

Revised 05/13

VP Form 1028

ISSUE COVER SHEET

File No:**Issue:**

Example Five Legal Conflict Report, Registered Human Source #21803838 (HS 3838) – On going contact with Mokbel whilst he is in custody in Greece awaiting extradition.

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 Five relates to HS 3838 having contact with Tony Mokbel whilst he was in custody in Greece awaiting extradition to Australia. HS 3838 conveyed contents of these conversations to the Source Development Unit (SDU) handlers.

Example Five 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 Five 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 and Op Magnum.

Comment:

HS 3838 assisted as legal counsel in Mokbel's trial prior to him absconding on 20 March 2006. There is no doubt at that time there was a solicitor/client relationship. It appears HS 3838 did not have contact with Mokbel until after he was arrested in Greece on 5 June 2007 with the first contact being on 12 June 2007. It is evident from these contacts that Mokbel wanted HS 3838 to form part of his legal team to assist with defending the extradition. It is probably fair to say that in Mokbel's mind he believed his contact with HS 3838 was for the purpose of obtaining legal advice. He trusted her as a legal practitioner as well as considered her a friend. There is no doubt the conversations she had with him would be the subject of Legal Professional Privilege (LPP).

It is well documented that SDU discouraged HS 3838 from passing the information she had received from Mokbel onto the handlers but she continued to do so. It appears SDU handlers were aware that there may be a legal conflict in the information HS 3838 was providing them so therefore made numerous notes that the information would not be passed on due to such legal conflict. Although there are some ICR's that indicates certain information was passed on there is only one diary entry in Det. Insp. O'Brien's diary that corroborates these ICR's. (*refer to D/S/C Foley's report for further*)

Det. Sgt. Coghlan as the Victoria Police representative was in Greece for Mokbel's arrest until 23 June 2008. Although Det. Insp. O'Brien had contact with Det. Sgt. Coghlan during this time he did not pass on any information from the SDU. The information provided by HS 3838 in relation to Mokbel's extradition defence was predominately given after Det. Sgt. Coghlan returned from Greece. After Det. Sgt. Coghlan's return he did not have any contact with anyone connected to the Mokbel extradition nor did any person from the Purana TF and SDU. It appears there was no possible way the extradition defence strategies could have made its way to the prosecuting agency in Greece.

HS 3838 has most likely breached LPP by passing on defence strategies to SDU however this information was not passed on by the SDU. It therefore appears as a result of the information provided by HS 3838 that neither Victoria Police nor the prosecuting agency in Greece benefited from the information or did it provide any advantage during the extradition proceedings.