

Hoover Goes To Court in Record Issue

Washington

FBI director J. Edgar Hoover brought a court action here yesterday in an effort to maintain the agency's authority to keep and circulate arrest records of persons who were not convicted after their arrests.

Hoover's action was a surprise move in a test case that has developed in General Sessions Court here of the authority of the courts to order the FBI to destroy arrest records that have been sent to them by local police departments.

The United States attorney's office here, acting in Hoover's name, filed a petition in Federal District Court to remove the test case from the jurisdiction of General Sessions Judge Harry T. Alexander, who has issued what is believed to be the first court order limiting the FBI's use of its arrest file.

ISSUE

The arrest record at issue concerns Roland Penney, a 20-year-old part-time motel employee who was arrested on October 31 and charged with assaulting a police officer. When the case came before Alexander for a preliminary hearing on November 10, the prosecutor conceded that the arrest was a mistake and dropped the charges.

Penney's lawyer from the public defender's office asked Alexander to expunge the arrest record so that Penney would not be prejudiced in his efforts to get a job.

The judge ordered the District of Columbia Police Department to destroy the arrest record, fingerprints and mug shots.

When it was pointed out that copies had already been forwarded to the FBI, Alexander ordered the FBI not to communicate the arrest information to anyone until he could hold a further hearing and decide whether to make the FBI destroy the records.

IMPACT

The success of Hoover's effort to transfer the case could have an important impact upon the effectiveness of a new type of statute that has been recently adopted by several states in efforts to protect persons from undeserved arrest records. New York is among these states, which give judges the power to make the local police destroy such records.

However, local police often routinely send copies of such arrest records and fingerprints to the FBI.

Earlier this year Attorney General John N. Mitchell issued an order reaffirming the FBI's authority to exchange such information with other agencies, including railroad police, banking institutions and insurance companies.

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