

George W. Maschke
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15 July 2014

U.S. Customs and Border Protection
FOIA Appeals
Policy and Litigation Branch
90 K Street NE, 10th Floor
Washington DC 20229-1177

Ref: CBP-2014-0000006

Dear Sir or Madam:

I herewith appeal your decision withholding a copy of the PowerPoint presentation on Operation Lie Busters that was presented by U.S. Customs and Border Protection Credibility Assessment Division chief John R. Schwartz at the American Association of Police Polygraphists' meeting on 3 June 2013.¹

You aver that this document is “part of an open and pending investigation” and that you are accordingly withholding it in its entirety pursuant to Title 5 U.S.C. §552 (b) (7)(A). You further claim that because this is an ongoing investigation, you are unable to provide an estimate of the number of pages that would be responsive to my request.

The stated basis for your denial is absurd. As I clearly noted in my request, the PowerPoint file was presented at an event that **any member of the public could attend.**² The very fact that this presentation was made in a public venue (the grand ballroom of the Omni Hotel in Charlotte, NC) before an audience of hundreds who were not involved with Operation Lie Busters dispels any notion that any

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1. The American Association of Police Polygraphists is a non-governmental body that includes persons who are not law enforcement officers.
 2. Cleve R. Wootsen, Jr., a reporter for the McClatchy Newspaper group, bought a ticket and attended the presentation. On 16 August 2013, McClatchy published Wootsen's reporting on the conference in an article co-authored with Marisa Taylor titled, “Seeing threats, feds target instructors of polygraph-beating methods”:

<http://www.mcclatchydc.com/2013/08/16/199590/seeing-threats-feds-target-instructors.html>

information in the presentation “could reasonably be expected to interfere with law enforcement proceedings.”

And honestly, I have to suspect that the real reason you are unable to provide an estimate of the number of pages you have withheld is that you haven't actually bothered to look at the document. *Have you?*

President Obama on his first day in office instructed the heads of executive departments and agencies:

The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. **The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears.** Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public. [emphasis added]

Public release of the PowerPoint file that accompanied John R. Schwartz's **public** presentation will not interfere with any law enforcement proceeding. Please release it promptly and in full.

Sincerely,

A handwritten signature in cursive script that reads "George W. Maschke". The signature is written in black ink and has a long, sweeping underline that extends to the right.

George W. Maschke
AntiPolygraph.org