

HOW TO ANSWER a LEGAL REFERENCE QUESTION

ADVICE FROM THE WASHINGTON COUNTY (OREGON) LAW LIBRARIAN For Public Library Reference Staff

Every Legal *Problem* Question is the "Tax Form Question."

HELPING PATRONS WITH LEGAL REFERENCE PROBLEMS

You CAN help the patron, *without* answering the question, but you need to reframe the question, e.g.:

Instead of responding to the patron's: "I need a form to respond to a subpoena."

Reframe the question (for yourself): "I need information about how to respond to a subpoena."

Note: There is no such thing in Oregon as a court authorized "form" to respond to a subpoena.

- There is almost always a useful response to a legal reference question, but that response is a referral to a web site, a legal research book, a law library, or a law librarian. In a perfect library world, you'd have the latter in your public library (*along with a legal research collection*).
- Legal reference is not unlike medical reference: You would not say: "*Here is an advance directive you can fill out and keep with you when you go to the hospital.*" [This is not to be confused with showing patrons how to search for information about advance directives online and in print, which is OK. (*And I do know the distinction can be confusing so questions are welcome.*)]

RESPONSES TO PEOPLE WITH QUESTIONS ABOUT THEIR LEGAL PROBLEMS

People who want quick fixes to their legal problems also have selective-hearing, i.e. they hear what they want to hear. Make sure you are consistent when you answer all your patrons' questions.

OK: "*I don't know the answer to your question, but let me show you our legal research resources.*"

Not OK: Please don't say, "*I can't answer that,*" not just because you can't, but because people hear that word "can't" and think that you DO know, but just won't tell them.

OK: "*I don't know the answer to your question and I don't know if these will be helpful, but here are some of the resources we have on the subject. The Law Library has a lot more legal research resources and they are open to the public. May I show you their website, which has a guide on "How to Find an Attorney" and a lot of other links?*"

OK: "*We have these legal reference tools here (e.g. ORS, OAR, etc.). May I show you how to use the ORS index? I can also direct you to the county law library reference staff. You can phone or email them to find out what other research tools would be helpful.*"

Frequently Asked Legal Reference Questions: Can you answer these questions?

- What is the Oregon law on x? (*Refer patron to the ORS, OAR, or local law indexes.*)
- How do I find a case? (*Oregon, federal, other? Many are online, but call Law Library for help if needed.*)
- Where do I find a form? (*See Oregon Legal Research Blog posts on legal forms.*)
- What county office do I go to for xxx? (*print and online directories*)
- I have a traffic ticket and want to look up the law. (*What law is cited on the ticket?*)
- The court, my lawyer, etc. sent me here. (*Refer to Law Library: phone, email, visit*)
- Do you have Lexis? (*Find out what the person needs. It may not be Lexis. Or, refer to Law Library.*)
- Do you have statutes from xx state? (*Online - use official - or refer to Law Library.*)

UNAUTHORIZED PRACTICE OF LAW ISSUES

- **Rule No. 1:** You may answer legal *research* questions; you may *not* answer legal *problem* questions.
- **Rule No. 2:** Never, ever forget Rule No. 1
- **Rule No. 3:** You DON'T KNOW the "answer" to questions about legal problems and your legal research resources may not be relevant or up to date. Incomplete answers can be as bad as wrong answers.
- **Rule No. 4:** You may refer a patron to your library's legal research resources, the Law Library, OJD, OSB, LASO, government services and representatives, nonprofits, etc.
- **Rule No. 5:** Never, ever refer a patron to a specific form, commercial service, business, or website, without checking first with the Law Librarian or a Legal Aid, OSB, or an OJD attorney.

LEGAL REFERENCE SKILLS

- Shepardize (Keycite or otherwise) a case and statute (print and online)
- Find a case and statute (print and online): various legal research databases - look for current, official
- Basic Oregon legal research tools: OSB, MBA, practice books, superseded course books, LASO, etc.
- Basic legal research: primary vs. secondary, lawmaking, research tools, etc.
- Westlaw, Lexis, Other legal research databases: basic search techniques

RETRAINING PUBLIC LIBRARIANS FOR LEGAL REFERENCE WORK

- Public librarians are trained to "answer questions" and resist to the death saying, "*I can't answer that question.*" You MUST resist that.
- Don't confuse yourself with trying to understand the difference between legal advice and legal information. DO distinguish between people with real legal problems (*and their questions*) and people with questions about the law, e.g. students, researchers, the intellectually curious. If the person has a real legal problem, direct them to your library's resources and make referrals, but please, also refer them to the Law Library.
- Make the distinction between people researching a legal subject before consulting an attorney or doing their own legal research and those who are trying to avoid consulting a professional. The public library has useful resources, print and online, for doing that "legal research" homework.
- How do you tell if the person has a legal problem? Ask yourself, "*If this was my problem, would I call a lawyer or the Law Library?*" rather than asking at a public library reference desk?
- Unless the form is an official court sanctioned form, THERE IS NO "FILL IN THE BLANK" LEGAL FORM that will answer most patron's questions, let alone solve their problems. (In Oregon, there are official forms for some types of family law cases, small claims court, expungement, etc.)
- If the patron has a legal problem, YOU CANNOT SOLVE THAT LEGAL PROBLEM. Please do not give any patron a false sense of security.
- Law libraries and the courts are filled with people (*and lawyers*) trying to fix problems that were created by the refusal to do thorough legal research or consult lawyers. It can be extremely expensive to repair damage done after-the-fact. It is cheaper and easier to resolve the legal problem from the start than to fix it later through expensive litigation or lawyer assistance (*though utterly contrary to human nature*).

EXPLORE (KNOW) THESE RESOURCES

1. Law Library web page info and links: <http://www.co.washington.or.us/LawLibrary/>
2. Washington County web page info and links: <http://www.co.washington.or.us/>
3. OSB (www.osbar.org) and Legal Aid (www.oregonlawhelp.org) web site