

Proskauer Ramps Up Election Protection Efforts

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Election Protection is a nationwide nonpartisan coalition, spearheaded by the Lawyers' Committee for Civil Rights Under Law, working to ensure that every voter is able to exercise their right to vote. Election Protection runs a national call center where any voter in the United States can dial [\(866\) OUR-VOTE](tel:866OURVOTE) to immediately be connected with a trained volunteer who can answer anything from questions about where to vote and what ID voters need to bring to the polls to how to address broken machines, voter intimidation or other issues arising at a voting location.

Since 2006 Proskauer has been participating in Election Protection running call centers and providing hundreds of volunteer lawyers from senior partners to first-year associates, and even in-house counsel from clients. Proskauer associates Jason Madden and Seth Fiur have been spearheading the Firm's recent Election Protection efforts and we caught up with them recently to learn more about how the Firm is preparing to support Election Protection leading up to and including Election Day this November:

Q: Can you describe Proskauer's Election Protection efforts leading up to Election Day?

Jason Madden: Our current Election Protection efforts are twofold. We supported a primary day in the first week of June, where we answered questions for every state that did not have a primary on June 2nd, along with supporting two states, Missouri and Indiana. We also had volunteers answering voters' questions about voting in upcoming primaries.

Now that we're through the primary season, we're shifting our focus to November and ramping up for our call center on Election Day. As much as we would really like to have a live call center as we've done during previous election cycles, we're very likely going to have a remote call center similar to what we had this summer, where we will have a fully online, fully integrated call center with chat functionality, and we will be supporting everything remotely with volunteers working wherever they may be working on a regular day-to-day basis.

Q: What was the call volume like for the primaries in June, and what challenges did you face facilitating a remote call center?

Seth Fiur: For our call center in June, over the course of two days, we took over 400 calls that were answered by 45 lawyers from 30 different states.

To facilitate such a large remote phone bank required a lot of effort and coordination, both from the attorney side and other departments within Proskauer helping us get ready to use the technology, making sure it worked within the Firm's systems, making sure that each one of our volunteers understood all of the different systems that were necessary to participate in the Election Protection call center, and making sure that we had a way of communicating both as a group and with individual volunteers when it was needed.

One of the biggest challenges we faced was being able to provide quick answers in real time as volunteers are on the phone with voters. What will very often happen is they will need an answer to a question very quickly. While we had a great chat function with the Election Protection system, it's dependent on somebody being there and looking at the screen to answer the chat immediately. We were able to make that work, but that was definitely a challenge, especially when we started.

Q: What were some of the most frequently asked questions you received?

Seth Fiur: A lot of the issues we saw are similar to ones we dealt with in past years, with people trying to understand where they needed to go to vote, how the voting at their location was being handled, and trying to determine whether or not they were properly registered. But we also saw a lot of issues related to the ongoing pandemic. There was a lot of confusion about what elections were being held on what dates, because a lot of states were moving their elections around and weren't always consistent in their messaging.

There was a lot of confusing messaging coming out of local and state election boards as to what people needed to do to vote. And there were a lot of issues that came up with absentee ballots as many people requested them at the last minute and either hadn't received them or wanted to make sure their absentee ballot had been received by the election board to make sure their vote would count.

Jason Madden: Unlike in prior election cycles, it was very unique in this COVID-19 world. We got a lot of calls from people confused about where they were supposed to vote because, unlike in normal election cycles where there are many voting sites within a county, there was a lot of consolidation of voting sites. People who had historically voted in the same location for a number of years had to go to a centralized location because of the COVID-19 situation.

Q: Did issues vary by state, or were there common issues state-to-state?

Jason Madden: There are general issues that are similar across each state, but the nuance in each state definitely changes. For example, some states may be much more advanced when it comes to the technology that they're using for live elections. They may have electronic voting systems, where some states still rely on backups of paper voting. So we get questions about the types of voting systems that are used in each state. In addition, voter ID is a very important issue in a lot of different states. There is a lot of confusion that differs from state-to-state about what exactly each voter needs to bring when they are going to cast their ballot.

Seth Fiur: I think the single most difficult and confusing policy that impacts people's ability to vote are voter ID laws. A lot of times, even in states with less restrictive voter ID laws, the requirements are confusing for anybody who doesn't drive on a regular basis. It can be incredibly difficult to get an ID that's sufficient to vote. And it has the effect, between the confusion and the difficulty in satisfying the requirements, of disenfranchising a lot of people who want to vote.

Other policies that we've come across are those relating to voter purges and purging people who are inactive, or who don't vote over a defined period of time, from the rolls. That also can have a significant effect, especially if people have moved.

Q: Are there any particular areas of the country where certain issues recur each election cycle?

Seth Fiur: Because we cover different states every year, we don't always get to see follow-up data from the same neighborhoods. But one of the things we noticed in both 2018 and in 2020 is that there are significant disparities in both how well the voting system works and people's ability to vote based on race, based on economic status, and based on access to the kinds of technology and equipment that are necessary to enable people to vote.

In 2018, in one of the states we were responsible for fielding calls from, there were significant issues with voting machines that were primarily based in urban, less wealthy areas. And those kinds of issues, while we don't necessarily see them in the same neighborhoods election after election, we see the same types of issues in the same types of places.

Q: How specifically has COVID-19 impacted people's ability to vote?

Jason Madden: I think, frankly, state and local board of electors always have a challenge making sure that information is disseminated to the voting populace. In this COVID-19 era, it's even more difficult, as deadlines are changed on a regular basis spurring confusion, in addition to the introduction of a lot of mail-in balloting options, which isn't an option in many states in a normal-type situation.

One positive I would call out as part of the COVID-19 impact, which I saw myself when I answered a few calls in June, was that there does seem to be more interest than typical. People are already looking forward to November. They already want to know how they can get their mail-in ballots or get registered for November.

Q: Over the years that you've been volunteering and supervising other lawyers, have the issues remained the same, or have they changed from one election cycle to the other?

Jason Madden: Generally speaking, the vast majority of the issues and types of issues are the same. It's always voter ID issues. Maybe they've changed in their nature, but they're very similar. I think the one thing that I've seen change over the years is voters have become a little savvier in trying to demand their rights. So I think we're getting better calls, especially on Election Day, in order to alert us to problems that allow us to really address issues in real time and really help preserve people's right to vote.

I think the fact that each state and county board of electors has a lot of control over the election process is a real problem. It infuses so much confusion. People don't understand exactly what their rights are because they are so state-specific. They don't understand what exactly they need to do, even if people have lived in the same state for a long time.

Because things are constantly changing and constantly shifting, not always for the better, there really needs to be standardization across the board so that there is a fair, equal election held in every single state.

Seth Fiur: I agree. I think the single biggest issue, and it's something that we see every year, is the problems that stem from state and county control over voting policies. And this shows itself in a variety of different ways. The most obvious is voter ID laws, which, depending on what state you live in can be very easy, or they can be incredibly difficult and put up a lot of barriers to voting.

Also a lack of investment in technology. You have some places that are very well-funded and using technology like touchscreens and computer counting and immediate reporting that allow for very quick voting and counting. And you have other places that are using incredibly antiquated machines that don't work to the point where you'll have polling places that have one or two machines, and both machines aren't working, effectively shutting down that polling place on Election Day until an underfunded board of elections can get somebody there to fix it. But there's no guarantee that's going to happen.

And finally, the inconsistencies in things like absentee balloting and registration requirements that make it very confusing for people who have either moved, or who haven't voted in a long time, or who are registering for the first time. These inconsistencies make it very difficult for anybody who doesn't know exactly what they're doing to figure out how to do something simple, like exercising their right to vote.

Q: Can you give us some insights into how the call center actually works?

Seth Fiur: When a voter calls, the call is answered by an attorney who's a trained volunteer familiar with the law of the states from which we're receiving calls, and who's been trained to answer basic questions about how to go about exercising the right to vote.

If the issue is more complex, or if for any other reason the volunteer can't field the voter's question immediately, the volunteer may escalate the ticket to a member of Proskauer's leadership team who is able to dig into it more and is able to connect with the Lawyers Committee to address the situation.

In really extreme situations, Proskauer and the Lawyers Committee also are in touch with teams on the ground in every state in which we're working. We have the ability to not only engage in litigation ourselves, if it ever came to that, but also to work with trained teams on the ground connected to the local election systems and who can really get things done very quickly, including filing a lawsuit that same day.

Q: How is the preparation for the Election Day call center different this year than in past years?

Jason Madden: This typically would be the time where we'd be finalizing all of the research and other documentation that we need to provide to volunteers who will be answering calls on Election Day. Because there's so much uncertainty right now, related to the COVID-19 pandemic, we are in a situation where it's a bit of a moving target, but we're going to continue to work with the Lawyers Committee to update our research in the states that we are assigned for November in order to ensure that we have all the frequently asked questions, all of the guides, all the information that the volunteers will need to have in their hands to answer voter questions. And, as we get closer to Election Day, we'll start to organize training sessions.

We have been recruiting volunteers, both within the firm and with the firm's partners. We encourage in-house counsel at some of our clients to participate in the call center. And, given the fact that it will most likely be a remote call center, we'll even be trying to include other Proskauer offices so that it's not just the New York office, where the call center historically has been held, to make sure we have all hands on deck for November.

Once we recruit everyone and we train them up, we'll work with the Lawyers Committee to make sure we have all the technology that we need in place for Election Day. We're working hard to ensure that everything is organized and everyone working the call center is prepared so we're all set to answer calls before and on Election Day.

Q: Why is Election Protection an important initiative for you and for Proskauer?

Seth Fiur: To me, voting is among the most fundamental rights that any American has. It's not only something we get to do; it's an important piece of our entire political system. With any political issue or change that people want to see effected, the most direct way to do that is by voting and taking part in having a say about who is going to be elected to represent us, wherever you live, whatever your political beliefs. And it's an important racial justice issue because especially for those communities that have historically been underrepresented, and haven't been given the opportunities that they deserve, the right to vote and exercising that right is an immediate way to effect real change that can truly benefit people in a very real way.

One of the great things about being a part of Proskauer is its commitment to helping others, especially through the pro bono program and activities like Election Protection that give us the opportunity to use our position to help others around the country, not just in the communities where we're located. And through programs like Election Protection to really help make a difference on a broad scale regardless of race, class, socioeconomic status, or anything else.

Jason Madden: Proskauer has a long history of pro bono work. And I think Election Protection is one of the most important pro bono initiatives that Proskauer does because it is one way where Proskauer can really give back to the community and protect people across the country in all different types of communities, but especially in minority communities, to ensure that they are heard and are able to exercise the right to vote.

Voting is a right that needs to be protected and we need to be very vigilant in protecting that right. And I think it really bleeds over into issues of racial justice because where we're seeing the most disenfranchisement, and we've seen this by running call centers for many years, is in certain communities that are racially diverse.

There are some issues that the country's had for a long time with racial injustice related to voting. We've seen the impact of these issues over the years and we're constantly trying to work, as part of the Election Protection process, to ensure that those issues are addressed consistently to make sure that people have their voice heard. It's very important that people in all communities across the country are able to vote. And we're doing our best to ensure that in the event there is any disenfranchisement that we're addressing and tracking those issues. One of the most important parts of Election Protection is tracking and making sure that we are assessing what's going on in the country.

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