

**SCHONEKAS, WINSBERG, EVANS & MCGOEY, L.L.C.**

TEXACO CENTER  
400 POYDRAS STREET, SUITE 1440  
NEW ORLEANS, LOUISIANA 70130  
TELEPHONE (504) 680-6050  
TELECOPIER (504) 680-6051

KYLE SCHONEKAS

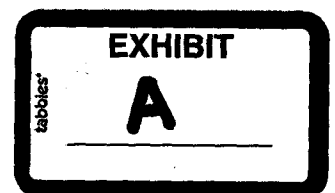
June 4, 2003

David M. Hardy, Chief  
FOIPA Section  
Federal Bureau of Investigation  
Dept. of Justice  
935 Pennsylvania Avenue, N.W.  
Washington, DC 20535-0001

To Whom It May Concern:

In accordance with the Freedom of Information Act (5 U.S.C.A. § 552), I am requesting that copies of the following records be made available to me:

- 1.) **The entire file, including any reports, investigative files, surveillance, or any other document, concerning any investigation performed by any federal agency relating to Howard Lippton;**
- 2.) **All FBI 302 reports concerning Howard Lippton;**
- 3.) **Any FOIA requests concerning Howard Lippton by any entity or subdivision of the United States government, including but not limited to the Department of Justice. Please include the dates, persons making the request, and the nature of the inquiry;**
- 4.) **Any IRS investigations of Howard Lippton;**
- 5.) **Any statement attributed to Howard Lippton, made either during the course of an investigation concerning his appointment as a Judge of the United States District Court for the Eastern District of Louisiana or thereafter; and**



David M. Hardy, Chief  
June 4, 2003  
Page 2

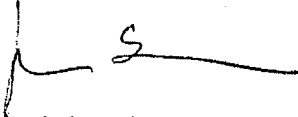
- 6.) **Any summaries of interviews concerning allegations made during the course of the investigation performed by any federal agency relating to Howard Lipton.**

This is a standard form used in the submission of request for information under the Freedom of Information Act.

Thank you for your cooperation. Please contact me if you have any questions.

With kind regards,

Sincerely,

A handwritten signature in black ink, appearing to read 'K Schonekas', with a long horizontal stroke extending to the right.

Kyle Schonekas



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

JHG  
KDS  
0528

KYLE SCHONEKAS ESQ  
SCHONEKAS, WINSBERG, EVANS  
\*\*& MCGOEY, L.L.C.  
SUITE 1440  
TEXACO CENTER  
400 POYDRAS STREET  
NEW ORLEANS, LA 70130

September 30, 2003

Request No.: 0980408-000  
Subject: LIPPTON, HOWARD

Dear Requester:

This is in reference to your Freedom of Information-Privacy Acts (FOIPA) request.

We have located approximately 1160 pages which appear to relate to your request. Under Title 28, Code of Federal Regulations (CFR), Sections 16.11 and 16.49, there is a duplication fee of ten cents per page for every page released over 100. These regulations require us to notify requesters when anticipated charges exceed \$25, and if all the pages are released, you will owe \$ 106.00 in duplication costs. Please remember this is only an estimate; and if some of the pages are withheld or are not identifiable with your subject, the actual charges could be less.

You may want to consider reducing the scope of your request. This would allow you both to lower your costs and hasten the receipt of your information. To streamline our operation, we divide our requests into three tracks based on the amount of material to be processed: small (1-500 pages); medium (501-2500 pages) and large (2501 or more pages), with the small track having the fastest rate of processing. To accelerate the processing of your request, you must reduce the pages to be processed to 500 pages or less. Please let us know in writing if you are interested in discussing the possibility of reducing the scope of your request or if you are willing to pay the estimated duplication cost indicated in the above paragraph. Your written response should provide a telephone number where you can be reached between the hours of 8:00 a.m. to 5:00 p.m., EST. You may fax your response to the following number: 202-324-3752, Attention: Request Management Unit. You must include the FOIPA request number in any communication regarding this subject.

As stated previously, the cost indicated is only an estimate: therefore, no payment should be made at this time. If you fail to respond within thirty days from the date of this letter, your request will be considered closed administratively.

Sincerely yours,

David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Records Management Division





U.S. Department of Justice

Federal Bureau of Investigation  
Washington, D.C. 20535

KYLE SCHONEKAS ESQ  
SCHONEKAS, WINSBERG, EVANS  
& MCGOEY, L.L.C.  
SUITE 1440  
TEXACO CENTER  
400 POYDRAS STREET  
NEW ORLEANS, LA 70130

March 4, 2005



Subject: LIPPTON, HOWARD

FOIPA No. 0980408-000

Dear Requester:

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Form OPCA-16a:

Section 552		Section 552a
<input type="checkbox"/> (b)(1)	<input type="checkbox"/> (b)(7)(A)	<input type="checkbox"/> (d)(5)
<input type="checkbox"/> (b)(2)	<input type="checkbox"/> (b)(7)(B)	<input type="checkbox"/> (j)(2)
<input type="checkbox"/> (b)(3) <u>Federal Rules of</u>	<input type="checkbox"/> (b)(7)(C)	<input type="checkbox"/> (k)(1)
<u>Criminal Procedures,</u>	<input type="checkbox"/> (b)(7)(D)	<input type="checkbox"/> (k)(2)
<u>Rule 6(e)</u>	<input type="checkbox"/> (b)(7)(E)	<input type="checkbox"/> (k)(3)
<input type="checkbox"/> (b)(4)	<input type="checkbox"/> (b)(7)(F)	<input type="checkbox"/> (k)(4)
<input type="checkbox"/> (b)(5)	<input type="checkbox"/> (b)(8)	<input type="checkbox"/> (k)(5)
<input type="checkbox"/> (b)(6)	<input type="checkbox"/> (b)(9)	<input type="checkbox"/> (k)(6)
		<input type="checkbox"/> (k)(7)

569 page(s) were reviewed and 396 page(s) are being released.

Document(s) were located which originated with, or contained information concerning other Government agency(ies) [OGA]. This information has been:

- referred to the OGA for review and direct response to you.
- referred to the OGA for consultation. The FBI will correspond with you regarding this information when the consultation is finished.

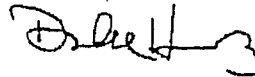
You have the right to appeal any denials in this release. Appeals should be directed in writing to the Co-Director, Office of Information and Privacy, U.S. Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530-0001 within sixty days from the date of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other individuals, or matters, which may or may not be about your subject(s). Our experience has shown, when ident, references usually contain information similar to the information processed in the main file(s).

If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

See additional information which follows.

Sincerely yours,



David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Records Management Division

Enclosure(2)

This is an interim release of the releasable documents contained in FBI Headquarters (FBIHQ) file 209-61202 and Field Office File 209-61202 Sections 1 and 2. We will continue to process this file and make interim releases to you until completion of your FOIA request. Please be advised that failure to pay for this interim release, within 45 days of the date of this letter, will close your current request as well as any requests you may have pending. It will also result in an automatic denial of any future request.

Pursuant to Title 28, Code of Federal Regulations, Section 16.11 and 16.49, there is a fee of ten cents per page for duplication for the enclosed documents. No fees are assessed for the first 100 pages. Please submit your check or money order in the amount of \$29.60 payable to the Federal Bureau of Investigation. To insure proper identification of your request, please return this letter or include the FOIPA request number with your payment.

April 7, 2005

**Freedom of Information Act/Privacy Act Appeal**

Office of Information and Privacy  
United State Department of Justice  
Flag Building, Suite 570  
Washington, D.C. 20530-0001

Re: FOIA Request No. 0980408-000 to FBI

To Whom It May Concern:

I hereby appeal the decision by FBI to withhold responsive documents to my FOIA request. I enclosed herein a copy of the letter from Mr. David Hardy, stating that 569 pages have been withheld in full for a number of reasons.

Please let me know if there is anything else I need to do in order to bring this appeal.

With kind regards, I remain

Sincerely,

Kyle Schonekas

KDS/jdb  
Enclosure

cc: Howard Lipton





**COPIES**

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

KYLE SCHONEKAS ESQ  
SCHONEKAS, WINSBERG, EVANS  
& MCGOEY, L.L.C.  
SUITE 1440  
TEXACO CENTER  
400 POYDRAS STREET  
NEW ORLEANS, LA 70130

May 10, 2005



Subject: LIPPTON, HOWARD

FOIPA No. 0980408- 000

Dear Requester:

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Form OPCA-16a:

Section 552		Section 552a
<input type="checkbox"/> (b)(1)	<input type="checkbox"/> (b)(7)(A)	<input type="checkbox"/> (d)(5)
<input checked="" type="checkbox"/> (b)(2)	<input type="checkbox"/> (b)(7)(B)	<input checked="" type="checkbox"/> (j)(2)
<input checked="" type="checkbox"/> (b)(3) _____	<input checked="" type="checkbox"/> (b)(7)(C)	<input type="checkbox"/> (k)(1)
<u>Federal Rules of Criminal</u>	<input checked="" type="checkbox"/> (b)(7)(D)	<input type="checkbox"/> (k)(2)
<u>Procedures, Rule 6(e)</u>	<input checked="" type="checkbox"/> (b)(7)(E)	<input type="checkbox"/> (k)(3)
_____	<input type="checkbox"/> (b)(7)(F)	<input type="checkbox"/> (k)(4)
<input type="checkbox"/> (b)(4)	<input type="checkbox"/> (b)(8)	<input type="checkbox"/> (k)(5)
<input type="checkbox"/> (b)(5)	<input type="checkbox"/> (b)(9)	<input type="checkbox"/> (k)(6)
<input type="checkbox"/> (b)(6)		<input type="checkbox"/> (k)(7)

395 page(s) were reviewed and 351 page(s) are being released.

- Document(s) were located which originated with, or contained information concerning other Government agency(ies) [OGA]. This information has been:
  - referred to the OGA for review and direct response to you.
  - referred to the OGA for consultation. The FBI will correspond with you regarding this information when the consultation is finished.

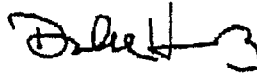
You have the right to appeal any denials in this release. Appeals should be directed in writing to the Co-Director, Office of Information and Privacy, U.S. Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530-0001 within sixty days from the date of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other individuals, or matters, which may or may not be about your subject(s). Our experience has shown, when ident, references usually contain information similar to the information processed in the main file(s).

Because of our significant backlog, we have given priority to processing only the main investigative file(s). If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

See additional information which follows.

Sincerely yours,



David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Records Management Division

Enclosure(2)

In response to your Freedom of Information-Privacy Acts (FOIPA) request, enclosed are the remaining documents responsive to your request.

Pursuant to Title 28, Code of Federal Regulations, Section 16.11 and 16.49, there is a fee of ten cents per page for duplication. Please submit your check or money order in the amount of \$35.10 payable to the Federal Bureau of Investigation. To ensure proper identification of your request, please return this letter and/or include the FOIPA request number with your payment.



## 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.

May 11, 2005

**Freedom of Information Act/Privacy Act Appeal**  
Office of Information and Privacy  
United State Department of Justice  
Flag Building, Suite 570  
Washington, D.C. 20530-0001

Re: FOIA Request No 0980408-000

To Whom It May Concern:

I hereby appeal the decision the Federal Bureau of Investigation to withhold responsive documents to my office's FOIA request. I enclosed herein a copy of the letter from Mr. David Hardy, stating that 45 pages of documents have been withheld in full.

Please let me know if there is anything else I need to do in order to bring this appeal.

With kind regards, I remain

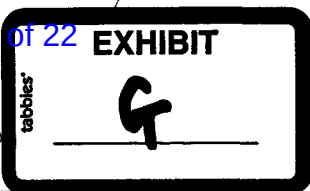
Sincerely,

Kyle Schonekas

KDS/jdb  
Enclosure

cc: Howard Lipton





Telephone: (202) 514-3642

Washington, D.C. 20530

**JUN 19 2006**

Kyle Schonekas, Esq.  
Schonekas, Winsberg, Evans & McGoey, L.L.C.  
Texaco Center  
400 Poydras Street, Suite 1440  
New Orleans, LA 70130

Re: Appeal No. 05-1523  
Request No. 980408  
BVE:ADW:JTR

Dear Mr. Schonekas:

You appealed on behalf of your client, Howard Lipton, from the action of the New Orleans Field Office of the Federal Bureau of Investigation on your client's request for access to records pertaining to himself.

I note that the FBI made two releases in response to your client's request. This appeal concerns only the FBI's first release, made on March 4, 2005. Your appeal from the FBI's second release, Appeal No. 05-1855, is being processed separately.

After carefully considering your appeal, I am affirming the FBI's action on your client's request. These records are exempt from the access provision of the Privacy Act of 1974 pursuant to 5 U.S.C. § 552a(j)(2). See 28 C.F.R. § 16.96 (2005). Because these records are not available to your client under the Privacy Act, they have been reviewed under the Freedom of Information Act in order to afford him the greatest possible access to them.

The FBI properly withheld certain information that is protected from disclosure under the FOIA pursuant to:

- 5 U.S.C. § 552(b)(2), which concerns matters that are related solely to internal agency practices (in this instance, internal FBI fax numbers);
- 5 U.S.C. § 552(b)(3), which concerns matters specifically exempted from release by statute (in this instance, Rule 6(e) of the Federal Rules of Criminal Procedure);
- 5 U.S.C. § 552(b)(7)(C), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties (including, in this instance, names and identifying information of persons of investigative interest to the FBI, as well as the names of FBI Special Agents); and

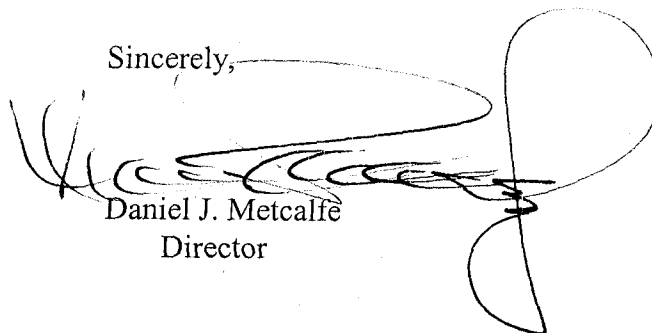
-2-

5 U.S.C. § 552(b)(7)(D), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to disclose the identities of confidential sources and information furnished by such sources; and

5 U.S.C. § 552(b)(7)(E), which concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures for law enforcement investigations.

If your client is dissatisfied with my action on your appeal, he may seek judicial review in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel J. Metcalfe". The signature is highly stylized and cursive, with a large loop on the right side. It is positioned above the printed name and title.

Daniel J. Metcalfe  
Director



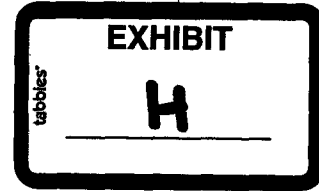
U.S. Department of Justice

Office of Information and Privacy

*T. Lipman*  
*0528*  
*FOIA*  
*Req.*  
*Gen.*

Telephone: (202) 514-3642

Washington, D.C. 20530



JUN 20 2006

Kyle Schonekas, Esq.  
Schonekas, Winsberg, Evans & McGoey, L.L.C.  
Texaco Center  
400 Poydras Street, Suite 1440  
New Orleans, LA 70130

Re: Appeal No. 05-1855  
Request No. 980408  
BVE:ADW:JTR

Dear Mr. Schonekas:

You appealed on behalf of your client, Howard Lippton, from the action of the New Orleans Field Office of the Federal Bureau of Investigation on your client's request for access to records pertaining to himself.

I note that the FBI made two releases in response to your client's request. This appeal concerns only the FBI's second release, made on May 10, 2005. Your appeal from the FBI's first release, Appeal No. 05-1523, is being processed separately.

After carefully considering your appeal, I am affirming, on additional grounds, the FBI's action on your client's request. These records are exempt from the access provision of the Privacy Act of 1974 pursuant to 5 U.S.C. § 552a(j)(2). See 28 C.F.R. § 16.96 (2005). Because these records are not available to your client under the Privacy Act, they have been reviewed under the Freedom of Information Act in order to afford him the greatest possible access to them.

The FBI properly withheld certain information that is protected from disclosure under the FOIA pursuant to:

5 U.S.C. § 552(b)(2), which concerns matters that are related solely to internal agency practices;

5 U.S.C. § 552(b)(3), which concerns matters specifically exempted from release by statute (in this instance, Rule 6(e) of the Federal Rules of Criminal Procedure);

5 U.S.C. § 552(b)(5), which concerns certain inter- and intra-agency communications protected by the deliberative process and attorney work-product privileges;

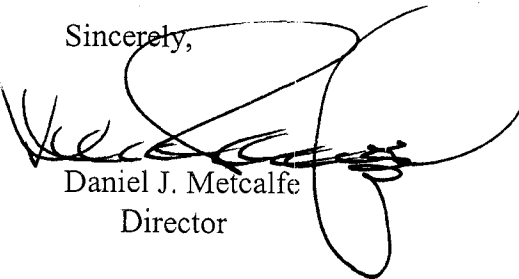
5 U.S.C. § 552(b)(7)(C), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties;

-2-

5 U.S.C. § 552(b)(7)(D), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to disclose the identities of confidential sources and information furnished by such sources.

If your client is dissatisfied with my action on your appeal, he may seek judicial review in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel J. Metcalfe", is written over the typed name and title. The signature is stylized and somewhat illegible due to overlapping loops and lines.

Daniel J. Metcalfe  
Director

FOIA  
0528

**SCHONEKAS, WINSBERG, EVANS & MCGOEY, L.L.C.**

TEXACO CENTER  
400 POYDRAS STREET, SUITE 1440  
NEW ORLEANS, LOUISIANA 70130  
TELEPHONE (504) 680-6050  
TELECOPIER (504) 680-6051

KYLE SCHONEKAS

June 4, 2003

FOIA/PA Mail Referral Unit  
Justice Management Division  
Dept. of Justice  
Room 114 LOC, 950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

To Whom It May Concern:

In accordance with the Freedom of Information Act (5 U.S.C.A. § 552), I am requesting that copies of the following records be made available to me:

- 1.) **The entire file, including any reports, investigative files, surveillance, or any other document, concerning any investigation performed by any federal agency relating to the subject matter of the investigation, arrest and/or conviction of Howard Lippton;**
- 2.) **All FBI 302 reports concerning Howard Lippton;**
- 3.) **Any FOIA requests concerning Howard Lippton by any entity or subdivision of the United States government, including but not limited to the Department of Justice. Please include the dates, persons making the request, and the nature of the inquiry;**
- 4.) **Any IRS investigations of Howard Lippton;**
- 5.) **Any statement attributed to Howard Lippton relating to the subject matter of the investigation, arrest and/or investigation of Howard Lippton; and**
- 6.) **Any summaries of interviews concerning allegations made during the course of the investigation performed by any federal agency relating to Howard Lippton.**

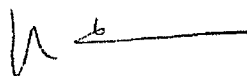


FOIA/PA Mail Referral Unit  
June 4, 2003  
Page 2

This is a standard form used in the submission of request for information under the Freedom of Information Act.

Thank you for your cooperation. Please contact if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'K Schonekas', with a horizontal line extending to the right.

Kyle Schonekas





Executive Office for United States Attorneys  
Freedom of Information/Privacy Act Staff  
600 E Street, N.W., Room 7300  
Washington, D.C. 20530  
202-616-6757 Fax 202-616-6478

FEB 10 2005

Requester: Kyle Shonekas Request Number: 03-3927  
Subject of Request: Howard Lippton

Dear Requester:

Your request for records under the Freedom of Information Act/Privacy Act has been processed. This letter constitutes a reply from the Executive Office for United States Attorneys, the official record-keeper for all records located in this office and the various United States Attorneys' Offices.

To provide you the greatest degree of access authorized by the Freedom of Information Act and the Privacy Act, we have considered your request in light of the provisions of both statutes.

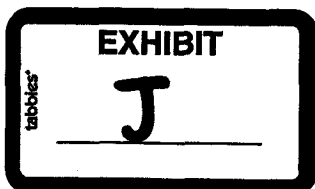
The records you seek are located in a Privacy Act system of records that, in accordance with regulations promulgated by the Attorney General, is exempt from the access provisions of the Privacy Act. 28 C.F.R. §16.81. We have also processed your request under the Freedom of Information Act and are making all records required to be released, or considered appropriate for release as a matter of discretion, available to you. This letter is a [ x ] partial [ ] full denial.

Enclosed please find:

- 5 page(s) are being released in part (RIP);
- 229 page(s) are being released in full (RIF);
- 294 page(s) are withheld in full (WIF). The redacted/withheld documents were reviewed to determine if any information could be segregated for release.

The exemption(s) cited for withholding records or portions of records are marked below. An enclosure to this letter explains the exemptions in more detail.

		Section 552		Section 552a	
[ <u>   </u> ](b)(1)	[ <u>   </u> ](b)(4)	[ <u>   </u> ](b)(7)(B)	[ <u> x </u> ](j)(2)		
[ <u> x </u> ](b)(2)	[ <u> x </u> ](b)(5)	[ <u> x </u> ](b)(7)(C)	[ <u>   </u> ](k)(2)		
[ <u> x </u> ](b)(3)	[ <u>   </u> ](b)(6)	[ <u> x </u> ](b)(7)(D)	[ <u>   </u> ](k)(5)		
<u>sealed</u>	[ <u>   </u> ](b)(7)(A)	[ <u>   </u> ](b)(7)(E)			
<u>Fed.R.Crim.P. Rule 6(e)</u>		[ <u>   </u> ](b)(7)(F)			



4606 page(s) originated with another government component. **These records were found in the U.S. Attorney's Office files and may or may not be responsive to your request.** These records will be referred to the following component(s) listed for review and direct response to you:

<u>Component</u>	<u>Pages</u>
FBI	1123
U.S. Trustee	1
U.S. Probation	2
Social Security Administration	3477
Department of Justice, Criminal Division	3

There are public records which may be obtained from the clerk of the court or this office, upon specific request. If you wish to obtain a copy of these records, you must submit a new request. These records will be provided to you subject to copying fees.

See additional information attached.

This is the final action this office will take concerning your request.

You may appeal my decision to withhold records in this matter by writing within sixty (60) days from the date of this letter, to:

Office of Information and Privacy  
United States Department of Justice  
Flag Building, Suite 570  
Washington, D.C. 20530

Both the envelope and letter of appeal must be clearly marked "Freedom of Information Act/Privacy Act Appeal."

After the appeal has been decided, you may have judicial review by filing a complaint in the United States District Court for the judicial district in which you reside or have your principal place of business; the judicial district in which the requested records are located; or in the District of Columbia.

Sincerely,

Marie A. O'Rourke  
Assistant Director

Enclosure(s)

EXPLANATION OF EXEMPTIONS

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

- (b)(1) (A) specifically authorized under criteria established by and Executive order to be kept secret in the 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 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, (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 of 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.

## SUBSECTION 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, except records of arrest;
- (k)(1) information which is currently and properly classified pursuant to Executive Order 12356 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 qualification 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 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 identity would be held in confidence.

**ADDENDUM TO THE EXPLANATION OF EXEMPTION SHEET**

- Rule 6(e) of the Federal Rules of Criminal Procedure pertains to the Federal Grand Jury, its integrity and the secrecy surrounding the Jury.
  
- Under the Freedom of Information Act, an agency has no discretion to release any record covered by an injunction, protective order, or court seal which prohibits disclosure. See GTE Sylvania, Inc. v. Consumers Union, 445 U.S. 375, 386-387 (1980); See also Robert Tyrone Morgan v. U.S. Dept. of Justice, 923 F.2d 195 (D.C. Cir. 1991).

February 15, 2005

Freedom of Information Act/Privacy Act Appeal  
Office of Information and Privacy  
United State Department of Justice  
Flag Building, Suite 570  
Washington, D.C. 20530

Re: FOIA Request No. 03-3927 – Subject: Howard Lippton

To Whom It May Concern:

I hereby appeal the decision by the U.S. Attorney's Office to withhold responsive documents to my FOIA request. I enclosed herein a copy of the letter from Ms. Marie O'Rourke, stating that 294 pages have been withheld in full for a number of reasons.

Please let me know if there is anything else I need to do in order to bring this appeal.

With kind regards, I remain

Sincerely,

Kyle Schonekas

KDS/jdb  
Enclosure

cc: Howard Lippton





*Tmm*  
U.S. Department of Justice

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

**NOV 13 2006**

Kyle Schonekas, Esq.  
Schonekas, Winsberg, Evans & McGoey, LLC  
Texaco Center  
Suite 1440  
400 Poydras Street  
New Orleans, LA 70130

Re: Appeal No. 05-1126  
Request No. 03-3927  
ALB:CAS

Dear Mr. Schonekas:

You appealed on behalf of your client, Howard Lipton, from the action of the Executive Office for United States Attorneys (EOUSA) on your client's request for access to records pertaining to himself. I regret the delay in responding to your appeal.

After carefully considering your appeal, and as a result of discussions between EOUSA personnel and a member of my staff, I am remanding your client's request for further processing of the responsive records. EOUSA will send any and all releasable portions of these records to you directly, subject to any applicable fees. You may appeal any future adverse determination made by EOUSA.

If your client considers my response to be a denial of your appeal, he may seek judicial review in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

  
Daniel J. Metcalfe  
Director

