Exercising our right to know:
Making effective public records requests

Speakers:

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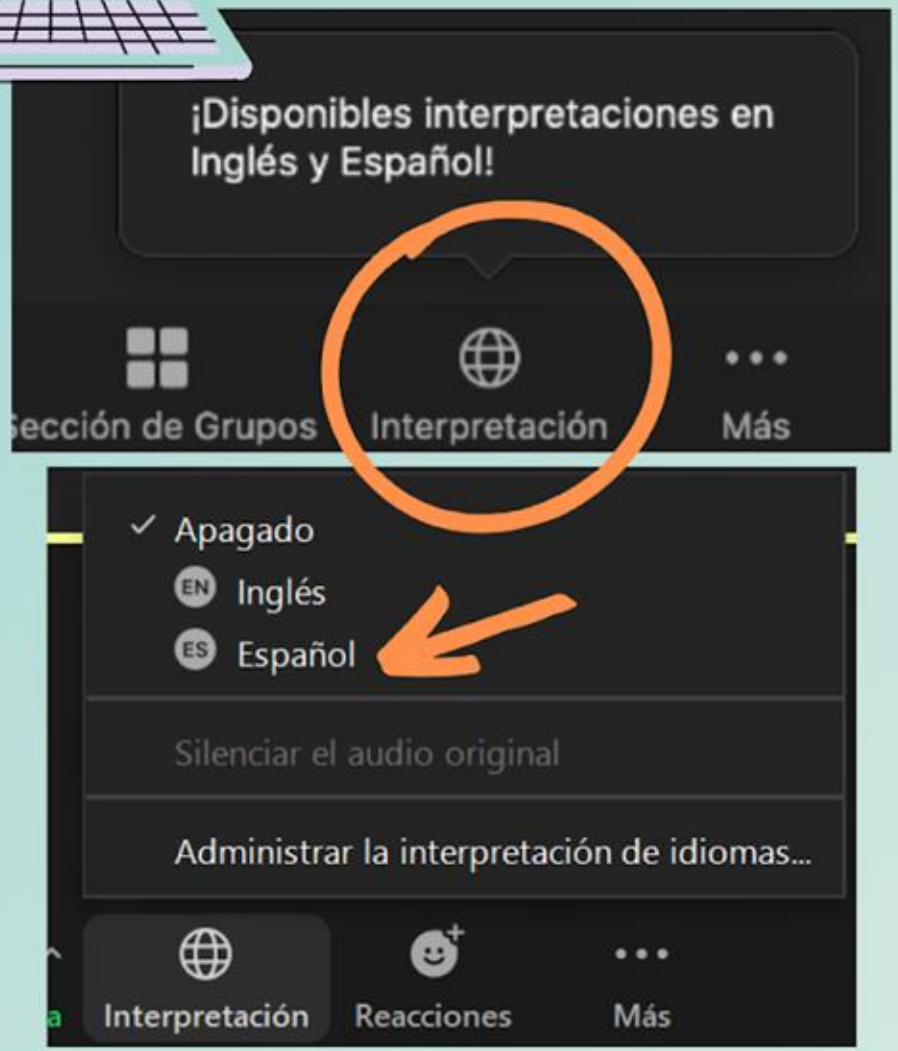
Mike Wessler, Communications Director, Prison Policy Initiative

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PARA ACCEDER A LA INTERPRETACIÓN

Por computador



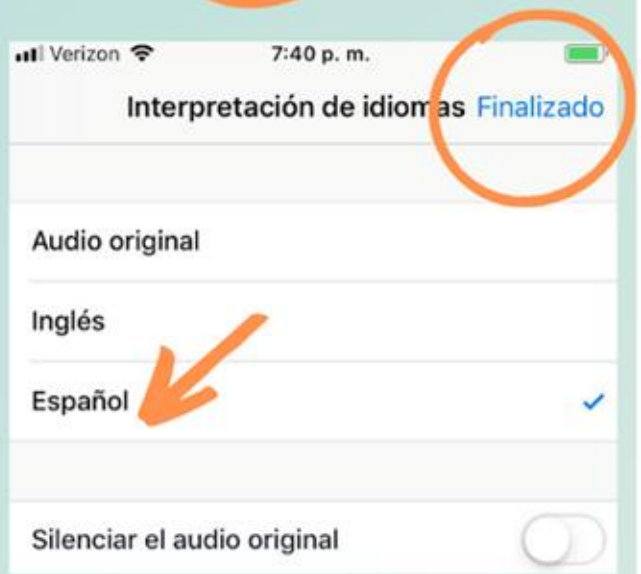


Por teléfono inteligente



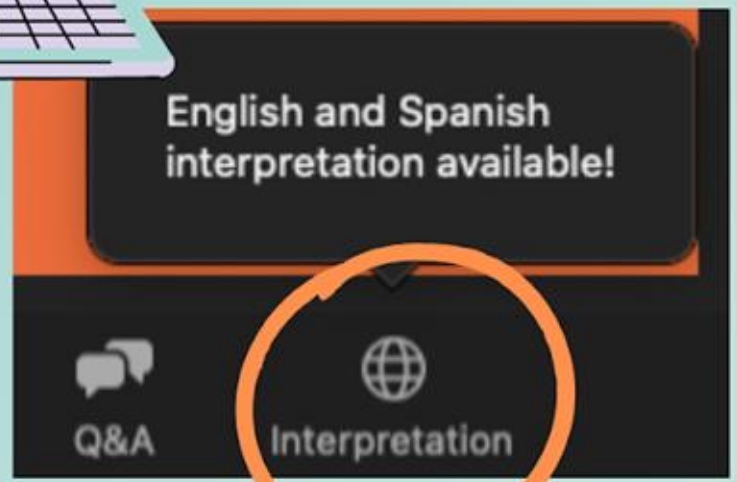


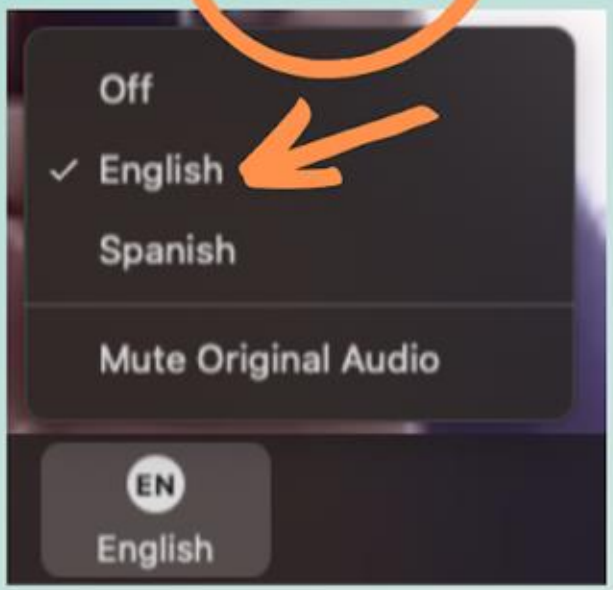




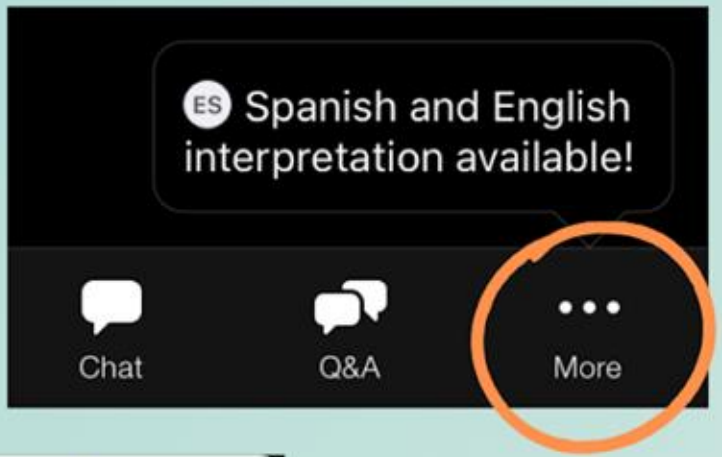
TO ACCESS INTERPRETATION

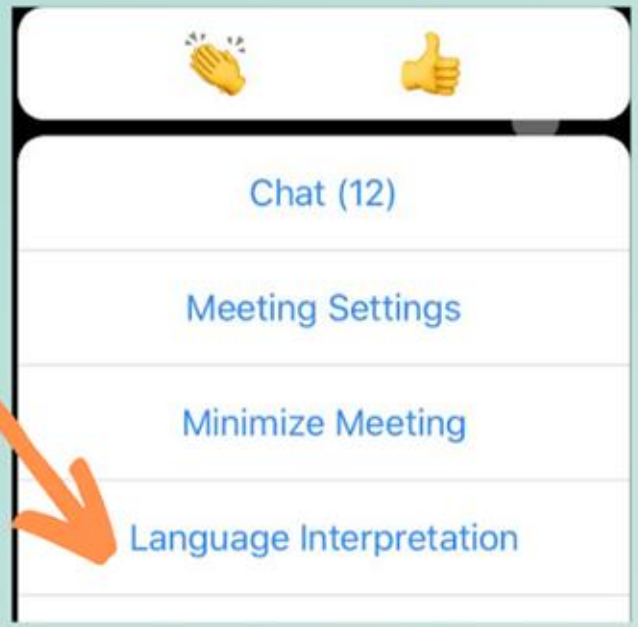
Via computer

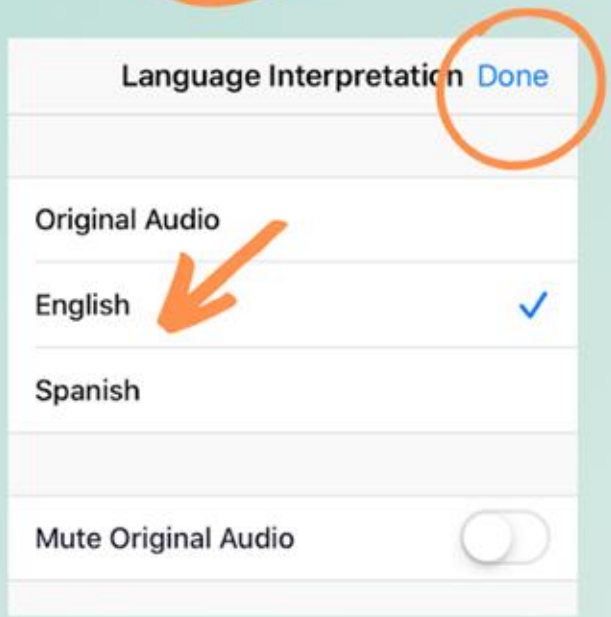




Via smartphone







ASL Interpretation

- Press the Interpretation button at the bottom of your zoom screen to select ASL.
- Video of the ASL interpretation will be included in the recorded posted YouTube video of the webinar as well

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Housekeeping

- **The webinar is being recorded and the video and slides will be provided.**
    - You will receive them by email approximately a week after the webinar, and they will have a permanent home on the Prison Policy Initiative website

- **Please use the Q&A box for questions.**
    - We will answer short questions in writing as the webinar goes on, and pick a selection of more complex questions for speakers to answer live at the end.

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Welcome and Introductions

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Overview

- Overview of today's structure and goals
- Introduction to record requests
  - Open records laws: what they are and why they exist
  - Alternatives to records requests
  - Anatomy of a successful request
- Discussion of how this works in practice:
  - A conversation with Mike Wessler, former government employee
- Q & A

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The Prison Policy Initiative's resources

- Records request toolkit and examples
  - https://www.prisonpolicy.org/trainings/records.html
  - https://www.prisonpolicy.org/trainings/records-examples.html

- Appendices to the toolkit with detailed summaries by state about:
  - State records laws, including whether the record must be submitted by a state resident, deadlines for agencies, and consequences for the agencies for failure to respond.
  - Restrictions on public records access for people who are incarcerated or on community supervision.
  - State agencies that assist with appealing or mediating records denials and ignored requests.

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Open Records Laws: An Introduction

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What are open records laws?

- Federal:
  - Freedom of Information Act (FOIA)

- State versions include:
  - Open Records Acts/Laws
  - Public Records Acts/Laws
  - Sunshine Acts/Laws
  - Freedom of Information Acts/Laws
  - Record Access Acts/Laws

Every state has one, they're all a little different

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History and purpose

- Federal and state laws were passed throughout the 1900's to:
  - Increase government transparency
  - Ensure people could access government records



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Open records law basics

- Laws require:
  -  Production of documents under the government's control
  -  Timely production of responsive documents
  -  Requestor must be a resident (some states)

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Kinds of records



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Open records law basics

- Laws generally do NOT require:
  - Creating new documents
    - (Things get complicated when requesting data from databases)
  - Sharing records of judicial or legislative branches
  - Disclosing private information
  - Fulfilling "unduly burdensome" requests







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Do I even need to submit a records request?

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Places to look for information

- Government websites, including annual reports and raw data repositories.

- Other people's previous records requests
  - Google "FOIA Log" or "records request log" or "sunshine law log" or similar with the agency or city/county/state name.
  - Some requests - mostly federal - are archived at muckrock.com.
  - Ask journalists and others who you know got info like what you're looking for how they got it.
  - Often, especially if you have a reference number or similar information, you can submit a request that amounts to "give me what you already gave this other person".

- Asking a trusted agency contact nicely before sending a formal request

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Upsides and downsides to submitting a formal records request

Pros

- Formal, documented process, sometimes with consequences for the agency for denial; sometimes there are appeals processes.
- Anyone can make one – you don't have to "know a guy" or be friendly with an agency.
- Clear paper trail to show that you asked the agency for everything they had and they gave it to you.

Cons

- Can make agencies hostile towards you in certain circumstances (even if that's not reasonable!)
- Communicates that you're "sniffing around" something, which can have consequences for advocacy (there are ways around this!)
- Sometimes can take a very long time.

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You don't always need what you think you need

- Sometimes, the specificity offered by formal records requests makes people feel that they *need* to have every data point, policy, and factoid 100% correct and up-to-date before they can make advocacy arguments.

- Think carefully about whether you can "make do" with more easily available information, older data, public statements from officials, or personal testimony from impacted people.

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Submitting a record request

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Where to send your request

- Most public records requests are done by either email or through an online form.
- Google the agency name with the name of your records request law + ”officer” or “contact” to find who to email.
- If you can’t find anyone on a website, call, or you can send to the legal department, or even to the head of the agency.

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Anatomy of a records request

Subject: Public Records Act request: heat mitigation policies

Hello,
This is a public records request pursuant to the Louisiana Public Records Act (LSA-R.S. 44:1, et seq.).

- It's always good to start your request by clearly identifying it as a records request and including the statute.

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Anatomy of a records request

I am requesting a copy of any policies or directives regarding cooling or heat mitigation for housing and staff areas. I am requesting the full policies, including any and all attachments.

I'm requesting the following healthcare contracts from the Department of Corrections:

- Current healthcare services contract with Wellpath (or other provider if Wellpath is no longer the provider)

For each person in the Department's custody on April 1, 2026, or any date of the Department's convenience between April 1 and May 1 of that year, please provide the following information:

- Date booked
- Race or ethnicity
- Sex or gender
- Age or date of birth

- Clearly list what you're looking for.
  - Avoid being too broad or too narrow.
  - If you know the name of the document you're looking for, include it, but if you don't, you can just describe it.
  - When asking for data, consider the different ways fields might be referred to or stored.

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Anatomy of a records request

If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely.

If your Department does not maintain these public records, please let me know who does and include the proper custodian's name and address.

If a portion of these documents are exempt from disclosure, please provide all segregable portions.

- Anticipate denial reasons.
  - Ask for a reason for denial in writing.
  - Ask for the proper agency to request records from.
  - Ask for private information to be redacted.

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Anatomy of a records request

The requested documents will be made available to the general public, and this request is not being made for commercial purposes. For that reason, I am requesting a waiver of all fees for this request.

- Most (but not all) records requests laws require or encourage fees to be waived when requests are not for commercial purposes. It never hurts to ask!

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Anatomy of a records request

In the event that there are fees less than $25, you may invoice me for them. If fees exceed that amount, please inform me of the total charges before fulfilling my request.

- By including a fee cap that you're willing to pay, you save yourself back-and-forth about costs that are low enough for you not to care about.

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Anatomy of a records request

Please provide these documents to me electronically by e-mail.

Please provide the data requested in a Microsoft Excel spreadsheet or similar machine-readable format.

- Always specify what format you want your documents in. Otherwise, some agencies may default to paper.
- "Machine-readable format" will help you get data that you can analyze.

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Anatomy of a records request

Thank you in advance for your anticipated cooperation in this matter. If you need to discuss my request, please contact me at [email] or call me at [phone number].

- Give your contact information and offer to discuss the request.
- Particularly for complicated requests, it can be helpful to affirmatively call the agency after you submit to offer to explain your request. Talking on the phone can do wonders!

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Anatomy of a records request

I look forward to receiving your response within 3 days, as required by statute.

- IF your state has a time limit for responses, it can be useful to politely state it to remind the requestor, and to let them know that *you* know what the rules are.

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Advice from a former records-keeper

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Discussion Key Takeaways

- Government employees are rarely neutral
  - Sometimes they want to help you, and sometimes they want to stonewall
- Don't get discouraged is you fail
  - Sometimes it's just bad luck
  - Keep track of declined requests and learn from them

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Discussion Key Takeaways

- Tactics for denial:
  - Technicalities
    - Name of specific records
    - Format of specific records
  - Slow-walking the process
    - Unnecessary extensions
    - Inefficiency to inflate the cost estimate
    - Insisting on physical inspection

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Discussion Key Takeaways

- Ways to avoid denial
  - Consider (political) timing
  - Express flexibility on what you're willing to accept
  - Offer to talk on the phone and talk through what they actually want
  - Focus on the substance of what you want that you know that they have

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Q&A

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Want to work with Prison Policy Initiative?

- Our advocacy department works with grassroots groups, legislators, and other advocates working on criminal legal system reform. We provide:
  - Help with records requests!
  - Research support
  - Legislative testimony and public comment

- Email us at advocacy@prisonpolicy.org to get started!

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