

# “Giving Notice”: The Divergence Between Legal and Practical Assessments of How Well Government Notices Provide Information to Vulnerable Audiences

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**Abstract.** When government notices are difficult to understand, making it difficult for intended users to navigate governmental systems, the consequences of failing to respond appropriately to such notices disproportionately negatively affects people from socio-economically marginalized communities, often with severe and long-term consequences to their lives. This paper will discuss current legal challenges in the United States to state Departments of Motor Vehicles’ practices of revoking or suspending the driver’s licenses for failure to pay traffic tickets without first providing them adequate notice of how to prevent or contest the suspension if they are unable to pay. People are less likely to understand confusingly presented information or be able appropriately act on it. People with limited financial means and limited literacy may lack the resources to hire someone to interpret poorly designed documents and are thus left unable to take the steps needed to protect themselves. This paper presents tools to analyze and evaluate the efficacy of government notices according to two questions: (1) Can the intended reader understand the notice?, and (2) How well does the notice inform that intended reader of the key messages?

**Keywords:** Government Notices, Literacy, Plain Language, Vulnerable Audiences.

## 1. Introduction

The phrase “criminalization of poverty” was coined to describe how the policy of providing public benefits to people with incomes near the poverty line in the United States had – over time – become increasingly entangled with the criminal legal system (Gustafson, 2009). What started as administrative programs meant to provide assistance to those struggling with poverty evolved into overly complex bureaucratic processes in which people were not only subjected to stringent administrative reviews but to a variety of penalties for “lack of compliance” which could range from exclusion from government services to criminal penalties, including incarceration.

As the term “welfare” came to be unfairly stained in public consciousness with state dependency and fraud, so did the administrative system become more invasive with punitive consequences for those who did not meet the increasingly complex thicket of rules and regulations promulgated in the name of “program integrity.” Penalization, and at times even criminalization, of poverty ensued. As the system became more complex and punitive, there was no concurrent oversight as to whether the system was intelligible

or navigable to users. The investment in creating punitive consequences for non-compliance while at the same time failing to invest in creating intelligible, navigable, and humane systems is pervasive in several areas of the legal system in the United States. The effect is to expose the most vulnerable and socio-economically marginalized to the most punitive consequences, driving vulnerable communities further into poverty.

Gustafson presciently noted that the U.S. had only begun its penalization of the poor stating:

“[W]hat is to prevent the same types of invasive and punitive reform associated with [welfare] ‘program integrity’ from being employed by the Social Security Administration or by state departments of motor vehicles?”

Indeed, 11 years later we see evidence of this: at least 40 states and the District of Columbia suspend or revoke driver’s licenses when drivers do not pay their outstanding traffic tickets or fail to appear in court to respond to these tickets (Keneally, 2019). None of these states, however, examine whether the traffic tickets, court notices, or department of motor vehicles’ notices associated with traffic court cases are intelligible to people trying to navigate the traffic court and DMV systems.

Suspension or revocation of a driver’s license is a critical issue for people living in the United States. A suspended license prevents people from traveling to maintain and find work, taking children to school, taking oneself or loved ones to medical appointments, and accessing basic necessities like picking up groceries and home supplies. Several federal and state court cases have been filed against state department of motor vehicles agencies across the United States challenging the suspension of driver’s licenses based on failure to pay traffic tickets. Among other claims, many of these cases argue that people are not provided with sufficient information about their rights and options with respect to a potential driver’s license suspension based on failure to pay tickets. In particular, people are provided with information about what, if anything, they can do if they cannot afford to pay traffic tickets. Two foundational socio-economic issues underlie the state driver’s license suspension regimes challenged in these cases. The first is what civil rights groups call “wealth-based suspension systems” where people’s driver’s licenses are revoked or suspended simply because they cannot afford to pay traffic tickets (Case and Bhattacharya, 2017). Those with the financial means to pay fines and fees can simply do so and avoid long term life setbacks. However, those without that financial ability will quickly find themselves subject to driver’s license suspensions, additional fees (which they also cannot pay and which, like compounding interest, add to the severity of their problem), and an inability to meet many personal and professional responsibilities. Second, these cases also indicate that there are literacy-based driver’s

license suspension systems operating throughout the United States. There is no evaluation of whether state governments have provided traffic tickets, court notices, or department of motor vehicles notices that are substantively intelligible to the average intended recipient. As a result, those with limited literacy levels, who are also unable to afford professional legal assistance in reviewing these notices, traffic laws, and court and DMV rules and regulations are less likely to understand the substance of the notices they receive, are less likely understand how to respond, and are less likely to take the appropriate action. Simply being a person with limited literacy and limited financial means is to be vulnerable in the legal system. One must ask the question: does the legal system punish people simply because they cannot understand how to navigate it and what is required of them? And further, what responsibility and accountability should federal and state agencies and legal systems have to make their rules intelligible to the people whose lives are directly affected by those rules?

This paper will explore the divergence between the legal analysis applied to government notices when they are evaluated based on a challenge for failure to offer constitutionally adequate notice and the metrics and analysis used in the professional fields of plain language and literacy to evaluate whether a document is written and designed such that an average reader would understand it. This divergence will be discussed with reference to driver's license suspension regimes in the United States. Part 2 will discuss the dire economic and life consequences to people in the United States when their driver's licenses are suspended and various legal challenges to the government notices used in several state driver's license suspension schemes, with specific focus on South Carolina. Part 3 will compare the legal analyses conducted by various federal courts in evaluating the constitutional adequacy of notice to the readability metrics used by professional plain language organizations, including internationally recognized literacy assessment standards and the criteria reflected in the United States' Plain Writing Act. Ultimately, we conclude that incorporating literacy and readability metrics in legal analysis of the adequacy of government notices would go far to offer meaningful substance to this important aspect of procedural due process.

## **2. What's at Stake When People Lose their Driver's Licenses Due to Poverty?**

86% of people in the United States drive to work and many jobs require a driver's license. (Florida, 2015). For those who can afford to pay, traffic fines and fees are an inconvenience that can be satisfied. But for those who cannot afford to pay, traffic fines and fees result in the loss of a driver's license, which causes more severe economic and personal consequences (Semuels, 2016). For many, it is impossible to satisfy work, family, healthcare needs, and basic necessities without access to a car (Blumenberg, 2017). 11 million people in the United States are struggling to survive with debt-related

suspensions (Keneally, 2019). In areas with limited transportation options, people may have no choice but to continue driving while their license is suspended in order to take care of their basic needs and that of their loved ones (Lovejoy and Handy, 2008; Sweedler and Stewart, nd). This means they risk receiving more fines and fees, and possible arrest, conviction and incarceration for simply trying to live their lives. This is especially true in states like South Carolina, where most counties are rural and lack accessible public transportation.

According to 2017 U.S. Census estimates, over 790,000 people in South Carolina live in poverty (U.S. Census Bureau, 2017) and deprivation of a driver's license is a major life event. Nine out of ten South Carolinians rely on a driver's license to pursue their livelihoods but as of May 2019, more than 190,000 people had South Carolina driver's licenses that were indefinitely suspended for nonpayment of traffic fines and fees. Thus, tens of thousands of South Carolinians are subjected to wealth-based driver's license suspensions that prevent them from finding and keeping their jobs, taking their children to and from school, seeking and receiving medical care, purchasing groceries and basic necessities, traveling to places of worship, and being with their families and communities.

A recent legal challenge to the driver's license suspension scheme in South Carolina highlights the penalization of literacy and poverty (White, 2019). In South Carolina, when a person fails to pay a traffic ticket, the DMV receives a report of this failure to pay from a South Carolina traffic court. When this happens, the DMV sends the person a written notice and subsequently suspends the person's driver's license if they fail to pay within a short period of time. There is no systemic or individualized inquiry into whether the traffic tickets or DMV notices apprise people of their options or rights or whether the notices are substantively understandable to the average recipient. State agencies are not held accountable for whether the tickets or notices they give people contain a sufficient amount of information and are written and organized in such a way that average recipients can actually understand their rights, what they are being asked to do, and what their options are. Importantly, in the context of license suspensions based on failure to pay a traffic ticket, notices are not evaluated for whether they convey information or instructions (intelligible or not) on what to do if a person cannot afford to pay a ticket or that they may have a right to request a payment plan or fine reduction based on their income. People are simply assumed to have enough information to have understood the information they received, and penalized if they do not pay their tickets.

This case is one of several across the United States that seek to halt a state agency's authority to suspend or revoke driver's licenses absent providing people with adequate

notice of their rights and options. Unfortunately, the legal landscape for such challenges is somewhat limited because there is a major divergence between the legal concept of notice and the reality of what recipients of a notice can understand.

### **3. The Gap Between the Legal Concept of Notice and an Average Intended Reader's Actual Understanding**

#### 3.1. The Legal Concept of "Notice"

The legal concept of "notice" is embedded within the concept of "procedural due process." The United States Supreme Court has long held that the "central meaning" of procedural due process is "notice and opportunity to be heard at a meaningful time and in a meaningful manner." (Fuentes, 1972). The requirement that people "be notified of proceedings affecting their legally protected interests is obviously a vital corollary to one of the most fundamental requisites of due process—the right to be heard." (Schroeder, 1962). The Court has emphasized that the "right to be heard has little reality of worth unless one is informed that the matter is pending and can choose for himself whether to appear, default, acquiesce or contest." (Mullane, 1950). But what is substantively required for notice to be constitutionally adequate? The Supreme Court has offered some broad language on the standard including a general dictate that notice be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." (Mullane, 1950). Further, "[t]he notice must be of such nature as reasonably to convey the required information, and it must afford a reasonable time for those interested to make their appearance." (Mullane, 1950).

Federal courts do not have a set of consistent metrics by which to evaluate whether a notice meets this standard. However, here are a number of factors that they often consider. For example, courts often focus on whether, and to what degree, the information at issue was accessible to the intended recipient. Was the information sent directly to the intended recipient's home? If not, was the information available somewhere that an intended recipient would be able to access it? (Mullane, 1950). Additionally, what specific information has to be conveyed is also a subject of some divergence across courts. Does a government notice have to inform an intended recipient that they have an option to contest a deprivation, what the critical issues are in contesting a decision, and what the procedure is to contest? Or is it sufficient to let a recipient know that they may be deprived of property or a benefit and assume that they can find sufficient information about contesting the deprivation through their own research? (West Covina, 1999; Memphis Light, 1978). Some courts have said that the fact that a publicly available law offers relevant information is enough. "Publicly available law" seems to mean that a person could find the relevant law on the internet or in a library. Under that standard, a

government notice does not have to reference applicable law or explain relevant options as long as there appears to be enough information for an intended recipient to do follow up research.

Despite the lack of consistent metrics, courts are frequently asked to rule on notice challenges - or example, federal courts have opined on what sort of notice a person is entitled to regarding their right to contest their electricity being shut off, their right to retrieve property that the police have confiscated during an arrest, or about contesting the revocation of an employment license. Acknowledgement of the life realities that the recipients of government notices face is rarely offered. When courts do consider the perspective or life circumstances of a recipient of a government notice, that consideration is limited. For example, in evaluating whether notice regarding an opportunity to appeal an eviction was sufficient, the Sixth Circuit Court of Appeals acknowledged that people may need time to familiarize themselves with the law before being able to assert their rights and that limited time frames may not afford a sufficient time for that familiarization, particularly given the many other difficulties and obligations an eviction may precipitate (Gardner, 2019). However, neither the substance of the government notice nor the substance of the relevant law are evaluated on whether they would be intelligible to the average recipient.

Legal evaluations of the adequacy of a notice simply do not require incorporation of a user-experience perspective common to the worlds of literacy, software engineering, and design (Curtotti, Haapio, Passera, 2015). Would an average intended recipient of a notice understand the language and terminology it uses? Is the information presented in an organized, logical, and understandable way? What is the average reading level of the intended recipient? These questions are simply not addressed in legal decisions regarding “notice” and the consequences can be severe.

### 3.2 Providing Meaningful Notice Using Plain Language

A key issue in several cases challenging wealth-based driver’s license suspension schemes is whether the notice that was provided to people who faced a license suspension was adequate. What does it mean to procedurally, substantively, and meaningfully provide sufficient notice to an individual? The technical legal understanding of these phrases is often divorced from the reality of whether people actually understand the substance of a communication. Neither government agencies sending out notices nor courts tasked with evaluating notices use consistent metrics to evaluate whether a notice is understandable to the average intended recipient. In fact, the reading level of the average recipient of a government notice and the intelligibility of the language used in a notice is almost never addressed. As a result, government notices are often obtuse and

largely impossible for the average person to understand. There is no legal obligation on the part of these agencies to be thoughtful about making the systems they create user-friendly. If government agencies were to adopt a set of standards to evaluate the efficacy and intelligibility of their communications from a user perspective, it could significantly improve peoples' experiences with such agencies and reduce unnecessarily detrimental and inefficient. Similarly, if courts substantively evaluated government notices for their intelligibility to the intended recipients, notice requirements would offer more meaningful protections to vulnerable people. A useful benchmark to substantively evaluate whether notice is adequate could be to evaluate whether the notice is written in plain language.

The Center for Plain Language, PLAIN International, and Clarity – the three largest plain language advocacy groups in the world – define plain language as follows: “A communication is in plain language if its wording, structure, and design are so clear that the intended readers can readily find what they need, understand it, and use it.” (Center for Plain Language, n.d). This definition assumes the purpose of a communication is to help people find necessary information, make appropriate decisions, meet requirements, and accomplish tasks in their daily lives. A document written in plain language provides information in a manner that helps the intended reader function appropriately in a specific situation. Plain language is not simply good for readers, it is also good for court and bureaucratic systems. When readers understand what they need to do, they are able to respond more quickly and with more accuracy.

Without evaluating whether a document is written in plain language, a government agency could meet the legal requirement (“giving notice”) without achieving the meaningful communicative intent – for the recipient to understand the notice and be able to act on it accordingly. For those who receive a DMV notice, the question is not simply whether they get a notice but whether they understand the notice to the extent necessary to make appropriate decisions for their own situation. We can use plain language to assess the ability of documents to adequately inform intended readers by evaluating two questions: (1) Can the intended recipient substantively understand the notice?, and (2) How well does the notice inform that intended recipient of the key messages? The following sections explain this evaluative process.

### *3.2.1. Understanding the Intended Reader*

Central to the concept of plain language is the intended reader. In fact, any reputable source on designing documents will begin with a discussion of the reader (Redish, 1992), and a document can only be considered a “success” if the intended reader can understand it. Readers, however, come from all backgrounds with differing levels of education, a range of contextual understanding, and varying life experiences. Each of these factors

shape a reader's ability to understand. For a document with large reading audience, it is important to address as many variables present in those readers – optimizing the content so it is as understandable as possible for the largest number of people. One critical variable to consider is literacy. For documents that many people must use, we must write and design to a range of literacy levels – making them as simple, clear, and transparent as possible in order to be effective for most readers.

Literacy levels can be used to evaluate how difficult government notices are to read and understand. Government notices are not limited to DMV notices. Other notices include tax forms and letters, social security benefits statements, college loan letters, and any other letter sent to a person by a local, state, or national government. Using the literacy proficiency levels of the Program for the International Assessment of Adult Competencies (“PIAAC”), one can evaluate how probable it is that a government notice can be understood by people of different literacy levels. PIAAC is an international program that conducts assessments and analyses of adult skills in several areas. (Organisation for Economic Co-operation and Development, n.d.). In 2011–12, PIAAC conducted a major survey in more than forty countries (including the United States) that measured adult literacy. The results of the United States survey are considered “the most current indicator of the [United States’] progress in adult skills” in the measured areas. (National Center for Education Statistics, n.d.).

PIAAC defines reader literacy as “the ability to understand, evaluate, use and engage with written texts to participate in society, to achieve one’s goals, and to develop one’s knowledge and potential.” (National Center for Education Statistics, 2019). PIAAC identifies six literacy proficiency levels for adults: Below Level 1, Level 1, Level 2, Level 3, Level 4, and Level 5 (NCES, “PIACC Proficiency Levels”, n.d.). Each level corresponds with particular tasks that a reader falling in that range would be able to perform, as follows:

- **Below Level 1:** Readers are able to read brief texts on familiar topics with basic vocabulary to locate a single piece of specific information without any competing information.
- **Level 1:** Readers are able to read relatively short continuous or non-continuous text where little, if any, competing information is present.
- **Level 2:** Readers are able to paraphrase as well as integrate, compare, contrast or reason using text where some competing pieces of information are present.
- **Level 3:** Readers are able to identify, interpret, and evaluate one or more pieces of text, where competing information is often present, but it is not more prominent than correct information.

- **Level 4:** Readers are able to perform multi-step operations from long texts using complex inferences and background knowledge. Competing information is present and can be more prominent than correct information.
- **Level 5:** Readers are able to search for and integrate information across multiple, dense texts; synthesize similar and contrasting ideas or points of view; and evaluate evidence-based arguments. Competing information is present and more prominent than correct information.

The PIAAC survey found that 52.5% of adults in the U.S. function at a literacy proficiency of Level 2 or below. The full set of findings can be found in Table 1 below. (National Center for Education Statistics, 2016).

Table I. Percentage of U.S. population functioning at each level of literacy

Level of literacy	Percentage of U.S. population
Unable to answer any questions	4%
Below Level 1	4.1%
Level 1	12.9%
Level 2	31.6%
Level 3	34.6%
Level 4	11.9%
Level 5	0.9%

Though the PIAAC survey does not measure adult literacy proficiency at the state level, it can be extrapolated based on nationwide results. In the case of South Carolina – where a wealth-based driver’s license suspension scheme is currently being challenged – roughly 53% of South Carolina adults function at a literacy proficiency of Level 2 or below. PIAAC would assert that these readers have difficulty making inferences, paraphrasing, and synthesizing information about complex, unfamiliar topics. Based on the results of the PIAAC survey, we could further extrapolate that roughly 22% of South Carolina adult residents function at Level 1 or below and thus struggle to read and understand written text. In fact, this extrapolation is consistent with a 2003 study of literacy in South Carolina, which found that 15% of residents lacked the most basic prose literacy—that is, the ability to read and understand text-based documents (NCES, “State and County Estimates”, n.d.).

Beyond assessing the literacy level of readers, we can assess how understandable a document will be using the PIAAC criteria as a framework. For example, when assessing the government notices, we can analyze them through the activities readers would need to take to fully understand their substance. For a given notice:

1. Would readers be familiar with the topic?
2. How many pieces of information readers require to locate and understand?
3. Is there competing information – either in the form of competing design elements or competing types of information?
4. Does it use basic vocabulary?
5. Does it include one or more pieces of information that readers must evaluate?
6. Does it require readers to draw inference?
7. Does it require readers to construct meaning across large chunks of text?
8. Does it include multi-step operations that readers must use?
9. Does it include irrelevant information that readers must disregard?
10. Does it require readers to integrate, interpret, and synthesize information?
11. Does it require readers to draw varying levels of inference?
12. Does it require readers to identify and understand one or more specific, non-central ideas?
13. Does it require readers to search for and integrate information across multiple, dense texts?
14. Does it require readers to synthesize similar and/or contrasting ideas or points of view?
15. Does it require readers to evaluate evidence-based arguments?
16. Does it require readers to have specialized knowledge?

Answering each of these questions about a document will help develop a composite of the literacy level a reader would need to not only fully understand the document(s) but also be able to use that information to make decisions about their life situation.

### *3.2.2. Assessing How Well the Notice Informs Intended Readers*

We can also evaluate how well a notice informs readers about key messages using criteria that reflect the requirements of the federal Plain Writing Act of 2010 – which requires federal agencies to write clearly to provide civilian access to government information and services (“Plain Writing Act”, 2010). The Center for Plain Language designed these criteria to match federal guidelines. The CPL criteria reflect principles present in the International Organization of Standardization (ISO) standards for plain language currently in development which will govern the use of plain language internationally (Harris, 2010). These criteria are also used by other organizations concerned with clarity in communication, such as the Partnership for Public Service, which releases its own grades on federal communications (Partnership for Public Service, 2019).

**Criterion 1: Understanding Reader Needs.** This criterion assesses how clearly a document answers the key questions for a reader who is attempting to complete a functional task. Readers approach a document by asking questions and actively looking for answers to these questions (Redish, 1992). When approaching government notices, readers often ask specific questions like: Why am I getting this? What will happen next? What can I or should I do next? By when do I have to act? If the notice fails to answer these questions, readers become easily confused and often give up after (Redish, 1989). This criterion also assesses coherence, which is defined as the connection between ideas that help the reader discern a larger, global understanding of the document. Coherence is present when words, sentences, and paragraphs work together to create meaning for the reader (Graesser et al., 2003). Sentences are comprised of propositions or small units of a predicate and at least one argument or noun phrase (Graesser et al., 1997). For text to be coherent, there must be *propositional overlap* among sentences, meaning the units work together across sentences to build meaning without interferences or gaps. There must also be *propositional connections* throughout the text, meaning the sentences and paragraphs work together to build a cohesive narrative that the reader can comprehend (Kintsch and Van Dijk, 1978). When there are gaps in information or intervening unrelated concepts, the text is not cohesive. In cases where there are gaps in information or intervening unrelated concepts, the reader has to substitute missing information with existing knowledge or identify and disregard extraneous points. Average readers have particular issues with text that contains information gaps or unrelated concepts because they lack the background necessary to fill gaps or navigate unconnected points (Kitchin, 1994).

**Criterion 2: Style and Voice.** This criterion assesses whether the document uses words and sentences a typical reader would understand. Readers need language that reflects their own language patterns, not the technical language of experts. Additionally, readers need a foundation of known and understood words to build meaning. This criterion looks for the use of informational anchors — restatements of complex words or definitions — that allow readers to more easily add new, unfamiliar terms to their foundation (Kitchin, 1994). Finally, this criterion assesses sentence length. Long sentences are more difficult for all readers to understand (Coleman, 1962). This is because long sentences require embedding, the process by which one clause is fixed within another (Schwartz et al., 1970). The longer a sentence is, the stronger a reader’s short-term memory must be. And as a sentence grows in length, the recall and comprehension of the reader rapidly declines. (Larkin and Burns, 1977). Long sentences are particularly difficult for people with low literacy. (Doak and Doak, 2010). Common plain language guidelines suggest keeping sentences to 20 or fewer words, which is within reach of the average reader. (Cutts, 2013). Other longstanding guidelines consider sentences of 29 or more words to be “Very Difficult.” (Flesch, 1948).

**Criterion 3: Structure and Content.** This criterion assesses whether the document has a clear and organized structure to help readers effectively use the information provided. Typical readers rely on the structure of a document—heading and paragraph arrangements—to quickly capture key information and decide whether they are willing and able to expend more energy to understand it (Liu, 2005). The structure of a document must also support Criterion 1. The information should be logical to the reader within the context of the situation and should guide them to take appropriate procedural steps. Since multi-step operations increase the literacy level required, it is critical that steps are structured and explained clearly and in an order that a reader with lower literacy can clearly follow.

**Criterion 4: Information Design and Navigation.** This criterion assesses the degree to which the document’s layout and presentation make the page easy for readers to find important information. In general, when readers think a document looks hard to read, they assume it is hard to read. In other words, reader motivation improves with good information design. When information design is poor, readers assume the content is difficult to understand. This, in turn, reduces their overall motivation to continue to read to understand. Indeed, readers will often stop reading when content becomes difficult to understand (Song and Schwartz, 2008). Information design includes the entire “look and feel” of a document: use/size of headings, font choice/size, white space, a clear format that organizes information on the page.

**Criterion 5: Pictures, Graphics, and Charts.** This criterion assesses the extent to which the document includes easy-to-use visuals to enhance and support the meaning of the content. Research has shown that most individuals think visually and that visuals can improve learning and retention (Reed, 2010).

One can use these criteria to assess the level to which a document meets plain language standards. Legal notices are often written with the goal of presenting and supporting legal requirements rather than attaining reader understanding. Additionally, readers are not typically familiar with legal subject matter and find themselves in a highly unfamiliar context, which increases the possibility of either not understanding or mis-understanding a notice. We can, however, evaluate whether a document attains plain language by assessing how well the notice addresses literacy level of the reader, maintains logical consistency and coherence, writes in a simple style with familiar vocabulary, uses information design strategies, and employs effective pictures or graphics.

#### 4. Conclusion

All people should be provided equitable access to the information they need to act in their own best interest and in accordance with the law. Unclear, difficult, bureaucratic or legalistic language restricts such access. People with limited financial means are unable

to hire professional legal assistance in understanding information and are thus unable to take the steps needed to protect themselves when dealing with poorly designed or obtuse notices. For governments, in particular, use of clear communication provides access to critical resources as well as resolution to pressing problems for the governed people. One clear step in reducing penalization of poverty is to simply give people information that they can understand.

Additionally, courts reviewing legal challenges to the adequacy of notices could incorporate plain language and literacy analyses as metrics to evaluate whether government communications are substantively written and structured to allow people to understand information and act on it. Due process analyses focusing on notice would offer greater substance and meaningful protection of the rights of vulnerable people if they included such metrics.

The PIAAC literacy levels and Center for Plain Language criteria provide frameworks by which writers and reviewers can assess government notices – bringing them beyond legal compliance and into meaningful communication with intended readers and recipients. Government entities writing notices and courts evaluating notices should adopt these frameworks to better serve the public. “Giving notice” is not enough; achieving meaningful understanding must be the goal if we are to move beyond a wealth- and literacy-based system. In this way, plain language can pave the road to a cornerstone of social justice, providing more equitable access and outcomes for all people.

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