner reminded them that an open verdict was a possible option.

THE DECISION TO USE THE SAS

The Gibraltar Police did not feel competent to mount the operation unaided and therefore requested assistance. The SAS are the unit generally used when military aid to the civil power is requested for counter-terrorist operations. As was made clear at the inquest, they have considerable experience of arrests, with an over all ratio of 75% arrests to 25% kills in such confrontations. The SAS was therefore most likely to achieve the intended arrests. The local infantry battalion had no counter-terrorist expertise and would have been inappropriate for this task.

I hope that these points may be helpful to your Ministers. I am sending a copy of this letter to Dermot Nally.

Yours sincerely,

A handwritten signature in black ink that reads "Nicholas Fenn". The signature is written in a cursive style and is underlined with a single horizontal line.

N M Fenn

MK 5/10
Taoreadh
To see please.
Seerly Taoreadh
5/10

cc PS Taoiseach
PS Tanaiste
PS Attorney General
Secretary to the Government
Secretary, Dept. of Justice
A/Sec Gallagher

Confidential

Gibraltar inquest - text of statement by Spanish police officer

The British Ambassador, Nicholas Fenn, came to see me this afternoon at his request. He said he had been instructed to leave with me the attached translation of a statement by a Spanish police officer (name withheld), accompanied by a statement by Valladolid, the official spokesman of the Spanish Ministry of State Security.

Fenn said that the statements had been made available to the British authorities but it had not been possible to produce them at the inquest since the police officer concerned would not be permitted to testify because of the Spanish Government's wish not to appear to give recognition to British control of Gibraltar.

In discussion of the statements, Fenn agreed that the main point of the police officer's statement was that it showed that the Spanish Police, in shadowing the three people who were killed had lost them at a crucial point; and it was therefore not the case, despite allegations in the press, that the three had been shadowed up to the point where they crossed into Gibraltar so that they could have been apprehended by the Gibraltar Police. Fenn said that allegations to the contrary in the Irish papers such as the Sunday Tribune which appeared to indicate that the British were lying on this point were "hurtful"; and they wanted us to be aware in confidence of the truth.

In discussion of the statement by Valladolid which accompanies the police officer's statement, Fenn agreed that the point of it appeared to be to emphasise that the briefing of an American journalist (apparently by Valladolid himself), which had been widely reported, had referred to the general activities of the Spanish Police and did not support the allegation that the three dead people had been tracked all the way to the frontier.

In further discussion I said that I thought many people saw a problem about reconciling the behaviour of the SAS who shot the three in the apparent belief that they could set off a bomb at any minute with the rather nonchalant attitude in relation to clearing people away from the area around the supposed bomb itself. Fenn acknowledged this point but he said that, having seen the same intelligence himself as was available to the SAS, he could confirm that they did believe that there was a bomb which could be detonated. As to the behaviour of the Gibraltar Police in relation to the suspect car, he said that part of the problem was that a very limited number of people knew about the whole affair.

I told him that the Taoiseach would probably feel it necessary to issue a statement on the inquest in due course when he had studied the report of the official observer of the Irish Government, Donagh McDonagh. I said I thought that the statement would acknowledge the fairness and merit of the inquest itself and of the Coroner but that it would probably go on to point to the limitations inherent in the inquest procedure as a way of getting at the truth in such a case. The statement would, therefore, probably call for a public inquiry. I explained as background that there was considerable political pressure on this issue and that calls have been made by the relatives to have the case taken to Strasbourg. In these circumstances the Taoiseach felt it necessary to issue a statement on the lines I have mentioned. I said that I hoped it would be possible to let the British side have a copy of the text in advance.

Fenn thanked me for this information and said he would have three comments:

- (i) a specific call for an inquiry would be "unlikely to prosper";
- (ii) a decision by the Government here to intervene in promoting the taking of a case to Strasbourg would not be well received in London;
- (iii) any judgement on the verdict of the inquest would be "hurtful".

Fenn said that one thing that could certainly be said about the inquest was that there had been no cover-up. He doubted if many other countries would allow their security forces to testify in quite the way in which they had allowed the SAS to testify in Gibraltar.

In reply to his three points I said that I thought the question of action by the Government to take a case to Strasbourg would not arise and, as I had explained to him, there would be recognition of the fairness of the Coroner and the inquest as well as a point which would have to be made that the inquest procedure was not best suited to getting at the truth in such a case.



ND
Secretary DFA.
4 October 1988

TEXT OF TRANSLATION OF STATEMENT BY SPANISH POLICE OFFICER

"My name is "Officer X" and I am Inspector ^{(Chief Inspector) nd} Jefe of the Cuerpo Nacional de Policia. I am the Officer in Charge of "Unit Y" of Malaga and as such was party to information as from "Period Z" (before 4 March 1988) to the possible presence in Spain of members of an Active Service Unit of the terrorist organisation PIRA, with the intention of committing an attack against British interests in the Costa Del Sol.

That in Period Z of this present year the British Police sent to this Unit Y photographs of the possible members of the Active Service Unit previously mentioned, corresponding to the following three Irish nationals, Daniel McCann, who could be using documents in the name of McArdle, Sean Savage and Mairead Farrell.

That due to the above mentioned there was mounted a Special Control point at the International Airport at Malaga which results in the sightings of two individuals proceeding from flight IB 657 from Paris whose physical characteristics coincide with those of the previously mentioned, and which without any shadow of doubt are identified as Daniel McCann, who was carrying a small suitcase and a dark blue travel bag makers "Puma", and Sean Savage who carried a black nylon travel bag.

The two mentioned individuals quickly make their way to one of the toilets within the terminal of the International Airport at Malaga where they remain for a short while.

Almost immediately they made their way to a branch of Banco Exterior de Espana at the aforementioned airport where whilst one exchanged foreign currency, the other remained as if looking around in a vigilant manner.

At that precise moment they made contact with a woman, who was identified as the other member of the Active Service Unit, Mairead Farrell.

Both men then leave the terminal and board a taxi. the following of which was not possible, whilst the woman is lost from sight inside the building due to the amount of people there at the time. Consequently enquiries are carried out and the taxi driver is found who then informed the fact that he had taken both individuals to the Hotel Florida in Fuengirola after being asked so to do by one of them, possibly Daniel McCann who had written the address of the said hotel on a piece of paper which he had been shown, leaving them both by the entrance to the hotel.

Subsequently enquiries at the hotel reveal that the individuals were not guests at the hotel neither had they been seen in the interior of the hotel.

As of that moment during the 5th and 6th March there was a search conducted for the individuals concerned all along the Costa Del Sol with negative results.

Superiors were informed of all the above mentioned and they in turn advised the British and Gibraltar Police....."



The bulk of the statement which follows details the investigations carried out by the Malaga Police following information at 1700 on 6 March that the terrorists had been shot. Details are given of the false documents found in the Hotel Escandinava and of the finding of the car bomb (the latter being described in much greater detail in the bomb report which Correa read out at the inquest).

The final paragraph reads:

"I wish to place on record that I have no inconvenience in appearing before the Courts in Gibraltar should this be necessary. However this is conditional to my superiors authorising me so to do"

Signed "Officer X"

Notes:

"Officer X": Name withheld at Spanish request.

"Unit Y": Unit not identified at Spanish request.

"Period Z": Precise language used withheld to protect sensitive information. It relates to a period before 4 March 1988.

SIGNED STATEMENT BY SENOR VALLADOLID, OFFICIAL SPOKESMAN OF THE
SPANISH MINISTRY OF STATE SECURITY

(1) En relacion con los hechos acaecidos en Gibraltar en el pasado mes de Marzo, me remito exclusivamente a las declaraciones juradas de los funcionarios que intervinieron directamente en estos y especificamente a la declaracion prestada por [name].

(2) Cualquier otro comentario no puede referirse unicamente a hechos concretos sino tambien a tecnicas utilizadas con caracter general por los cuerpos de seguridad Espanoles.

TRANSLATION

(1) With regard to the events which took place in Gibraltar last March, the only valid accounts are the sworn statements made by the public servants who took part directly in them and specifically the statement made by [name of Special Branch officer from Malaga].

(2) Any other observations refer not just to specific events, but to techniques of a general nature used by the Spanish security forces.