



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No. 190-LS-70274

600 Dr. MLK Jr. Place, Room 500

November 3, 2003

Mr. Laurence E. Komp
Attorney at Law
423 Madrina
Ballwin, Missouri 63021

RE: Request of Benny Lee Hodge

Dear Mr. Komp:

Your money order provided as payment for records processed pursuant to the request made on behalf of your client, Benny Lee Hodge, has been received.

The enclosed material is from main files in which Mr. Hodge was listed as a subject of the investigation. Excisions have been made from these pages in order to protect information exempt from disclosure pursuant to the following subsections of Title 5, United States Code, Sections 552 and 552a: (j)(2), (b)(2), (b)(7)(C), (b)(7)(D), and (b)(7)(E). See Form 4-694a, enclosed, for an explanation of these exemptions.

Pursuant to this request, 569 pages were reviewed and 361 pages are being released.

Notations have been made on the enclosed pages indicating specific exemptions applied to excised portions of the material. Where pages have been withheld in their entirety, a deleted page information sheet has been substituted showing the reasons for the deletion.

Please be advised that the files processed for this release contain investigative records pertaining to multiple subjects. Only those documents containing information identifiable with your client were processed. If the only mention of Mr. Hodge's name was its appearance in the title of the document, this page was likewise not processed.

You may submit, on behalf of Mr. Hodge, an appeal from any denial contained herein. Appeals should be directed in writing to the Co-Director, Office of Information and Privacy, United States Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530, within 60 days from receipt of this

letter. The envelope and letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the name of the office to which your original request was directed.

One of the documents enclosed in this release is a copy of Mr. Hodge's identification record or "rap sheet." We have released this "rap sheet" as it existed when placed in the file. It may or may not reflect current information. An up-to-date copy can be obtained by complying with the instructions set forth on the enclosed copy of Attorney General Order 556-73. Fingerprint impressions are needed for comparison with records in the Criminal Justice Information Services Division to ensure that an individual's identification record is not disseminated to an unauthorized person.

Sincerely,



Charles D. Elder
Special Agent in Charge

Enclosures: (22)

EXPLANATION OF EXEMPTIONS**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b) (1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;
- (b) (2) related solely to the internal personnel rules and practices of an agency;
- (b) (3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b) (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b) (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b) (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b) (7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b) (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b) (9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d) (5) information compiled in reasonable anticipation of a civil action proceeding;
- (j) (2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k) (1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k) (2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k) (3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k) (4) required by statute to be maintained and used solely as statistical records;
- (k) (5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k) (6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k) (7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

RULES AND REGULATIONS

[Order 556-73]
PART 16-PRODUCTION OR
DISCLOSURE OF
MATERIAL OR
INFORMATION

**Subpart C-Production of FBI
Identification Records in
Response to Written
Requests by Subjects Thereof**

By order dated September 24, 1973, the Attorney General of the United States directed that the Federal Bureau of Investigation, hereinafter referred to as the FBI, publish rules for the dissemination of arrest and conviction records to the subjects of such records upon request. This order resulted from a determination that 28 U.S.C. 534 does not prohibit the subjects of arrest and conviction records from having access to those records. In accordance with the Attorney General's order, the FBI will release to the subjects of identification records copies of such records upon submission of a written request, satisfactory proof of identity of the person whose identification record is requested and a processing fee of \$18.00.

Since the FBI Identification Division is not the source of the data appearing in identification records, and obtains all data thereon from fingerprint cards or related identification forms submitted to the FBI by local, state, and Federal agencies, the responsibility for authentication and correction of such data rests upon the contributing agencies. Therefore, the rules set forth for changing, correcting or updating such data require that the subject of an identification record make application to the original contributing agency in order to correct the deficiency complained of.

The relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable because the material contained herein relates to the interpretation of 28 U.S.C. 534 as allowing the granting of an exemption to subjects of identification records and relief of prior administrative restrictions on dissemination of such records to them. Furthermore, it is deemed in the public interest that there be no delay in effective date of availability of identification records to the subjects thereof.

By virtue of the order of the Attorney General, dated September 24, 1973, and pursuant to the authority

delegated to the Director, FBI by 28 CFR 0.85(b), Part 16 of 28 CFR Chapter I, is amended by adding the following new Subpart C:

§ 16.30 Purpose and scope

This subpart contains the regulations of the Federal Bureau of Investigation, hereafter referred to as the FBI, concerning procedures to be followed when the subject of an identification record requests production thereof. It also contains the procedures for obtaining any change, correction or updating of such record.

**§ 16.31 Definition of
identification record**

An FBI identification record, often referred to as a "rap sheet", is a listing of certain information taken from fingerprint cards submitted to and retained by the FBI in connection with arrests and, in some instances, includes information taken from fingerprint cards submitted in connection with federal employment, naturalization, or military service. The identification record includes the name of the agency or institution which submitted the fingerprint card to the FBI. If the fingerprint card concerns a criminal offense, the identification record includes the date arrested or received, the arrest charge, and the disposition of the arrest if known to the FBI. All arrest data included in an identification record are obtained from fingerprint cards, disposition reports and other reports submitted by agencies having criminal justice responsibilities. Therefore, the FBI Identification Division is not the source of the arrest data reflected on an identification record.

**§ 16.32 Procedure to obtain an
identification record**

The subject of an identification record may obtain a copy thereof by submitting a written request via the U.S. mails directly to FBI, Identification Division, Room 10104, * Washington, D.C. 20537-9700, or may present his/her written request in person during regular business hours to the FBI Identification Division, ~~J. Edgar Hoover F.B.I. Building, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C.~~ Such request must be accompanied by satisfactory proof of identity, which shall consist of name, date and place of birth and a set of rolled-inked fingerprint impressions placed upon fingerprint cards or forms

commonly utilized for applicant or law enforcement purposes by law enforcement agencies.

**§ 16.33 Fee for production of
identification record**

Each written request for production of an identification record must be accompanied by a fee of \$18.00 in the form of a certified check or money order, payable to the Treasury of the United States. This fee is established pursuant to the provisions of 31 U.S.C. 9701 and is based upon the clerical time beyond the first quarter hour to be spent in searching for, identifying, and reproducing each identification record requested as specified in § 16.10 of this part. Any request for waiver of the fee shall accompany the original request for the identification record and shall include a claim and proof of indigence.

**§ 16.34 Procedure to obtain change,
correction or updating of
identification records**

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the Assistant Director of the FBI Identification Division, Washington, * D.C. 20537-9700. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI Identification Division will make any changes necessary in accordance with the information supplied by that agency.

PLEASE NOTE NEW ADDRESS

FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIV.
SCU MOD D2
1000 Custer Hollow Road
Clarksburg, WV 26306