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Opinion Committee

OPINION COMMITTEE  
OFFICE OF THE ATTORNEY GENERAL  
P O BOX 12548  
AUSTIN TX 78711-2318

**RQ-728**

RE: Family Code, Section 51.14

To The Opinion Committee Chairperson:

I request an opinion regarding the interpretation to be given to the captioned provision of law. The fact situation with which I am presented is as follows:

On September 14, 1990 a laundromat in the small town of Valley View, Texas was vandalized with a large amount of glass breakage including seven windowpanes in a store front and twelve "porthole" panes broken out of clothes driers. Florescent light bulbs were smashed, ceiling fixtures were damaged, etc. A Sheriff's office investigation yielded a prime suspect, who was, at the time, a juvenile. The juvenile later pled true and was placed on probation, one of the terms of which was restitution in the amount of \$1,514.43. The probation was subsequently transferred to Denton County from Cooke County, and upon attaining adult status, the probation was terminated. The restitution was never paid.

The laundromat owner was originally informed by one of the agencies involved that his restitution would be paid over the term of probation. After a lengthy period of time, the restitution never materialized, and the victim approached my office requesting an outline of his alternatives. Small Claims Court was suggested, since he expressed the desire to promote the case himself rather than through legal counsel.

The victim now desires to obtain a certified copy of the admission of guilt on the part of the juvenile, who was represented by an attorney at the time of the plea in accordance with applicable law. He intends to use the document in an offer of proof to establish liability for the damage to his laundromat. Failing that, he would have to examine law enforcement and judicial records to retrace the path of the original investigation in an effort to secure the names of witnesses who could testify to prove liability on the part of his intended defendant. It is recognized that the statute of limitations may be a significant obstacle to his intended recovery, but that argument is for him (or his lawyer) to make to the Judge in the principle case. If they argue that the four year statute somehow applies (rather than the two year statute), then the statute would run in mid September, 1994. There may be arguments regarding the status of the defendant as a juvenile which somehow extend the two year statute, although I seriously doubt it.

Regardless of which statute applies, this fact situation (where restitution remains unpaid) is not uncommon, and direction is needed in the form of an opinion from the Attorney General's Office so that private citizens can properly be advised and provided with whatever information is available so that they

may recover from proper parties damages which they have sustained at the hands of juveniles.

The specific questions which arise are:

1. Can a victim such as the one described herein be considered to be a person having "a legitimate interest in the proceeding or in the work of the Court" so that such person may obtain access to juvenile records under Section 51.14(a)(4) of the Texas Family Code?
2. If the foregoing question is answered in the affirmative, does Section 51.14 F.C., Subsection (a) mean that the records are "open only to inspection" or does it mean that the records are open to inspection to a limited class of person? This question requests an opinion on the meaning of the phrase which immediately precedes Subsection (1) which states "...are open to inspection only by...". Said another way, does "only" modify the word which precedes it, or does it limit the parties affected to the class of persons following it?
3. If the foregoing question is answered in a way that specifies that the word "only" limits the class of person who may obtain access, does the word "inspection" (which proceeds the word "only") mean that the paperwork can only be looked at, or does it permit paperwork to be copied and certified for proper purposes? (In this regard, it is believed that in the past, when the Attorney General's Office has regarded records as "open", they have construed them to be open for all purposes including obtaining copies thereof.) Does this principle hold true for the subject statute, given the special nature of juvenile records? In other words, whose interests are primary, the interests of the victim, or the interests of the juvenile?
4. If there is a way for a victim such as the one described to received certified copies of documents in juvenile proceedings for use in the civil realm, is there a vehicle which would permit the Juvenile Court to limit the use of those documents for a specific purpose so as to address the rights of both parties, at least to a limited degree?

Having researched the law contained in the annotations behind the mentioned section of the Family Code, I am unable to find any case on point. I have also been apprised by Ruth Soucy in your office that prior letters and opinions rendered by your office which have referred to the mentioned section of law have not covered the point in question.

I look forward to receiving your opinion at your earliest opportunity. Hopefully that opinion will be received before September so that if the Plaintiff prevails in arguing the applicability of the four year statute of limitations, he will not be precluded from recovery by the delay caused by the press of other business within your office.

Sincerely,



D. August Boto

DAB/kt

xc: Judge Ray B. Russell  
Harold Flusche