

WHAT'S MY LINE?



LEGAL INFORMATION v. LEGAL ADVICE
AND
EXPARTE COMMUNICATION

IS IT ADVICE?



“Advice: an opinion or recommendation offered as a guide to action, conduct” dictionary.com



OR INFORMATION?



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“Information: knowledge communicated or received concerning a particular fact or circumstance”



TEXAS GOV'T CODE §81.101

“Practice of Law”

- “including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge....”
- “Does not include design, creation, publication, distribution, display...of written material, books, forms, ...if the products clearly and conspicuously state that the products are not a substitute for the advice on an attorney.”



TRUE OR FALSE

Access to justice is denied if the public does not know how to use the court systems and the courts do not assist them?

1. True
2. False



PERMISSIBLE OR IMPERMISSIBLE?

Defendant calls and asks if it is “worth his while to appear in court?” Do you answer that question?

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

Court personnel who themselves are licensed attorney may give legal advice to defendants

1. True
2. False



PERMISSIBLE OR IMPERMISSIBLE?

A juvenile defendant pleads not guilty and requests a jury trial—his father requests to sit with him a defense table and assist with his case.

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

Defendant attempts to turn in Driving Safety Course completion certificate indicating course was taken a week later than deadline. You tell him he will get show cause hearing and can talk to the judge.

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

A defendant explains he wants a trial but doesn't feel competent to represent himself. You give him the number of the local lawyer referral service.

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

Your judge has developed a defendant's form for Motion for Continuance. When a defendant requests a reset you give him the form—he explains that he doesn't understand and asks you to fill it out for him. Do you do it?

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

Defendant comes to window to pay a ticket for Fail to Maintain Financial Responsibility, you ask if he is sure he wants to do that as he will be subjected to surcharges every year.

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

Defendants requests information on DPS surcharge program and you give them the telephone number for DPS (512-424-2600)

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

Telling a defendant who calls that the judge always gives extensions of time to pay, “all you have to do is ask”

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

When doing data entry you notice that a citation written for No Driver's License should have been written for Expired Driver's License. Do you bring it to judges attention?

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

Defendant appears for equipment violation, you explain that if he appears at arraignment he can talk to prosecutor to get it dismissed

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

As you are processing jury summons you notice one of your city council persons is on the list—you know they will be unable to serve due to conflict so you chose the next person on the list to summons.

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

On a pretrial docket a local attorney requests that you make copies of his pleadings to give to the prosecutor. Do you charge him the rate you charge citizens or defendants for copies?

1. Yes
2. No



SCENERIO

- A “frequent flyer” defendant enters a plea of not guilty and requests a jury trial on his Expired Registration violation—he admits it was expired he is just trying to buy time. What do you do?



EXPARTE COMMUNICATION



PSSSSST.



ex parte (ex par-tay), adj. Latin meaning "for one party,"



CODE OF JUDICIAL CONDUCT CANON 3

- Performing the Duties of the Judicial Office

- B. Adjudicative Responsibilities.

- (8) a judge shall accord to every person who has a legal interest in a proceeding the right to be heard according to law. A judge shall not initiate, permit or consider *ex parte* communication or other communications made to the judge outside the presence of the parties

- “ A judge shall require compliance with this subsection by court personnel subject to the judge's direction and control”**



PERMISSIBLE OR IMPERMISSIBLE?

Judge reading notes on
back of citation before
adjudicating case

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

A defendant calls requesting to speak to the judge. You notice his case is unadjudicated. Do you transfer him to the judge's office.

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

A defendant writes a letter addressed to the judge outlining his financial situation and requesting his case be dismissed. Do you put the letter in his file?

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

Telling the judge about the belligerent attitude of a defendant scheduled for a bench trial.

1. Yes
2. No



PERMISSIBLE OR IMPERMISSIBLE?

Telling the judge that a defendant has been very cooperative and has been “trying really hard.”

1. Yes
2. No



WE WALK A FINE LINE!

