Is Plain Language Better?

Comparative Readability Study of Plain Language Court Forms

— By Maria Mindlin

Abstract

This article presents the results from the first quantitative readability study of plain language court forms in the United States. Sixty citizens on a jury panel were selected to respond to brief questionnaires that tested relative comprehension of plain language court forms and the corresponding traditional court forms. Results show a marked and statistically significant improvement in reader comprehension when court forms are treated for plain language. The data also suggest that because users of plain language forms understand more clearly what they have to do, when they have to do it, and where to seek support if they need it, there may be significant economies for the court.

Background

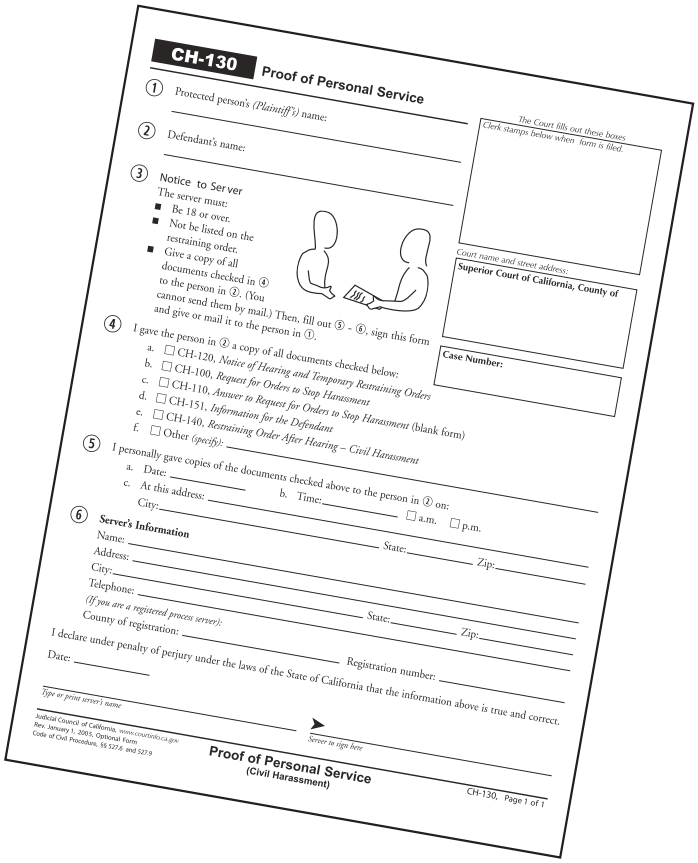
Researchers in Communications and Public Opinion report this extraordinary finding: language, design and format of text can be manipulated to influence user response.[1] Logically, this body of knowledge should be transferable to legal texts. But, plain legal language is a nascent discipline and academic research in the area of readability of plain language legal forms and instructions is thin. A review of the research literature indicates that, to date, there has been no quantitative research of the readability of plain language court forms and instructions.

Anecdotal reports from court staff and focus groups suggest that legal documents and web sites written in plain language are both more readable and more likely to be read.[2] This study explores the impact of plain language on comprehension and identifies the basic readability principles used to create plain language legal court forms. For those new to reading theory, there is general acceptance that readability is increased when we:

- Match the reading grade level to the average consumer's reading proficiency,
- Use familiar words and phrasings (if specialized terms must be used, they
- are explained),
- Avoid foreign, archaic and noun-heavy phrasings,
- Use active voice and direct address, and
- Present information intuitively.[3]

Study Hypothesis and Design

The study tested this hypothesis: Court forms meeting the readability criteria on the Transcend Readability Index (TRI, discussed below) will be easier to read and more thoroughly understood than untreated forms.[4]



CH-130 Proof of Personal Service

① Protected person's (Plaintiff's) name:

② Defendant's name:

③ Notice to Server
The server must:
- Be 18 or over.
- Not be listed on the restraining order.
- Give a copy of all documents checked in ④ to the person in ②. (You cannot send them by mail.) Then, fill out ⑤ - ⑥, sign this form and give or mail it to the person in ①.

The Court fills out these boxes
Clerk stamps below when form is filed.

Court name and street address:
Superior Court of California, County of

Case Number:

④ I gave the person in ② a copy of all documents checked below:
a. ☐ CH-120, *Notice of Hearing and Temporary Restraining Orders*
b. ☐ CH-100, *Request for Orders to Stop Harassment*
c. ☐ CH-110, *Answer to Request for Orders to Stop Harassment* (blank form)
d. ☐ CH-151, *Information for the Defendant*
e. ☐ CH-140, *Restraining Order After Hearing – Civil Harassment*
f. ☐ Other (specify):

⑤ I personally gave copies of the documents checked above to the person in ② on:
a. Date: b. Time: ☐ a.m. ☐ p.m.
c. At this address: City: State: Zip:

⑥ Server's Information
Name:
Address: State: Zip:
City:
Telephone:
(If you are a registered process server):
County of registration: Registration number:

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.
Date:

Type or print server's name

Server to sign here

Proof of Personal Service
(Civil Harassment)

Judicial Council of California, www.courtinfo.ca.gov
Rev. January 1, 2005, Optional Form
Code of Civil Procedure, §§ 527.6 and 527.9

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This study included a statistically significant sample of consumers from diverse educational, ethnic and socioeconomic backgrounds in order to accurately test the relative readability of untreated and treated court forms.[5]

Court Forms Studied

The study analyzed consumer comprehension of the following Judicial Council of California forms:

- *Subpoena Duces Tecum*, Criminal and Juvenile, Form 982a16, and
- *Proof of Personal Service* (Civil Harassment), Form CH-130

These forms were studied because treated and untreated versions of each form were readily available, and both are short and lend themselves to a fairly quick field test.

The untreated versions of the forms are the most recent forms in use and are currently available on the Judicial Council's California Courts web site at www.courtinfo.ca.gov. The treated versions of the forms have undergone plain language text and design modifications as outlined in the Transcend Readability Index (TRI),

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the principal features of which include:

- An appropriate reading grade level
- Language that is largely familiar to the reader or adequately explained
- Direct address
- Active voice
- Visual features that make the text highly readable
- Graphics to support the key message of the text
- Intuitive ordering and integration of information
- Consideration of end-user comments from field testing

Study Subjects

With the assistance of the Jury Director of the Administrative Office of the Courts of California, and the local Jury Commissioner, Transcend enlisted 60 participants from a diverse pool of citizens reporting for jury duty in February of 2005 at the Superior Court of California in Sacramento, California. Participation in the study was voluntary, and all participants responded fully to the questionnaires, thus eliminating non-response bias. The participants had no prior knowledge of the study, and none of the participants knew any of the researchers or test administrators. The demographics of this study group are listed below and displayed comparatively with Sacramento county and state demographics available from the 2000 U.S. Census data.[6]

Gender: Participants were 47% male; 53% female, closely approximating county and state populations.

	Male	Female
Field Test	47%	53%
California	49%	51%

Age of the participants approximated county and state populations, as well:

	18-30	31-50	51-65	65+
Field Test	17%	45%	23%	15%
California	14%	44%	28%	14%

Ethnicity: Participants reported their ethnicity as follows:

White	Asian PI	African American	Other	N/A
67%	16%	5%	10%	2%
60%	11%	7%	22%	0%

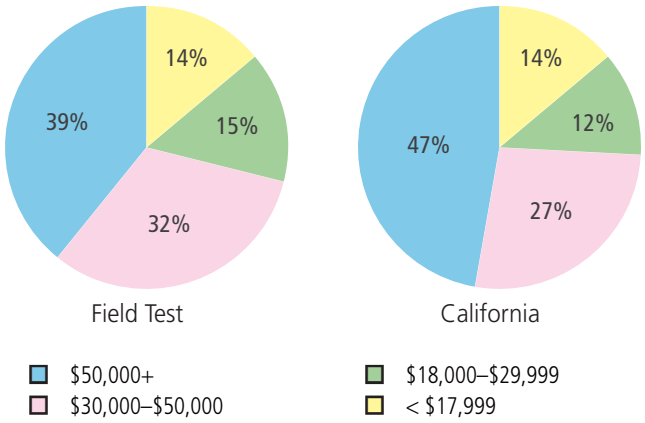
Field Test California

Education: Participants reported their education as follows:

Some High School	High School Graduate	Some College	College Graduate	College+
67%	16%	5%	10%	2%
60%	11%	7%	22%	0%

Field Test California

Income: Participants reported their income as follows:



Study Method

Transcend administered two 10-question tests to two distinct groups of 30 respondents in a private room at the main courthouse in Sacramento, California. Each group of 30 responded to questions on one untreated and one treated (plain language) court form.

Group 1 was tested on *Proof of Personal Service*, untreated, then *Subpoena Duces Tecum*, treated. Group 2 was tested on *Proof of Personal Service*, treated, then *Subpoena Duces Tecum*, untreated.

Questions were read aloud twice by the test administrator. The participants were allowed exactly 20 seconds to write their answers on a blank answer form, and then they moved on to the next question. Respondents were asked not to speak during the test administration. At the completion of each form, the answer forms were collected, and this procedure was repeated for the second form.

For control purposes, the first group of 30 participants responded first to questions about the untreated form. The second group was tested on the plain language form first. The questions were designed to elicit participants' understanding of the purpose of the form and the specific steps each form required. The test administrators ran a practice test on practice subjects to ensure that the instructions and questions were clear and the timing was well-paced.

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Comprehension

The scores on the treated documents were substantially higher than those on the untreated documents, with a statistical significance over the 99% confidence level. In other words, the difference in comprehension is so high that there is a 99% chance that these results are generalizable to the entire population.[7]

When asked, "*What do you think this document is for?*" only 23% of the respondents on the untreated *Proof of Service*, Form CH-130 form were able to respond correctly. In contrast, 70% of the respondents understood the purpose of the treated form.

	Understand
Untreated Form	23%
Treated Form	70%

When asked, "*What does this form tell you to do, exactly?*" 90% of the participants responded correctly on the treated version of the *Subpoena Duces Tecum*, but only 60% did so on the untreated form. Again, this is significant at the 99% level.

Reading research tells us that readers who cannot determine the basic purpose of a document typically abandon further reading.[8]

To further explore the qualitative aspects of the results of the readability of court forms, we also conducted exit interviews with a subset of 10 members of each group. During these interviews, most participants indicated that if given a court form that they did not understand, they would not know where to turn for support. With 77% percent of respondents unable to identify what the *Proof of Service* form was for, we can anticipate a low level of compliance with the general directive or specific instructions on this form.

Readability

- The last question on each test asked participants to rate on a scale of 1–10, how easy or hard it was to read each of the forms. Respondents' subjective assessment of the overall readability of the forms was also heavily weighted to the plain language forms beyond a 99% confidence level ($z = 2.77$; $p = .0027$, one-tailed). In other words, we can say with certainty that the Judicial Council's new plain language forms are easier for consumers to read and understand.

Habituated Readability

While average consumers and new users are likely to find the plain language forms easier to read and understand, legal professionals in California who are familiar with the "old" forms are not. This is because prior familiarity with the subject matter, format, and organization of the text contributes greatly to readability. So, just as credit cardholders know where to look for the key information on their monthly statement, and students can quickly find that hidden little spot on their report cards where their GPA is listed, legal professionals who could easily navigate the style and language of untreated forms may be perplexed by claims that Plain Language forms are more readable because they can no longer navigate them intuitively.

These new features might pose initial obstacles:

- The name of the form is no longer in the middle of the document.
- The form name may be completely new (e.g., *Subpoena Duces Tecum* is now called *Order to Go to Court and Provide Documents*).
- Some of the statutory language they may know by heart has been replaced with more natural phrasings
- Noun-heavy prompts are replaced by phrases that use direct address and occasional verbs.
- The old "look" of the caption, 9 point Arial type, heavy use of boxes and ALL CAPS are also gone.

In short, the Plain Language forms would be "new", to this subgroup and they will find these forms more difficult to navigate *initially*. But, unlike many other users of these forms, this subgroup consists of highly skilled readers and they will quickly get used to the basic formulas now applied to all new Plain Language court form templates.

Conclusion

In treating the forms studied here for plain language, it was the intention of California's Administrative Office of the Court to create forms and instructions that would be more easily understood by a larger number of people, thereby affording increased access to legal information and protections.

In fact, the increased readability demonstrated in this study provides strong evidence to support this approach. Plain language court forms treated with the Transcend Readability Index (TRI) are easier to read and more completely understood than untreated versions. There is a statistically significant difference in readability and reading interest as measured by the readers' perception of the level of difficulty of the forms.

There are ancillary benefits as well:

- As a greater number of consumers understand and therefore are able to comply with the instructions contained in the legal forms, court expenditures are reduced.[9]
- Consumers who use plain language as a vehicle to access legal information and protections are more confident and self-reliant.[10]
- Printing and translation costs are reduced because Plain Language documents are typically 40% shorter than untreated documents.[11]

We know enough to say that plain language court forms and instructions are better understood, easier to use, and more economical. Future studies would do well to evaluate the relationships between plain language and specific goals, such as rates of Failures to Appear, collections, and compliance to court orders.

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References

1. Tourangeau, R., Mick P. Couper, and F Conrad. "Spacing, Position, and Order - Interpretive Heuristics for Visual Features of Survey Questions." Public Opinion Quarterly, 68 (3): 368-393. 2004.
2. Mindlin, M. and McCormick, K, Plain Language Works for Pro Per Litigants, 2003, www.transcend.net/library/courts.html
3. DuBay, W. H., "Principles of Readability." National Adult Literacy Database, (www.nald.ca) 2004. This publication contains an overview of foundational readability research and instruments.
4. The null hypothesis of this study was stated as follows: "There is no difference in readability and comprehension between treated and untreated court forms."
5. Statisticians agree that the population size used in this study is a sufficiently large sample size to make generalizations.
6. The reader is cautioned that the data categories for income and age were not perfectly matched to the 2000 U.S. Census data categories. For instance, in income, the study listed the lowest income category as Under $18,000, while the census lists its first category as Under $15,000. Similarly, the youngest age category for this study was 18-30, while the census lists 18-24 as the youngest category. All County and State data is from http://factfinder.census.gov
7. For *Proof of Service* – Civil Harassment, CH-130, the average score was 81% for treated and 61% for untreated, significant beyond the 99% confidence level ($z = 4.01$, $p = .0003$, one-tailed). For the *Subpoena Duces Tecum*, the average score was 77% for the treated plain language form, compared to a 66% average of the untreated form, achieving a 95% confidence level ($z = 1.94$; $p = .027$, one-tailed), showing superior understanding and comprehension of the document by the treated group. In other words, there exists a very high probability that any court form adhering to these readability guidelines will see similar levels of improvement.
8. A 1993 National Adult Literacy Study conducted by the National Center for Educational Statistics found that when texts exceed the reading ability of readers, they usually stop reading. DuBay, W. H., "Principles of Readability, Readability and Reader Persistence", pp 30, National Adult Literacy Database, (www.nald.ca) 2004.
9. Professor Richard Wydick, Plain English for Lawyers, reports, "understandable government forms require less staff time to explain and reduce the number of errors by those who fill them out." Professor Wydick refers to the Australian research by Gordon Mills and Mark Duckworth, The Gains from Clarity (1966) (costbenefit study of plain language documents).
10. The Legal Aid Society of Orange County uses Plain Language instructions in their "I-CAN!" kiosks and website that provide assistance to self-represented litigants in civil areas such as small claims, domestic violence, landlord tenant disputes, answers to complaints, and fee waivers. The "I-CAN!" Project Manager, AJ Tavares, reports that, "Plain language has been a success as it allows people to understand better what they are supposed to do. They are less intimidated by the forms and information and less overwhelmed with what to do next."
11. The Administrative Office of the Courts experienced a 43% reduction in translation fees (which are billed on a per word basis) when they transitioned the Domestic Violence forms to plain language.

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