



Program Report of Findings

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Progressive State Leaders Committee

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Introduction

An important goal of the Progressive State Leaders Committee (PSLC) is to better understand how the public perceives attorneys general and develop methods to better communicate how actions taken by state attorneys general impact the public.

While attorneys general have a variety of duties and authorities across their respective jurisdictions, they all serve to protect the public. During the COVID-19 crisis, attorneys general enforced state laws and executive orders while providing resources to the public. Beyond the COVID-19 crisis, attorneys general continue to perform their core functions outlined by state constitutions and laws, while advocating for state and federal policies that protect the public interest and civil rights.

This report will review the actions of three attorneys general around three issues related to health and public safety: the Affordable Care Act (ACA), COVID-19 responses, and ending the sexual assault kit testing backlog. The report will further examine the impact of the Progressive State Leaders Committee’s education campaign to inform constituents about the attorneys general actions on these topics. This report focused on a contiguous geographic region in Southern Appalachia that crossed three states —North Carolina, Virginia, and West Virginia—and examined in detail the actions of the state attorneys general and the effectiveness of an education campaign informing the public about their actions.

In the summer of 2020 the Progressive States Leaders Committee, commissioned a survey of residents to determine whether an education campaign would be effective in raising awareness about attorneys general and their actions on the three issues. The survey results, discussed within this report, demonstrate that an education campaign consisting of text, online, and traditional media may be effective in helping the public understand the roles of states attorney general and their work on these issues. PSLC conducted its campaign and then measured its effectiveness by using the same instrument both before and after the program. The report breaks down the results of the post-education campaign survey, offers conclusions based on the resulting data, and provides recommendations for future public education about attorneys general.

Leading the COVID-19 Response

The COVID-19 pandemic required attorneys general to act quickly to protect consumers, healthcare workers, and the public. Attorneys general pushed the federal government to take necessary steps to address the crisis and mitigate its devastating impact. Within their states, attorneys general have acted to protect consumers from coronavirus related scams and price gouging. In addition to the direct actions attorneys general have taken in response to the pandemic, they have also advised governors and legislatures to issue executive orders and pass emergency laws. Collectively, attorneys general drafted multi-state letters and filed lawsuits to protect their residents, advocated for public policy changes, and stopped bad actors attempting to take advantage of a crisis.

Attorneys general actions in response to COVID-19 have mostly fallen into four categories: 1) protecting consumers; 2) protecting civil liberties and civil rights; 3) advising state and local governments on their obligations under emergency conditions; and 4) advocating for public health policies.

COVID-19 was the dominant issue facing state and district residents in 2020. Because attorneys general have played such an active role in helping residents navigate the pandemic, this PSLC program focused in part on the COVID-19 response of the attorneys general.

State Attorneys General and the ACA

The Affordable Care Act has been in place since 2013 and has remained a focus of elected officials in both their official capacity and electorally, with attorneys general litigating both for and against the ACA. In 2018, Congress weakened the ACA by removing the tax penalty for the individual mandate. As a result, several attorneys general brought a multistate challenge, now before the Supreme Court as *California v. Texas*, arguing that the entire ACA must be ruled unconstitutional. The plaintiffs argue that because the individual mandate provides no revenue, it can no longer be upheld as a tax. Furthermore, they argue that because the mandate is a fundamental part of the ACA and not severable from the rest of the law, the entire ACA must be struck down.

Without the ACA, millions of Americans would have lost their health insurance and insurance companies would no longer be required to cover preexisting conditions. Other attorneys general intervened in *California v. Texas* to defend the ACA from the challenge. Attorneys general have also paid close attention to the federal rulemaking process around the ACA, the process by which federal agencies issue rules and interpretations about how it will implement the ACA. The Trump Administration used this rulemaking process to undermine the ACA and implement conservative policies such as restricting abortion access. Many attorneys general have also protected consumers by pushing back against federal efforts to weaken the ACA by allowing for health plans that provide insufficient healthcare coverage.

The PSLC program focused on the ACA as one of the three test issues because of the significant role attorneys general have played in the litigation, the potential impact on state residents, and the progress of the Supreme Court case throughout 2020.

Leading the Effort to End the Backlog of Untested Sexual Assault Kits

Sexual Assault Kits (SAKs), also known as rape kits, are valuable evidence for solving and prosecuting sexual assault cases. SAKs contain DNA evidence from a victim which police can use to match against known offenders and suspects. Many times, testing the SAK leads to an arrest. Thus, quick collection and testing of SAKs is critically important to serve justice for victims of sexual assault and to protect the community. However, there has been a significant national backlog of untested SAKs.

State attorneys general can provide leadership to address the backlog, ensure speedy testing of new SAKs, and prosecute perpetrators. Some states have made good progress addressing the backlog and reform the SAK testing system. In 2015, West Virginia state police identified 2,400 untested kits in their possession. The federal government awarded West Virginia grants in 2015 and 2016 to test the backlog. By March 2019, the state had [nearly completed testing](#) the backlog. While West Virginia has shown progress in ending its backlog, it has also enacted legislative reforms to address some of the six goals advocated by End the Backlog. In 2018, the legislature passed a law creating a [Sexual Assault Forensic Commission](#) to establish best practice protocols for handling rape kits, including timeframes for submission and storage. In 2019, West Virginia enacted the [Sexual Assault Victims' Bill of Rights](#) granting sexual assault victims the right to: have their kit tested; be informed by law enforcement of any results of their medical forensic examination; be informed of evidence preservation policies; be notified by mail, upon written

request, 60 days before intended destruction of the kit; and upon written request, have their kit preserved for up to an additional 10 years.

As of March 2019, Virginia Attorney General Mark Herring announced that Virginia had tested 1,770 of the kits from a backlog that had reached 2,902. From that testing, law enforcement officials were able to link 140 previously untested kits to suspects. The Attorney General is in the process of testing an additional 1,247 kits collected between 2014 and 2016, which should completely eliminate the backlog of kits collected before 2017.

Following a 2018 statewide inventory, North Carolina discovered [more than 15,000](#) untested SAKs, the most untested kits reported in the nation. In response, North Carolina Attorney General Josh Stein assembled a bipartisan coalition to introduce and pass the [Survivor Act](#), which offered comprehensive reform to ensure inventory and testing of SAKs. The Act allocated \$6 million in funding for testing and training, alongside millions of dollars in federal grants awarded to North Carolina by the Sexual Assault Kit Initiative (SAKI), which is administered by the Bureau of Justice Assistance within the federal Department of Justice.

The PSLC program focused on sexual assault kits as its third test issue because all three states made progress on sexual assault kits. Unlike COVID-19 and the ACA, this is an issue that members of the public likely had not heard much about and would be unlikely to know about the positive role their state attorney general played in addressing the testing backlog.

Focus States for Education Campaign

This program and education campaign focused on a contiguous area in Southern Appalachia, crossing three Appalachian states: Virginia, West Virginia, and North Carolina. The audience was a mostly homogenous population and has active attorneys general on the three focus issues.

North Carolina Attorney General Josh Stein

- Participated in ACA lawsuit (Defendant) and other ACA actions.
- Led a COVID-19 response, including on price gouging, consumer protection, and enforcing state orders.
- Worked to end sexual assault kit backlog and to pass and implement the Survivor's Act.

Virginia Attorney General Mark Herring

- Participated in ACA lawsuit (Defendant) and other ACA actions
- Led a COVID-19 response, including on price gouging, consumer protection, and enforcing state orders.
- Worked to end sexual assault kit backlog; helped launch a sexual assault kit tracking system; advocated for new legislation and funding to address the backlog.

West Virginia Attorney General Patrick Morrisey

- Participated in ACA lawsuit (Plaintiff) and other ACA actions.
- Led a COVID-19 response, including on price gouging, consumer protection, and enforcing state orders.
- Although not as active in addressing the sexual assault kit backlog, West Virginia passed three new laws to address the backlog and improve testing with support from the West Virginia Office of Attorney General.

Surveying the Focus States

During June and July 2020, Progressive State Leaders Committee (PSLC) used an instrument to gauge public opinion pertaining to understanding the role of state attorneys general (AG).

PSLC polled Residents in the geographic areas within each state. It focused on less politically active residents. The intention was to find people who may have been open to learning new information about their attorney general and not be biased toward one party or another.

This analysis included 1,681 repeat responses (two confirmed responses: one at the beginning and one at the end) across all three states—during Phase I, 4,508 responses were collected between June 4 and June 20, and during Phase 2, 1,681 responses were collected between July 10 and July 20.

The survey responses were recorded on a scale from 3 (high awareness, approval, or concern) to -2 (low awareness, disapproval, or lack of concern), with “unsure” recoded as 0. This means that the threshold for movement only required moving from no awareness to low awareness, for example. Positive coefficients indicate net movement towards awareness, approval, or concern, negative coefficients indicate net movement towards awareness, disapproval, or concern, and coefficient sizes can be interpreted relative to one another as a measure of the size of net movement. The significance level indicates the chances that net movement of this size could have occurred by chance rather than as the outcome of treatment. For example, a significance of 0.98 indicates a 98% chance that the effect size is due to chance. This report defines statistically significant movement as movement with a significance level of <0.10 , or a $<10\%$ chance of occurring randomly as a result of our information and program.

Survey Analysis

The results from North Carolina indicate that the education programs were effective at raising awareness of the AG and the AG’s priority issues. In North Carolina, nearly all the questions about various contact modes were statistically significant and indicate that members of the control group were more likely to have interacted with one of those contact modes with the exception of a telephone town hall. In fact, the telephone town hall was not executed for technical reasons and therefore, the negative responses are themselves informative.

It is important to note that though the increase in awareness does not correlate with a change in personal political views. In North Carolina, nearly every question asking about a voter’s concern about a specific issue did not show statistically significant movement in any direction between Phase 1 and Phase 2 among the two survey groups.

From the data, we can conclude that the experiment was successful in driving awareness.

North Carolina Results

During June and July, PSLC attempted to measure how PSLC’s education programs affected residents in treatment and control areas. 3,028 North Carolinians were interviewed during Phase I, taking place between June 4 and 7, and 1,158 respondents were re-interviewed during Phase II, between July 10 and 14. Between the two phases, PSLC ran text and mail campaigns as well as online and radio ads. PSLC had originally planned to run a telephone town hall in treatment media markets but did not end up doing so. The Greensboro and Charlotte media markets (excluding Mecklenburg County) served as the treatment media markets, as shown in the map below, and the rest of the state (excluding the Chattanooga and Atlanta media markets) served as the control group. Mecklenburg County and the Chattanooga and Atlanta media markets were excluded from the survey group and analysis.



Question	Significance	Coefficient
COVID-19 Concern – Health	0.90	-0.8%
COVID-19 Concern – Economy	0.34	-8.6%
NC AG Awareness - COVID-19	0.02	20.0%
SCOTUS ACA Awareness	0.01	21.1%
NC AG Awareness - ACA Lawsuit	0.00	23.2%
NC AG Impression - Protect/Repeal ACA	0.09	6.8%

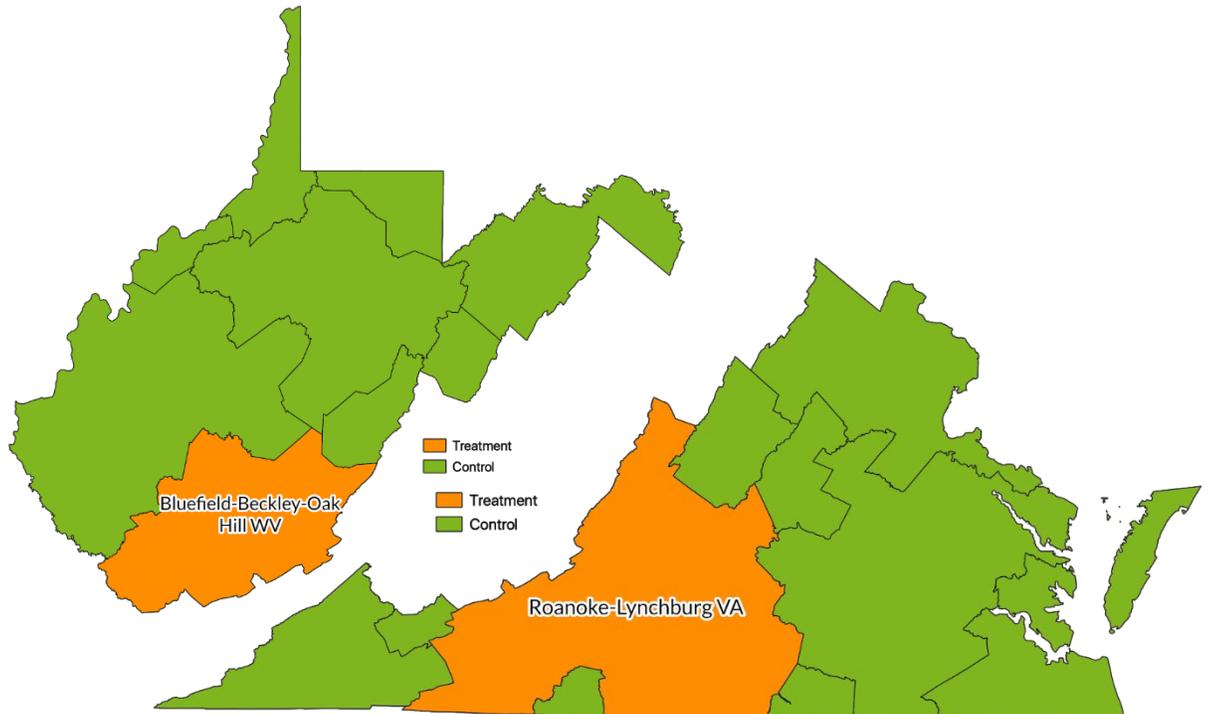
NC AG Preference - Protect/Repeal ACA	0.22	4.2%
ACA Concern - Health Insurance Loss/Too Expensive	0.01	-19.1%
Awareness - Rape Kit Backlog	0.00	34.2%
Concern - Rape Kit Backlog	0.47	4.0%
NC AG Impression - Responsible for/Addressing Rape Kit Backlog	0.11	8.5%
Awareness - Survivor Act	0.19	11.6%
NC AG - Amount Heard About	0.00	66.2%
NC AG - Received Text	0.00	33.6%
NC AG - Received Mail	0.00	100%
NC AG - Heard Radio Ad	0.00	17.3%
NC AG - Saw News Story	0.00	23.2%
NC AG - Saw Online Ad	0.00	27.1%
NC AG - Attended Telephone Town Hall	0.52	1.3%
<p><i>Green means statistically significant in the positive direction, red means statistically significant in the negative direction, and yellow means no statistical significance.</i></p> <p><i>Regression measures net movement on the questions above in treatment areas relative to controls. Positive coefficients indicate net movement in the positive direction (more concerned/aware/etc) on all questions except for the ones regarding AG Stein’s position on protecting the ACA, what North Carolinians want AG Stein to do with respect to protecting the ACA, and the question about whether or not AG Stein is responsible for or is addressing the backlog of rape kits. In the ACA instances, a positive coefficient indicates movement towards protecting the ACA, and in the case of the rape kit question, a positive coefficient indicates movement towards believing that AG Stein is addressing the backlog of rape kits.</i></p>		

Virginia/West Virginia Results¹

During June and July, PSLC attempted to measure how the PSLC’s education programs affected residents in treatment and control areas. 1,480 Virginians and West Virginians were interviewed during Phase I, taking place between June 14 and 20, and 523 respondents were re-interviewed during Phase II, between July 17 and 20. Between the two phases, PSLC ran a text campaign, online ads, and hosted a telephone town hall in treatment media markets. As shown in the maps below, in Virginia, the Roanoke-Lynchburg media market served as the treatment media market, with the rest of the state acting as the control group, and in West Virginia, the Bluefield-Beckley-

¹ Because the treatment groups in West Virginia and Virginia were small in terms of population, PSLC combined the data from West Virginia and Virginia and performed the analysis on the combined data set. Additionally, because the media markets and restrictions on partisanship chosen by PSLC were so small, the findings reached in West Virginia and Virginia are not as rigorous as those drawn in North Carolina.

Oak Hill media market received the treatment programs, with the rest of the state again acting as control.



Across the duration of the program, there were fewer statistically significant impacts of the programs in Virginia and West Virginia, as shown in the table below. Participants in treatment groups showed positive movement for having heard about their Attorney General in the last month after the program. In particular, over the course of the program treatment group respondents showed statistically significant positive movement for having received a text about their attorney general within the past month, relative to their control group counterparts. Statistically significant positive movement was also observed for treatment group respondents on awareness of the attorney general’s work on the ACA lawsuit, relative to control group participants.

The only question that showed significant negative movement related to the attorney general’s handling of the rape kit backlog. While treatment group respondents did not move significantly on this issue, control group participants became less sure of their stance toward their attorney general.

Question	Significance	Coefficient
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Progressive State Leaders Committee – 2020 AG Report for Public Education Campaign

COVID-19 Concern – Health	0.73	-4.0%
COVID-19 Concern – Economy	0.22	18.5%
AG Awareness - COVID-19	0.93	1.2%
SCOTUS ACA Awareness	0.66	5.7%
AG Awareness - ACA Lawsuit	0.00	45.8%
AG Impression - Protect/Repeal ACA	Excluded as AGs on different sides of the issue	
AG Preference - Protect/Repeal ACA	0.98	-0.1%
ACA Concern - Health Insurance Loss/Too Expensive	0.55	6.5%
Awareness - Rape Kit Backlog	0.91	-1.5%
Concern - Rape Kit Backlog	0.58	5.8%
AG Handling of Rape Kit Backlog	0.04	-23.6%
AG Impression - Responsible for/Addressing Rape Kit Backlog	0.96	0.4%
AG - Amount Heard About	0.03	27.4%
AG - Received Text	0.03	15.3%
AG - Saw News Story	0.92	-1.0%
AG - Saw Online Ad	0.42	7.1%
AG - Attended Telephone Town Hall	0.78	0.9%

Green means statistically significant in the positive direction, red means statistically significant in the negative direction, and yellow means no statistical significance.

Regression measures net movement on the questions above in treatment areas relative to controls. Positive coefficients indicate net movement in the positive direction (more concerned/aware/etc) on all questions except for the ones regarding what voters want their AG to do with respect to protecting the ACA and the question about whether or not the AG is responsible for or is addressing the backlog of rape kits. In the ACA instance, a positive coefficient indicates movement towards protecting the ACA, and in the case of the rape kit question, a positive coefficient indicates movement towards believing that the AG is addressing the backlog of rape kits.

Conclusions from the Education Campaign

1. An education campaign about an attorney general’s actions will raise public awareness.

An education campaign targeting residents about specific actions by an attorney general has the potential to raise public awareness of the attorney general. This was clearly the case in North Carolina. The education campaign raised awareness of the attorney general as respondents reported hearing more about AG Stein and having received texts and mail. Respondents also reported hearing radio advertisements and seeing news stories and online advertisements.

While there is less evidence that the education campaign was as successful in Virginia/West Virginia, more respondents to the survey following the education campaign reported that they heard about their state attorney general during the education campaign and that they received a text message. Even where the results were less conclusive there is evidence that an education is effective in raising public awareness about an attorney general.

2. Educating the public about an attorney general’s actions on pressing issues may be effective in raising public awareness about the attorney general’s work. *Additional studies are recommended.*

An education campaign targeting unaffiliated voters about specific actions by an attorney general has the potential to raise awareness of the attorney general and the attorney general’s work on pressing issues. In North Carolina, the education campaign resulted in greater awareness of AG Stein’s COVID-19 work, defense of the ACA in court, and efforts to end the sexual assault kit backlog. The education campaign also showed increased public understanding of AG Stein’s role in protecting the ACA, while increasing public concern about the consequences of the Supreme Court’s potential repeal of the ACA through loss of health insurance or rising healthcare costs.

While the survey showed an increase in awareness of AG Stein’s work, only one survey question focused on the respondent’s preference for the AG. The result show no significant positive or negative movement. A question about the respondent’s impression of the AG’s work to protect the ACA showed some positive movement.

In Virginia/West Virginia, the education campaign raised awareness of the role of the respective attorney general in the ACA lawsuit but showed little success in raising awareness on the other issues tested, including COVID-19 and the sexual assault kit backlog. While this may be a result of the sample, the results may serve as a reminder that the context of an education program may be important as well as the means of communication used to convey information.

3. An education campaign on a complex or unexposed issue may raise public concern rather than understanding or support.

The ACA lawsuit and the response to COVID-19 are relatively simple issues for voters to understand. While they represent complex policies, the consequences and potential outcomes have been made clear over time. Given that the ACA had been a national issue for a decade, members of the public already had developed a baseline knowledge and could understand what it means when an attorney general supports or opposes the ACA with minimal additional information provided. Similarly, the pandemic itself and the government response to COVID-19, meaning constant messaging and education to the general public, was clearly known and understood to one degree or another to residents in 2020, and as such, it should have taken little effort from our education campaign to create awareness about an attorney general’s COVID-19 work.

However, on issues with lower public levels of awareness, there is a risk that even positive, factual communications can move residents toward a negative view of the issue and then an attorney general. Such seemed the case with the rape kit backlog. In Virginia and West Virginia, building awareness around the state attorney general’s efforts to reduce the backlog caused a negative shift in residents’ impression of the office’s handling of the issue. In North Carolina, while public awareness of the issue increased after the education campaign, there was no statistically significant movement in public opinions on the backlog.

Residents were likely unaware of the backlog, and upon being informed during the education campaign that there was a problem being addressed, residents became both aware (probably for the first time) and then concerned. Understanding how the backlog occurred, who is responsible, and what these attorney generals did to address the problem required more than a short-term communications effort. Thus, the data returned from the survey suggests that an education campaign on less prevalent or well-known issues requires a more significant program to inform residents of the basics first and well in advance of explaining how an attorney general is working to address that issue.

Recommendations

From the education campaign conclusions describes above, PSLC should consider the following actions for future education campaigns.

- 1. PSLC should engage in education campaigns to increase public awareness of attorneys general and their work.**

The data collected following the summer 2020 education campaign shows some success in raising public awareness about the office of attorney general. By contacting residents through a mix of media, PSLC can inform constituents about state attorneys general and raise awareness of powers of a particular state attorney general office.

- 2. PSLC should engage in education campaigns that clarify the role of a state attorney general on high-exposure or well-understood topics.**

The data collected following the summer 2020 education campaign shows some success in raising public awareness of an attorney general’s work on high-exposure issues, such as COVID-19 and the ACA. Where members of the public are already aware of an issue and may have even formed opinions, it may be beneficial to educate the public about a state attorney general’s work on that issue so that the public has a better understanding of who the attorney general is and how their role and their work connects to the issue. Such an education campaign might highlight an AG’s work to protect consumers with respect to scams, predatory lending, or product safety; work to protect clean water and air; and work fighting the opioid crisis.

- 3. For issues with limited public exposure or understanding, PSLC should focus on a deeper explanation of the issue before connecting it to the work of a state attorney general.**

The data collected following the summer 2020 education campaign showed a surprising result when the public knew very little about an issue. By highlighting an attorney general’s work on an issue with little public exposure, there is a risk that it raises awareness of the problem more than the attorney general’s positive work to address the issue. This may have been the case with the response to the education campaign around sexual assault kit testing backlog. An education campaign that seeks to highlight an attorney general’s work on an issue with little prior public exposure might need to educate the public about the issue and frame the issue for the public so that the public can connect the attorney general’s positive work to address the issue.

Legal Disclaimers

The Progressive States Leaders Committee is a 501(c)(4) not-for-profit organization that advocates for progressive policies that promote justice, fairness, and equity. The committee advances solutions to emerging legal and policy issues on both the federal and state level, with a focus on how state attorneys general and other decision-makers can promote innovative and progressive policies grounded in the rule of law.