

Revised 11/03

VP Form 1028

ISSUE COVER SHEET**File No:****Issue:**

Advice sought on the coverage of the Witness Protection Act

CONFIDENTIAL**Background:**

J Doe* is a prosecution witness in a pending criminal trial of "the accused".

J Doe was formally a registered human source of Victoria Police. As a registered human source J Doe provided Victoria Police with valuable and investigatively fruitful information over a number of years against a number of high level criminals.

Pursuant to the pending criminal trial, J Doe provided Victoria Police investigators with a statement against "the accused".

Prosecutors intend to call J Doe in the pending criminal trial.

Relative to the pending criminal trial, J Doe refuses to enter the usual conditions of section 3A (2) of the Witness Protection Program [REDACTED]

It is anticipated that when called as a witness in the pending criminal trial, J Doe will be cross examined as to how he/she came to be engaged by Victoria Police as witness against "the accused". Unchallenged, such cross examination is likely to lead to disclosure as to how J Doe came to be engaged and managed by Victoria Police as a human source.

Such disclosures would lead to the revealing of Victoria Police protected investigative methodologies and place J Doe's safety at risk.

Comment:

Whilst investigators propose to mount public interest immunity claims against such cross examination, advice is sought as to whether the provisions of the Witness Protection Act are able to be invoked to protect J Doe, in so far as:

- a. J Doe agrees to give evidence and is therefore a "witness" under section 3,
- b. J Doe expressly declines the standard physical protections referred to in section 3A,
- c. J Doe is afforded the protections of section 10, so as to protect him/herself and Victoria Police from answering questions about how he/she came to be (originally) engaged by Victoria Police as witness against "the accused", unless in the form of a confidential affidavit to the presiding court.
- d. J Doe enters a [REDACTED] with Victoria Police under section 5 to the effect of a. - c. above.

Recommendation:

Forwarded for consideration and advice.

* = pseudonym

Boris BUICK Detective Senior Sergeant 27498

Crime Department [REDACTED]

6/09/2011

Date:

1. Detective Inspector Michael FREWEN

