

Revised 05/13

VP Form 1028

# ISSUE COVER SHEET

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

Example Four Legal Conflict Report, Registered Human Source #21803838 (HS 3838) – Information supplied relating to the arrest of **Mr Cooper**

**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 Four relates to information supplied by HS 3838 regarding **Mr Cooper** which ultimately led to his arrest and subsequent successful prosecution. **Mr Cooper** also became a [REDACTED] witness which led to at least 11 further arrests and prosecutions.

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

Operation Bendigo Investigation Group has conducted an investigation of Example Four 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:**

Throughout the ICR's there is extensive reference to HS 3838 representing **Mr Cooper** for the 2002 and 2003 charges as well as advising him when he was arrested in 2006. It is clear there is a solicitor/client relationship that went further to become a social/personal relationship.

From the information provided by HS 3838 in relation to **Mr Cooper** there were various sources apart from **Mr Cooper**. Information was obtained from associates of **Mr Cooper**, conversations between **Mr Cooper** & associates that she was present for and overheard in social settings and information she has assumed from certain facts and circumstances and her knowledge of how **Mr Cooper** and his associates work. In most cases the actual source is unable to be identified.

The question is whether the information she received from **Mr Cooper** was subject to Legal Professional Privilege (LPP) or is there a legal conflict surrounding the information she provided to police? Would a breach of LPP in such circumstance be sufficient to raise the presumption that **Mr Cooper** did not receive a fair trial and entitled to an appeal in relation to any conviction?

On the face of it conversations between HS 3838 and **Mr Cooper** do not appear to be for the dominant purpose of legal advice. However if it is found the information provided was subject to LPP or there is legal conflict what is the flow on effect to the information given by **Mr Cooper** which subsequently impacted on the other accused?

Expert legal opinion would need to be obtained to further explore the facts relating to this example and provide advice on the "dominant purpose test" and identify whether there was a LPP or legal conflict breach.

**Recommendation:**

1. For expert legal opinion to explore the 'dominant purpose test' and any LPP breach.
2. For attention of the Operation Bendigo Steering Committee.

Revised 05/13

VP Form 1028



Monique SWAIN Detective Inspector  
Operation Bendigo Crime Command

Date: 16/9/14

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

<Date>

2.



Stephen Leane  
Assistant Commissioner

13. 9. 14

3.

Dir. Legal Services