

# CLERK OF THE DISTRICT COURT MANUAL

## 20.0 PROVIDING SERVICE TO THE PUBLIC

Revised October 2006

### 20.1 PURPOSE

This Guide is intended to help Clerks and Court Assistance Officers provide appropriate public service. It is important that the courts provide the highest level of public service possible. This guide cannot provide direction for every situation court staff may encounter when interacting with the public. Court staff are encouraged to seek the direction of supervisors when they are unsure of how to respond to a request.

### 20.2 RESPONSIBILITIES OF CLERKS AND COURT ASSISTANCE OFFICERS WHEN PROVIDING SERVICE TO THE PUBLIC

The following principles apply when responding to inquiries from the public. They must be understood and kept in mind by Clerks and Court Assistance Officers when assisting the public at the front counter, in the office, over the phone or in the courtroom.

1. **A Clerk or Court Assistance Officer Must Treat the Public With Respect and Courtesy.**
2. **A Clerk or Court Assistance Officer Must Remain Impartial:** The court system must remain impartial in all its dealings with the public. **Never give assistance or information to one party that you would not give to the other party.** Provide the same level of service and information to **all** parties, regardless of their economic circumstances, race, gender, political views or what they may have been accused of doing. Do not recommend specific attorneys or other service providers, provide only general referrals. Avoid Ex-parte Communications. Do not talk to a judge for a party about what will happen in a case. Do not let a party talk to a judge outside of court.
3. **A Clerk or Court Assistance Officer Must Not Provide Legal Advice:** Clerks and Court Assistance Officers will never know enough about an individual's personal situation to know what is in their best interest. Do not advise a citizen whether or not to bring their problems before the court, which remedies to seek or what course of action is best for them. It must be left up to the individual to assess their own situation and make their own choices.
4. **A Clerk or Court Assistance Officer Must Explain How Court Works:** It may be necessary to explain court processes, procedures, rules, ordinary practices, the meaning of terms, documents used, and deadlines.
5. **A Clerk or Court Assistance Officer Must Keep Information Confidential:** Court staff are privy to private information that is necessary for court to function

properly. Reveal only public information in response to inquiries.

### **20.3 TIPS FOR PROVIDING BETTER SERVICE**

When working with the public, keep the following tips in mind and you will be better able to meet that person's needs while working within the guidelines of your job.

#### **Tip 1: Listen Closely**

In general, the public knows very little about how the courts work. As a result, you will need to listen carefully to find out what a person needs or wants you or the court to do. They may use words that they think are used in the courts, but are not, or which may be used differently in the courts.

#### **Tip 2: Ask Questions**

The public often does not understand the terminology used in the court system. It is helpful to ask a person if they understand what you have said. You may also have to ask questions to find out what they need and whether they are asking for information or advice. Do not assume that just because a word or process has been explained, that the person understands what has been said.

#### **Tip 3: Be Patient**

People who find themselves involved with the court system are rarely there voluntarily. They have either been accused of breaking the law, or are involved in a dispute with another individual. As a result, they are under stress and may be quite angry. Patiently listening to their questions and concerns is critical to providing them with the service they need.

#### **Tip 4: Don't Hide Behind the Phrase "I Can't Provide Legal Advice"**

It may be tempting to tell a difficult person that you cannot help them because you cannot give them legal advice, but you must remember that while they might be difficult to assist, they are still entitled to the full service of the court.

#### **Tip 5: It's Not Just What You Say, But How You Say It**

While it may be difficult, you may be able to calm down a frustrated person by keeping a calm and even tone in your voice. Make sure not to "talk down" to people. Speak to them in a manner that would be acceptable to you. **However, you do not need to be subjected to abusive language, profanity, or insults from a person at the counter or over the phone. If that occurs, ask the person to stop, or refer the person immediately to your supervisor.**

### **20.4 WHAT INFORMATION A CLERK OR COURT ASSISTANCE OFFICER CAN AND CANNOT PROVIDE**

Court Clerks and Court Assistance Officers have a unique understanding of the way the court operates. You must use that knowledge fairly. It is to the advantage of the court, the lawyers, the litigants and court staff to share that knowledge. However, a Clerk or Court

Assistance Officer must be mindful of the difference in providing court information and legal advice. To help a clerk gain a better understanding of the boundaries of what information they can and cannot provide, the following outline is provided. If you still have questions about what information you can or cannot provide, consult your supervisor.

<b>A Clerk or Court Assistance Officer Can:</b>	<b>Provide definitions of court and legal terms</b>
Reference Sources:	Glossary from the Clerk of the District Court Manual, dictionary, and Black's Law Dictionary.
<b>A Clerk or Court Assistance Officer Can:</b>	<b>Describe court processes, logistics, conduct and operations</b>
Reference Sources:	Some court forms like the citation or summons have instructions printed on them. A Clerk or Court Assistance Officer may also refer to the Clerk of the District Court Manual, the Guide to the Idaho Courts or court approved pamphlets. Periodically, review with your supervisor what information is available for distribution to the public.
<b>A Clerk or Court Assistance Officer Can:</b>	<b>Provide the public with court approved booklets, forms, brochures, court rules and statutes</b>
Reference Sources:	Under ICAR 53, limited services should be available in all counties. All counties have a CAOP pamphlet rack, and should have an assigned staff person responsible for ordering re-supply. Have on hand copies of the filing fee schedule, court approved forms for divorce, custody, modifications, name change, landlord-tenant, domestic violence civil protection orders and small claims cases, CAOP brochures like those used to describe the small claims and jury processes, and a copy of Idaho Administrative Rule 32 which governs access to court records. It may be helpful to have on hand copies of ICAR 53, I.C. 32-1401 et.seq., and a copy of the Poster "How the Clerks of the District Court Can & Cannot Help You".
<b>A Court Assistance Officer Can:</b>	<b>Provide the Answers listed on the Suggested Responses to Frequently Asked Questions, together with any resource information in the answer.</b>
Reference Sources:	CAO Administrative folder on CAOP CD.
<b>A Clerk or Court Assistance Officer Cannot:</b>	<b>Research statutes, court rules or local ordinances</b>
	For questions as to how the law applies to a given set of facts, you must refer patrons to another resource such as an attorney, the local law library or the Idaho State Law Library. (Court Assistance Officers may also refer to the Legal Resource Line.) Conducting research for a patron is prohibited. An appropriately trained Court Assistance

<b>A Clerk or Court Assistance Officer Can:</b>	<b>Provide definitions of court and legal terms</b>
	Officer can outline the materials available and steps involved in legal research.
<b>A Clerk or Court Assistance Officer Can:</b>	<b>Provide the public with information contained in a case file, on ISTARS or on reports that are generally available to the public, such as CLASS reports.</b>
	Case information is not limited to just the parties involved in the case. These materials can be viewed by any interested person upon request, unless the information is exempt from disclosure pursuant to ICAR 32.
<b>A Clerk or Court Assistance Officer Can:</b>	<b>Provide Court Schedules and Information contained in docket reports, case files, indexes and other reports.</b>
Reference Sources:	ISTARS, Idaho State Bar Desk Book Directory, The Tucker Legal Directory
<b>A Clerk or Court Assistance Officer Cannot:</b>	<b>Provide the public with information that is exempt from disclosure, pursuant to ICAR Rule 32.</b>
	<p>Pursuant to Rule 32, for example, the following case types and court documents are not to be provided to the public (refer to Rule 32 for complete list):</p> <ul style="list-style-type: none"> <li>—mental commitment case files</li> <li>—adoption records</li> <li>—records associated with the termination of parent and child relationships</li> <li>—pre-sentence investigation reports</li> <li>—alcohol, drug, domestic battery evaluation or psychological reports</li> <li>—juvenile case files, that have not been declared opened by the judge</li> <li>—case files involving unreturned search warrants, arrest warrants or summonses in a criminal case</li> <li>—information regarding domestic violence, except court orders</li> </ul> <p><b>If the request does not fall within any of the preceding categories, or if you are in doubt—consult your supervisor.</b></p>
	<b>Refer a person to seek legal advice from a lawyer, or to contact an agency for information and assistance.</b>
	<p>It is important to be familiar with the services offered by other government agencies as well as groups in the community that offer assistance to people involved in court actions. The following is a list of some potential agencies that a clerk can refer the public to:</p> <ul style="list-style-type: none"> <li>—prosecuting attorney's office</li> <li>—legal aid office</li> </ul>

<b>A Clerk or Court Assistance Officer Can:</b>	<b>Provide definitions of court and legal terms</b>
	<ul style="list-style-type: none"> <li>—Domestic violence advocates or shelters</li> <li>—Idaho Legal Services Directory</li> <li>—Idaho State Bar Lawyer Referral Service</li> <li>—Idaho Volunteer Lawyer's Program</li> <li>—a list of local attorneys – which can be either a local referral roster or a photocopy of the attorney listing from the current telephone book.</li> <li>—Court approved mediators</li> <li>—Domestic assault/battery evaluators</li> </ul>
<b>A Clerk or Court Assistance Officer Cannot:</b>	<b>Refer a person to a particular agency or attorney, if more than one is available to choose from.</b>
	A Clerk or Court Assistance Officer must remain impartial, even when making a referral to an outside agency.
<b>A Clerk or Court Assistance Officer Can:</b>	<b>Provide a court approved form, explain any terminology on the form and provide instructions on how to fill out the form.</b>
	A Clerk or Court Assistance Officer can help a person complete any of the court approved forms, being mindful to only provide information on how to fill out the form and not providing advice as to what should be written on the form.
<b>A Clerk Can:</b>	<b>Fill out a court approved form for a person unable to do so due to illiteracy, a language barrier or a physical disability who does not have someone with them to help them fill out the form.</b>
	Write the information on the form just as it is said by the person. Re-read the information back to make sure it is correct. Make a notation on the form that you completed the form. Have another court clerk witness the procedure. A Clerk or Court Assistance Officer may need to utilize the services of an interpreter to assist in completing the form.
<b>A Clerk or Court Assistance Officer Cannot:</b>	<b>If a standard form is not available, you cannot provide a completed form from another case file to serve as an example of language to use to accomplish a specific objective.</b>

## 20.5 SUMMARY

Clerks and Court Assistance Officers must be mindful of the importance of providing accurate information to the public. Erroneous information can result in difficulties for the public. Further, Clerks and Court Assistance Officers must avoid providing advice. Advice is defined as a recommendation regarding a decision or course of conduct. Therefore, Clerks and Court Assistance Officers should not recommend a particular course of action to the public. Any question that contains the words "**should I**" is a key

that the person is seeking your recommendation and advice. In this instance, the Clerk or Court Assistance Officer should indicate that the person is now seeking advice, rather than information and you are not authorized to provide advice. If a question is presented to you that you are not sure whether or not you should answer, consult your supervisor. There is no single manual or guide book that lists every question you can answer or every piece of information that you can provide. You must apply your own good judgment as you provide service to the public.