

Explaining Rights to Returning Citizens

By Whitney Quesenbery

This is the third in our series on the importance of plain language for access to justice. — JK

A few years ago, researchers from the Center for Civic Design were testing a new voting guide at an adult literacy center. One of our participants was in his early 50s. He read the page with the Voter Bill of Rights slowly and carefully. When he was done, we asked him whether it contained any information about voting that he didn't already know. He replied, "I think this says I can vote again." It turned out that he had been in prison when he was younger and had no idea that California had made it possible for him to vote again. A colleague from the League of Women Voters was working with us, and when he finished the test, she registered him on the spot.

In the past in many parts of the United States, people convicted of a felony also lost the right to vote, often forever. That is now changing as states have passed laws, voted for citizen initiatives, or changed regulations to restore voting rights to more people.

According to the National Conference of State Legislatures:¹

- In 2 states, people with felony convictions never lose the right to vote.
- In 16 states and the District of Columbia, rights are automatically restored after someone leaves prison.
- In 21 states, rights are automatically restored after someone completes probation or parole.
- In 11 states, there are additional requirements or procedures, including mandating a pardon or limiting rights of people convicted of a list of specific crimes.

The approaches vary, but the number of people affected can be large. For example, in Kentucky, the 140,000 people² whose rights were restored by an executive order from the governor in 2019³ represented 3 percent of the population.

"Plain Language," edited by Joseph Kimble, has been a regular feature of the *Michigan Bar Journal* for 37 years. To contribute an article, contact Prof. Kimble at WMU-Cooley Law School, 300 S. Capitol Ave., Lansing, MI 48933, or at kimblej@cooley.edu. For an index of past columns, visit www.michbar.org/plainlanguage.

There's a lot of information to communicate

It's exciting to see so many states making it easier for more people to vote. But it takes great communication for new laws to have an impact. This is particularly true when it comes to restoring voting rights to people who have been in prison, sometimes for many years. Some of the challenges:

- **Getting the word out.** People who completed their sentences years ago may not hear about the change. Even if voting rights are automatically restored, returning citizens need to know that they have to register and how to do it.
- **Explaining procedures.** Taking advantage of the right to vote can be as simple as filling out a voter-registration form or can be a complex process requiring advance approval from one or more government agencies.
- **Making the information simple and accurate.** The laws are different from state to state, making national campaigns impossible. Even within a state, a lot of details need to be explained, sometimes with conditions based on the conviction.
- **Overcoming fear of breaking the law.** Returning citizens may be afraid of voting (when they shouldn't) and of being prosecuted.

Elections may have changed for everyone while they were in prison

On top of the specific details about when and how returning citizens can vote again, they may also need to know about changes

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in elections. Some changes have made voting easier, like mail-in voting, early voting, and vote centers. Registration deadlines are relaxed, with options like same-day registration in more states.

But there are also more requirements for voters to show identification. And they may be asked to prove that they meet all the conditions for registering, especially if they were removed from the voter lists based on court notifications to the election department.

Returning citizens need help, not just legal information

One of the most basic plain-language guidelines — to speak directly to the reader — is critical in communicating with these would-be voters. Their challenge is not just understanding the rules, but also understanding which ones apply to them. And that means identifying the possible actions, including any exceptions or differences for specific groups of people.

Use questions as headings to help readers see quickly what answers they can find in the document. When faced with an unexpected legal notice about voter registration, they may not even know what questions to ask. For example, in a letter telling people entering prison that their voter registration is canceled until they complete their sentence, we suggested these headings:

- Why was my name taken off the list of voters?
- Why might this be wrong?
- How do I get my name back on the list of voters?
- How do I get more information?

Make the source of the information clear, with contact information, for this vulnerable population. This has to be more than just a web link or phone number. It helps if a letter is signed by a person, not just a department name.

Tell them what actions they can and must take and the results of both action and inaction. In too many of the sample forms and letters we looked at, actions were implicit rather than being clear and visible. Contact information is often buried in paragraph format, making it harder to see. Putting the options in a list may take up more space, but it also helps people be more confident in taking action. For example:

If [this information] is wrong, you must let the Voter Records Office know. You can:

Call us: [phone number]

Or send us email: [email address]@[countyname.gov]

Or write to: Voter Records Office

Street address

City, ST 99999

[Tell us what needs correcting]. Give us your full name, date of birth, and contact information (phone, email address, or mailing address).

Make information — especially dates and deadlines — specific. For example, provide an exact deadline rather than a phrase like “30 days from the date of this letter.”

Organizing the structure and layout of the information makes a difference

In one state, posters in government offices try to explain how to explore voting rights. Most of the space is taken up by a long list of felonies (in all-capital letters) with the key information in several actions. Here’s how we rewrote it:

<p>YOU MAY QUALIFY FOR A CERTIFICATE OF ELIGIBILITY TO REGISTER TO VOTE IF:</p> <ul style="list-style-type: none"> - YOU HAVE ONE OR MORE FELONY CONVICTION(S) FROM ANY STATE OR FEDERAL COURT. - YOU HAVE NO PENDING CRIMINAL FELONY CHARGES. - YOU HAVE PAID ALL FINES, COURT ORDERED COSTS, FEES AND RESTITUTION ORDERED AT THE TIME OF SENTENCING ON DISQUALIFYING CASES IN FULL. - YOUR SENTENCE HAS BEEN COMPLETED. - YOU HAVE SUCCESSFULLY COMPLETED PROBATION OR PAROLE. 	<p>→ You might be able to restore your vote. Learn more in the RED box below.</p> <p>Do you meet all 4 requirements?</p> <table border="0"> <tr> <td><input type="checkbox"/> You do NOT have pending felony charges.</td> <td><input type="checkbox"/> You have completed your sentence, including probation or parole.</td> </tr> <tr> <td><input type="checkbox"/> You paid all fines, court ordered costs, fees and restitution ordered at the time of sentencing on disqualifying cases in full.</td> <td><input type="checkbox"/> You were NOT convicted of: <ul style="list-style-type: none"> • Impairment • Murder • Sexual abuse (1st or 2nd degree) • Sexual torture • Sexual crimes against children • Sodomy (1st or 2nd degree) • Rape (1st or 2nd degree) </td> </tr> </table> <p>Yes, I meet all 4 requirements</p> <p>You can restore your right to vote by requesting a Certificate of Eligibility to Register to Vote (CERV).</p> <ul style="list-style-type: none"> • Visit: paroles.alabama.gov/pardons-restoration-of-voting-rights • Download and complete: ABPP-4 CERV Application 	<input type="checkbox"/> You do NOT have pending felony charges.	<input type="checkbox"/> You have completed your sentence, including probation or parole.	<input type="checkbox"/> You paid all fines, court ordered costs, fees and restitution ordered at the time of sentencing on disqualifying cases in full.	<input type="checkbox"/> You were NOT convicted of: <ul style="list-style-type: none"> • Impairment • Murder • Sexual abuse (1st or 2nd degree) • Sexual torture • Sexual crimes against children • Sodomy (1st or 2nd degree) • Rape (1st or 2nd degree)
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<p>Before (detail)</p> <p>The list of voting requirements was in one part of a large poster. The lists of actions to take for each situation and the contact details were in another area.</p>	<p>After (detail)</p> <p>To make the information clearer, we created an active personal assessment. Then we identified how someone who met all — or some — of the requirements could restore their right to vote.</p>				

One of the fundamental principles of plain language is to start by understanding the audience. You might notice that we have kept words like *restitution* and *probation* and *parole* because they are well known to anyone in this situation, even if they are not easy words. In another project, we decided to use a shorthand term for a sentencing option, saying “AB109 community service,” instead of something like “incarcerated in a community-based penal facility,” because affected people refer to this well-known law by using the first wording. Even without editing all the legal phrases into plainer form, participants in our usability testing found the overall redesigned poster easier to understand.

Testing with people in this audience, with their specialized experience, is important. Ideally, we would do usability testing in the state where the materials will be used, but finding similar participants is a good start when this is not possible. We reviewed other information from local community organizations and worked with local partners to help us make editing decisions.

Working on complicated information takes collaboration

Creating information for returning citizens requires striking a balance between being encouraging and being fully, legally

accurate. We've been fortunate to work with lawyers who want to communicate rights, not teach people how to read legal documents.

To build trust, we start by being sure that we understand the law so that everyone on the team has a shared understanding of what must be communicated. Demonstrating from the start that we take this seriously makes the collaboration easier.

We also make it clear that getting to useful, clear information will take several drafts. Some of our collaborators have turned out to be great editors. Others find writing in plain language harder, so we encourage them to make their comments at any level of legalese that they find comfortable. Then we work on transforming it into plain language. And we repeat until everyone is happy with a result that tests well.

All that work is worth the time. Even in a challenging, complex legal context, our experience has been that when everyone can see that the information is both clearly written and legally accurate, there are few objections to plain language. And that's better for everyone. ■

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Collaborators in this work include Maggie Ollove, Ginny Redish, Antonnet Johnson, Demos, the Campaign Legal Committee, and Restore Your Vote.

ENDNOTES

1. *Felon Voting Rights*, Nat'l Conf of State Legislatures (April 12, 2021) <<https://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>> [<https://perma.cc/99M2-KCUZ>].
2. *Kentucky's new governor is giving the right to vote back to 140,000 ex-felons*, Vox (December 12, 2013) <<https://www.vox.com/policy-and-politics/2019/12/12/21011099/kentucky-governor-felon-voting-rights-andy-beshear>>.
3. *Civil Rights Restored, Executive Order 2019-003: Rights to Vote and Right to Hold Public Office*, Civil Rights Restored: Restoration of Civil Rights for the Justice-Involved Population <<https://civilrightsrestoration.ky.gov/Pages/home.aspx#:~:text=On%20December%2012%2C%202019%2C%20Governor,society%20by%20completing%20their%20sentences>> [<https://perma.cc/JAB5-YDBJ>].



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PRO BONO SERVICES

Lawyers volunteer to provide free legal services to low-income families or nonprofit agencies who serve those in need. It is one way to fulfill the duties in the Voluntary Pro Bono Standard.

LAWYERS GIVE MONEY



ACCESS TO JUSTICE FUND

Lawyers make donations to the Access to Justice Fund to support civil legal aid for the poor. It is one way to meet obligations under the Voluntary Pro Bono Standard.

LAWYERS GIVE TIME



COMMUNITY SERVICE

In addition to giving pro bono legal services to the poor and monetary donations for legal aid, many lawyers also give time to other community efforts.

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