

## Re: TRIM Records - OP OBOE

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**From:** Vanessa Twigg <[REDACTED]>  
**To:** John Nolan <[REDACTED]>  
**Cc:** "graham ashton", greg.j.carroll <[REDACTED]> "miriam grant", "sam graves",  
"stephen wotton"  
**Date:** Thu, 21 Jun 2007 18:11:31 +1000  
**Attachments:** t0JZJD8R.DOC (68.61 kB); t0JZJD90.DOC (72.7 kB)

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John

I have discussed this matter with Greg following our telephone discussion. My main objective is to ensure that any TI material goes to Victoria Police legally. There are two reasons for that:

The TI Act provides for sanctions against agencies who do not comply with the Act; and if the information is unlawfully provided by OPI to Victoria Police, then there is a risk that if it were sought to be relied upon in a subsequent proceeding, it may be ruled inadmissible.

My advice is that without a joint agency agreement, there is no OPI permitted purpose for OPI to provide the information to Victoria Police. It would be clearly providing information to Victoria Police to assist with their investigation. This is why section 68 dissemination would be required.

If there was a joint agency agreement between Victoria Police and OPI, then there would be a common purpose and this would mean that OPI's permitted purpose and Victoria Police's would coincide. This is the case with other joint investigations currently being conducted between OPI and Victoria Police. Section 67 procedures would then be applicable.

My only concern in this case is OPI's stated objective in its own motion determination to oversight Victoria Police's investigation. In my view, this implies that OPI is acting independently from Victoria Police in respect of this investigation. I also note advice from Tony Fitzgerald to Greg Carroll indicating that OPI should remain separate and independent from the Victoria Police investigation, and it is my understanding (Greg can correct me if I am wrong), that this is why the own motion determination has been framed as it has. I still see an inconsistency between overlooking an investigation and operating jointly in relation to it.

If OPI enters into a joint investigation, then it becomes jointly responsible with Victoria Police for the success or failure of that investigation. That is the risk which OPI would have to assume, and I am therefore making you aware of it.

In short, my advice is that entering into a joint agency agreement would overcome the necessity to use section 68 to disseminate TI information to Victoria Police, and make section 67 applicable to the communication of that information. Section 67 also carries with it some record keeping requirements, although not as onerous as those in section 68.

The question of whether or not OPI should enter into a joint agency agreement is a policy rather than a legal issue, and I have outlined the issues above, which I think you would need to take into account in making that decision.

Regards

Vanessa Twigg  
Principal Lawyer

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John Nolan

John Nolan  
21/06/2007 17:49

To: Vanessa Twigg [REDACTED]  
cc: Sam Graves, Miriam Grant, Greg.J.Carroll [REDACTED] Graham Ashton, Stephen Wotton  
Subject: Re: TRIM Records - OP OBOE

Vanessa, Greg, Miriam and Sam,

Spoke to Graham and he has advised me to prepare a Joint Agency Agreement to overcome any legislative impediment to the timely dissemination/communication of information.

At first glance, this Agreement would appear in conflict with our oversight role. However this is a unique investigation for a number of reasons:

ESD surveillance may not be an option due to inappropriate associations with Dale (Grant).  
Crime Department surveillance may not be an option due to inappropriate associations with Dale (Hicks).  
OPI has significant intelligence holdings and an active (not purely oversight) interest in the investigation.  
OPI will hold relevant hearings during the course of the investigation.

The following is a summary of the verbal agreement between Graham and VicPol:

We will conduct OPI hearings (Argall and Gobbo) in consultation with VicPol, using any relevant VicPol intelligence.  
We will disseminate relevant information from all relevant OPI hearings.  
We will conduct other OPI hearings on a needs basis.  
We will disseminate/communicate information from the Oboe TI on a needs basis.  
We will provide physical and electronic surveillance on a needs basis.  
We will provide other technical support (financial analysis, computer analysis etc) on a needs basis.

As can be seen above, we are not purely overlooking this investigation.

Sam Graves will prepare the Joint Agency Agreement and submit to Graham ASAP.

I have told Graham that Legal does not agree with this course of action, and to refer to your memo before finalising the agreement.

Should you be vehemently opposed to this course of action, I would suggest that you convene a meeting to further discuss same.

Thanks

John Nolan  
Manager Operations

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Vanessa Twigg

Vanessa Twigg  
Sent by: Vanessa Twigg  
18/06/2007 16:37

To: John Nolan, Miriam Grant, Stephen Wotton, Sam Graves  
cc: Greg J Carroll,   
Subject: TRIM Records

John

I have consulted with Greg and Miriam about the TI issue. They both agree with my interpretation of the TI Act. I attach a memo confirming my advice and attaching an appropriate form to be completed by investigators for a s68 dissemination.

Regards


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Principal Lawyer

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-----< TRIM Record Information >-----

Record Number : DOC/07/13466  
Title : Section 68 transfer of TI information

-----< TRIM Record Information >-----

Record Number : DOC/07/13479  
Title : Memo J Nolan re Oboe

- t0JZJD8R.DOC  
- t0JZJD90.DOC