

Revised 05/13

VP Form 1028

## ISSUE COVER SHEET

**File No:****Issue:**

Example One Legal Conflict Report, Registered Human Source #21803838 (HS 3838) – Meeting Held on the 30<sup>th</sup> October 2006.

**Background:**

Operation Bendigo Investigation Group was established in June 2014 to review five legal conflict examples identified by the Operation Bendigo Steering Committee and to establish if there is any possible legal conflict issues arising from the information received from HS 3838.

Example One relates to HS 3838 having access to review three police briefs prior to final authorisation and service on the three accused Milad MOKBEL, BARBARO and AHEC.

Example One has been reviewed by the Investigation Group and a final report on the findings has been completed by D/S/C Adam Foley and is attached with supporting documentation.

Operation Bendigo Investigation Group has conducted an investigation of Example One by reviewing Op Loricated holdings, handlers and investigators diaries, archived briefs, investigation notes, court records, LEAP and Interpose records as well as speaking with investigators who had involvement in Op Posse.

**Comment:**

As can be seen in the attached supporting documentation there are certainly a myriad of questions in relation to the nature of the relationship between HS 3838 and the three accused, as to whether the communication was for the dominant purpose of legal advice and therefore should be the subject of legal professional privilege. On the face of the communications on the available evidence it can be argued equally that the nature of the relationship and communications were of a social nature.

There is insufficient available information to establish the exact nature of the solicitor/client relationships between HS 3838 and the three accused during the period of time subject of this example. We don't have access to HS 3838 client files and have received limited court files confirming the legal representatives for the three accused.

However, if the inference of a solicitor/client relationship is taken at its highest and it is accepted that HS 3838 did have such relationship with the three accused, are her actions of reviewing the police briefs sufficient to raise the question of the accused not receiving a fair trial or raise sufficient argument for an appeal in relation to any conviction? What implications does this have on prosecutions conducted against the three accused?

As per the attached supporting documentation it appears the purpose of HS 3838 having access to the briefs was not for the purposes of providing or eliciting legal advice but to allay her concerns that the briefs did not identify her as a human source.

The information provided by HS 3838 was not of a nature that had the potential to influence or alter the prosecutions undertaken. The information was general and was not acted on nor did it play any role in the conduct or outcome of the prosecutions of the three accused. From all the facts available it could be concluded that the access to the three briefs of evidence caused no tangible impact on the prosecution or outcomes at court.

**Recommendation:**

For attention of the Operation Bendigo Steering Committee.

*[Handwritten signature]*

Monique SWAIN Detective Inspector  
Operation Bendigo Crime Command

Date: 10/9/14

- 1. Det Supt. Frewen - Professional Standard Command Manager Planning, Performance & Risk

<Date>

2. *[Handwritten signature]*  
 Stephen Leane  
 Assistant Commissioner  
 19. 9. 14.

3. *[Handwritten signature]*  
 Steven Legat Services