WITNESS: I'm sorry, Your Honour, they are actually not part of 1 2 the hand-up brief and you won't have them. They were just 3 page numbered for easier reference. They were documents 4 served as not part of the hand-up brief. MR LOVITT: I see. So they're not part of the hand up brief. 5 6 Well, what page does the hand up brief end if you don't 7 mind me asking?---I couldn't tell you without looking at 8 it. Well, perhaps the Crown can, because I've assumed, wrongly as 9 10 it now turns out, that if they had a pagination number 11 they were part of the hand up brief?---The - these 12 numbers on - on these documents flow from documents that were supplied in relation to the investigation rather 13 14 than the actual hand up brief. All right, well, we'll attend to that right now while I think 15 16 of it. You were the person who collated the hand up brief?---Well, we did it as - - -17 The buck stops with somebody. Was it you?---Well, ultimately I 18 19 guess it does. All right, and you, as it were, supervised the provision of the 20 21 various police notes - there's vast numbers of different 22 police, but the main body of notes comes from you, but 23 there are heaps of others, Hatt, Swindells and then lots 24 of police who had, shall we say, lesser roles right 25 through the investigation, is that right? --- Yes. 26 Lot of police on 22 June 2003 for obvious reasons?---Yes. 27 And those notes have been provided as a result, perhaps, of 28 subpoenas and requests under the - well, we didn't have 29 an 8A, did we? But, what I'll do now, Your Honour, is 30 indicate that I call for all of those notes that have been provided, including the amended passages to those 31 802 .HS:MEH 09/03/2005 LL6X BATESON XXN Williams

1 three dates that Your Honour indicated on Day 1 of this 2 committal and I'll tender them as a block. I don't 3 believe we'll get them in the right chronological order 4 this time, but, in relation to this witness' notes 5 because it was very confusing. 6 COUNSEL: Well, my learned friend has that material so it's 7 been produced. HIS HONOUR: Exactly. You simply want - - -8 9 MR LOVITT: I just want to make sure it's part of the 10 depositions. 11 HIS HONOUR: You want to ultimately tender it? 2 MR LOVITT: Yes. 13 HIS HONOUR: When you do I'll give it an exhibit number, 14 Mr Lovitt and it'll be formally then properly tendered. 15 MR LOVITT: When Your Honour says when I do, I'm trying to do 16 it now. HIS HONOUR: It's really a matter of - it'll get an exhibit 17 number when it comes up obviously. I'll take it as a 18 tender and I'll make sure that it's in the tendered 19 20 materials when we conclude. 21 MR LOVITT: Thank you, Your Honour. 22 HIS HONOUR: But I'll take it as - how would you describe that? You'd describe that as all of the notes that were served 23 24 - for the purposes of describing it accurately, it's all 25 of Mr Bateson's notes, is it, that have been served on 26 defence outside of what's contained in the hand up brief? 27 MR LOVITT: It's not just Bateson. It's all police notes. 28 HIS HONOUR: All police notes outside of the hand up brief which have been served on defence? 29 30 MR LOVITT: Yes. 31 HIS HONOUR: That will be Exhibit No.32 when that's collated

803

.HS:MEH 09/03/2005 LL6X Williams

BATESON XXN

Tell me, are there any drafts in existence anywhere, including on the computer, of any statement that he made that later on was altered in some way prior to the signing of it on 13 July?---The only draft is, or the only difference that we have recorded is the addresses that we deleted out of the statements.

7 See, what I suggest to you, and I'm not just saying this by way 8 of comment, but can you not see that the vice in that procedure is that until we get the police notes and what 9 we can glean from the police notes, we're finally able to 10 say, for example, that a paragraph was negotiated out 11 12 apparently after consulting the prosecution. Now, I'm not suggesting there's anything remotely sinister about 13 14 that, but things that he told you that turned out to be 15 forensically contradicted by other evidence might, it 16 might be said by the person who's a bit suspicious and 17 wants to see justice be done, might be removed from the 18 statement?

19 MR HORGAN: Can I just say something about "negotiated out"? I 20 just query that expression. The circumstances which the 21 witness has given evidence of concern me, so I want to say something about it. Advice was sought as to whether 22 the caution paragraph ought to be in one of those 23 24 statements. The advice given was that it shouldn't, but 25 it wasn't a question of anything being negotiated out. It was just advice that the police sought about what 26 form, what wording there should be in the statement. 27 HIS HONOUR: Thank you. 28

29 MR LOVITT: And that's exactly what I meant by negotiated out.
30 I'm not remotely suggesting there's anything wrong with
31 what happened on that occasion, and I made that clear,

.HS:LA 9/03/05 LL7dd Williams 824

BATESON XXN

1	9th?Marshall's statement.
2	Was that altered between the 9th and the 13th?No, basically
3	- as you can see, there's that reference there, what
4	happened from there, it was taken to his legal
5	representative at his wishes.
6	He wanted the last two lines of paragraph added?Yes.
7	What last two lines, I if you want something added it doesn't
8	exist at that stage, I assume?Well can I refer to that
9	statement?
10	Yes?OK.
11	I must say, reading that, it looks as if that's added later on,
12	I will explain it, if you don't understand me in a
13	moment. Wanted the last two lines of paragraph 52 added,
14	but until they're added, there aren't any last two lines?
15	The - it goes - "Marshall was going to be murdered - I
16	am sure at this point that Marshall is going to be
17	murdered, but by this stage it was too late for me to
18	pull out, the best thing I could do was maintain order
19	and keep focused, I didn't want anyone else getting
20	hurt", so that from "the best thing", to the end of that
21	paragraph, is what was added.
22	Right and he wanted those added?Yes.
23	The way it reads in your notes on 9 July he wanted the last two
24	lines of paragraph 52 added?Yes.
25	Shouldn't it read, "he wanted to add to paragraph 52, the
26	following", and then just put what he wanted to add
27	there, rather than?Well it's clear
28	it almost seems as if you wrote this after they'd been
29	added?It may be - it may be clear - it's clear to me,
30	it may not be clear to you but that's certainly what
31	happened.
	.HS:HV 9/03/2005 LL6FF 830 BATESON XXN

.HS:HV 9/03/2005 LL6FF 830 Williams

BATESON XXN

Why didn't he sign it then and there?---Because he wanted his 1 2 legal representative to look at it before signing. 3 It really was a negotiated statement wasn't it?---Well - I don't know, I don't know if that's a fair summation, to 4 have a wish that you want your legal rep to see it, 5 before signing it, I don't know that that is fair, maybe 6 7 it is, I don't know that that necessarily makes it a negotiated statement. 8 He's a man charged with murder, who's admitting to his 9 10 involvement and he makes a statement to the police, he doesn't sign it but he wants his solicitors to look at it 11 2 before he will sign it? --- Yes. 13 That's a very unusual procedure isn't it, you're not talking 14 about just any old eyewitness who's a bit worried until his lawyer's vetted what he's told the police, you're 15 16 talking about a man charged with murder, who's admitting to being involved in the murder, but wanting the fine 17 print to be perused and approved by his solicitor? 18 ---I - I think it's a fairly - a very fair thing to do, I 19 20 would have thought, I mean perhaps I would want to do 21 just that if I was in his position. No, but you see the police normally don't let you, I've never 22 seen - I've only been around the Bar for 35 years and 23 I've never seen it before - with anyone?---I - I 24 25 certainly think it would be a very fair thing to do and I 26 couldn't see any reason why not to comply with his 27 wishes. 28 Look, if he had have asked for a cream bun you would have given 29 it to him at that stage, wouldn't you?---If I had a cream bun in the room, probably, yes. 30 A good honest answer Mr Bateson. Let's turn to the topic -31 .HS:HV 9/03/2005 LL6FF 831 BATESON XXN

Williams

would have caused Mr Horgan to toss and turn. That's 1 2 what he was telling you?---Yes. I suppose you passed that on to Mr Horgan, dutifully? --- Well, 3 certainly it was passed on to the Office of the Public 4 Prosecutor. I'm not sure whether I spoke to Mr Horgan 5 6 directly. 7 He wanted an estimate from Horgan, that is what you've written down there?---Well, he focussed on Mr Horgan because Mr 8 Horgan was involved in some court matters, but you 9 10 know - - -11 Did he get an estimate from Mr Horgan?---No. Well, certainly 12 not through me. I mean if - if - if there was any 13 communications between the director or the directors 14 office it was done through his lawyer. 15 Through his lawyer? --- Through is lawyer. 16 What, his lawyer would from time to time be in contact with Mr 17 Horgan or those instructing Mr Horgan, or perhaps the 18 Director of Public Prosecutions himself?---That's my 19 understanding, yes. 20 That's 26 May, the next date? --- The 18th June, which is at the Bendigo Police - sorry, the court. 21 The note I've got for you that day is "Spoke to in cells 22 with PS." Who is that? --- Phil Swindells. 23 24 Sorry?---Mr Swindells. 25 I beg your pardon. "Still willing to proceed with statements, explained procedures." Now this was the day that he was 26 27 going to go - this was at Bendigo?---Yes. Then Bendigo Court, plea hearing, Mr Horgan prosecuting, 28 something else is crossed out. Pardon my being - why 29 cross out another member of the legal fraternity there? 30 ---Well. Well, I was just not - it's just an issue that 31 .HS:BAL 09/03/05 LL7JJ 844 BATESON XXN Williams

1	Yes.
2	That would be reasonable?Yes.
3	Sort of the same thing the next day?Yes.
4	You are with him at 9.20, for how long?I believe we left at
5	1530 at that day.
6	No note?No note but I have since looked at Mr Hatt's notes
7	and I believe that is the case.
8	Then Friday 25th?At 9.30, 1530 clear. And then again on the
9	29th, 9.30 to 1630 clear. Then 30th of June, 10.30, I
10	believe again to 1530.
11	Yes?The 9th of July.
2	The 9?Yes. It is 1055
13	The notes you've got there, is that at the start of the day,
14	that is the one that I have already referred you to, a
15	portion to reference to the Marshall statement?Yes.
16	At 11.25: Mr McGrath entered Government functions.
17	Marshall" and then you had the notes that I have read
18	concerning Marshall. Then there is some deletion?
19	M'mm.
20	And then Moran Barbaro's statement and then there is some
	further deletion?Yes.
22	I am a little bit hamstrung here, Your Honour, but I would like
23	to ask the witness what it was about that note that has
24	been blacked out that he felt shouldn't be disclosed.
25	HIS HONOUR: I don't think you can. Whilst I can understand
26	your curiosity, curiosity obviously, your frustration,
27	perhaps. Having dealt with in the way that I have, for
28	the reasons that I did indeed gave, I don't believe
29	MR LOVITT: I am not (indistinct) at Your Honour's ruling. I
30	understand that.
31	HIS HONOUR: I appreciate that.

.HS:PAP 9/03/2005 LL6KK 847 BATESON XXN Williams

1 MR LOVITT: I understand that, all right?---At 1300 - sorry. 2 You are now writing out the Moran Barbaro statement, rather than just, you know, you see Mr McGrath for six hours. It 3 4 now has that heading, "Moran Barbaro's statement". Did 5 you have a document with you by that stage? --- Yes. 6 When did that come into existence?---Well, if I can take you 7 back to the 22nd and 23rd. 8 Yes? --- On the 22nd and the 23rd we did the Marshall statement, 9 effectively, saving it on disc. On the 25th and 29th we 10 did the Jason Moran, finishing it off on the 30th. So that's when those two documents came into being. 11 12 How do you know you did it on those days, your notes don't 13 reveal that?---I remember. And it does to a certain 14 extent there, Mr Lovitt. On 29 June you will see: "At 9.30 at with <sup>Mr MeG</sup>. Jason Moran's statement." On the 15 16 25th - it would start with the 25th: "The 25th of June 0930 at re "MrMcc, Moran's statement." On the 17 29th: "0930 at with Mr McGr Jason Moran's statement." 18 19 I take it that on 25 June you didn't get all the statement. You had part of it?---Well, 25th of June was - yes, 20 21 continued into the 29th and finished on the 30th. 22 Yes. So you get a bit on the 25th, more on the 29th and the 23 balance on the 30th?---Correct. Now, next, after 30 June? We got to 9 July?---We've done 24 25 9 July? 26 Yes?---12 July. 27 What happened then? --- On 12 July we went with - just let me 28 look over this page here. Went to the - to the prison. Sorry, I thought it was in the right order, so I was confused? 29 30 ---OK. 12 July, yes?---Yes, we gave him a look at the statements. We 31 .HS:PAP 9/03/2005 LL6KK 848 BATESON XXN Williams

then went to to print them off and then got him 1 to read them and once again he wanted to talk to his 2 lawyer before he signed them and that's why we came back 3 4 on the 13th for a videorecorded read back. 5 He wanted to have another chat to his lawyer? --- Yes. 6 The statements were in what form? Were they in hard copy or 7 just on a computer, say around 9 or 12 July?---I believe 8 they were in hard copy by that stage. But not signed? --- Not signed, no. 9 What happened to the unsigned statements that existed prior to 10 the signing on 13 July? --- They were signed. 11 2 The same documents?---Yes. 13 How do you know? --- How do you know or how do I know? All right, how do you know?---Because I have a memory of it. 14 15 And of course, you know, we've got to accept that what you're saying is true, right ?--- I hope you do, Mr Lovitt. 16 17 OK. Now?---Then we go onto the 26th. Just hang on a sec. Yes, if you wouldn't mind?---26 July we 18 19 attend at 0930 and leave at 1220. On 27 July, I receive a call from  $^{\rm Mr\,McGrath}$ 20 On 29 July, 0915 to 1035. 21 3 August, 1115 to 1255. 18 August, 1400 to 1500. Sorry. Continue?---26 August, 1135 to 1200. 31 August, I receive a 22 call from Mr McGrath 23 What did he want?---Pardon me? 24 What did he want?---Received call from MrMcc advise re conditions 25 Inspected by Hatt this morning. There was 26 at 27 some talk at that stage that he'd be transferred to the Prison which never came about so he was talking 28 about the conditions and being informed about the 29 conditions there. 30 Next?---2 September, I received a call from 31 He .HS:MEH 09/03/2005 LL6LL 849 BATESON XXN Williams

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TVESDAN 22/0/04.

- CI 685 - T.LK JE DIST BATESON -2." PURANA CORROLOND RE PREPARATION FOR STATEMENT FREM Mr McGral

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NEDNESDA7 22/6/04

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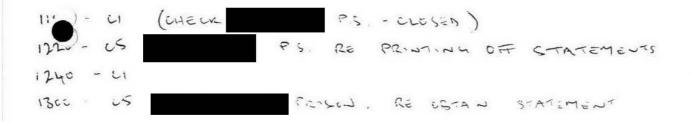
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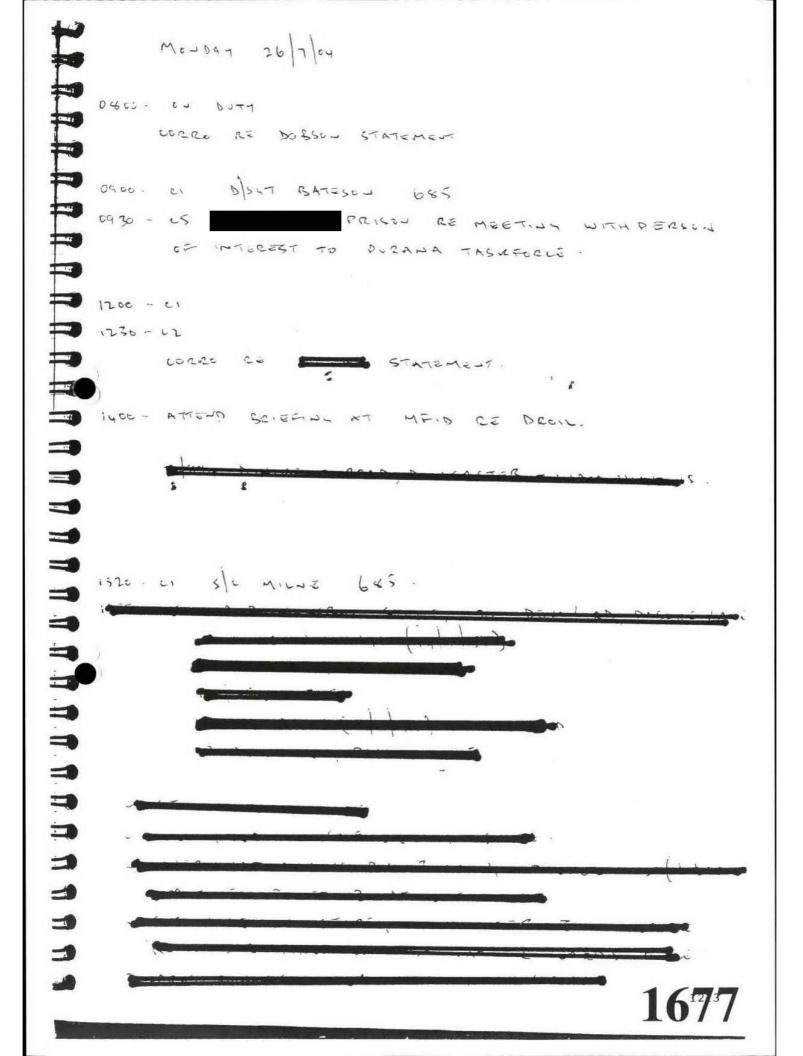
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## **NOTES**

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-	1400	C2 HOMICIDE
-	1514	U 683 WITH DISHT BATESON.
		15 PRISON AWANTING ARRIVAL OF
		DISISHT SWINDELLS . ATTEND GOVERNMENT FUNCTIONS
	1615	Mr McGrath BROJUHT FROM LEUS. ST SAME
		RE WELFARE ISSUES
	זירו	Mr McGrath RETURNED TO LEUS.
		663
	1805	C2 HOMICIDE
	1915	
	2300	DEE DUTT.
		x

Mark HATT. Detective Senior Constable 30272 1683

Homicide Squad

Day: Thursday Date: 24/7 2003 Notes Time tr office. 0830 Phones / Bngs to clean with hBGG 1120 Recon of South bonk Bay Toword vehicle porhed on 3rd flr. Pozer 1 Dozan 2 next peus ago (omm): [JSK: 7 Nok on whileboord] 1140 Ar Melbourne Inne Cib Managener persons we work. Senior tropory nanajor Property Manager Bank S Nor prescrt. 1148 Clean 1205

Stuart Bateson Detective Sergeant 26242

<u><b>Fime</b></u>	y: 28th Friday Date: 29th of Ausor 2003 Notes
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Stuart Bateson 2143 Detective Sergeant 26242

Day: Friday Date: 121 of March 2004 Time Notes 1200 R.T.O sil theo magazio. 1245 -informed reason working to speak (Mr Andrews to Roberta 1 \* informed re blood app. - ashed re photos agreed. clear with crew 1400 the At address 1430 Arrested " - Steven VENIAMIN 1425 surshine C/Ri Alsopresar Type sheplens. (Type called C.W sit same wanted Theo called agreed) Clear 1445 Ar office: 1505 Inurview conducted by RICMARDS/ HATT . off buy 1900 ON CALL Sat: 1200 - 2000. ( corro/ ti') Sun: 0820 - 1700 ON CALL.

Stuart Bateson 221604

Date: 22 nd of Mc 2004 Notes Day: Monday Time Course neering Committeel 6-Sep. 04 Sac Dury Mr Andrews he crizmouthy words repeated (p to me "Your dead BATBSON" peonto and completion outburst from the dock re custed > wees Shared I was responsible for his current where abouts. Assassively called me a dos and the like R. T.O 1442

Stuart Bateson Detective Sergeant 26242 22635

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Stuart Bateson Detective Sergeant 26242 22686

ON CALL

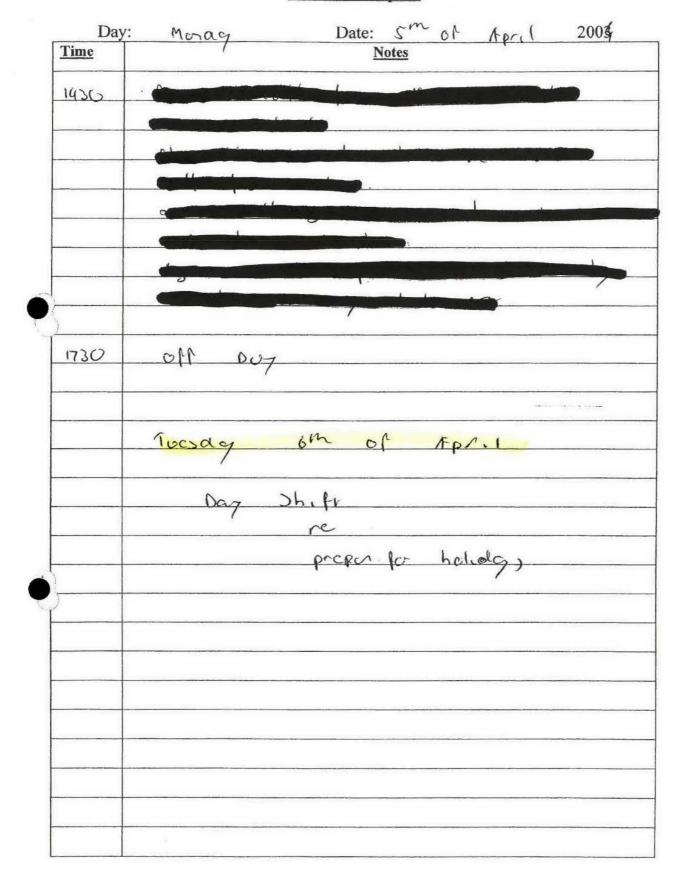
Day: Wednesdy Date: 24m of March 2004 Notes Time the office 0830 L.0 . 0900 fr 1135 Prison Mr McGrath 5/1 1256 Cleer R. P.O Ar V.F.S.C. 1430 13 this ene Iten & Dackpach. Mr McGratt Mixture of D.N.A from Mr Andrews Mr McGrath the four people Bie i Shirr (inside backya & AN . unprown male (seen NOV Mr McGrath 10 c Nike sochs while, blood spoks belonging to norshall, but crammed for wearers D. N.A will be done, blood patterns also to be & aramined for opinion on how They were deposited

Stuart Bateson Detective Sergeant 262422267

Homicide Squad

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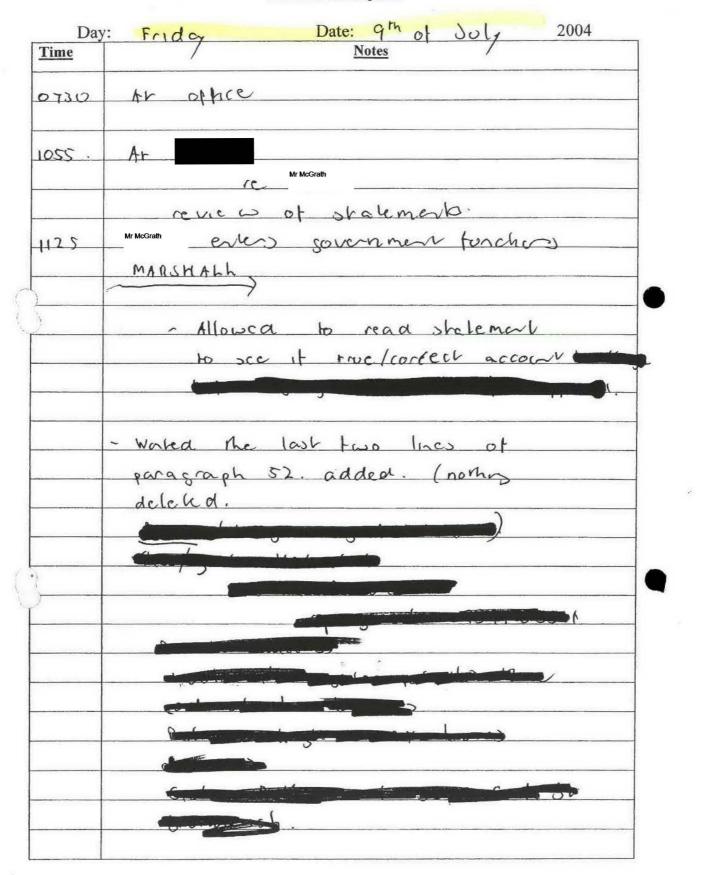
Stuart Bateson Detective Sergeant 26242 225732



Stuart Bateson 2275

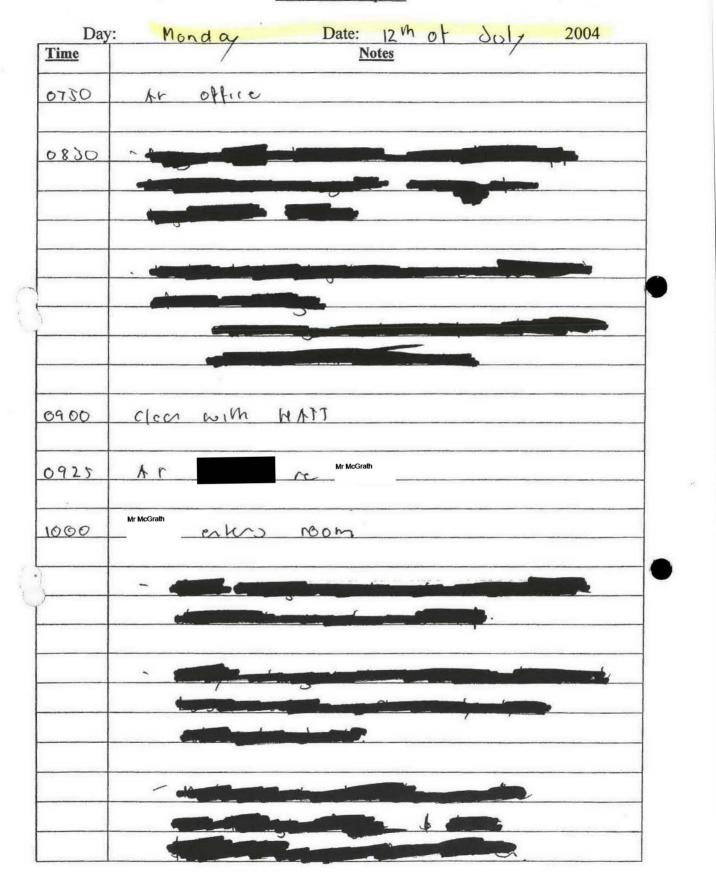
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Stuart Bateson 2276



Stuart Bateson 2288

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12 45	Clean	<u><u>r.s</u>.</u>		
12 45	Clean	<u>.</u>		



Stuart Bateson 2290 Detective Sergeant 26242

<u>Fime</u>	: monday Date: 12 <sup>m</sup> of July 2004 <u>Notes</u>
1145	Mr Mograth returns for head count
1220	Ar P.S.
	re printing shallower
655	R.J.O Prison
320	Mr McGrath
	Read statements happ?
1410	(100)
490	R-10
1740	
1800	off Doly

Stuart Bateson 2291 Detective Sergeant 26242