

Customer Service vs. Legal Advice

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Learning Objectives

In this class, students will learn the difference between legal advice and legal information and will practice how to respond to customer questions based on real-life examples. The student will be able to:

Define legal advice and legal information.

Identify whether a question is asking for legal advice or legal information.

Explain best practices for communication with the public.

Utilize technology to access resources for the constable's office and resources to provide to the public.

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Resources

- TJCTC Website - <https://www.tjctc.org/>
 - *Legal Information vs. Legal Advice* guidelines (created by OCA) – also in your materials.
 - Deskbooks, forms, legal question board, etc.
 - SRL (self-represented litigant) page for the public.

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Legal Advice = Unauthorized Practice of Law

- Only licensed attorneys and others specifically allowed by the Texas Supreme Court (ex: certain law students, attorneys licensed in another state) may practice law.
- If you are not one of these and you give legal advice, that is considered the unauthorized practice of law.
- This is prohibited by statute and can open you up to liability.

Government Code Sec. 81.101, 81.102

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Providing Customer Service without Giving Legal Advice

- But just because you cannot give legal **advice** does not mean you cannot be helpful and provide good customer service!
- You can still give legal **information** and refer people to resources (more info on this coming up!).

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Legal Advice vs. Legal Information

Let's take a closer look at the difference between legal advice and legal information!

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Legal Advice

An oral or written statement that:

- *Interprets* an aspect of the law;
- *Recommends* a specific course of action; or
- Applies the law to a *specific factual circumstance*.

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Legal Information

- Legal fact
- Public information that is general and factual
- Court rules, procedures, and administrative practices
- How the court generally functions
- Referrals to law libraries, state statutes, rules, forms, court/constable or TJCTC website, info. packets
 - Don't forget TJCTC's SRL packets!
<https://www.tjctc.org/SRL.html>
- Explaining the meaning of terms used in the court process
- Answering questions concerning due dates and deadlines (without calculating specific dates)

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Comparing Legal Advice and Legal Information

Legal Advice

- Recommendations
- Confidential or Restricted Info
- Providing Legal Interpretations
- Opinions
- Researching
- Subjective Referrals

Legal Information

- Procedural Explanations
- General or Public Information
- Explaining Legal Terms
- Options
- Citing Statutes and Court Rules
- General Referrals

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Legal Advice vs. Legal Information Tips

Often, there is a very fine line between legal advice and legal information.

You cannot provide advice, but you can provide information that ends up helping them make a decision.

Whether you can answer a question or not, and what you can say sometimes comes down to how it is phrased.



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Example #1

“X happened. What should I do?”

- You cannot advise them.
- You can instead direct them to general information and forms (on the TJCTC SRL page or a court webpage) about the overarching topic.

If you know what someone is asking, do not get hung up on requiring “magic words” to give them legal information and/or a form. (ex: “I need to freeze a bank account” = “I need a writ of garnishment”).

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Example #2

If you are serving a writ of re-entry and the landlord says, “There was not an illegal lockout. They lied to the judge. They should not be able to do this.”

- **OK response:** “You have the right to request a hearing with the court if you believe the writ was not properly issued. That right is explained in the writ. If you are not sure whether you should request a hearing, you could discuss that with a lawyer. There is lawyer referral info at tjctc.org/SRL.”
- **Wrong response:** “You should request a hearing and tell the judge that.”

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Words To Stay Away From

Should

Recommend

What I would do

It's best if

What else?

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Listen Closely and Ask Questions

- Let members of the public ask their questions and listen carefully to what they are asking.
- Be an active listener and respond reflectively. If necessary, repeat or rephrase the question to state what you think they are asking.
- Take the time to clarify what they need. If someone asks a question that is not clear, ask follow-up questions to clarify what they mean.
- Ask if they have completely read any paperwork they may have.

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Be Patient

Think how much the person will appreciate someone taking the time to answer questions and explain an unfamiliar process.

Remember that this experience can be stressful, confusing, and intimidating for people.

The same questions may have been asked many times before but remember that this may be the first time for a particular person.

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Provide Customer Service for All Parties

- You should provide good customer service and any needed legal information to all parties.
- You will often work more closely with the judgment creditor to get the information you need to execute a writ, but you are still a neutral party.

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Let's Practice!

Legal Advice or Legal Info?

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Legal Advice or Legal Info? #1

Responding to: "May I see the docket for today's court?"

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Legal Advice or Legal Info? #2

Responding to: "Should I sue my neighbor?"

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Legal Advice or Legal Info? #3

Saying: "Seems like you will win [or lose]!"

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Legal Advice or Legal Info? #4

Saying: "A writ of possession is..."

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Legal Advice or Legal Info? #5

Responding to: "How do I stop this?"

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Legal Advice or Legal Info? #6

Responding to: “Can you tell me when your constable will be on vacation, so I can get someone else to serve my civil process?”

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Multiple Choice Questions

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Multiple Choice Question #1

Your constable is serving an eviction, and the Defendant calls to ask you: "How long do I have before I have to be out?"

- A. Tell them "This is the court date, and the Judge will explain everything." And hang up.
- B. Tell them it depends on the outcome of the hearing and if/when a writ of possession is issued. Refer them to the law/resources and tell them that if they have any other questions about options, they need to consult an attorney.
- C. Tell them they have until the court date; but if they are evicted on that day, they should appeal because that will give them more time.

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Multiple Choice Question #2

A citizen tells you that he went to pick up his children and his ex-wife refused to turn them over to him. He said that she does this all the time, and the police never help him. He further stated that he believes that his children are not being taken care of properly.

- A. Tell him to call an attorney.
- B. Tell him that we cannot get involved in a custody issue without an order from the court, but he could always file for a modification of custody hearing or file for interfering with child custody.
- C. Tell him that we cannot get involved in a custody issue without an order from the court, but he may want to contact an attorney. And if he is genuinely concerned about the children's well-being, he can call for a welfare check or contact Child Protective Services.

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Multiple Choice Question #3

Your constable is serving a Writ of Possession. The current resident shows up at your office and says that they have been subletting from the defendant. They tell you that they have been paying rent for six months to the defendant, but he must not have been paying that rent to the owner.

- A. Explain to them that the constable's office has a legal court order to return the premises to the plaintiff and they will have to move out. Tell them that they will need to contact an attorney or get legal advice on any further options that they may have.
- B. Tell them to call an attorney.
- C. Tell them to sue the defendant for the rent that they have paid.

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Multiple Choice Question #4

An owner of an R.V. park says that one of his residents has not paid rent in three weeks and is refusing to leave. He said that he did post a vacate notice on the door to his camper and wants to know what he should do next.

- A. Tell him to go through the regular eviction process if they refuse to leave.
- B. Tell him that the laws have changed for R.V. Parks and he can cut off all water and utilities for non-payment. He can also have the camper towed from his R.V. Park. R.V. Parks are treated just like hotels and the person can be arrested for trespassing if they refuse to leave.
- C. Tell him that the eviction process for R.V. parks can be different from other places of residence. Refer him to the law/resources and tell him that he may want to consult an attorney if he has any questions.

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Multiple Choice Question #5

Your constable is serving a Temporary Restraining Order to a Defendant that prevents them from building a fence or putting up a gate to block an access road. The Defendant tells you that it is his property, and he has to have a gate to keep his livestock enclosed. The Plaintiff tells you that they are only putting up the gate to inconvenience them and their livestock can be contained other ways.

- A. Tell him the order will be served and he can call an attorney.
- B. Explain what the Judge has temporarily ordered and can give them the hearing date. Explain that this is a court order that must be obeyed until the court says differently.
- C. Tell the Defendant that he has to obey the court order, but he can file a counter suit to force the Plaintiff to open and close a gate for his livestock.

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Scenarios

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Scenario #1

Stephen King had a 1958 Plymouth Fury in his car collection named Christine. Mr. Patterson apparently drank too much at a party at Mr. King's house and absconded by driving away in Christine. Mr. King brought a small claims case against Mr. Patterson in your county. Mr. King won the case and has now received a special writ to seize Christine and bring it back to him.

Mr. Patterson calls your office and tells you that the car was a gift and tells you Mr. King gave him the keys with some crazy story about the car being possessed.

- What can you tell him?
- What if he insists that the car is exempt property because it is his only vehicle?
- What if he tells you he filed an appeal. Can you check to see if an appeal was filed? What if he did file an appeal? Do you call a deputy/constable? What do you tell Mr. Patterson?

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Scenario #2

Romy White filed a small claims case against Michele Weinberger for property damage. You were assigned to provide civil service to Michele. Romy gets your contact information and calls to ask Michelle has been served yet.

- Can you inform Romy of the status of service?
- Then, while she has you on the phone, Romy says that she has heard of something called a default judgment. She asks what that is and how she can get one. What is your response?
- She asks how long small claims cases usually take. What do you say?
- What if she asks when the judge in that court will be on vacation because she wants another judge to hear the case. Can you tell her about the judge's scheduled vacation coming up?

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Scenario #3

Rocket Prestige Inc. debt collectors won a debt claim against Jimmy Carr. After they won, Rocket Prestige got a writ of execution. Your constable has levied some of Mr. Carr's property but has not sold it yet. He asks you how to get his stuff back.

- What do you tell him?
- What if he says some of what was taken was actually exempt property?
- What if he says the items taken are for more than what he owes?
- What if he wants verification that his stuff is being stored in good condition?

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Scenario #4

There was a Writ of Sequestration ordered in a small claims case. Pat Sajak is the defendant and says that a case has been filed against him, but your office's deputy already came and took his boat.

- He asks what a writ of sequestration is. What do you tell him?
- He asks if his property has already been sold. Can you tell him his boat has not been sold?
- He says he wants to regain possession of his belongings. You say?

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Scenario #5

Jordan Peele won his eviction case against his former friend, Keegan-Michael Key. He knows constables execute writs of possession and calls your office to ask how to get a writ of possession.

- What do you tell him?
- What if he asks if he should make a settlement agreement with Mr. Key?
- What if he gets a writ of possession but waits over 90 days to execute on the writ? What do you tell him if he calls then?
- What if the writ came from county court and the county judge is ordering your constable to execute on the writ of possession after the 90 days?

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What Questions Do *You* Get?

What questions do you get asked that you are unsure of how (or if) to answer?

What is the funniest thing you have ever been asked? How did you respond?

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Thank You!