



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 10, 1997

Mr. Darwin McKee
Director, Transactions Division
Travis County Attorney's Office
P.O. Box 1748
Austin, Texas 78767

OR97-2021

Dear Mr. McKee:

You ask this office to reconsider our decision in Open Records Letter No. 97-1363 (1997). We assigned your request for reconsideration ID# 108757.

Travis County (the "county") received a request for the "video taped arrest, and or solicitation by Drew Nixon of an undercover Austin police officer," and cause numbers 304775 and 974475449. You claimed that the requested information was excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We determined that you did not timely submit to this office a copy of the request for information as required by section 552.301(b) of the Government Code. Therefore, we concluded that the requested information was presumed public under section 552.303(e) of the Government Code. Open Records Letter No. 97-1363 (1997) at 1. We also ruled that the presumption of openness was overcome for those portions of the requested information that were confidential by law. *Id.* at 2-3. Open Records Letter No. 97-1363 (1997) required the county to release to the requestor all information that was not confidential by law.

In your letter asking for reconsideration, you indicate that the county submitted a copy of the request for information to this office along with its original request for a decision. However, our records indicate that this is not the case and you have provided no evidence to support your contention. In any event, pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile dated April 3, 1997, that you had failed to submit a copy of the request for information as required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e) failure to comply would result in the legal presumption that the information at issue was presumed public. Because you did not provide this office with a copy of the request for information until April 15, 1997, more than seven days after you received the notice, we are

compelled to affirm the conclusions we reached Open Records Letter No. 97-1363. See Gov't Code § 552.303(e).¹ If you have any questions about this matter, please contact our office.

Yours very truly,



Sandra L. Coaxum, C.P.A.
Chief, Open Records Division

SLC/KEH/ch

Ref: ID# 108757

cc: Mr. Kevin McPherson - via Facsimile (512) 478-7013
Austin Bureau Chief - NEWS 4

¹Although you contend that you may rely on existing legal authorities and previous rulings from this office to withhold the requested information under section 552.108, we note that a decision from this office must be sought whenever the applicability of a particular exception to particular information has not already been determined. Open Records Decision No. 435 (1986) at 2-3. This is because in the majority of cases, this office must apply the legal standard of a particular exception to the specific information at issue in each case. *Id.*